



North America Telugu Society (NATS)  
A Non-Profit Organization to Serve Telugus  
www.natsworld.org



March 28, 2011

Her Excellency Meera Shankar  
The Ambassador of India to the U.S.

Honorobale Rajagopal Lagadapati,  
Member of Parliament, India

*Delivered by hand*

Re: Tri-Valley University Closure and Consequences

Dear Madam Ambassador and Honorable Mr. Rajagopal:

We are writing to you on behalf of over one thousand Tri-Valley University (TVU) students and North America Telugu Society (NATS), to apprise you of the extreme distress TVU students continue to endure because of sudden and unexpected closure of TVU on January 18, 2011. Since then, various U.S. Government officials appear<sup>1</sup> to have assured all concerned parties that TVU students will be treated fairly, however, hundreds of our students continue to face unprecedented stress and indignities. In addition to the uncertainty of their future, these students have been given no guidance as to maintaining a lawful immigration status in U.S. They are continuing to undergo severe personal and financial hardships by having to pay for uncertain reinstatements, fighting complex immigration proceedings and arranging money for legal representation; all of which should have been unnecessary.

The purpose of this letter is to inform you of some the developments in the TVU matter since January 18, 2011 and seek your attention to some urgent issues which need to be immediately addressed. We are attaching as **Exhibit 01**, an earlier letter we wrote on this matter to the U.S. President, a copy of which was also sent to you. That letter contains a detailed description of the legal and factual context of the TVU matter.

While much well deserved attention has been brought to bear upon extreme difficulties faced by some of the students, we must keep in mind the ongoing hardships faced by almost every TVU student. Many of these hardships may not arise to the level of incarceration, nonetheless, in the present atmosphere these

<sup>1</sup> To this day, there is no policy statement or position addressing the fate of the TVU students put forth by any agency of the U.S. government.

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are causing as much personal distress to the students as restriction of their physical freedom might. We implore you to invite the attention of the U.S. government to these matters.

## NOTICES TO APPEAR BEFORE IMMIGRATION COURT AND INTENSIVE SUPERVISION APPEARANCE PROGRAM (ISAP)

After over one and a half years of investigating TVU, United States Immigration and Customs Enforcement (ICE) took away TVU's legal status overnight on 18 January 2011. The students were given no notice of this closure. The day after that, from 19 January, ICE started to issue and continues to this day to issue Notices to Appear (NTA's) to students. An NTA is the first step toward possible deportation from the U.S.

It is distressing that ICE set up TVU to speak, act and explain the law on behalf of the government to the students. Having done that, it is patently unjust that based upon the actions of its own agent, TVU, ICE declared students to be out of status overnight affording them not even one day's grace period. This is contrary to ICE's own precedent and all principles of fairness and rule of law. This matter has been explained in detail in our earlier letter we wrote on this matter to the U.S. President (**Exhibit 01**).

Once an NTA is issued, the affected student cannot leave the United States without the authorization of ICE or the Immigration Judge to whom that case is assigned. If a student leaves without such authorization, he is subject to a ten (10) year bar from reentering the United States.

It is not possible to determine the exact number of students who have been issued an NTA. However, from a recent survey conducted by our office with around two hundred and three (203) TVU students, we discovered that 51 of those students were issued NTAs (which is around 25% of the students participating in the survey). According to the survey, out of a total of 203 students who responded, 51 have been issued NTAs and at least 10 of them have undergone incarceration.

Initially there were also reports of radio tagging some students, but reportedly now ICE agents are not radio tagging students who can provide them with at least a landline phone number. Note that services like Vonage, even though generally considered to be landlines, are not considered so by ICE. Hence, students who do not have a landline phone either have to reluctantly accept a radio tag or NTA and undergo incarceration or provide ICE with the landline phone number of a relative's house where they can report at specified times every week.

Our office continues to receive reports of patent abuse of power by ICE agents. Some students who have been issued NTAs have also been subjected to the Intensive Supervision Appearance Program (ISAP) II, which further compounds the psychological torture that students are suffering. The ISAP II initiative is similar to the type of supervision experienced by parolees, and is described as (**Please refer to Exhibit 02: ISAP Attachment**):

...a community-based supervision and in-person reporting program designed to provide cost-effective alternatives to secure detention for undocumented aliens being processed through the Immigration Court system, while ensuring compliance by non-detained aliens with final orders issued by the Immigration Court. The program requires aliens placed in this release program to participate in or comply with a variety of activities and reporting requirements to include home and local office visits, employment verification, and curfews. **Program participants are**

**subject to electronic monitoring (EM), telephonic reporting, and unannounced home visits.<sup>2</sup>**

Our office also discovered that in a number of cases these innocent students are being treated worse than criminals, who are afforded at least the presumption of innocence and the right to free counsel. Please refer to the following incidents reported to our office by some of TVU students:

- Example I: One student who was placed under the ISAP II program stated that he is required to report to an ICE office twice a month and subject to random home visits and phone calls by ICE agents at his land number. ICE also instructed that failure to follow any of the strict conditions set forth in the ISAP II program will automatically lead to the student being RFID-tagged to ensure effective “supervision.”<sup>3</sup>
- Example II: One ICE agent sarcastically remarked to his colleagues before issuing an NTA to the student that “Here is an alien. Let’s play with him.”<sup>4</sup>
- Example III: Another student who received an NTA by ICE reported that the one ICE agent told him that, “Even if you fall on my knee, I am not going to let you without a NTA.”<sup>5</sup>
- Example IV: Another ICE agent told one student that: “why your wife is in another state and you are in this place. I also don’t like my wife, but I still stay with her. Why don’t you stay with your wife?”<sup>6</sup>

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## BONDS AND DETENTION

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Based on the results of the survey conducted by our office, a total of ten (10) students have been subjected to indefinite detention by ICE merely because they are “out of status” for no fault of their own. Moreover, A substantial number of students have had to procure exorbitant sums (between \$5,000 and \$15,000) to secure their release. It is extremely difficult for any student to arrange that amount of money and some of the students were actually unable to do so for quite some time, thereby extending their period of incarceration. Please note the following incidents reported to our office by some TVU students:

- Example V: In one case a student was detained for sixteen (16) days for having an “attitude” as per ICE agents. Before detaining the student, the ICE agent reportedly threatened him that “you have dug your own grave.” ICE also did not immediately inform the student of the charges against him.<sup>7</sup> *See also* Tri-Valley Student Recounts Horror of Detention, *available at* <http://www.ndtv.com/video/player/news/tri-valley-student-recounts-horror-of-detention/190110>

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<sup>2</sup>[https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=ca9481103ba015f459615fc61da90a&\\_cvview=1](https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=ca9481103ba015f459615fc61da90a&_cvview=1)

<sup>3</sup>The student has confirmed the details of this incident with our office, and is available to confirm the same, if necessary.

<sup>4</sup>The student has confirmed the details of this incident with our office, and is available to confirm the same, if necessary.

<sup>5</sup>The student has confirmed the details of this incident with our office, and is available to confirm the same, if necessary.

<sup>6</sup>The student has confirmed the details of this incident with our office, and is available to confirm the same, if necessary.

<sup>7</sup> The student has confirmed the details of this incident with our office, and is available to confirm the same, if necessary.

Example VI: In another instance, ICE officers arrived at a Virginia residence occupied by two individuals, one of whom was a TVU student. The officers not only confiscated the TVU student's passport and issued an NTA, but also subjected his roommate to the harsh treatment, even though he was not affiliated with TVU in any manner.<sup>8</sup>

Some students were even detained for as long as twenty-four (24) days without any regard for their civil rights. But perhaps the most shocking example of abuse of power is being alleged as follows:

Example VII: A female TVU student was arrested –her hands, waist and legs cuffed in chains-- and thrown into the male-section of an ICE detention center merely because she was “out of status.” The student recounts her unimaginable horror as follows:<sup>9</sup>

“....This jail is for men, I go inside in men's jail there is one pack room in the middle of the room. Every man can see me when I am walking to that room and they make bad words for me, after I go in my room they still knock my door from outside and using bad words for me. I stayed whole night in one small room with toilet and wash basin is attached. I can't sleep whole night; I am really scary over there. On Friday they again transfer me in another jail, is 1:30hr far. They again cuffed me as before. I saw this kind of thing in movie, when they arrest any criminal. I can't believe that this happen to me in real life...”

We have also heard allegations that this student was not allowed to contact her family or an attorney. This is even though Form I-826 (Notice of Rights and Request for Disposition), which is issued to arrested aliens who are in the United States illegally, explicitly states the following: **(Please refer to Exhibit 03: Notice of Rights document)**

You have the right to contact an attorney or other legal representative to represent you at your hearings, or to answer any questions regarding your legal rights in the United States. Upon your request, the officer who gave you this notice will provide you with a list of legal organizations that may represent you for free or for a small fee. **You have the right to communicate with the consular or diplomatic officer from your country. You may use a telephone to call a lawyer, other legal representative, or consular officer** at any time prior to your departure from the United States (emphasis added)

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### LEGAL STAY IN U.S. AND VISA ISSUES:

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Several weeks after the TVU closure, in the one and only written directive on TVU matter from the U.S. Government, students were asked to call the SEVP Response Center (“SRC”) on February 9, 2011, and choose from the three given options:

(1) Self departure;

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<sup>8</sup>The student has confirmed the details of this incident with our office, and is available to confirm the same, if necessary.

<sup>9</sup><http://immigrationlegalblog.com/2011/03/a-very-touching-story-from-one-trivalley-student/>

- (2) Meet with an ICE agent and seek voluntary departure; or
- (3) Reinstatement to student status.

In fact, none of these are clear or viable options for TVU students, which is further explained below.

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### SELF-DEPARTURE IS NOT A VIABLE OPTION

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The implementation of laws for returning students has been highly inconsistent. If a student departs, it is highly uncertain that such a student needs a new F-1 visa from a U.S. consulate in India. Then, it is highly uncertain if the U.S. consulate would issue or decline the visa. Furthermore, even if such student is able to obtain a visa, there is no assurance that he will be allowed to enter the U.S. at the port of entry by the U.S. Customs and Border Protection (“CBP”), since CBP can refuse entry because the student went out of status during his previous entry. Approximately a week ago, CBP refused entry to a student and forced the student to return to India after he had landed at Denver, Colorado airport. Our office advised this student to withdraw his application for entry into USA, because in the alternative CBP has the discretion to bar him from entering USA for five (5) years. So, this student, after having spent money on an air ticket and travelling many hours had no real choice other than returning to India.

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### MEETING AN ICE AGENT AND SEEKING VOLUNTARY DEPARTURE IS NOT A VIABLE OPTION

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Voluntary departure allows a person to depart from the United States within a specified number of days in order to avoid deportation or any future bar to reentering the United States. However, once a person decides to voluntarily depart, he or she has effectively admitted to being out of status, which in the present case makes it highly unlikely for a TVU student to secure a new student visa abroad or reentering U.S. even if able to secure such visa .

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### REINSTATEMENT TO STUDENT STATUS IS NOT A VIABLE OPTION

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Reinstatement is not a feasible option because of several reasons.

**Inordinate lengthy waiting times with no eligibility for financial support and potential risk of losing the entire amount of fees paid:** Processing time for reinstatement is around three to nine months, depending on the location of the educational institution student is seeking admission to. If reinstatement is denied, such student could lose between \$11,000 to \$14,000 (Rs. 4.95 Lacks to Rs. 6.30 Lacks) as tuition (two quarter’s fees) and living expenses. If the processing time is more than 6 months, then the cost could be even higher. During this time, such TVU students cannot work on campus, qualify for teaching assistantships or obtain any means of financial support to sustain their stay in the US. If reinstatement is denied, student has to leave U.S. immediately.

**Impossibility of reinstatement because of confiscation of documents by ICE:** As part of student arrests, many ICE agents (another example of glaring inconsistencies) confiscated students’ passports and Forms I-94s. Students are unable to file for reinstatement without their I-94. Our office has reported this issue to ICE and was told they could not do anything about it. This creates an impossible conundrum for students who wish to restore their status.

**ICE's insistence on immediate admission into school is potentially recreating the TVU situation for students:** Some ICE agents have insisted that if students wished not to be issued an NTA, they must procure proof of admission into another school within a few days. That demand is impossible to comply with and may create more complications. Students are being given little choice which educational programs to seek for admission. Not all programs are available for "immediate" admission. Most programs and universities have indicated that they can provide admissions only in fall of 2011. In the absence of that option, students are constrained to enroll in any school or program that they can find. That does not give the students time and latitude necessary to get into the right school. In addition, USCIS could refuse reinstatement if they are not convinced of the good faith of students.

**Intense interrogations and refusal of admission to students at the airports:** It appears likely that even if reinstatement is granted, students will have trouble procuring visas and reentering United States if they were ever to travel abroad. Returning students and ex-students have already experienced problems when reentering the United States. In addition to outright refusal of admission, they reported being intensely interrogated at the U.S. airports. In addition, ICE itself has misunderstood and miscommunicated the law and wielded their discretion with little regard to the consequences for the students.

Example VIII: One student's email to our office states in relevant part:

.....He refused to look at any of the paperwork (I contacted an ICE officer in my city after my wife left and provided him all the details - he told me that her case would be closed - she had a print out of the email too, but the officer at the POE refused to look at it. She also had the transcripts, assignments, email exchange with prof. etc). After interviewing her for an hour or so (regular questions about TVU - he kept on saying that he doesn't believe that she did not work illegally), he finally let her go. He also went thru her cell phone, dialed calls, SMS etc - he asked her questions about how she knew some of the contacts in her cell phone.

Example IX: Another student was told by ICE that he was now "out of status" because he had *applied* to TVU along with several other universities during the admissions process. He never enrolled at TVU and nor did he pay any tuition fees to the sham university, yet he is inexplicably being targeted for violating the immigration laws of the United States.

## **IMPUTED VIOLATIONS BY MERE ASSOCIATION WITH TVU**

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ICE, CBP, and USCIS have penalized and are still continuing to penalize students for "failing to physically attend classes." Please note that the law governing online classes and physical attendance requirement is not clear. Various immigration regulations seem to mandate that an F-1 student may only take one class or three credits on-line or through distance education per term. However, a memorandum issued by ICE in 2009 titled Decision by SEVP Director: Full Course of Study: California Community College Crisis ("SEVP Memo") provides a contrary interpretation. **(Please refer to Exhibit 04: 2009 ICE Memorandum)**

TVU President Susan Su also admits that from the very outset TVU students were told that physical attendance is not required to fulfill their degree requirements. In light of this admission, one fails to understand why ICE is targeting students for failing to attend classes when the students were only

following the advice of their Designated School Official (DSO). Therefore, students should not be faulted if TVU either misinterpreted the law or misinformed the students.

But, despite this fact, students continue to be harassed by the issuance of arbitrary NTAs, passport confiscations and denial of reentry into the US for “failure to attend classes.”

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## MISCELLANEOUS ISSUES

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Because of the ongoing and changing nature of issues involved, we would also request your office to maintain lines of communication with the students so appropriate redress can be sought on their behalf on an ongoing basis. The problems being faced by students are too numerous to recount in a brief letter. Nevertheless, we must make an attempt to redress at least the most glaring difficulties.

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### STUDENTS CANNOT OBTAIN A VALID GOVERNMENT ISSUED ID

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Since ICE has confiscated the passports of many students, they are unable to acquire a state ID at the departments of motor vehicles with proper identification. This, in turn, unnecessarily impinges on the students’ ability to travel, as they cannot do so without a government issued ID. So, not only can these students not maintain a driver’s license, they cannot undertake any travel through public transportation where an ID is required.

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### STUDENTS CANNOT SEEK A REFUND OF THE TUITION THAT THEY ALREADY PAID FOR THE UPCOMING SEMESTER BEFORE TVU CLOSURE

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According to the forfeiture complaint filed by the government (**Please refer to Exhibit 05: Copy of Forfeiture Complaint by U.S. Government against TVU**):

ICE’s financial investigation has also revealed that TVU collects tuition fees from its foreign nationals primarily through one or more of the following methods: (1) online PayPal payment to Account 1921; (2) credit card payments...seeking F-1 student status (*Complaint* at 11)...

Some TVU students who paid their university fees through PayPal are reporting problems with PayPal when disputing the fee amount. According to reports, PayPal is refusing to return the fees to students because the U.S. Attorney’s office has indicated that this money is part of an illegal money laundering scheme. However, the reality is that most TVU students were not a part of the illegal pyramid scheme perpetrated by TVU, and were not beneficiaries of any kickbacks.

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### STUDENTS WHO ARE ISSUED NTA’S CANNOT TRAVEL TO THEIR HOME COUNTRY FOR THE NEXT SEVERAL MONTHS EVEN IF THERE IS A FAMILY EMERGENCY

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Once a Notice to Appear (NTA) is issued, the students cannot leave the United States without the authorization of United States Immigration and Customs Enforcement (ICE) or the Immigration Judge who is assigned the case. If the foreign national leaves without such authorization then he or she is subject to a ten (10) year bar from reentering the United States.

Moreover, for some of these students with their passports being confiscated by ICE, it is not even possible for them to travel abroad. Some of these students will not be able to see their families till 2012.

Example X: One of the students self-surrendered. He did not have to pay a bond but is required to go every month to the ICE agent in order not to pay bond. His hearing date is set to be **January 2012**. Therefore he will not be able to leave U.S. without subjecting himself to the ten (10) year bar from reentering the United States.

We hope that through this letter we were able to bring to your attention all the developments in TVU case, since its closure in January 2011, and hardship and sufferings of several hundred innocent Indian nationals (TVU students), who were victimized by this aggressive approach of ICE and related government agencies in handling the whole situation. In the interests of affording protection and providing relief to these helpless students and their family members, we request you to take an immediate action.

## OUR REQUESTS TO THE GOVERNMENT OF INDIA

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We are writing to you with a great hope and anticipation on behalf of all of the TVU students, and request your kind attention to the following recommendations and issues to be discussed with the U.S. Government:

- 1) Obama administration should clarify its policy in handling the TVU matter. It has already been over two months now since the school closure. Over one thousand students are still facing legal dilemmas and are left to suffer, because there is no clear policy or law that can enable these students to make appropriate choices.
- 2) ICE must discontinue issuance of NTAs and pending NTAs against students should be withdrawn. Note that almost all NTAs issued so far claim violation of status because of school closure or failure to attend classes (which is largely due to misinformation supplied by school and lack of clarity in the laws) as grounds for removal from U.S.
- 3) ICE should immediately stop confiscating students' passports and should return confiscated passports, except in rare cases where well-founded allegations of fraud are made.
- 4) ICE must implement a policy change (in accord with its own earlier precedents) to allow students' sufficient time to change status after the unexpected closure of their school. Note that there are no regulations that govern the contingency of a school closing. Therefore, a policy change is the only requirement of law. This case requires a lengthier grace period because TVU, in violation of its legal obligations, misreported the addresses of students because of which ICE could not notify students about school closure. In addition, all SEVIS records must be made available for school transfers and reinstatements.
- 5) DHS must develop and provide clear guidelines for students on the steps to take once they are out of status, and provide viable options to convert status.
- 6) DHS must direct USCIS to expedite the change of status and reinstatement process or, in the alternative, provide public policy statements for those awaiting a decision on reinstatement so that their time and money are not wasted in a futile pursuit.

- 7) U.S. Department of State (DOS) must provide U.S. Consulates in India clear guidance on how to interpret the impact of school closure and assess re-issuance of visas to students.<sup>10</sup>
- 8) DHS must instruct CBP on a centralized policy for returning students and should also make their instructions public.
- 9) DHS must implement a centralized policy to provide clear guidelines for ICE agents and remove any requirement of students having to post an Immigration Bond in order to be released from ICE's custody or be RFID tagged. Money being held towards bonds must be returned.
- 10) U.S. Government must make arrangements to compensate students (through asset forfeitures of TVU assets and other means) for their losses — financial and otherwise.
- 11) ICE must permit students to obtain refunds of their fees paid through credit cards and PayPal. Currently, these efforts are being thwarted because students' refunds are being declined by credit processing agencies with remarks that U.S. Attorney's Offices has informed them that the money cannot be refunded because it is a part of a "money laundering" scheme. Our office's inquiries with the U.S. Attorney's office reveal that ICE has been the decision-maker in this regard.
- 12) Because of the ongoing and changing nature of issues involved, we would also request your office to maintain lines of communication with the students so appropriate redress can be sought on their behalf on an ongoing basis.

Respectfully submitted on behalf of TVU students and North America Telugu Society.

Law Offices of Rajiv S. Khanna, PC



By:

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Rajiv S. Khanna

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<sup>10</sup> There have been some reports in the media this week that the U.S. Consulates have stated TVU students will be treated fairly, but we are still observing considerable hostility in consular questioning, apparently, because of lack of clear guidance from DOS.

# Exhibit 01:

23 February 2011

The President  
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Re: Request for Urgent Action on Behalf of the Students of Tri-Valley  
University

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Dear Mr. President:

We are writing on behalf of the over one thousand students of Tri-Valley University ("TVU") in Pleasanton, California, who are facing considerable hardship due to the harsh and perhaps illegal management of their case by the responsible agencies.

Media reports state that various U.S. Government officials have assured all affected parties that TVU students will be treated fairly. Before it is determined what is fair, we must examine the context and the extent of the harm that has been done, and continues to be done.

As a consequence of TVU's sudden and unexpected closure, its students, all of whom followed what they believed were proper legal channels, have been left out of lawful immigration status. The overwhelming response of students affected by this incident is that they would never have enrolled at TVU if they had known, or been forewarned, that the school was involved in any illegal activity. Their academic and financial futures are now imperiled for no fault of their own.

This letter provides context for the problems TVU's students are currently facing, and makes recommendations on how to address this critical situation within our existing legal and policy framework. We respectfully submit that the acceptance and implementation of these recommendations will help alleviate the extreme distress that these students are currently enduring.

**EVIDENCE CLEARLY ESTABLISHES THAT THE GOVERNMENT HAD PRIOR  
KNOWLEDGE OF THE ALLEGED FRAUD BY TVU OFFICIALS AND DID NOT  
FOREWARN THE STUDENTS.**

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U.S. Immigration and Customs Enforcement (“ICE”) is penalizing TVU students because they did not know their university was allegedly defrauding the government – an imputation of malfeasance by omission. To the contrary, if we are to impute malfeasance by omission, then ICE is the bigger malefactor by far. If ICE – the Department of Homeland Security’s (DHS) largest investigative agency with an annual budget of \$5.74 billion, employing more than twenty thousand (20,000) people in over four hundred (400) offices nationwide<sup>1</sup> – did not detect and act against the alleged fraud in time, then the students cannot be held to the same standard.

As late as September 30, 2010, Student and Exchange Visitor Information System (“SEVIS”) was informing students that TVU was a legitimate institution accredited by the government. Note the following email exchange: \*\*\*

from [Redacted]  
To [SEVIS.Source@dhs.gov](mailto:SEVIS.Source@dhs.gov) [SEVIS.Source@dhs.gov](mailto:SEVIS.Source@dhs.gov)  
Date Wed, Sep 22, 2010 at 11:05 AM  
Subject Admission(sevis enquiry)  
Mailed-by gmail.com

Hello,

i am an international student holding F-1 visa now, i want to transfer to Tri-Valley University, can i join in this institution. please reply me.

From Source, SEVIS [sevis.source@dhs.gov](mailto:sevis.source@dhs.gov)  
To [Redacted]  
Date Wed, Sep 22, 2010 at 12:21 PM  
Subject RE: Admission (sevis enquiry)  
Mailed-by dhs.gov

Thank you for contacting the Student and Exchange Visitor Program (SEVP). Tri-Valley University in Pleasanton, CA is a SEVIS-approved school. We recommend having the Designated School Official (DSO) at your current school contact the DSO at Tri-Valley University to initiate the transfer. Once you apply to the new school, you should not have any problems with the transfer if they approve your application.

We hope this information is helpful. Kind regards,

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<sup>1</sup> ICE Fiscal Year 2010 Enacted Budget *available at* <http://www.scribd.com/doc/24704564/ICE-Fact-Sheet-FY2010-Budget-11-5-09>

*See also* DHS Budget-in-Brief: Fiscal Year 2009 *available at* [http://www.dhs.gov/xlibrary/assets/budget\\_bib-fy2009.pdf](http://www.dhs.gov/xlibrary/assets/budget_bib-fy2009.pdf)

In addition to ignoring the misinformation being propagated, during its investigation of the TVU scandal, ICE has utterly disregarded the rights of TVU students. Please consider the following points.

First, in TVU's Student and Exchange Visitor Program ("SEVP") Withdrawal Notice ("Notice"), ICE acknowledges its awareness of TVU's alleged fraud as early as September 30, 2009.<sup>2</sup> The Notice also states:<sup>3</sup>

On November 22, 2010, the Homeland Security Investigations (HSI) Office of the Special Agent in Charge, San Francisco, delivered to SEVP information regarding the school's violations of SEVP regulations.

Second, the DHS site visit to TVU's campus as part of the SEVP approval process established that TVU possessed a "confirmed capacity for approximately 30 students" (as of December 30, 2010).<sup>4</sup> In light of this fact, one fails to understand why ICE then allowed TVU to enroll an astonishing "1613 Active and 966 initial F-1 nonimmigrant students"?<sup>5</sup>

Third, note that ICE terminated the SEVIS records of all students enrolled at TVU as of January 18, 2011<sup>6</sup> – inexplicably, a day prior to shutting down the school pursuant to a raid on January 19, 2011.<sup>7</sup> Even though ICE was aware of the alleged wrongdoings of TVU as far back as September 30, 2009, they did nothing to warn the over one thousand unsuspecting students who enrolled at TVU in good faith and with no knowledge of the alleged fraud committed by their school. ICE chose to stay silent over this matter for over one (1) year and four (4) months before suddenly shutting down the school, without providing any safeguards for the students.

It is ICE's failure to timely act upon TVU's alleged false accreditation application that allowed TVU to exercise power on the fate of the students, including allegedly reporting false student addresses, issuing false I-20s, and authorizing dubious Curricular Practical Trainings ("CPT"). Bureaucratic apathy *ipso facto* equals injustice, especially where a bureaucracy is plenipotentiary. But here, not only were the students' future and their basic due process rights ignored, they were and are even now being treated as perpetrators, not victims.

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**ICE IS ACTING ARBITRARILY AND HAS FAILED TO FOLLOW ITS OWN GUIDELINES OR UNDERSTAND THAT TVU STUDENTS ARE INNOCENT.**

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As a consequence of TVU's sudden and unexpected closure for alleged immigration fraud, most of its students, who are from India and obtained status through proper legal channels, have been left out of lawful immigration status and worse. They have lost out both

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<sup>2</sup> Student and Exchange Visitor Program (SEVP) Withdrawal Notice ("Notice"), at 2

<sup>3</sup> *Id.*

<sup>4</sup> *United States of America v. Real Property Located at 405 Boulder Court, Suite 800, Pleasanton, California, et al*, Case 3:11-cv-00258-EMC at 9. (January 19, 2011) (Hereinafter "Complaint").

<sup>5</sup> Notice, at 2

<sup>6</sup> *Attention Former Tri-Valley University Students*, U.S. Immigration and Customs Enforcement, available at <http://www.ice.gov/sevis/tri-valley-110118.htm>

<sup>7</sup> *Feds Raid Private University Offices, Home Of Pres*, (KTVU News) available at <http://www.ktvu.com/news/26550954/detail.html>

academically and financially for no fault of their own. To further worsen the vulnerable position of these students, neither the relevant government agencies nor the applicable regulations provide guidance on how school closures can be conducted equitably and efficiently. For over a month following the closure of TVU, none of the regulating agencies– ICE, United States Citizenship and Immigration Services (“USCIS”) and Department of State (“DOS”) – have provided any meaningful guidance to assure students of their current status or future prospects.

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**ICE HAS FAILED TO ANNOUNCE APPROPRIATE STANDARDS FOR STATUS AND HAS FAILED TO FOLLOW THE REGULATIONS THEREBY PLACING STUDENTS IN JEOPARDY WITH USCIS AND DOS.**

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The regulation pertaining to students’ status, 8 CFR 214.2(f)(5)(iv):

An F-1 student authorized by DSO to withdraw from classes will be allowed a **15-day period for departure** from the United States. However, an F-1 student who fails to maintain a full course of study without the approval of the DSO or **otherwise fails to maintain status** is not eligible for an **additional period** of departure.

There is no provision for situations where ICE steps in to decertify or close a school. It is noteworthy that the part of the regulation, which does not permit students any grace period (“additional period of departure”) is clearly applicable to a student who “fails to maintain status.” It is obvious from the language of the regulation that this provision covers only those contingencies where a student is “at fault” for failing to maintain status. The situation of the TVU students is not provided for in the regulations. ICE has arrogated to itself the right to decide otherwise. Arguably, to hold unprepared students to even a 15-day limit is unreasonable, especially where no individual notice of closing is provided and the school is closed without any prior public notice. Regardless, the January 2007 ICE Memorandum<sup>8</sup> -- issued as guidance to F-1 students in the event of school closure or loss of SEVP-certification – directly contradicts 8 CFR 214.2(f)(5)(iv) by mandating students to “immediately transfer to another SEVP-certified school or depart the United States” if a school closes unexpectedly.<sup>9</sup> In doing so, ICE has come to represent the veritable judge, jury and executioner in this scandal, where the rights of the students continue to be sacrificed at the altar of bureaucratic indifference.

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<sup>8</sup> *Fact Sheet: Maintaining student status when an SEVP-certified school closes or loses its certification to enroll F-1 nonimmigrant students*, U.S. Immigration and Customs Enforcement, January, 2007.

*See also* 8 CFR § 214.2(f)(5)(iv): “An F-1 student authorized by DSO to withdraw from classes will be allowed a 15-day period for departure from the United States. However, an F-1 student who fails to maintain a full course of study without the approval of the DSO or otherwise fails to maintain status is not eligible for an additional period of departure.”

<sup>9</sup> *Fact Sheet: Maintaining student status when an SEVP-certified school closes or loses its certification to enroll F-1 nonimmigrant students*, U.S. Immigration and Customs Enforcement, January, 2007, at 2. “If you are enrolled at a school that closes unexpectedly, immediately transfer to another SEVP-certified school or depart the United States.”

ICE is failing to follow even a meager 15-day limit. In many cases, ICE has issued Notices to Appear (NTA) for failure to maintain lawful nonimmigrant status within two (2) days of the school's closure, which could not possibly have been anticipated by the students. Once a student is considered out of status, he or she is then removable from the United States and it is highly uncertain whether he or she can successfully reinstate to student status or apply for a change of status to either H-1B or H-4. Additionally, once an NTA is issued, it is highly improbable that USCIS will grant either another status or reinstatement to student status.

In a striking contrast to how ICE has arbitrarily managed the affairs of TVU students, last year students from another academic institution -- the CMG Computer Center in Pennsylvania—were given almost three months to change status after their school's SEVP-certification was revoked. Although the CMG Computer Center was not shut down in an ICE raid, the common denominator between students at both schools is that they fell out of status suddenly and unexpectedly. Yet, there is a glaring dissonance in the grace periods permitted in the two comparable situations.

See attached **Exhibit A**, a letter dated 28 October 2010 from ICE giving students until 22 January 2011 to change status. It is incomprehensible why ICE is not giving a similar "grace period" to the students of TVU.

Any student applying for reinstatement or change of student status will have to wait approximately six (6) months or more, until USCIS reaches a decision on their case. According to reports received by this office, the SEVIS records of all TVU students are currently on hold pending further investigation, which precludes them from either transferring to another academic institution or seeking reinstatement. During this time, the students' academic futures are highly uncertain and they could end up losing the tuition fees paid to enroll in new schools. Note that ICE can continue to issue NTAs even if a request for change of status or reinstatement is pending before USCIS.

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**LACK OF STANDARD PROCEDURES ON ISSUANCE OF NTAS HAS EMPOWERED ICE WITH UNFETTERED POWER OVER TVU STUDENTS.**

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Solely on the grounds of school closure, ICE is issuing NTAs to hundreds of TVU students to appear before U.S. immigration courts. Lack of centralized policy and standard procedures on the issuance of NTAs has empowered ICE agents with unfettered power over the fate of TVU students. As a direct result of this policy and procedural vacuum, ICE agents are meting out disparate treatment to students in similar situations and, in some instances, blatantly abusing their power. It is important to understand and highlight the legal consequences students face once an NTA is issued, as it could be the first step toward possible deportation (removal) from the United States.<sup>10</sup>

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<sup>10</sup> 8 U.S.C.A. § 1229(a)(1): In removal proceedings under section 1229a of this title, written notice (in this section referred to as a "notice to appear") **shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any)** specifying the following: (emphasis added) **(A)** The nature of the proceedings against the alien, **(B)** The legal authority under which the proceedings are conducted, **(C)** The acts or conduct alleged to be in violation of law, **(D)** The charges against the alien and the statutory provisions alleged to have been violated,

Students who have been issued NTAs and wish to leave the United States cannot do so because they will otherwise be subject to a ten (10) year bar from re-entering, leaving their aspirations toward U.S. degrees and prospects in tatters. Thus, they will have to wait till their case is scheduled in immigration court. Significantly, the current case backlog in immigration courts is at a record high,<sup>11</sup> and it has been reported that the earliest possible hearings for students issued NTAs will be scheduled around September 2011. Additionally, ICE has also confiscated many students' passports, which prevents them from leaving the United States if they wish to do so.

Shamefully, some ICE agents have abused their power during this process. Please note some of the incidents reported to this office by TVU students. In one egregious example of abuse of discretion by ICE agents, a student was detained for sixteen (16) days for having an "attitude." Before detaining the student, the ICE agent reportedly threatened the student that "you have dug your own grave." ICE did not inform the student of the charges against him.<sup>12</sup> In another instance reported to our office, ICE officers arrived at a Virginia residence occupied by two individuals, one of whom was a TVU student. The officers not only confiscated the passport and issued an NTA to the TVU student, but also subjected his roommate to the same treatment, even though he was not affiliated with TVU in any manner.<sup>13</sup> Please also see **Exhibit B** for an example of the singularly vague emails TVU students are receiving from DHS agents. The email notes that "This case and its subsequent investigation will affect your ability to return to or remain in the United States or obtain any future immigration benefit from the United States." For a frightened student already under financial pressure, these types of communications are not only uninformative, but also intimidating. ICE has sent out possibly hundreds of such emails.

Government inconsistency has so terrorized the students that the slightest threat sends them running for reassurance. For the second time in the past two weeks, we have seen a spurious email sent out to terrorized TVU students. Both claimed to be from the government as a result of which our office received a flurry of phone calls. We had to explain to these otherwise extremely intelligent people that the emails were obviously forgeries. See, for instance **Exhibit C**. This email purports to be from the FBI requiring the student(s) to deposit money for an FBI clearance. The contact email, however, is an aol.com address.

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**(E)** The alien may be represented by counsel and the alien will be provided (i) a period of time to secure counsel under subsection (b)(1) of this section and (ii) a current list of counsel prepared under subsection (b)(2) of this section. **(F)(i)** The requirement that the alien must immediately provide (or have provided) the Attorney General with a written record of an address and telephone number (if any) at which the alien may be contacted respecting proceedings under section 1229a of this title, **(ii)** The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien's address or telephone number, **(iii)** The consequences under section 1229a(b)(5) of this title of failure to provide address and telephone information pursuant to this subparagraph, **(G)(i)** The time and place at which the proceedings will be held, **(ii)** The consequences under section 1229a(b)(5) of this title of the failure, except under exceptional circumstances, to appear at such proceedings.

<sup>11</sup>*Backlog in Immigration Cases Continues to Climb*, Transactional Records Access Clearinghouse ("TRAC") (a non-partisan research organization that operates out of Syracuse University) available at <http://trac.syr.edu/immigration/reports/225/> "By the end of last year, the number of cases awaiting resolution in Immigration courts was roughly 268,000...The case backlog was 44 percent higher than it was in 2008," according to TRAC.

<sup>12</sup> The student has confirmed the details of this incident with our office, and is available to confirm the same, if necessary. See also Tri-Valley Student Recounts Horror of Detention, available at <http://www.ndtv.com/video/player/news/tri-valley-student-recounts-horror-of-detention/190110>

<sup>13</sup> The student has confirmed the details of this incident with our office, and is available to confirm the same, if necessary.

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**STUDENTS HAVE BEEN PUT OUT OF STATUS, CONFINED INDEFINITELY, FORCED TO SPEND CONSIDERABLE SUMS OF MONEY TO PROCURE BAIL AND SEEK LEGAL ASSISTANCE.**

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As stated above, there is no central policy governing the conduct of ICE agents, whose actions have been highly inconsistent from region to region and from agent to agent. For the same allegations, some students have had to procure between \$5,000 and \$15,000 to be released from custody, while others have been advised to seek new status without issuance of NTAs or insistence upon release bonds. Note that there are several instances of students spending as many as sixteen (16) nights in ICE custody because they had no family or friends who could procure the required amount. A similar danger exists for many more students who are yet to be interviewed by ICE.<sup>14</sup>

In effect, the issuance of NTAs leaves students with no choice but to retain legal counsel in order to guide them through this precarious legal situation. The students' woes are compounded by the fact that they are out of status in a foreign country thousands of miles away from their families, experiencing possible detention by a foreign government, anxious and uncertain about their academic futures, and struggling to arrange sufficient finances to sustain themselves until a hearing is scheduled.

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**ICE WRONGLY ALLEGES THAT STUDENTS' MISREPORTED THEIR RESIDENTIAL ADDRESSES.**

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The relationship between the Designated School Official ("DSO") and students carries an inherent power differential that can easily be exploited to the disadvantage of students. Appreciating this fact is critical to understanding and empathizing with the plight of these students. The students correctly reported their addresses to the DSO, in accordance with their legal obligations, but the DSO apparently failed to report the same. Clearly, the students must not be penalized for the alleged illegal acts of TVU and its officials.

Appropriate attribution of guilt should be obvious from the records in possession of ICE. Even a cursory examination of publicly available documents indicates the students' innocence.

First, the Complaint and the Notice allege, among other things, that TVU officials—not the students—made false statements in connection with the accreditation application and allowed unauthorized personnel to illegally access and update TVU's SEVIS database.<sup>15</sup> Further revelations suggest that those unauthorized personnel, acting at the direction of TVU's management, were listing the same fraudulent address in SEVIS to conceal the fact that most of TVU's students lived outside California and were not physically attending classes.<sup>16</sup> During this time, students were unaware of this allegedly fraudulent scheme. Every student our office has spoken with was shocked to realize that his or her address had been misreported.

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<sup>14</sup> *What do I tell my father, asks duped student*, Hindustan Times, available at <http://www.hindustantimes.com/What-do-I-tell-my-father-asks-duped-student/Article1-658271.aspx>

<sup>15</sup> Complaint, at 2, 6-9

<sup>16</sup> *Id.*, at 4

Second, TVU President Susan Su's response ("Response") to the Notice admits that it was the schools failure to report the addresses. The pertinent section of the Response states that "TVU later on hire staff to update student [sic] actual physical address [sic], not the consultant [sic] address. With the frequent change of student [sic] address [sic] and quick growth of admitted students; [sic] the staff never completed the work."<sup>17</sup> Thus, by alleging that the students misreported their addresses, ICE is in effect holding them accountable merely for their association with TVU, even though the Response clearly absolves the students of any blame.

Third, under SEVIS regulations, schools must notify all students of their legal obligation to inform the school within ten (10) days of any changes in information, including their residential address in the United States.<sup>18</sup> Thereafter, the burden is on the DSO – an officer of the university who has been designated by the government to be demigod over the students – to update SEVIS within 21 days.<sup>19</sup> In other words, if a student has notified his or her DSO of any change in address, then the student does not have to independently notify DHS. Again, the Response clearly acknowledges the school's failure to follow SEVIS regulations, and not the students':<sup>20</sup>

We did fail to report to SEVIS about the address change within 21 days, mainly because TVU has been considered purchasing a permanent campus building for quite a long time, and has considered several buildings including 4455 Stonebridge DR (with bank loan not approved), until finally bought 405 Boulder Ct (similar to 4455 Stonebridge Dr but only one-third of the price and is a brand new building)

The students report that they continued to receive mail from TVU at their correct addresses, even though TVU had allegedly misreported their addresses in SEVIS. While the students complied with their reporting obligations, it appears that the DSOs at TVU not only violated the law by failing to fulfill their reporting duties but also allegedly defrauded students by reporting false information to USCIS. Therefore, ICE is wrongly victimizing the students by penalizing them for the alleged illegal acts of TVU and its officials.

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**ICE HAS NOT GIVEN STUDENTS ANY VIABLE OPTIONS AS TO THEIR IMMIGRATION STATUS.**

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After TVU's closure, ICE announced with much fanfare that the problem had been "solved." Students were given the option of calling SEVIS and inquire about available options. In fact, ICE handled all such queries in a perfunctory manner by giving students three choices with no explanation of the consequences of each choice: (1) report to an ICE office for voluntary departure, (2) leave USA, or (3) apply for reinstatement.

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<sup>17</sup> TVU President Susan Su's Letter to DHS responding to the SEVIS Withdrawal Notice ("Response"), at 2

<sup>18</sup> 8 CFR §§ 214.4(a)(2)(i), 214.3(g)(1)(iii)

<sup>19</sup> *Id.* See Complaint, at 7

<sup>20</sup> Response, at 3

The reality, however, is that the students only have the “choice” of reporting to ICE for a voluntary departure because when students try to apply to another academic institution for reinstatement, that institution cannot issue new I-20s because the students SEVIS records are inaccessible pending further investigation. Hence, reinstatement is not an option. Moreover, for students whose passports have been confiscated, leaving the United States is not an option either.

In the meantime, ICE inquisitions and NTAs are continuing to this day. Students continue to go through unspeakable agony, expense and uncertainty. Furthermore, students who applied for a change of status to an H-1B, or derivative visas like H4s, are reporting receiving daunting Requests for Evidence (RFE) that challenge their status in the U.S. **The relevant excerpt from one such RFE forwarded to this office by a TVU student states:**

#### **Maintenance of status**

It does not appear that the beneficiary is currently maintaining a valid nonimmigrant F1 student status. The SEVIS I-20, Certificate of Eligibility for Nonimmigrant Student Status, that was submitted with your application contains information that does not match information submitted by the school in the SEVIS electronic system.

The I-20 you have submitted indicates that the beneficiary is pursuing a doctorate in computer software engineering, through Tri-Valley University, that will be completed in December of 2015. The SEVIS electronic system indicates that the beneficiary’s status was terminated for falling to maintain status.

Submit evidence that shows the beneficiary had been maintaining a valid nonimmigrant status as a(n) F1 student status, at the time of filing this petition.

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**DESIGNATED SCHOOL OFFICIALS, NOT STUDENTS, ARE RESPONSIBLE FOR OVERSEEING COMPLIANCE WITH THE HIGHLY COMPLEX AND TECHNICAL PHYSICAL ATTENDANCE REQUIREMENTS FOR INTERNATIONAL STUDENTS AND AUTHORIZING REQUESTS FOR CURRICULAR PRACTICAL TRAINING (CPT).**

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Immigration laws are extremely complex and it is unreasonable to expect foreign students to comply with their legal obligations absent any guidance from the government. To make matters worse, the government places DSOs in the position of arbiters and interpreters of the laws. An F-1 visa is granted for “duration of status,” defined as the time spent by student pursuing a “full course of study” at an accredited educational institution for foreign students.<sup>21</sup> As long as the student is pursuing a “full course of study,” he or she is considered to be in status.

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<sup>21</sup> 8 CFR §§ 214.2(f)(5)(i) and 214.2(f)(6)

***THE LAW GOVERNING ONLINE CLASSES AND PHYSICAL ATTENDANCE REQUIREMENTS IS NOT CLEAR AND STUDENTS WERE MISINFORMED BY TVU.***

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The law governing online classes and physical attendance requirements is not clear and subject to different interpretations. The regulations seem to mandate that an F-1 student may only take one class or three credits on-line or through distance education per term.<sup>22</sup> ICE is alleging that TVU students did not fulfill the full course of study requirement because although the regulations prohibit students from attending more than one class per term or semester online,<sup>23</sup> the exclusive means of instruction at TVU was via online classes. Thus, according to ICE, these students never completed a “full course of study” as required by law, which renders them out of status from the beginning of their enrollment at TVU.<sup>24</sup>

However, a memorandum issued by ICE in 2009 titled Decision by SEVP Director: Full Course of Study: California Community College Crisis (“SEVP Memo”) provides a different interpretation concerning the nexus of online courses and physical attendance requirements (Please see **Exhibit D**). The SEVP Memo was written in response to the high enrollment demand in California Community Colleges, which created logistical problems for F-1 students who are required to enroll in a minimum of 12 units per semester. In recognizing the problems posed by increased student enrollment, the SEVP Memo empowers community colleges with the “flexibility in defining what constitutes a full course of study for F-1 students.” With respect to online classes, SEVP Memo makes an important observation:<sup>25</sup>

There is no limit to the number of online classes that can be counted toward a full course of study **if the school can confirm the physical presence and participation of students**. SEVP encourages schools to make maximum use of monitored online training as feasible (emphasis added).

In this respect, Susan Su’s Response clearly states that from the very outset TVU students were told that physical attendance is not required to fulfill their degree requirements:

We advise every student, that they [sic] are welcome to come here, if they can not [sic] make it, **they do not need to**, because they will see exactly the same in their computer as everyone who come [sic] here on campus (emphasis added).

The Response also claims that the TVU has the means to “confirm the physical presence” of students:<sup>26</sup>

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<sup>22</sup> 8 C.F.R. §214.2(f)(6)(i)(G)

<sup>23</sup> 8 CFR §§ 214.2(f)(6)(i)(G)

<sup>24</sup> Notice, at 13

<sup>25</sup> *Decision by SEVP Director: Full Course of Study: California Community College Crisis* (November 12, 2009)(“SEVP Memo”): “SEVP is aware that there are other states and college systems in the United States facing similar issues. The Director will consider allowing similar ameliorative standards if contacted by a state’s department of education or an administrative office of a community college system.” at 3

<sup>26</sup> The Response also states that “The President has sent multiple E-mails to all TVU students to make the real life class attendance mandatory, E-mails to all Instructors to strictly monitor class attendance” at 3. However, the many students who have spoken to our office have indicated that no such emails emphasizing attendance policies were sent to the students.

Since our SEVP approval to enroll international students a year later in Feb 2009, the University has upgraded to the most advanced version which is **capable of monitoring every second a student entering and leaving the classroom.** [sic] We also reinforce student classroom attendance by requiring students showing [sic] their face [sic] in the camera to check the attendance. In Fall of 2010, approximate 90% if [sic] TVU 800 or so registered students attending [sic] weekly class meeting (emphasis added).

***TVU'S WEBSITE ALSO INDICATES THAT THE MECHANISM OF ONLINE INSTRUCTION ADOPTED BY TVU ENABLED STUDENTS TO PARTICIPATE DURING LECTURES.***

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TVU's website also indicates that the mechanism of online instruction adopted by TVU enabled students to participate during lectures: <sup>27</sup>

Reason Three: TVU Dual Education Module: On-Site Classroom/Remote Live Synchronous Access

Tri-Valley University is a research oriented higher education institution, with on-site research labs and classrooms complimented by remote live synchronous [sic] access (which is believed to be the coming future education model) to accommodate our industry related faculty and students' need. TVU develops the unique dual education module for classes with the cutting edge web meeting technology to facility [sic] **remote live synchronous access to on-site classroom instruction.** [sic] **When registering class, student can choose [sic] attending class "On-Site" or "Remote".** While the instructor's computer screen is projected on the board at the wall in the on-site classroom, his voice, video and computer screen are also projected at the same time on our remote student's [sic] computer at the same time. **Students can ask live questions, with both voice, video popping up in the entire classroom screen**<sup>28</sup> (emphasis added).

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Moreover, the Response also admits that the system in place to monitor classroom attendance is not foolproof: "The virtual class room monitoring has small issues if a student or a faculty is not properly changed, when a student enter the classroom, if he/she forget to input his own name, what the system sees is just an "Attendee No", can not identify who the student is. Also some student may leave the class in the middle, and relogin in couple of minutes later. We are also plan to fix all of these issues in the coming term by training all TVU students and instructors on how to check in the attendance in the first 30 minute of each class meeting, with the students showing face in camera and full name recorded" at 5.

<sup>27</sup> Tri-Valley University website, available at <http://trivalleyuniversity.org/why-tvu.html>

The website also states:

However, TVU's instruction is also quite different from the on-line program content which takes a textbook material and edits into reading and questions and answer section (**on-line classes have no real lectures, just reading and email back and forth between the students and the instructors**). All TVU's classes are regular classic classroom instructor content with power point presentation on each textbook chapter with live class lectures and live classroom interaction between students and instructors. With the cutting-edge technology to live broadcasting class meeting at TVU, **people at work can attend class and house wife can also attend class while staying at home** (emphasis added).

Please also note another relevant excerpt from TVU's website:

At Tri-Valley University, on-site classroom is complimented with virtual live synchronous and asynchronous on-line access. The integrated web meeting facility with desktop sharing, video and audio sharing, whiteboard annotation, chat and polls, question manager as well as recording and dial-in features, makes Tri-Valley University's **courses available to the global audience with no limit on location** (emphasis added).

<sup>28</sup> Tri-Valley University website, available at <http://trivalleyuniversity.org/why-tvu.html>

An evaluation of the aforementioned information lends itself to two possible interpretations. First, if the SEVP Memo guidelines are correct, then the students were arguably fulfilling the full course of study requirement and ICE's contention to the contrary is incorrect. Second, if the SEVP Memo guidelines are not in accordance with the full course of study requirement, then the students cannot be blamed for failing to maintain status because TVU clearly assured them otherwise. In any case, the students cannot be faulted if TVU either misinterpreted the law or misinformed the students.

A closer examination of TVU's website reinforces the fact that TVU's students were provided incomplete or incorrect information. While TVU's website clearly enunciates restrictions on taking purely online classes for undergraduate students, a similar caveat is not forthcoming for graduate students – who constitute the overwhelming majority of TVU's student body. The paragraph below, which is taken from TVU's website, shows that TVU officials limited the restrictions on online coursework only to undergraduates:<sup>29</sup>

On-Line Courses Limits: **Undergraduate students** may count a maximum of three credit hours via online or distance-learning courses towards a full-time course load count each trimester. If students meet the minimum [sic] requirement for on-site class, he/she may enroll in additional online or courses as desired (emphasis added).

Our office has seen many examples of TVU interpreting the laws for the students. For instance, reproduced below is an email apparently sent by a TVU student to Susan Su inquiring whether the requirements for an MS Degree could be satisfied by taking purely online classes, and the DSO's response assuring the student that physical attendance was not required.

Dear Ms. Susan,

I don't mind sending the necessary documentation, but, I will need to know if I can get MS Degree (Computer science) by doing all of my coursework online at Tri-Valley University. Please let me know at your earliest convenience, to proceed further.

Thanks,

[Redacted] On Tue, Nov 23, 2010 at 7:28 PM, <\*\*\*@trivalleyuniversity.org> wrote:

Yes you can complete your MS degree online by Tri valley university Virtual classroom programme

Thank you

Our office can find no indicia of culpability attributable to students of TVU in this and many other examples we have reviewed.

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<sup>29</sup>Tri-Valley University website, available at <http://trivalleyuniversity.org/int.htm>

**REGULATIONS PERMIT DSOS CONSIDERABLE DISCRETION IN CPT ISSUANCE;  
STUDENTS CANNOT BE BLAMED FOR TVU'S INCORRECT ISSUANCE OF CPTS:**

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ICE has misunderstood its own regulations in maintaining that CPT cannot be issued in the first semester. In fact, there are two exceptions to this rule.<sup>30</sup> First, when a student has been in student status for one full academic year with any school (not necessarily the school issuing the CPT). Second, graduate students can be permitted to start CPT from the first day of school if the DSO determines that the CPT is an integral part of the student's curriculum. Also note that the sole authority to grant authorization for CPT purposes is vested with the DSO. This is also clearly stated on ICE's own website:<sup>31</sup>

The DSO approves Curricular Practical Training (CPT) for students in accordance with the 8 CFR 214.2(f)(10)(i). **No employment authorization from USCIS is needed** (emphasis added).

However, TVU offered CPTs from the very first day of enrollment, and students had no reason to either question the judgment of their DSO or doubt the legitimacy of the authorized CPT's. Even if ICE maintains that the CPTs were wrongfully authorized, ICE must hold the DSO accountable because the determination of whether the full courses of study or CPT requirements have been fulfilled is exclusively the domain of the DSO.<sup>32</sup>

**TRANSFERRING TO ANOTHER SCHOOL OR SEEKING REINSTATEMENT ARE NOT  
VIABLE OPTIONS FOR STUDENTS.**

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For most TVU students, transferring is not an option because they did not fulfill the "full course of study" requirement.<sup>33</sup> Even if transferring were an option, however, it is riddled with several obstacles.

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<sup>30</sup> 8 CFR 214.2(f)(10)(i):

*Practical training.* Practical training may be authorized to an F-1 student who has been lawfully enrolled on a full time basis, in a Service-approved college, university, conservatory, or seminary for one full academic year. This provision also includes students who, during their course of study, were enrolled in a study abroad program, if the student had spent at least one full academic term enrolled in a full course of study in the United States prior to studying abroad. A student may be authorized 12 months of practical training, and becomes eligible for another 12 months of practical training when he or she changes to a higher educational level. Students in English language training programs are ineligible for practical training. An eligible student may request employment authorization for practical training in a position that is directly related to his or her major area of study. There are two types of practical training available:

*Curricular practical training.* An F-1 student may be authorized by the DSO to participate in a curricular practical training program that is an integral part of an established curriculum. Curricular practical training is defined to be alternative work/study, internship, cooperative education, or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with the school. Students who have received one year or more of full time curricular practical training are ineligible for post-completion academic training. Exceptions to the one academic year requirement are provided for students enrolled in graduate studies that require immediate participation in curricular practical training. A request for authorization for curricular practical training must be made to the DSO. A student may begin curricular practical training only after receiving his or her Form I-20 with the DSO endorsement.

<sup>31</sup> *Curricular Practical Training*, U.S. Immigration and Customs Enforcement available at: <http://www.ice.gov/sevis/students/cpt.htm>

<sup>32</sup> 8 CFR § 214.2(f)(10); See Notice, at 6-8

<sup>33</sup> 8 CFR § 214.2(f)(6)(i) and 8 CFR § 214.2(f)(8)(i)

First, TVU misrepresented whether its credits will be accepted by an accredited college or university when submitting the I-17 petition to DHS for accreditation. The Complaint states:<sup>34</sup>

DHS requires a school which is unaccredited, such as TVU, to provide evidence from three accredited colleges or universities that the credits which a student obtains at TVU will be accepted by that college or university for credit...When ICE began to investigate, however, ICE found that at least two of those agreements were false; authorized officials in two of those accredited colleges had not accepted TVU credits in the past and did not agree to accept TVU's credits in the future.

This means that students will not be able to transfer the credits and degrees they have already earned to another college or university. This is a major financial and academic loss for the students' who are not a part of this scheme to defraud.

Second, the spring semester at most reputable universities already began in mid-January, and even late enrollments are closed. Some schools on the quarter system may have openings for the spring term but very few universities are on the quarter system.

Third, admission to a SEVIS-accredited university - especially at the master's level or higher - takes months not days. Many universities have even closed the admissions process for the fall of 2011, especially if assistantships are involved.

Fourth, many universities only admit new students in the fall. Since students at these universities in question will be unable to transfer credits and since there is a highly structured prerequisite system in some specialties, off term is often not possible in these programs.

Fifth, for students dependent on financing their education through bank loans, the situation is even more precarious as they can only secure bank loans if they are currently enrolled at an institution, which is not a viable option for the aforementioned reasons.

Since transferring to another institution is not possible, the alternative is to request a new school to issue a new I-20 with the DSO's recommendation for reinstatement, and then request reinstatement based upon exceptional circumstances. The student will only be able to attend classes if the SEVIS records are released to the new school. However, according to the government, those records are currently not available, which precludes the students from seeking reinstatement.

Furthermore, reinstatement carries its own set of risks. If reinstatement is denied, the student must leave the US immediately, and forsake all the money spent on seeking reinstatement and tuition fees thus far. If the student does not leave, he or she may be placed in removal proceedings at any time. This, in turn, makes the possibility of getting another F-1 visa highly unlikely.

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<sup>34</sup> Complaint, at 8

## **EVIDENCE SHOWS THAT USCIS AND DEPARTMENT OF STATE ARE UNLIKELY TO GRANT ANY RELIEF TO TVU STUDENTS**

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Since the beginning of the TVU debacle, our office has been apprehensive because even if ICE were to withdraw its NTA offensive, TVU students could still be in a legal limbo. They have only two choices in every possible permutation and combination: seek status within USA from USCIS or depart USA and seek a new visa from DOS. We have implored the government to take corrective measures to prevent further damage and do justice for TVU students. More than a month after TVU's closing, however, we have yet to see any remedies.

Students who had applied for change of status are being questioned by USCIS regarding their violation of status. It is obvious that unless USCIS, DOS and ICE are all individually and collectively forthcoming with a concerted policy, innocents will continue to suffer.

Minor corrections in and public announcements of policy by the U.S. government can help alleviate the extreme distress that the students are currently enduring. Respect for the due process and human rights of individuals, even if they are foreigners, is guaranteed both under the Constitution of the United States and by fundamental notions of a free society. As a civilized nation, it is imperative that its government provide the students with an attitude and the protection of the assumption of innocent-until-proven-guilty.<sup>35</sup>

The following list establishes a much-needed framework for relief for innocent victims of the Tri-Valley debacle.

### **RECOMMENDATIONS**

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- ICE should discontinue issuance of NTAs and pending NTAs against students should be withdrawn. Note that almost all NTAs issued so far claim only violation of status because of school closure as grounds for removal from U.S.
- ICE should immediately stop confiscating students' passports and should return confiscated passports, except in rare cases where well-founded allegations of fraud are made.
- ICE must implement a policy change to allow students' sufficient time to change status after the unexpected closure of their school. Note that there are no regulations that govern the contingency of a school closing. Therefore, a policy change is the only requirement of law. This case requires a lengthier grace period because TVU, in violation of its legal obligations, misreported the addresses of students because of which ICE could not notify students about school closure. In addition, all SEVIS records must be made available for school transfers and reinstatements.

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<sup>35</sup> Ironically, immigration investigations and proceedings are deemed civil proceedings, although, ICE can detain individuals indefinitely and tag them like animals. In fact, our civilized society ensures more rights for animals than it does for ICE targets.

- DHS must develop and provide clear guidelines for students on the steps to take once they are out of status, and provide viable options to convert status.
- DHS must direct USCIS to expedite the change of status and reinstatement process or, in the alternative, provide public policy statements for those awaiting a decision on reinstatement so that their time and money are not wasted in a futile pursuit.
- DOS must provide U.S. Consulates in India clear guidance on how to interpret the impact of school closure and assess re-issuance of visas to students.
- DHS must implement a centralized policy to provide clear guidelines for ICE agents and remove any requirement of students having to post an Immigration Bond in order to be released from ICE's custody or be RFID tagged. Money being held towards bonds must be returned.
- U.S. Government must make arrangements to compensate students (through asset forfeitures and other means) for their losses — financial and otherwise.

Respectfully submitted on behalf of TVU students.

Law Offices of Rajiv S. Khanna, PC

By:   
Rajiv S. Khanna

CC: The Honorable Vice President Joe Biden  
The Honorable Secretary of State Hillary Rodham Clinton  
The Honorable Secretary of the Department of Homeland Security Janet Napolitano  
The Honorable Ambassador of India to the United States Meera Shankar

## EXHIBIT A

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A letter from ICE to students of CMG Computer School

U.S. Department of Homeland Security  
Student and Exchange Visitor Program  
US Immigration and Customs Enforcement  
500 12th ST. SW STOP 5600  
Washington, DC 20536-5600



U.S. Immigration  
and Customs  
Enforcement

OCT 28 2010

**Student and Exchange Visitor Program  
Notice to Student**

You are currently holding an *Active* non-immigrant F-1 or M-1 status to study at CMG Computer Center, school code PHI214F00799000. The Student and Exchange Visitor Program (SEVP) has withdrawn the school's approval for attendance of nonimmigrant students as of the date of this letter.

You are permitted to continue studying at CMG Computer Center until January 22, 2011; the current term or session end date plus an additional 30 days. By this date you must transfer to another SEVP-certified school, complete your program of study, or depart the United States. If you still wish to pursue a *full* course of study, you must apply to another SEVP-certified school and upon admission, work with your current school's PDSO or DSO to complete the SEVIS record transfer. You may refer to the list of SEVP-certified schools at <http://www.ice.gov/sevis/>. Information regarding *Transfer* between SEVP-approved schools is available under the title "Transfers" at <http://www.ice.gov/sevis/faq.htm>.

If you fail to maintain status through this date the school must *Terminate* your record in SEVIS. As long as you maintain *Active* status, the school PDSO or DSO is responsible for counseling you on possible actions and appropriately updating your SEVIS record.

Failure to maintain *Active* status or departing the United States will result in your name being submitted to SEVP's Counterterrorism and Criminal Exploitation Unit. This may result in removal from the United States and you could be banned from obtaining legal status in the United States for a period of up to ten (10) years. For instructions on how to file for a reinstatement, visit [www.uscis.gov](http://www.uscis.gov).

**On January 22, 2011, if you have not transferred to another SEVP-approved school or completed your program of study, you must depart the United States.**

Should you wish to speak to someone regarding this notice, contact the School Certification Branch via email at [schoolcert.sevis@DHS.gov](mailto:schoolcert.sevis@DHS.gov) or by telephone at (703) 603-3591.

Sincerely,

*Dianne Currie*

Dianne Currie  
Chief, School Certification Branch  
Student & Exchange Visitor Program

## EXHIBIT B

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Subject: Please contact the U.S. Department of Homeland Security Regarding Tri Valley University

Date: Mon, 14 Feb 2011 19:31:25 -0500

From: [...]@dhs.gov

To: [TVU student]

[Student Address]

DOB: [...]

Passport: India, [...]

I am a Special Agent with the United States Department of Homeland Security and have been assigned a case to investigate your non-immigrant status in the United States related to Tri Valley University (TVU). Attention TVU Student, if you were formerly enrolled as an F-1 student at TVU you been terminated in SEVIS effective January 18, 2011 and have the options of making arrangements to report to 620 Frelinghuysen Avenue, Newark, NJ 07114 at a pre-arranged date and time if you feel you have legal reason to remain in the United States or you may depart from the United States without an otherwise possible applicable bar to re-admission to the United States in the future. I am tasked with trying to determine if you are still in the United States, where you are located, why you have not yet departed, and how I may contact you. If you have left the United States, I need to know when you departed, where you departed, and how you departed the United States. Additionally, if you are no longer in the United States, I will need proof of your departure or something showing you're no longer in the United States. This case and its subsequent investigation will affect your ability to return to or remain in the United States or obtain any future immigration benefit from the United States. Please contact me via email at [...] or via telephone at [...], extension [...], or [...].

Thank you,

[Name of DHS Agent]

Special Agent

U.S. Department of Homeland Security

U.S. Immigration and Customs Enforcement

Homeland Security Investigations - SAC Newark

Desk: [...]

Cell: [...]

## EXHIBIT C

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A spurious letter purportedly from FBI/DHS



**FBI Headquarters in Washington, D.C.  
Federal Bureau of Investigation  
J. Edgar Hoover Building  
935 Pennsylvania Avenue,  
NW Washington, D.C. 20535-0001**



**EFCC Headquarters in  
Lagos.  
Economic and Financial  
Crimes Commission  
15A, Awolowo Road,  
Ikoyi, Lagos,  
Nigeria, 23401.**

**REF: US/28028/88/11**

**Attention:**

You are to contact the U.S. Department of Homeland Security (DHS) Los Angeles, California to obtain your Clearance Certificate, find below their contact information's:

**Contact Person:** Rev. James Kelly

**PRINCIPAL Legal Advisor U.S. Department of Homeland Security (DHS)**

**Rev James Email:** revjimkelly@aol.com

Los Angeles Office Address 606 South olive Street, 8<sup>th</sup> Floor, California. Ensure you contact (DHS) with your Full Name, Address and phone number/cell number.

Contact the DHS via Email with the information above immediately, once you contact them i will get back to you or else I will have an agent come visit you at home for questioning.

Furthermore, be advice that according to the United State Law together with the FBI rules and regulations, you are to obtain the document from the DHS. Also note that you are to take care of the cost of the Clearance Certificate, which will be issued in your name. Due to the content of the Clearance Certificate and how important and secured the document is, you as the beneficiary will send the DHS the sum of \$350 Dollars only for the issuing of the Clearance Certificate. That is the lay down rules for the DHS to release such sensitive document; DHS will issue you the authentic and original copy of the Clearance Certificate with a seal on it for verification and approval.

You are hereby advised to Contact them through the email address above to make an enquiry concerning how you will send the official fee to them. Note that you are to observe this immediately, if you really want your funds to be credited to your personal bank account and to avoid any legal battle with the security operatives over this matter. We have already informed the DHS about the present situation go ahead and contact them immediately.

Your funds are under our custody and will not be released to you unless the required document is confirmed, after that the fund will be release to you immediately without any delay.

NOTE: We have asked for the above document to make available the most completed and up-to date records possible for no criminal justice purposes. The documents will clarify the intensity of this fund; exonerate it from money laundry, scam and terrorism.

WARNING: Failure to provide the above requirement in the next 24 hours, legal action will be taken immediately by arresting and detaining you as soon as international court of justice issues a warrant of arrest, if you are found guilty, you will be jailed as terrorism, drug trafficking and money laundering is a serious problem in our community today and the world at large. The F.B.I will not stop at any length in tracking down and prosecuting any criminal who indulges in this criminal act. Nobody is above the law and the law is not a respecter of anybody. We presume you are law abiding citizen whom would not want to have scuffles with the authority, in and outside of the United States.

We are charged with the responsibility of implementing legal norms and our authority is irrevocable so don't dare dispute our instruction, just act as instructed. The person you know will not help you in this matter rather abide by this instruction. The funds in question were deposited by those people that contacted you.

Note: You are to contact DHS with your full names, phone number/cell number and full address via the email which I stated above immediately, for the processing of your Clearance Certificate within the next 48 hours.

Faithfully Yours  
**Robert S. Mueller III**  
***FBI Director***

**Note contact the DHS office:** revjimkelly@aol.com



**ROBERT MUELLER**  
Director – **FBI.**



**NSB SEAL ABOVE**

## EXHIBIT D

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### **Decision by SEVP Director**

#### ***Full Course of Study: California Community Colleges Crisis***

**Date: November 12, 2009**

1. Effective immediately and to be reviewed each semester until the current crisis is resolved, the following guidance will be used by all SEVP personnel involved in the determination of whether an undergraduate student in the California Community College system is enrolled in a full course of study.
2. There are no previous decisions by the SEVP Director on this issue.
3. Media reports and communication with the California Community College Chancellor's Office, which is attached, confirms that the combination of significant decreases in budget and increased enrollment has strained California's community colleges so that there is insufficient space in courses for the number of students. International students, even availing themselves of all the available options for concurrent enrollment and online study, are unable to enroll in what the regulations have defined as a full course of study.
4. 8 CFR 214.2(f)(6)(B) defines a full course as follows:

Undergraduate study at a college or university, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter hour systems, where all undergraduate students who are enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or are considered full-time for other administrative purposes, or its equivalent (as determined by the district director in the school approval process), except when the student needs a lesser course load to complete the course of study during the current term;
5. Due to these extenuating circumstances, this Director's decision will authorize SEVP-certified community colleges in California, to enroll their F-1 nonimmigrant students in the number of credits certified by their designated school officials (DSO) as a full course of study. These students must enroll in at least one course (three credit hours) per term which requires their physical presence. Otherwise, they may enroll in online courses and/or reduce their course loads to fewer than 12 credits, as approved by DSOs. The reduced course load function in SEVIS does need not to be used, but a copy of this directive must be kept in the student's file. The student's SEVIS file must be annotated to reflect this Director's Decision.
6. In authorizing this flexibility for schools in determining the full course of study available, SEVP wishes that schools are clear on the available parameters of

online training available to credit toward a full course of study. 8 CFR 214.2(f)(6)(G) allows:

For F-1 students enrolled in classes for credit or classroom hours, no more than the equivalent of one class or three credits per session, term, semester, trimester, or quarter may be counted toward the full course of study requirement if the class is taken on-line or through distance education and does not require the student's physical attendance for classes, examination or other purposes integral to completion of the class.

There is no limit to the number of online classes that can be counted toward a full course of study if the school can confirm the physical presence and participation of students. SEVP encourages schools to make maximum use of monitored online training as feasible.

7. SEVP certified schools should maintain a list of students for whom they have provided relief identified in this decision
8. SEVP is aware that there are other states and college systems in the United States facing similar issues. The Director will consider allowing similar ameliorative standards if contacted by a state's department of education or an administrative office of a community college system.

Approved: 

Louis M. Farrell  
Director  
Student and Exchange Visitor Program

Date: NOVEMBER 12, 2009

Attachment: Letter from Chancellor Jack Scott

October 26, 2009

Katherine H. Westerlund

Management and Program Analyst

Student and Exchange Visitor Program

Immigration and Customs Enforcement

2450 Crystal Drive, Century Tower I, 9<sup>th</sup> Floor

Arlington, VA 22202

Dear Ms. Westerlund:

I am writing in response to your email of October 8, 2009, to Executive Vice Chancellor for Programs Morgan Lynn. You have asked whether media and campus reports of high enrollment demand in the California Community Colleges are accurate and whether high enrollment demand is posing a barrier to enrollment in 12 units per semester for international students on F-1 visas. I can confirm that enrollment demand is indeed surpassing the funding available to the California Community Colleges to offer classes and services. As a result, many students are finding it difficult to develop an appropriate 12-unit course schedule. This problem is especially acute for new students, who generally have lower enrollment priority than continuing students, and for students who register late in the process. Many F-1 students fall into these categories and find themselves unable to register for 12 units.

Should the Student and Exchange Visitors Program be able to provide community colleges with flexibility in defining what constitutes a full course of study for F-1 students it would be very helpful to enabling these students to be successful in reaching their educational objectives and fulfilling the goals for international education that we all share. Thank you for recognizing this problem and being proactive in proposing a solution.

Should you have additional questions or a need for assistance, please feel free to contact Linda Michalowski, Vice Chancellor for Student Services and Special Programs at (916) 327-5361 or by email to [lmichalo@cecco.edu](mailto:lmichalo@cecco.edu).

Sincerely,

Jack Scott, Ph.D.

Chancellor

cc: Morgan Lynn

Linda Michalowski

# **Exhibit 02:**

# **ISAP II Document**



U.S. Immigration  
and Customs  
Enforcement

MAY 11 2005

MEMORANDUM FOR: Field Office Directors  
FROM: Wesley J. Lee  
Acting Director  
SUBJECT: Eligibility Criteria for Enrollment into the Intensive Supervision Appearance Program (ISAP) and the Electronic Monitoring Device (EMD) Program

Purpose

To specify eligibility criteria for enrollment of an individual into the Intensive Supervision Appearance Program (ISAP) and the Electronic Monitoring Device (EMD) Program.

Background

The recent development and growth of Alternatives to Detention Programs (ATDPs) within the Office of Detention and Removal Operations (DRO) requires a consistent national policy related to enrollment criteria. ATDPs were designed to provide expanded options for release of adult aliens, by assisting officers in closely monitoring aliens released into the community. ISAP and EMD represent two of the recent programs that have been developed to accomplish this goal. Each individual case is reviewed carefully to determine whether an ATDP should be employed and, if so, the appropriate program and level of supervision are selected.

Both programs provide supervision tools such as curfews and electronic monitoring devices for individuals released from detention. However, ISAP also provides additional community-based supervision including intensive case management. The case management involved in ISAP includes structured reporting requirements and unscheduled home visits. Both ISAP and EMD have their eligibility criteria set forth in a placement or risk matrix worksheet when an individual is being screened for release from custody. However, as discussed below, there are additional criteria that apply when considering a non-detained individual for enrollment into either of these programs for a violation of conditions of release.

General Discussion of ISAP and EMD Programs

The EMD program consists of two monitoring systems. The first, Telephonic Reporting (TR) is a call-in system utilizing voice recognition. This supervision tool may be used as an added condition

of release from detention or for supplementing in-person reporting requirements. It is available nationwide and may be used to increase the levels of reporting while under supervision to include reporting daily, weekly, or monthly, as appropriate. This method of reporting is beneficial for the participant as well as the officer because it frequently decreases in-person reporting requirements.

The second EMD tool is Radio Frequency (RF) monitoring. RF is a home curfew system that uses an electronic bracelet. This program has a specific worksheet that determines eligibility for placement into the RF program. It is primarily focused on aliens who are being considered for release from detention.

ISAP is the newest of the ATDPs that are available as a tool for supervised release. The population that is eligible for ISAP is specifically addressed within the electronic ISAP placement worksheet. This program includes a highly-structured supervision model that requires a case specialist to closely supervise a small caseload of participants, utilizing a variety of control and supervision tools such as: weekly schedules, electronic bracelet monitoring, home visits, alien reporting, decreasing levels of restrictions as participants demonstrate compliance, and community collaborations that support the participant. This program is offered within the geographic proximity of the following eight sites: Philadelphia, Baltimore, Miami, Kansas City, MO, Denver, San Francisco, St. Paul, and Portland, OR.

Special Factors When Considering a Non-Detained Alien for ISAP or EMD

Due to the intensive supervision of individuals participating in RF monitoring and ISAP, careful case-by-case reviews must occur when determining their use for individuals not complying with their release conditions. When considering a non-detained alien for RF monitoring or ISAP due to violations of the conditions of release, apply additionally the following criteria:

- (1) The nature of the conditions of release violation should be made clear to the alien, and the alien should be given a chance to explain the violation.

(b)(2)High

(b)(2)High

- (2)

(b)(2)High

(b)(2)High This may be the case, for example, where the country in question has consistently refused to issue a travel document in similar circumstances, or where the alien has previously submitted a complete application that has been rejected by the country and there has been no change in the relevant circumstances.

~~b(7)(A)~~  
~~b(7)(E)~~

Use of New Addendum to the Order of Supervision (OS)

Attached is an updated addendum to the OS, which is designed to help give the alien more specific written notice of the steps he/she must take to obtain a travel document. Please use this version from now on. The new addendum still has an "other" section where the officer can specify any additional requirements that are particular to an individual case. Immediately above the "other" section, a section has been added that should be checked when ISAP or EMD will be used. The alien should complete the signature and date blocks in this section when agreeing to participate. When an alien is being placed in ISAP or EMD, documents that describe the particular program requirements must be attached to the OS. These will normally be the program documents that the alien signs upon entering the specific program.

As previously mentioned, ISAP and EMD programs are supervision tools designed to assist offices with monitoring individuals released into the community with various reporting requirements. They are interrelated in that they provide varying levels of supervision available for use as appropriate on a case-by-case basis. The proper use of these programs will assist in decreasing the backlog of absconders. Careful review of each case placed into an ATDP will allow for better case management, improved appearance rates as required at immigration court, and increased compliance with removal or voluntary departure orders.

If you have any questions concerning this memorandum, please direct your calls to (b)(6), (b)(7)c  
Acting Chief, Alternatives to Detention Unit, Office of Detention and Removal Operations via e-mail or phone at (202) 353-(b)(6), (b)(7)c

Attachments (2)

File No: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

on \_\_\_\_\_, you were ordered:  
(Date of final order)

- Excluded or deported pursuant to proceedings commenced prior to April 1, 1997.
- Removed pursuant to proceedings commenced on or after April 1, 1997.

Because the Service has not effected your deportation or removal during the period prescribed by law, it is ordered that you be placed under supervision and permitted to be at large under the following conditions:

- That you appear in person at the time and place specified, upon each and every request of the Service, for identification and for deportation or removal.
- That upon request of the Service, you appear for medical or psychiatric examination at the expense of the United States Government.
- That you provide information under oath about your nationality, circumstances, habits, associations, and activities and such other information as the Service considers appropriate.
- That you do not travel outside \_\_\_\_\_ for more than 48 hours without first having notified this Service office of the dates and places of such proposed travel.  
(Specify geographic limits, if any)
- That you furnish written notice to this Service office of any change of residence or employment within 48 hours of such change.
- That you report in person on the \_\_\_\_\_ to this Service office at: \_\_\_\_\_ unless you are granted written permission to report on another date.  
(Deportation Section)
- That you assist the Immigration and Naturalization Service in obtaining any necessary travel documents.
- Other: \_\_\_\_\_
- See attached sheet containing other specified conditions (Continue on separate sheet if required)

\_\_\_\_\_  
(Signature of INS official)

\_\_\_\_\_  
(Print name and title of INS official)

**Alien's Acknowledgment of Conditions of Release under an Order of Supervision**

I hereby acknowledge that I have (read) (had interpreted and explained to me in the \_\_\_\_\_ language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.

\_\_\_\_\_  
(Signature of INS official serving order)

\_\_\_\_\_  
(Signature of alien)

\_\_\_\_\_  
Date



File No: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

That you do not associate with criminals or members of a gang that is known to be involved in criminal activity.

That you register in a substance abuse program within 14 days and provide Immigration and Customs Enforcement (ICE) with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a program counselor.

That you register in a sexual deviancy counseling program within 14 days and provide ICE with written proof of such within 30 days. You must provide ICE with the name of the program, the address of the program, the duration and objectives of the program, and the name of a program counselor.

That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency/agencies and provide ICE with written proof of such registration within 10 days.

That you do not commit any crimes or be associated with any criminal activity while on this Order of Supervision.

That you report to a parole or probation officer as required within 5 business days and provide ICE with written verification of the officer's name, address, telephone number, and reporting requirements.

You must follow all reporting and supervision requirements as mandated by the parole or probation officer.

That you continue to follow any prescribed doctor's orders whether medical or psychological, including taking prescribed medications.

That you make good faith and timely efforts to obtain a travel document and assist ICE in obtaining a travel document.

That you submit a complete application for a travel document to all appropriate Embassies or Consulates, including those representing the countries of \_\_\_\_\_. You must present ICE with evidence that each Embassy or Consulate to which you apply has received your request and all required documents. This may be done, for example, by mailing your application(s) with a request for return receipt and providing the signed return receipt to ICE, by obtaining a tracking number when you mail your application(s) and providing the number to ICE, or by submitting written confirmation of receipt issued by the Embassy or Consulate.

That you submit your application(s) for a travel document to all appropriate Embassies or Consulates and provide proof of receipt to ICE on or before \_\_\_\_\_.

That you provide ICE a copy of your application(s) for a travel document that you submit to any Embassy or Consulate, including all supporting documents, photos, and other items provided to the Embassy or Consulate to support your application(s).

That you provide ICE a copy of all correspondence related to your travel document application(s) that you send to, or receive from, an Embassy or Consulate.

That you contact the Embassy or Consulate within 21 calendar days of making your application(s) to confirm that the information you provided is sufficient.

That you comply with any requests from an Embassy or Consulate for an interview and make good faith efforts to submit further documentation if required by the Embassy or Consulate.

Every time you report in person under this order of supervision, you must inform the local ICE office of all actions you have taken to obtain a travel document. You must provide any available written documentation to ICE regarding these actions and the status of your travel document application(s).

That you provide ICE, upon request, with any and all information relevant to application(s) for a travel document. This may include, but is not limited to, information regarding your family history, including dates of birth, nationalities, addresses, and phone numbers as requested for such persons, whether in your country of nationality and/or citizenship or elsewhere, and your past residences, schools attended, etc.

You will participate in a supervised release program, as described in the attached document. You will comply with the rules and requirements of this program, and cooperate with its administrators.

I agree to comply with the rules, requirements, and administrators in the supervised release program described in the attached document.

Alien's signature \_\_\_\_\_ Date \_\_\_\_\_

Other. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Any violation of any of the above conditions may result in a fine, more restrictive release conditions, return to detention, criminal prosecution, and/or revocation of your employment authorization document.**

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### Alien's Acknowledgement of Conditions of Release under an Order of Supervision

I hereby acknowledge that I have (read) (had interpreted and explained to me in the \_\_\_\_\_ language) the contents of this order and addendum, a copy of which has been given to me. I understand that failure to comply with the terms of this order and addendum may subject me to a fine, more restrictive release conditions, detention, criminal prosecution, and/or revocation of my employment authorization document.

\_\_\_\_\_  
(Signature of ICE official serving order)

\_\_\_\_\_  
(Signature of alien)

\_\_\_\_\_  
(date)

Please note that all references in this order/addendum to "INS" or "Service" should now be considered to refer to U.S. Immigration and Customs Enforcement (ICE).

Updated 4/25/2005

# Outprocessing Checklist

## Sex Offenders

- Probation/Parole Officer notified.
- Registered as sex-offender as required by state statute within 7 days.
- Victim/Witness Coordinator notified.
- Victim/Witness notified.
- Written Proof of Counseling.

## Substance Abusers

- Probation/Parole Officer notified.
- Written Proof of Counseling.

## All Aliens

- Parole/Probation Officer notified.
- Obtain address where living and telephone number.
- Enter into IDENT
- NCIC check
- Travel document application

Completed By:

---

Deportation Officer

Date

Concurrence By:

---

Supervisory Deportation Officer

Date



## U.S. Immigration and Customs Enforcement

JUN 28 2005

MEMORANDUM FOR: Field Office Directors  
FROM: Wesley J. Lee  
Acting Director  
SUBJECT: Alternatives to Detention Programs (ATDP) Enrollment Guidance

### Purpose

This memorandum clarifies field guidance regarding the use of the Intensive Supervision Appearance Program (ISAP) and Electronic Monitoring Program (EMP) for aliens not subject to mandatory detention.

### Background

The recent field guidance regarding the eligibility criteria for aliens placed into Alternatives to Detention Programs (ATDPs) within the Office of Detention and Removal Operations (DRO) may be updated or clarified, as needed. As discussed in the attached memorandum, ATDPs were designed to provide expanded options in lieu of formal detention for adult aliens, while continuing to closely monitor them throughout the removal process. ISAP and EMP represent two of the recent programs that have been developed to accomplish this goal.

### Discussion

ISAP and EMP are not programs requiring an alien to volunteer to participate. Both programs are specific conditions of release DRO may require in order for an alien to be released from custody. Failure of the alien to comply with the program requirements may result in increased supervision restrictions including the alien's return to detention.

Careful screening of aliens not subject to mandatory detention should occur to determine the appropriate levels of supervision required for each individual alien. In field offices participating in ISAP, its use should be maximized to provide intensive case management, improved appearance rates as required at immigration court, and increased compliance with removal or voluntary departure orders. For those sites not participating in ISAP, consideration of the use of electronic

for monitoring technology (EMP) should be a priority. As always, conditions of release must be explained to the alien and noted clearly on the release paperwork.

Please direct any questions or concerns regarding these programs to (b)(6), (b)(7)c, Acting Chief, Alternatives to Detention Unit, Office of Detention and Removal Operations via e-mail or phone at (202) 353-(b)(6), (b)(7)c

Attachment



**U.S. Immigration  
and Customs  
Enforcement**

MAR 8 2005

MAR 8 2005

MEMORANDUM FOR: Field Office Directors  
FROM: Victor X. Cerda  
Acting Director  
SUBJECT: Reporting Requirements and Management of Alternatives to Detention Program Participants

Purpose

To specify reporting requirements and management guidelines for aliens participating in Alternatives to Detention Programs (ATDP).

Background

The Office of Detention and Removal Operations (DRO) has implemented two distinct programs that provide control and supervision of aliens released from secure detention. The Electronic Monitoring Device Program (EMD) and the Intensive Supervision Appearance Program (ISAP) are both operating under separate contracts as alternatives to secure detention. While both programs provide an alternative to detention tool, ISAP also requires its participants to report to the contractor on a frequent schedule.

It is expected that the number of individuals being supervised by ATDPs will continue to increase. Therefore, it is necessary to specify reporting requirements and management guidelines for ATDP participants. Due to the intensive supervision and controls of individuals participating in ISAP, HQDRO will not specify additional reporting guidelines. Therefore, ISAP participants are not required to report to DRO unless directed to by the local field office. EMD participants, however, do not report to the contractor and therefore must be required to report to the local DRO office.

Discussion

The EMD program consists of two monitoring systems. Radio Frequency (RF) monitoring is a home curfew system utilizing an electronic bracelet. Telephonic Reporting (TR) monitoring is a call-in system utilizing voice recognition. Individuals participating in the EMD program must be required to report to their local DRO office at least once every six months. In addition, those enrolled under TR must call into the TR database at least once every month.

There are a variety of reports generated by the contractor that are useful in monitoring the EMD participant. Attached, you will find a description of each report including how to view, interpret and manage them. These reports are delivered to each field office via e-mail and relay information about the participant's compliance with reporting requirements. The reports are excellent tools designed to help field offices monitor their EMD caseload, and should be reviewed upon receipt. Any indication within the reports of non-compliance by a participant should be acted upon accordingly in a timely manner.

In accordance with the attached memorandum dated November 12, 2004, DACS shall be updated to reflect the participant's reporting date and compliance information. The case officer shall list within the DACS CCOM screen, which ATDP the individual is enrolled in and specify the participant's reporting requirements.

If an individual is no longer eligible for participation in an ATDP, the case officer must ensure that the individual is officially terminated from the program in a timely manner. The termination must be noted in DACS along with a brief description of the reason.

If you have any questions concerning this memorandum, please direct your calls to (b)(6), (b)(7)c Acting Chief, Alternatives to Detention Unit, Office of Detention and Removal Operations via e-mail or phone at (202) 353 (b)(6), (b)(7)c

#### Attachments (5)

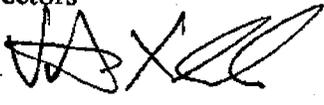
- 1: How to Read: Exception Report Summary
- 2: How to Read: Non-Reporting Summary
- 3: How to Read: Mail Status Summary
- 4: How to Read: EMD Weekly Report
- 5: HQ/DRO Memorandum "Orders of Supervision" dated 11/12/04



**U.S. Immigration  
and Customs  
Enforcement**

DEC 10 2004

MEMORANDUM FOR: Field Office Directors

FROM: Victor X. Cerda   
Acting Director

SUBJECT: Alternatives to Detention Recovery Procedures

Purpose

Make available the use of National Fugitive Operations Program resources in assisting in the recovery of alternative to detention violators.

Background

ICE has developed two distinct programs that deal directly with controlling aliens outside of the physical detention arena. The Electronic Monitoring Device (EMD) and the Intensive Supervision Appearance Programs (ISAP) have been developed and are being operated under contract as alternatives to physical detention. While contractors monitor both programs, they have different levels of reporting regarding the violations of their specific programs. Once violations have occurred, it falls upon Detention and Removal Operations (DRO) to enforce any sanctions regarding those violations.

Discussion

When DRO is notified that an alien who has been enrolled in either program has violated his/her status it falls upon the case deportation officer to verify if, in fact, a violation has occurred. Once the deportation officer has determined that the case requires the termination of the contractual monitoring of the individual and their return to physical custody, the case will be referred to the local fugitive unit for immediate action. The case officer will continue to work with the fugitive unit to locate and apprehend the subject. Field Office Directors (FODs) should also consider prosecution under Title 8 U.S.C. §1253(b), for those violating the conditions of their release.

Pursuant to the definition of fugitive in the National Fugitive Operations Program policy and procedure document, this type of individual clearly fits the description of a fugitive for programmatic purposes. As such, the fugitive operations teams can be used as a tool in the recovery of aliens who violate the conditions of their participation in the alternatives to detention programs. However, FODs are cautioned that they should use this asset *only* to recover aliens who violate the

Subject: Alternatives to Detention Recovery Procedures  
Page 2

conditions of their release. They are not to be used as case officers to control aliens under the program or to be used to verify if violations have occurred.

If you have any questions concerning this issue, direct your called to (b)(6), (b)(7)c, Chief, National Fugitive Operations Program, Office of Detention and Removal Operations via e-mail at HQDRO,FUGOPS or via phone at (202) 353 (b)(6), (b)(7)c

# **Exhibit 03:**

# **Notice of Rights Document**

File No: \_\_\_\_\_

Name: \_\_\_\_\_

**NOTICE OF RIGHTS**

You have been arrested because immigration officers believe that you are illegally in the United States. You have the right to a hearing before the Immigration Court to determine whether you may remain in the United States. If you request a hearing, you may be detained in custody or you may be eligible to be released on bond, until your hearing date. In the alternative, you may request to return to your country as soon as possible, without a hearing.

You have the right to contact an attorney or other legal representative to represent you at your hearing, or to answer any questions regarding your legal rights in the United States. Upon your request, the officer who gave you this notice will provide you with a list of legal organizations that may represent you for free or for a small fee. You have the right to communicate with the consular or diplomatic officers from your country. You may use a telephone to call a lawyer, other legal representative, or consular officer at any time prior to your departure from the United States.

**REQUEST FOR DISPOSITION**

\_\_\_\_\_  
Initials  I request a hearing before the Immigration Court to determine whether or not I may remain in the United States

\_\_\_\_\_  
Initials  I believe I face harm if I return to my country. My case will be referred to the Immigration Court for a hearing.

\_\_\_\_\_  
Initials  I admit that I am in the United States illegally, and I believe I do not face harm if I return to my country. I give up my right to a hearing before the Immigration Court. I wish to return to my country as soon as arrangements can be made to effect my departure. I understand that I may be held in detention until my departure.

\_\_\_\_\_  
Signature of Subject

\_\_\_\_\_  
Date

**CERTIFICATION OF SERVICE**

Notice read by subject

Notice read to subject by \_\_\_\_\_, in the \_\_\_\_\_ language.

\_\_\_\_\_  
Name of Service Officer (Print)

\_\_\_\_\_  
Name of Interpreter (Print)

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date and Time of Service

App. Zone: \_\_\_\_\_ Entry Zone: \_\_\_\_\_ POB: \_\_\_\_\_ DOB: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ A# \_\_\_\_\_

Nombre: \_\_\_\_\_ Father: \_\_\_\_\_ Mother: \_\_\_\_\_

**NOTIFICACION DE DERECHOS**

Usted ha sido detenido porque el Servicio de Inmigración opina que se encuentra en los Estados Unidos ilegalmente. Tiene derecho a una audiencia ante el Tribunal de Inmigración, con el fin de decidir si puede permanecer en los Estados Unidos. En el caso de que Usted solicite esa audiencia, pudiera quedar detenido o tener derecho a la libertad bajo fianza hasta la fecha de la audiencia. Tiene la opción de solicitar el regreso a su país a la brevedad posible, sin que se celebre la audiencia.

Usted tiene derecho a comunicarse con un abogado u otro representante legal para que lo represente en la audiencia, o para responder a cualquier pregunta acerca de sus derechos conforme a la ley en los Estados Unidos. Si Usted se lo pide, el funcionario que le haya entregado esta Notificación le dará una lista de las asociaciones jurídicas que podrían representarlo gratuitamente o a poco costo. Tiene derecho a comunicarse con el servicio consular o diplomático de su país. Puede usar el teléfono para llamar a un abogado, o a otro representante legal, o a un funcionario consular en cualquier momento anterior a su salida de los Estados Unidos.

**SOLICITUD DE RESOLICION**

- Solicito una audiencia ante el Tribunal de Inmigración que resuelva si puedo o no permanecer en los Estados Unidos.  
Iniciales \_\_\_\_\_
- Considero que estaría en peligro si regreso a mi país. Mi caso se trasladará al Tribunal de Inmigración para la celebración de una audiencia.  
Iniciales \_\_\_\_\_
- Admito que estoy ilegalmente en los Estados Unidos, y no considera que estaría en peligro si regreso a mi país. Renuncio a mi derecho a una audiencia ante el Tribunal de Inmigración. Deseo regresar a mi país en cuanto se pueda disponer mi salida. Entiendo que pudiera permanecer detenido hasta mi salida.  
Iniciales \_\_\_\_\_

\_\_\_\_\_  
Firma del sujeto

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Fecha

**CERTIFICATION OF SERVICE**

- Notice read by subject
- Notice read to subject by \_\_\_\_\_, in the Spanish language.

\_\_\_\_\_  
Name of Service Officer (Print)

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Name of Interpreter (Print)

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date and Time of Service hrs.

# **Exhibit 04:**

## **2009 ICE Memorandum**

**Decision by SEVP Director**

***Full Course of Study: California Community Colleges Crisis***

**Date: November 12, 2009**

1. Effective immediately and to be reviewed each semester until the current crisis is resolved, the following guidance will be used by all SEVP personnel involved in the determination of whether an undergraduate student in the California Community College system is enrolled in a full course of study.
2. There are no previous decisions by the SEVP Director on this issue.
3. Media reports and communication with the California Community College Chancellor's Office, which is attached, confirms that the combination of significant decreases in budget and increased enrollment has strained California's community colleges so that there is insufficient space in courses for the number of students. International students, even availing themselves of all the available options for concurrent enrollment and online study, are unable to enroll in what the regulations have defined as a full course of study.
4. 8 CFR 214.2(f)(6)(B) defines a full course as follows:

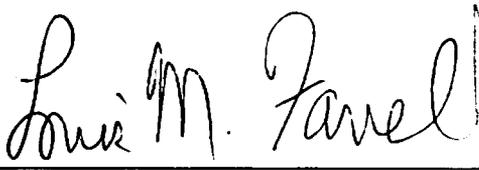
Undergraduate study at a college or university, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter hour systems, where all undergraduate students who are enrolled for a minimum of twelve semester or quarter hours are charged full-time tuition or are considered full-time for other administrative purposes, or its equivalent (as determined by the district director in the school approval process), except when the student needs a lesser course load to complete the course of study during the current term;
5. Due to these extenuating circumstances, this Director's decision will authorize SEVP-certified community colleges in California, to enroll their F-1 nonimmigrant students in the number of credits certified by their designated school officials (DSO) as a full course of study. These students must enroll in at least one course (three credit hours) per term which requires their physical presence. Otherwise, they may enroll in online courses and/or reduce their course loads to fewer than 12 credits, as approved by DSOs. The reduced course load function in SEVIS does need not to be used, but a copy of this directive must be kept in the student's file. The student's SEVIS file must be annotated to reflect this Director's Decision.
6. In authorizing this flexibility for schools in determining the full course of study available, SEVP wishes that schools are clear on the available parameters of

online training available to credit toward a full course of study. 8 CFR 214.2(f)(6)(G) allows:

For F-1 students enrolled in classes for credit or classroom hours, no more than the equivalent of one class or three credits per session, term, semester, trimester, or quarter may be counted toward the full course of study requirement if the class is taken on-line or through distance education and does not require the student's physical attendance for classes, examination or other purposes integral to completion of the class.

There is no limit to the number of online classes that can be counted toward a full course of study if the school can confirm the physical presence and participation of students. SEVP encourages schools to make maximum use of monitored online training as feasible.

7. SEVP certified schools should maintain a list of students for whom they have provided relief identified in this decision
8. SEVP is aware that there are other states and college systems in the United States facing similar issues. The Director will consider allowing similar ameliorative standards if contacted by a state's department of education or an administrative office of a community college system.

Approved: 

Louis M. Farrell  
Director

Date: NOVEMBER 12, 2009  
Student and Exchange Visitor Program

Attachment: Letter from Chancellor Jack Scott

October 26, 2009

Katherine H. Westerlund

Management and Program Analyst

Student and Exchange Visitor Program

Immigration and Customs Enforcement

2450 Crystal Drive, Century Tower 1, 9<sup>th</sup> Floor

Arlington, VA 22202

Dear Ms. Westerlund:

I am writing in response to your email of October 8, 2009, to Executive Vice Chancellor for Programs Morgan Lynn. You have asked whether media and campus reports of high enrollment demand in the California Community Colleges are accurate and whether high enrollment demand is posing a barrier to enrollment in 12 units per semester for international students on F-1 visas. I can confirm that enrollment demand is indeed surpassing the funding available to the California Community Colleges to offer classes and services. As a result, many students are finding it difficult to develop an appropriate 12-unit course schedule. This problem is especially acute for new students, who generally have lower enrollment priority than continuing students, and for students who register late in the process. Many F-1 students fall into these categories and find themselves unable to register for 12 units.

Should the Student and Exchange Visitors Program be able to provide community colleges with flexibility in defining what constitutes a full course of study for F-1 students it would be very helpful to enabling these students to be successful in reaching their educational objectives and fulfilling the goals for international education that we all share. Thank you for recognizing this problem and being proactive in proposing a solution.

Should you have additional questions or a need for assistance, please feel free to contact Linda Michalowski, Vice Chancellor for Student Services and Special Programs at (916) 327-5361 or by email to [lmichalo@cccoco.edu](mailto:lmichalo@cccoco.edu).

Sincerely,

Jack Scott, Ph.D.

Chancellor

cc: Morgan Lynn

Linda Michalowski

# **Exhibit 05:**

## **Copy of Forfeiture Complaint by U.S. Government against TVU**

ORIGINAL

1 MELINDA HAAG (CSBN 132612)  
United States Attorney

2 MIRANDA B. KANE (CSBN 150630)  
3 Chief, Criminal Division

4 PATRICIA J. KENNEY (CSBN 130238)  
Assistant United States Attorney

5 450 Golden Gate Avenue  
6 San Francisco, CA 94102  
7 Telephone: 415.436.6857  
8 Facsimile: 415.436.7234  
9 Email: patricia.kenney@usdoj.gov

Attorneys for United States of America

The comments on this documents have been made by Rajiv S. Khanna <http://www.immigration.com>  
For recent information collected by community, click: <http://forums.immigration.com/forumdisplay.php?328-Tri-Valley-University-and-Related-Issues>

FILED  
JAN 19 A 9 11  
RICHARD W. WICKING  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

This complaint is filed by the govt. to take away the property Su has acquired through alleged criminal activity

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

CV11 0258  
No. 11-CV-

10 UNITED STATES OF AMERICA,  
11  
12 Plaintiff,  
13  
14 v.  
15

16 (1) REAL PROPERTY LOCATED AT 405  
17 BOULDER COURT, SUITE 800,  
18 PLEASANTON, CALIFORNIA (APN  
19 946-4547-297);  
20 (2) REAL PROPERTY LOCATED AT 405  
21 BOULDER COURT, SUITE 700,  
22 PLEASANTON, CALIFORNIA (APN  
23 946-4547-296);  
24 (3) 1087 MURRIETA BOULEVARD, #133,  
LIVERMORE, CALIFORNIA (APN  
097-0085-132);  
25 (4) 2890 VICTORIA RIDGE COURT,  
26 PLEASANTON, CALIFORNIA (APN  
27 946-4580-018); AND  
28 (5) 1371 GERMANO WAY,  
PLEASANTON, CALIFORNIA (APN  
950-29-18),

Defendants.

COMPLAINT FOR FORFEITURE

Technically, a forfeiture proceeding is an action against property, not person. Therefore, property is being sued, not Su herself.

NATURE OF THE ACTION

1  
2 1. The United States in this judicial forfeiture action seeks to forfeit the five, captioned  
3 defendant parcels of real estate which Susan SU owns and purchased with the proceeds of an  
4 elaborate scheme to defraud – one that involves making false statements and misrepresentations to  
5 the Department of Homeland Security (“DHS”), using wire transfers and using the United States  
6 mails. SU, and others, created TRI-VALLEY UNIVERSITY, INC. (“TRI-VALLEY” or “TVU”),  
7 naming SU in the articles of incorporation as the Chief Operating Officer. Thereafter, SU, and  
8 others, made false statements and misrepresentations in a petition to DHS to obtain approval for  
9 TRI-VALLEY to enroll F-1 students and issue visa related documents (I-20s) which enable students  
10 to obtain student visas from the government. Since its inception, however, TRI-VALLEY, has been  
11 a sham university which SU, and others, have used to facilitate foreign nationals in illegally  
12 acquiring student immigration status that authorizes them to remain in the United States. Since  
13 February 2009 when they obtained DHS approval, SU and TRI-VALLEY have made millions of  
14 dollars in tuition fees for issuing these visa related documents which enable foreign nationals obtain  
15 illegal student immigration status. This scheme to defraud makes it difficult, if not impossible, for  
16 law enforcement to detect the illegal status of those foreign nationals.

Govt. put Su in a position to commit fraud. The students have no way of knowing what is and is not legal.

17 2. The actions of SU, and others, violate 18 U.S.C. §§ 1546(a) (fraud and misuse of  
18 visas, permits, and other documents); 1341 (mail fraud); 1343 (wire fraud); and 1957(a) (money  
19 laundering). The millions acquired from the tuition fees are proceeds of the illegal fraudulent  
20 scheme. SU has used criminal proceeds from these violations to purchase the five defendant parcels  
21 of real estate which are subject to forfeiture under 18 U.S.C. §§ 981(a)(1)(C). In purchasing the five  
22 defendant parcels, SU engaged in financial transactions with criminally derived property in excess  
23 of \$10,000 which constitutes money laundering in violation of 18 U.S.C. § 1957(a), and thus the  
24 parcels are also subject to forfeiture under 18 U.S.C. § 981(a)(1)(A).

JURISDICTION AND VENUE

25  
26 3. This Court has jurisdiction under 28 U.S.C. §§ 1345 and 1355; 18 U.S.C.  
27 § 981(a)(1)(A) and 18 U.S.C. § 981(a)(1)©.

28 ///

1 4. Venue in this Court is proper because the five above captioned parcels of real estate  
2 are located in Pleasanton, California which is in the Northern District of California. 28 U.S.C.  
3 §§ 1355(b) and 1395.

4 5. The intra-district venue is proper either in the San Francisco or Oakland Division  
5 within the Northern District of California. Civ. L. R. 3-2(d).

6 PARTIES

US Government is  
the one suing  
(Plaintiff)

7 6. Plaintiff is the United States of America.

8 7. The first defendant is Real Property Located at 405 Boulder Court, Suite 800,  
9 Pleasanton, California (APN 946-4547-297) and its legal description follows:

10 THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF PLEASANTON,  
11 COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

12 PARCEL NO. 1:

13 A condominium consisting of: (1) a separate interest in Unit No. H1 in Condominium Building No.  
14 1, as shown on the Condominium Plan (the "Plan") recorded on December 14, 2009 as Document No.  
15 2009-385402 in the records of Alameda County, California, and as further described in the Vision  
16 West Commerce Centre Declaration of Restrictions (CC&Rs) (the "Declaration") recorded on  
17 December 14, 2009 as Document No. 2009-385403 in the records of Alameda County, California, and  
as described in the Declaration; (2) an undivided 1/8th interest in the Building Common Area of  
Condominium Building No. 1 described in the Plan and in Section 1.6 of the Declaration; and (3) an  
undivided 1/28th interest in the Condominium Common Area described in the Plan and in Section 1.10  
of the Declaration, which condominium is located on the real property described on the maps entitled  
"Parcel Map 9805" (the "Map") recorded on December 14, 2009 in Book 315 of Maps, Pages 3 and  
4 in the records of Alameda County, California.

18 EXCEPTING AND RESERVING THEREFROM THE FOLLOWING:

- 19 (i) All of the Condominium Unites in the Condominium Building described in Parcel No. 1  
above other than the Unit described in Parcel No. 1 above;
- 20 (ii) The exclusive right to use all of those areas designated as "Exclusive Use Common Area"  
as described in the Declaration and Plan set aside and allocated for the exclusive use of the Owners  
of Condominiums other than the Condominiums described in Parcel No. 1 above; and
- 21 (iii) Easements and rights for use, enjoyment, access, ingress, egress, encroachment, maintenance,  
22 repair, replacement, drainage, support, and other purposes as described in the Declaration, including  
the Condominium Building easement described in Section 2.7 of the Declaration.

23 SUBJECT TO:

24 Non-exclusive rights of ingress, egress and support through the Common Area.

25 PARCEL NO. 2:

26 Non-exclusive rights of ingress, egress and support in, through and over the Common Area of the  
27 Condominium Building described in Parcel No. 1 above.

28 PARCEL NO. 3:

An exclusive right to use the area(s) designated as Exclusive Use Common Area(s) and appurtenant  
to Parcel No. 1 above as described in the Declaration and the Plan.

PARCEL NO. 4:

Easements on, in, over and through the Association Property described in Sections 2.3, 2.4, 2.5, 2.6 and 2.7 of the Declaration, for access to and use of any Exclusive Use Common Area situated thereon and appurtenant to Parcel No. 1 as described in the Declaration, and for support from the land under and adjacent to the Improvements within Parcel No. 1 above, all of which are subject to the covenants, conditions, restrictions, right, duties, benefits and burdens described in the Declaration.

Assessor's Parcel No. 946-4547-297 (New)  
formerly 946-4547-267-01

8. The second defendant is Real Property Located at 405 Boulder Court, Suite 700, Pleasanton, California (APN 946-4547-296) and its legal description follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF PLEASANTON, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL NO. 1:

A condominium consisting of: (1) a separate interest in Unit No. G1 in Condominium Building No. 1, as shown on the Condominium Plan (the "Plan") recorded on December 14, 2009 as Document No. 2009-385402 in the records of Alameda County, California, and as further described in the Vision West Commerce Center Declaration of Restrictions (CC&Rs) (the "Declaration") recorded on December 14, 2009 as Document No. 2009-385403 in the records of Alameda County, California, and as described in the Declaration; (2) an undivided 1/8th interest in the Building Common Area of Condominium Building No. 1 described in the Plan and in Section 1.6 of the Declaration; and (3) an undivided 1/28th interest in the Condominium Common Area described in the Plan and in Section 1.10 of the Declaration, which condominium is located on the real property described on the map entitled "Parcel Map 9805" (the "Map") recorded on December 14, 2009 in Book 315 of Maps, Pages 3 and 4 in the records of Alameda County, California.

EXCEPTING AND RESERVING THEREFROM THE FOLLOWING:

- (i) All of the Condominium Units in the Condominium Building described in Parcel No. 1 above other than the Unit described in Parcel No. 1 above;
- (ii) The exclusive right to use all of those areas designated as "Exclusive Use Common Area" as described in the Declaration and Plan set aside and allocated for the exclusive use of the Owners of Condominiums other than the Condominiums described in Parcel No. 1 above; and
- (iii) Easements and rights for use, enjoyment, access, ingress, egress, encroachment, maintenance, repair, replacement, drainage, support, and other purposes as described in the Declaration, including the Condominium Building easement described in Section 2.7 of the Declaration.

SUBJECT TO:

Non-exclusive rights of ingress, egress and support through the Common Area.

PARCEL NO. 2:

Non-exclusive rights of ingress, egress and support in, through and over the Common Area of the Condominium Building described in Parcel No. 1 above.

PARCEL NO. 3:

An exclusive right to use the area(s) designated as Exclusive Use Common Area(s) and appurtenant to Parcel No. 1 above as described in the Declaration and the Plan.

PARCEL NO. 4

Easements on, in, over and through the Association Property described in Sections 2.3, 2.4, 2.5, 2.6 and 2.7 of the Declaration, for access to and use of any Exclusive Use Common Area situated thereon and appurtenant to Parcel No. 1 as described in the Declaration, and for support from the land under

1 and adjacent to the Improvements within Parcel No. 1 above, all of which are subject to the covenants,  
2 conditions, restrictions, right, duties benefits and burdens described in the Declaration.

3 Assessor's Parcel No 946-4547-296 (New)  
4 formerly 946-4547-267-01 (Portion)

5 9. The third defendant is 1087 Murrieta Boulevard, #133, Livermore, California (APN  
6 097-0085-132), and its legal description follows:

7 THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF LIVERMORE,  
8 COUNTY OF ALAMEDA, STATES OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

9 PARCEL ONE:

10 AN UNDIVIDED 1/154TH INTEREST IN AND TO ALL OF TRACT 3615, FILED FEBRUARY  
11 18TH, 197, IN MAP BOOK 93, PAGES 74 AND 75, ALAMEDA COUNTY RECORDS.

12 EXCEPTING THEREFROM, THE FOLLOWING:

13 A. ALL OF THE CONDOMINIUM UNITS, AS SHOWN ON THE CONDOMINIUM PLAN,  
14 ATTACHED AS EXHIBIT "B" TO THE DECLARATION OF RESTRICTIONS RECORDED  
15 NOVEMBER 20, 1973, SERIES NO. 73-154587, OFFICIAL RECORDS.

16 B. THE EXCLUSIVE RIGHT TO USE ALL THOSE RESTRICTED COMMON AREAS,  
17 DESIGNATED AS BALCONIES AND PATIOS, SHOWN ON THE CONDOMINIUM PLAN  
18 REFERRED TO ABOVE.

19 PARCEL TWO:

20 UNIT 133, AS SHOWN ON THE CONDOMINIUM PLAN REFERRED TO IN PARCEL ONE  
21 ABOVE.

22 PARCEL THREE:

23 THE EXCLUSIVE RIGHT TO USE THOSE AREAS DESIGNATED AS "EXCLUSIVE USE  
24 COMMON AREAS" AS SHOWN ON THE CONDOMINIUM PLAN REFERRED TO IN PARCEL  
25 ONE ABOVE AND DEFINED IN THE "AMENDED AND RESTATED DECLARATION ON  
26 COVENANTS, CONDITIONS AND RESTRICTIONS ESTABLISHING A PLAN FOR  
27 CONDOMINIUM OWNERSHIP OF 1085-1087 MURRIETA BOULEVARD", RECORDED APRIL  
28 7, 2005, SERIES NO. 2005136300, OFFICIAL RECORDS.

APN: 097-0085-132

10. The fourth defendant is 2890 Victoria Ridge Court, Pleasanton, California (APN 946-  
4580-018) , and its legal description follows:

THE LAND DESCRIBED HEREIN IS SITUATED ON THE STATE OF CALIFORNIA, COUNTY  
ALAMEDA, CITY OF PLEASANTON, AND DESCRIBED AS FOLLOWS:

LOT 18, TRACT 5908, FILED DECEMBER 28, 1988, MAP BOOK 181, PAGE 23, ALAMEDA  
COUNTY RECORDS.

APN: 946-4580-018

11. The fifth defendant is 1371 Germano Way, Pleasanton, California (APN 950-29-18),  
and its legal description follows:

Complaint for Forfeiture  
No. 11-CV- \_\_\_\_\_

1 LOT 14, OF TRACT 7156, FILED JUNE 27, 2000, IN MAP BOOK 251, AT PAGES 57-62,  
2 ALAMEDA COUNTY RECORDS.

3 EXCEPTING THEREFROM:

4 ALL OIL, MINERALS, GAS, CASINGHEAD GAS, ASPHALTUM AND OTHER  
5 HYDROCARBONS AND ALL CHEMICAL GAS, NOW OR HEREAFTER FOUND, SITUATED  
6 OR LOCATED IN ALL OR ANY PART OR PORTION OF THE REAL PROPERTY ABOVE-  
7 DESCRIBED, LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE  
8 THEREOF, TOGETHER WITH THE RIGHT TO SLANT DRILL OR MINE FOR, AND REMOVE  
9 ALL OR ANY PORTION OF SAID SUBSTANCES LYING BELOW A DEPTH OF MORE THAN  
10 FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF, AND THE RIGHT TO  
11 GRANT LEASES FOR ALL OR ANY OF SAID PURPOSES; BUT WITHOUT ANY RIGHT  
12 WHATSOEVER TO ENTER UPON THE SURFACE OF SAID LAND OR UPON ANY PART OF  
13 SAID LAND WITHIN FIVE HUNDRED (500) FEET VERTICAL DISTANCE BELOW THE  
14 SURFACE

15 ALSO EXCEPTING THEREFROM:

16 THE RIGHT TO DRILL FOR, EXTRACT, PUMP AND USE ALL WATER NOW OF  
17 HEREAFTER FOUND, SITUATED OR LOCATED IN ALL OR ANY PART OR PORTION OF  
18 THE REAL PROPERTY ABOVE-DESCRIBED; BUT WITHOUT ANY RIGHT WHATSOEVER  
19 TO ENTER UPON THE SURFACE OF SAID LAND OR UPON ANY PART OF SAID LAND  
20 WITHIN FIVE HUNDRED (500) FEET VERTICAL DISTANCE BELOW THE SURFACE  
21 THEREOF.

## 22 APPLICABLE STATUTORY FRAMEWORK

### 23 Limited Duration Student Visas for Foreign Nationals

24 12. The Immigration and Nationality Act identifies several categories of foreign nationals  
25 who may be admitted to the United States for non-immigrant purposes. *See* 8 U.S.C. § 1101. One  
26 category, designated "F-1," comprises "bona fide student[s]" coming temporarily to study at an  
27 approved school. 8 U.S.C. § 1101(a)(15)(F)(I); 8 C.F.R. 214.1(a)(2). Those entering the United  
28 States on an F-1 student visa are admitted for a temporary period called "duration of status," meaning  
"the time during which an F-1 student is pursuing a full course of study" at an approved school.  
8 C.F.R. 214.2(f)(5)(I). When a student stops pursuing a full course of study, the duration of status  
ends and the temporary period for which the individual was admitted expires.

13 13. A school seeking approval for foreign student attendance must submit a Form I-17,  
14 which is a petition to establish that "(I) It is a bona fide school; (ii) It is an established institution  
15 of learning or other recognized place of study; (iii) It possesses the necessary facilities, personnel,  
16 and finances to conduct instruction in recognized courses; and (iv) It is, in fact, engaged in  
17 instruction in those courses." 8 C.F.R. § 214.3(a), (e). In addition, there are a number of other  
18 requirements which an applicant school must meet before DHS approves an I-17 petition which

19 Complaint for Forfeiture  
20 No. 11-CV-\_\_\_\_\_

1 authorizes a school to enroll F-1 students and provides them with student visas. For example,  
2 Section 214.3©, in relevant part, requires that the petitioner “submit evidence that it confers upon  
3 its graduates recognized bachelor, master, doctor, professional, or divinity degrees, or if it does not  
4 confer such degrees that its credits have been accepted unconditionally by at least three such  
5 institutions of higher learning.” 8 C.F.R. § 214.3©. This information is solicited on the Form I-17.  
6 Instructions attached to the Form I-17 clarify, that “to qualify as ‘recognized,’ a degree must be  
7 issued by an institution accredited by a nationally recognized accrediting agency or association to  
8 confer a degree of the type and level in question.”

9 14. Also, the school’s petition must identify “Designated School Officials” (“DSOs”),  
10 who certify their knowledge of and intent to comply with student immigration laws and regulations.  
11 8 C.F.R. 214.3(D)(3). Once a school is approved, its DSOs are issued IDs and passwords enabling  
12 them to access the Student and Exchange Visitor Information System (“SEVIS”), a DHS-operated  
13 database of non-immigrant aliens’ status. See 8 C.F.R. § 214.3(h).

14 15. To enter the United States on a student visa, a foreign national must present a  
15 Certificate of Eligibility, also known as a SEVIS Form I-20, certifying that the student has been  
16 accepted for enrollment in a full course of study and signed by the DSO. 8 C.F.R. § 214.2(f)(1)(i)(a),  
17 214.3(k). Once a student has been granted F-1 status using this “initial” I-20, DSOs are obligated  
18 to report on SEVIS, within 21 days, the failure of any student “to maintain status.” 8 C.F.R. §  
19 214.3(g)(3)(ii)(A). A “student is considered to be maintaining status if he or she is making normal  
20 progress toward completing a course of study.” 8 C.F.R. 214.2(f)(5)(i). Physical attendance is  
21 required. See 8 C.F.R. § 214.2(f)(6)(i)(G). An approved school is bound to report “the termination  
22 of attendance of each nonimmigrant student.” 8 U.S.C. § 1101(a)(15)(F)(I).

23 16. It is a criminal offense to “knowingly forge[] . . . or falsely make[] any . . . document  
24 prescribed by statute or regulation for entry into or as evidence of authorized stay . . . in the United  
25 States,” or to “use[], attempt[] to use, posses[], obtain[], accept[], or receive[]” any such document,  
26 “knowing it to be forged . . . or falsely made, or to have been procured by means of any false claim  
27 or statement, or to have been otherwise procured by fraud or unlawfully obtained.” 18 U.S.C.  
28 § 1546(a).

DSO's act on behalf of the gov't. They are supposed to know the law, not the students

This is a problem for many students, who, in good faith believing Su to be genuine, attended online classes believing that to be legally sufficient.

**FACTS**

**Scheme to Defraud**

1  
2  
3 17. In or about April 2008, SU, and others, filed articles of incorporation for  
4 TRI-VALLEY UNIVERSITY, INC., in which SU is designated as the Chief Operating Officer, a  
5 director and agent for service of process.

6 18. SU, and others, submitted an I-17 petition to the Department of Homeland Security  
7 ("DHS") and later SU sent a supplement to that petition by United States mail which contained false  
8 statements and misrepresentations. For example, one false statement and misrepresentation involved  
9 whether TVU credits would be accepted by an accredited college or university. As stated above,  
10 DHS requires a school which is unaccredited, such as TVU, to provide evidence from three  
11 accredited colleges or universities that the credits which a student obtains at TVU will be accepted  
12 by that college or university for credit. In a supplement to TVU's I-17 petition, SU sent by the  
13 United States mail to DHS three articulation agreements from accredited colleges which stated that  
14 each had accepted and would accept for credit the credits which students earned at TVU. When ICE  
15 began to investigate, however, ICE found that at least two of those agreements were false; authorized  
16 officials in two of those accredited colleges had not accepted TVU credits in the past and did not  
17 agree to accept TVU's credits in the future. Without such evidence from three accredited colleges  
18 or universities, DHS would not have approved TVU's I-17 application, and TVU would not have  
19 been authorized to issue the visa related documents to any enrolled foreign national. Relying on the  
20 evidence which TVU submitted and unaware that at least two of the articulation agreements were  
21 false, DHS approved the TVU application in February 2009. Thus, the paid tuition of the foreign  
22 nationals to whom TVU provided the visa related documents enabling them to illegally obtain  
23 student visas constitutes proceeds of the elaborate scheme to defraud.

24 19. After DHS approved TVU's I-17 application which contained false statements and  
25 misrepresentations, SU and TVU began to issue student visa related documents to foreign nationals  
26 who paid tuition in order to illegally acquire student immigration status that authorized them to  
27 remain in the United States. ICE's investigation uncovered that TVU is a sham university which SU,  
28 and others, are using to provide visa related documents that enable foreign nationals to illegally

So, students may not be able to transfer to other schools their credits/degrees already earned.

1 obtain student visas in return for tuition fees, the payment of which in the aggregate has grown  
2 rapidly at an exponential rate since TVU's I-17 petition was approved in February 2009. Since the  
3 February 2009, SU through TVU has been paid millions of dollars by foreign nationals to illegally  
4 obtain student visas that authorize them to remain in the United States.

5 20. In May, 2010, ICE began an investigation of SU and TVU. During the course of that  
6 investigation, ICE reviewed TVU's records in SEVIS and observed that TVU received approval of  
7 its I-17 petition on February 17, 2009, and that the DHS site visit as part of the approval process  
8 confirmed capacity for approximately 30 students. The TVU SEVIS records showed that TVU had  
9 11 active F-1 students by May 2009; 75 by September 2009; 447 by January 2010; and 939 by May  
10 2010. More than 95% of the students in active status were citizens of India. ~~And more than half of~~  
11 the students were reported to be residing in a single apartment located at 555 E. El Camino Real,  
12 Apartment 415, Sunnyvale, California. In June, ICE interviewed the property manager for 555 E.  
13 El Camino Real. The property manager provided the lease agreements for Apartment 415, which  
14 identified four TVU F-1 students living there between June 2007 and August 2009, and none since  
15 2009. During the course of the investigation, ICE obtained information that the reason TVU reports  
16 in SEVIS that most of its foreign students live at 555 El Camino Real, Apartment 415, is in order  
17 to conceal that they do not live in California.

Who reported? It should be the DSO, of course. So why blame the students?

The reporting was done without the knowledge of students

18 21. Also in the course of the investigation, ICE interviewed a witness who had worked  
19 at TVU's office and stated that approximately 50% of the tuition fees were paid by credit card, 40%  
20 by PayPal, and 10% by cash or check. TVU had Visa and Mastercard processing machines in the  
21 TVU office, but SU told the witness that she processed all American Express payments from home.

22 22. On or about June 3, 2010, ICE equipped a witness with an audio recording device and  
23 provided him with written identifying information for two foreign nationals (Student 1 and Student  
24 2), whose student status had been terminated in SEVIS, and watched the witness enter TVU's office,  
25 which SU had been observed entering previously. The witness told SU that he had two friends who  
26 had been terminated in SEVIS and needed TVU admission and new I-20s reflecting their admission.  
27 SU agreed and had him obtain the new I-20s from a foreign student-employee. This witness stated  
28 that he saw SU sign the initial I-20s, both of which bear signatures in the name of another DSO.

1           23.     In or shortly before July 2010, the same witness informed ICE that TVU had moved  
2 its offices to 405 Boulder Court, Suites 700 and 800, in Pleasanton, California. At the request of  
3 ICE, the witness on or about July 27, 2010 went into the new TVU office and paid SU \$2000 to  
4 activate the status of the two students for whom SU had signed the initial I-20s. This witness  
5 observed SU sign "active" I-20s, reflecting the students' active-student status, using another DSO's  
6 name. A SEVIS search confirms that TVU activated the status of both students on July 27,  
7 transmitting information that both were enrolled in Ph.D. programs. Despite the fact that neither  
8 student actually attending classes at TVU, a SEVIS search on November 22, 2010, shows that TVU  
9 still has not terminated their active status.

10           24.     On or about September 20, 2010, an ICE Special Agent placed a recorded call to the  
11 TVU office while another ICE Special Agent conducted surveillance outside the office. Speaking  
12 to a woman who identified herself as Dr. SU, the ICE Special Agent told SU that he was an officer  
13 at San Francisco International Airport and that he had stopped Student 1 attempting to reenter the  
14 United States. SU confirmed that her records reflect Student 1 as a current, full-time student at  
15 TVU. The agent asked SU to email him scanned copies of Student 1's I-20, transcripts, and a letter  
16 confirming his active full-time status. After the call concluded, the ICE Special Agent surveiling  
17 the TVU office saw SU quickly exit the TVU office, get an item from a car – a Mercedes Benz with  
18 California license plate 6KHC985, registered to Susan SU – and go back into the TVU office. A few  
19 minutes later, the ICE Special Agent who told SU he was calling from SFO received an email from  
20 ssu@trivalleyuniversity.org with three attachments: an active Form I-20 for Student 1 bearing a  
21 signature of "Sophie Su"; TVU transcripts for Student 1; and a letter signed by "Sophie Su"  
22 representing that Student 1 is a "full time" graduate student "in good standing."

23           25.     On or about September 24, 2010, the same ICE Special Agent who telephoned TVU  
24 on or about September 20 telephoned TVU again, and spoke to a woman identifying herself as SU  
25 again. This time the ICE Special Agent said he was an immigration officer who had stopped Student  
26 2 returning from Yemen. Again, SU advised that her records confirm Student 2 as a current TVU  
27 student and, from the same email account, emailed the Special Agent an active I-20, transcript, and

28 ///

1 letter confirming that Student 2 is a full time student in good standing. The I-20 and letter again bore  
2 the name "Sophie Su."

3 26. ICE's financial investigation of that SU and TVU have a number of accounts:

- 4 a. Wells Fargo business checking account ending in 0454 and held in the name  
5 TRI-VALLEY UNIVERSITY, INC and Susan Xiao-Ping SU ("Account  
6 0454");
- 7 b. Wells Fargo business savings account ending in 3640 and held in the name  
8 TRI-VALLEY UNIVERSITY and Susan Xiao-Ping SU ("Account 3640");
- 9 c. Wells Fargo business savings account ending in number 4780 and held in the  
10 name TRI-VALLEY UNIVERSITY, INC and Susan Xaio-Ping SU ("Account  
11 4780");
- 12 d. PayPal, Inc., account ending in 1921 and held in the name of Susan SU and  
13 linked to the email address ssu@trivalleyuniversity.org ("Account 1921");
- 14 e. Citibank account ending in 5029 and held in the name Susan X SU ("Account  
15 5029"); and
- 16 f. Citibank account ending in 3045 and held in the name of Susan X SU  
17 ("Account 3045").

18 Further, SU is the sole signatory on the three Wells Fargo accounts, ending in 0454, 3640 and 4780,  
19 and also on the PayPal, Inc., online account ending in 1921. The Wells Fargo business accounts  
20 were established in the business name of "TRI-VALLEY UNIVERSITY." The online PayPal  
21 account is assigned to Susan SU and linked to email address ssu@trivalleyuniversity.org.

22 27. ICE's financial investigation of TVU has also revealed that TVU collects tuition fees  
23 from its foreign nationals primarily through one or more of the following methods: (1) online PayPal  
24 payment to Account 1921; (2) credit card payments, which are settled into Account 0454; (3) checks,  
25 which are deposited into Account 0454; (4) checks, which are deposited into Wells Fargo account  
26 ending in 3640; (5) wire transfers to Account 3640; (6) electronic transfers into Account 3640; (7)  
27 cash that is deposited into Account 3640; and (8) cash that is deposited into Account 0454. The  
28 revenue generated by TVU appears to come almost entirely from payments made by foreign  
29 nationals seeking F-1 student status. TVU appears to have created little to no demand among non-  
30 foreign nationals.

31 28. During the period from February 2009 through August 2010, TVU had more than  
32 \$2,000,000 in deposits into Wells Fargo Bank account ending in 0454 and its PayPal account ending

1 in 1921. Significantly, a check of the records of the California Employment and Development  
 2 Department showed that no 2009 wages or earnings had been reported to the State of California for  
 3 Susan SU.

4 29. As will be described below, criminally derived proceeds from the deposit of tuition  
 5 fees in Accounts 0454, 4780, 1921 and 3045 were used to purchase the five, captioned defendant real  
 6 estate parcels.

7 30. TVU began its operations and opened its first business bank accounts in or around  
 8 April of 2008, approximately ten months before it obtained authorization from DHS to enroll foreign  
 9 students. The chart below illustrates the increase in demand for enrollment created by DHS approval  
 10 of the fraudulently obtained I-17 petition by comparing deposit activity before DHS approval to  
 11 deposit activity after DHS approval:

12 <b>TRANSACTIONS</b>	4/2008 – 2/2009	2/2009 – 9/2010
13 <b>(Rounded to Nearest \$)</b>		
14 PayPal Payments Into Account 1921	\$ 1,477	\$1,159,656
15 Credit Card Payments Settled Into Account 0454	\$ 0	\$1,776,036
16 Checks Deposited Into Account 0454	\$ 4,500	\$ 109,349
17 Checks Deposited Into Account 3640	\$ 5,130	\$ 14,480
18 Wire Transfers Into Account 3640	\$ 0	\$ 29,589
19 Electronic Transfers Into Account 3640	\$ 0	\$ 25,124
20 Cash Deposited Into Account 3640	\$ 0	\$ 10,930
21 Cash Deposited Into Account 0454	\$ 880	\$ 3,049

22 31. As illustrated above, since obtaining DHS approval to enroll foreign students in  
 23 February 2009, TVU's foreign student enrollment rate and commensurate revenue have both  
 24 increased rapidly. As previously stated, each foreign national receiving F-1 status at TVU is charged  
 25 up to \$2,700 per semester to maintain their F-1 status. The number of active F-1 students at TVU

1 is reported and is tracked in the SEVIS, a DHS-operated data base of non-immigrant aliens' status.  
 2 Thus, ICE is able to monitor the number of foreign nationals registered at TVU, and estimate TVU's  
 3 expected revenue. Due to fluctuations in enrollment and the fact that TVU allows its fees to be paid  
 4 in installments throughout the year, however, TVU's revenue cannot be estimated with exactness.  
 5 Below is a table showing foreign student enrollment rates and a conservative estimate of expected  
 6 revenue collected at the beginning of each new non-summer semester. Estimated revenue is arrived  
 7 at by multiplying the number of students by a single semester's tuition fee of \$2,700.

MONTH	ACTIVE F-1 STUDENTS	ESTIMATED REVENUE
2009 February	2	
2009 May (Summer Term)	11	
2009 June	15	
2009 July	16	
2009 September (Fall Term)	75	\$ 202,500
2009 October	87	
2009 November	108	
2009 December	113	
2010 January (Spring Term)	447	\$ 1,206,900
2010 February	551	
2010 March	596	
2010 April	602	
2010 May	939	
2010 June	1,021	
2010 July	1,076	
2010 August	1,086	
2010 September (Fall Term)	1,555	\$ 4,198,500

26 As of December 30, 2010, SU reported 969 additional foreign nationals in initial status, pending  
 27 active F-1 status for the Spring Term. Additional revenue is expected to be generated through  
 28

1 January 2011, as the 1555 currently active foreign nationals, and an unknown percentage of the  
2 foreign nationals in initial status start paying Spring Term tuition fees.

3 32. ICE's investigation has revealed that rapid and exponential growth in enrollment and  
4 revenue exhibited in the above chart is largely due to TVU's referral/profit-sharing system, which  
5 resembles a pyramid scheme. Once enrolled at TVU, each foreign national may collect up to 20  
6 percent of the tuition of any new student that he or she refers. Foreign nationals may also collect up  
7 to 5 percent of the tuition of any new student that his or her referred student refers. A large  
8 percentage of foreign nationals at TVU participate in this referral/profit-sharing system.

9 **Tracing Proceeds to 405 Boulder Court, Suite 800, Pleasanton California**

10 33. A review of Chicago Title Company escrow account #10-58203182-LE reflects that  
11 Susan SU closed escrow on April 13, 2010 for the purchase of 405 Boulder Court (Building 1, Unit  
12 800), Pleasanton, CA (APN 946-4547-297). SU's purchase price was \$225,000 and she made two  
13 deposits to the escrow account from the TVU Wells Fargo business checking Account 0454. The  
14 first deposit was posted to the escrow account on April 6, 2010 and was a \$50,000 check dated April  
15 2, 2010. On April 6, 2010, Chicago Title issued a receipt for funds for the \$50,000 deposit received  
16 from Susan Xiao-Ping SU. The second deposit was posted to the escrow account on April 9, 2010  
17 and was a cashier's check dated April 9, 2010 in the amount of \$160,986.87. On April 9, 2010,  
18 Chicago Title issued a receipt for funds for the \$160,986.87 deposit as received from Susan  
19 Xiao-Ping SU. A third deposit was posted to the escrow account from the seller in the form of a  
20 \$15,000 cashier's check from Boulder Court Development LLC. As part of the purchase agreement,  
21 the seller agreed to pay a \$15,000 brokers commission to Colliers International and Charter  
22 Properties. On April 9, 2010, Chicago Title issued a receipt for funds for the \$15,000 deposit  
23 received from Boulder Court Development LLC.

24 34. With respect to the first deposit of \$50,000, a review of bank records reveals that on  
25 April 2, 2010, Check# 1144 was written from TVU's Wells Fargo business checking Account 0454  
26 in the amount of \$50,000 and made payable to Chicago Title. The handwritten notation "58203182"  
27 appears in the memo portion of the check and "Susan Su" appears in the signature block.

28 ///

How is this profit sharing? The students are still paying 75-80% of the tuition fees. But, if you have participated in this, speak with a lawyer.

1 35. With respect to the second deposit of \$160,986.87, a review of bank records reveals  
2 that on April 9, 2010, Susan SU made a withdrawal of \$160,986.87 from TVU's Wells Fargo  
3 business checking Account 0454 and used the proceeds to purchase a \$160,986.87 Wells Fargo  
4 cashier's check payable to "Chicago Title Company Escrow# 10-58203182-LE."

5 36. On April 13, 2010, a Grant Deed was recorded in the Recorder's Office for Alameda  
6 County which transferred title to the real property at 405 Boulder Creek, Suite 800, Pleasanton,  
7 California (APN 946-4547-297) to Susan Xiao-Ping SU, a married woman. On April 13, 2010, SU's  
8 husband, Hong Sheng Yang, conveyed all of his right, title or interest in that property to SU through  
9 an Interspousal Transfer Deed also filed in the Recorder's Office.

10 **Tracing Proceeds to 405 Boulder Court, Suite 700, Pleasanton California**

11 37. A review of Chicago Title Company escrow account #0058203281-LE reflects that  
12 Susan SU closed escrow on July 12, 2010 for the purchase of 405 Boulder Court (Unit 700),  
13 Pleasanton, CA (APN 946-4547-296). SU's purchase price was \$325,000 and she made two  
14 deposits to the escrow account from the TVU Wells Fargo business checking Account 0454. The  
15 first deposit was posted to the escrow account on June 14, 2010 and was a \$50,000 check dated June  
16 10, 2010. On June 14, 2010, Chicago Title issued a receipt for funds for the \$50,000 deposit  
17 received from TVU. The second deposit was posted to the escrow account on July 9, 2010 and was  
18 a cashier's check dated July 8, 2010, in the amount of \$261,307.49. On July 9, 2010, Chicago Title  
19 issued a receipt for funds for the \$261,307.49 deposit received from Susan Xiao-Ping SU. Two  
20 additional deposits were made into escrow from UFM, Inc. on behalf of the seller in the form of two  
21 cashier checks dated June 21, 2010 in the amounts of \$8,200 and \$6,800. On June 24, 2010,  
22 Chicago Title issued a receipt for funds for each of the respective deposits received from UFM, Inc.  
23 As part of the purchase agreement, the seller agreed to pay a \$15,000 brokers commission to Colliers  
24 International and Charter Properties.

25 38. With respect to the first deposit of \$50,000, a review of bank records reveals that on  
26 June 10, 2010, check #1014 was written from the TVU Wells Fargo business checking Account 0454  
27 in the amount of \$50,000 and made payable to Chicago Title. The handwritten notation "58203281"  
28 appears in the memo portion of the check and "Susan Su" appears in the signature block.

1 39. With respect to the second deposit of \$261,307.49, a review of bank records revealed  
2 that on July 8, 2010, SU made a withdrawal of \$261,307.49 from the TVU Wells Fargo's business  
3 checking Account 0454 and used the proceeds to purchase a \$261,307.49 Wells Fargo cashier's  
4 check payable to Chicago Title Company Escrow #10-5203281.

5 40. On July 12, 2010, a Grant Deed was recorded in the Recorder's Office for Alameda  
6 County which transferred title to the real property at 405 Boulder Creek, Suite 700, Pleasanton,  
7 California (APN 946-4547-296) to Susan Xiao-Ping SU, a married woman.

8 **Tracing of Proceeds to 1087 Murrieta Boulevard #133, Livermore, California**

9 41. A review of Fidelity National Title Company escrow account #0003025282 reflects  
10 that SU closed escrow on February 26, 2010 for the purchase of 1087 Murrieta Blvd. #133,  
11 Livermore, California (APN 097-0085-132). SU's purchase price was \$80,000 and she made two  
12 deposits to the escrow account from the TVU Wells Fargo business checking Account 0454. The  
13 first deposit was posted to the escrow account on February 18, 2010 and was a \$3,000 check dated  
14 January 8, 2010. The second deposit was posted to the escrow account on February 25, 2010 and  
15 was a wire transfer to Fidelity National Title Escrow No. 09-3025282 in the amount of \$78,700.

16 42. With respect to the first deposit of \$3,000, a review of bank records revealed that on  
17 January 8, 2010, check #1046 was written from the TVU Wells Fargo business checking Account  
18 0454 in the amount of \$3,000 and made payable to "Title Company." The handwritten notation  
19 "3025282" appears in the memo portion of the check and "Susan Su" appears in the signature block.

20 43. With respect to the second deposit of \$78,700, a review of bank records revealed that  
21 on February 25, 2010, a wire transfer was made from the TVU Wells Fargo business checking  
22 Account 0454 in the amount of \$78,700 to Fidelity National Title. Escrow number 09-3025282 is  
23 referenced in the transaction.

24 44. On February 26, 2010, a Grant Deed was recorded in the Recorder's Office for  
25 Alameda County which transferred title to the real property at 1087 Murrieta Boulevard #133,  
26 Livermore, California (APN 097-0085-132) to Susan Xiao-Ping SU, a married woman as sole and  
27 separate property. Escrow number 09-3025282-AS appears on the document. On February 26,

28 ///

1 2010, SU's husband, Hong Shen Yang, conveyed all of his right, title or interest in that property to  
2 SU through an Interspousal Transfer Deed also filed with the Recorder's Office.

3 **Tracing of Proceeds to 2890 Victoria Ridge Court, Pleasanton, California**

4 45. A review of Placer Title Company escrow account #811-2212 reflects that SU closed  
5 escrow on July 21, 2010 for the purchase of 2890 Victoria Ridge Court, Pleasanton, California  
6 (APN 946-4580-018). The contract purchase price was \$825,000 and SU made three deposits to the  
7 escrow account. The first deposit was made on July 7, 2010 and was a \$5,000 check dated July 1,  
8 2010 from SU's personal Citibank Account 3045. The source of this \$5,000 was a \$30,000 TVU  
9 check made payable to SU from TVU Wells Fargo Account 0454 dated May 7, 2010 and deposited  
10 into SU's personal Citibank Account 3045. The second deposit to escrow was a \$700,000 Wells  
11 Fargo cashier's check dated July 20, 2010 payable to "Placer Title Company Escrow #811-2212."  
12 The third and final deposit to escrow was a \$122,990.90 Wells Fargo cashier's check dated July 20,  
13 2010 payable to "Placer Title Company Escrow #811-2212."

14 46. With respect to the second deposit of \$700,000, its source was seven \$100,000  
15 deposits from the TVU PayPal Account #1921 to the TVU Wells Fargo Account 3640 on July 9,  
16 2010. On July 20, 2010, SU withdrew \$700,000 from Account 3640, and used the proceeds to  
17 purchase the \$700,000 Cashier's Check payable to Placer Title Company Escrow #811-2212.

18 47. With respect to the third deposit of the Cashier's Check for \$122,990.90, its source  
19 was \$100,000 withdrawn from the TVU Wells Fargo Account 4780 and \$22,990.90 withdrawn from  
20 the TVU Wells Fargo Account 0454. On July 20, 2010, SU used both of these withdrawals to  
21 purchase the \$122,990.90 Wells Fargo cashier's check payable to Placer Title Company Escrow  
22 #811-2212.

23 48. On July 21, 2010, a Grant Deed was recorded in the Recorder's Office for Alameda  
24 County which transferred title to the real property at 2890 Victoria Ridge Court, Pleasanton,  
25 California (APN 946-4580-018) to Susan SU, a married women as her sole and separate property.  
26 Escrow number 811-2212-EV appears on the document. On July 21, 2010, SU's husband, Hong S.  
27 Yang, conveyed all of his right, title and interest in that property to Susan through an Interspousal  
28 Transfer Deed also filed with the Recorder's Office.

1                   **Tracing of Proceeds to 1371 Germano Way, Pleasanton, California**

2           49.     A review of escrow account #4120-SP at Prominent Escrow Services, Inc., reflects  
3 that SU closed escrow on December 21, 2010 for the purchase of 1371 Germano Way, Pleasanton,  
4 CA (APN 950-29-18). SU's purchase price was \$1.8 Million dollars and she made three deposits  
5 to the escrow account. The first deposit was posted to the escrow account on December 7, 2010 and  
6 was a \$20,000 Wells Fargo cashier's check dated December 6, 2010 payable to "Prominent Escrow  
7 Service Re: 1371 Germano Drive, Pleasanton." The second deposit was posted to the escrow  
8 account on December 15, 2010 and was a wire transfer to Prominent Escrow Services, Inc., escrow  
9 #4120-SP in the amount of \$1,200,000 dollars from SU's Citibank Account 3045. The third deposit  
10 was posted to the escrow account on December 15, 2010 and was a wire transfer to Prominent  
11 Escrow Services, Inc., escrow #4120-SP in the amount of \$600,000 from the TVU Wells Fargo  
12 business savings account 4780.

13           50.     With respect to the first deposit of the cashier's check for \$20,000, its source was  
14 from SU and, on December 7, 2010, Prominent Escrow Services, Inc. issued Receipt No. 6466 to  
15 Susan SU for the sum of \$20,000 in earnest money for property 1371 Germano Way, Pleasanton,  
16 California 94566.

17           51.     With respect to the second deposit of \$1,200,000, its source was twelve \$100,000  
18 withdrawals from TVU PayPal Account #1921 which were all transferred to SU's Citibank Account  
19 #3045. On December 15, 2010, SU wire transferred \$1,200,000 from her Citibank Account #3045  
20 to Prominent Escrow Services, Inc. escrow #4120-SP. On December 15, 2010, Prominent Escrow  
21 Services, Inc. issued Receipt No. 6568 to Susan SU for the sum of \$1,200,000 for escrow deposit  
22 for property 1371 Germano Way, Pleasanton, California.

23           52.     With respect to the third deposit of \$600,000, its source was the TVU Wells Fargo  
24 business savings Account 4780. SU used this TVU Wells Fargo business savings account to hold  
25 large amounts of proceeds because the account was a high yield saving account. On December 15,  
26 2010, Prominent Escrow Services, Inc. issued Receipt No. 6588 to SU for the sum of \$600,000 for  
27 escrow deposit for property 1371 Germano Way, Pleasanton, California.

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1 53. On December 21, 2010, a Grant Deed was recorded in the Recorder's Office for  
2 Alameda County which transferred title to the real property at 1371 Germano Way, Pleasanton,  
3 California (APN 950-29-18) to Susan SU, a married woman as sole and separate property. Escrow  
4 number escrow #4120-SP appears on the document. On December 21, 2010, SU's husband, Hong  
5 S. Yang, conveyed all of his right, title and interest in that property to Susan through an Interspousal  
6 Transfer Deed also filed with the Recorder's Office.

7 FIRST CAUSE OF ACTION  
8 (forfeitable property to which proceeds from fraud and  
misuse of visas, permits and other documents are traceable)

9 54. The United States incorporates by reference the allegations in paragraphs one  
10 through paragraph 53 as though fully set forth.

11 55. Section 1546(a) makes it unlawful for any person who

12 knowingly forges, counterfeits, alters or falsely makes any immigrant or  
13 nonimmigrant visa, permit, border crossing card, alien registration receipt card or  
14 other document prescribed by statute or regulation for entry into or as evidence of  
15 authorized stay or employment in the United States, or utters, uses, attempts to use,  
16 possesses, obtains, accepts, or receives any such visa, permit, border crossing card,  
17 alien registration receipt card, or other document prescribed by statute or regulation  
18 for entry into or as evidence of authorized stay or employment in the United States,  
19 knowing it to be forged, counterfeited, altered, or falsely made, or to have been  
20 procured by means of any false claim or statement, or to have otherwise procured by  
21 fraud or unlawfully obtained . . . .

18 U.S.C. § 1546(a). Section 1546(a) is a specified unlawful activity ("SUA") pursuant to 18 U.S.C.  
19 § 1961(1).

20 56. In light of the foregoing and because the five defendant parcels of real property were  
21 purchased with the proceeds from one or more violations of 18 U.S.C. § 1546(a), the five defendant  
22 parcels are subject to forfeiture pursuant to 18 U.S.C. §§ 981(a)(1)©.

23 SECOND CAUSE OF ACTION  
(forfeitable property to which proceeds from mail fraud are traceable)

24 57. The United States incorporates by reference the allegations in paragraphs one  
25 through paragraph 56 as though fully set forth.

26 58. Section 1341 makes it unlawful for any person, having devised a scheme or artifice  
27 to defraud, or for obtaining money or property by false pretenses, to send or cause to be sent by the  
28 postal service or other authorized depository for mail, any matter or thing for the purpose of

1 executing the fraudulent scheme or artifice. 18 U.S.C. § 1341. Section 1341 is a SUA pursuant to  
2 18 U.S.C. § 1961(1).

3 59. In light of the foregoing and because the five defendant parcels of real property were  
4 purchased with the proceeds from one or more violations of 18 U.S.C. § 1341, the five defendant  
5 parcels are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)©.

6 THIRD CAUSE OF ACTION  
7 (forfeitable property to which proceeds from wire fraud are traceable)

8 60. The United States incorporates by reference the allegations in paragraphs one  
9 through paragraph 59 as though fully set forth.

10 61. Section 1343 makes it unlawful for any person, having devised a scheme or artifice  
11 to defraud, or for obtaining money or property by false pretenses, to be transmitted by means of wire  
12 for the purpose of executing such fraudulent scheme or artifice. 18 U.S.C. § 1343. Section 1343 is  
13 a SUA pursuant to 18 U.S.C. § 1961(1).

14 62. In light of the foregoing and because the five defendant parcels of real property were  
15 purchased with the proceeds from one or more violations of 18 U.S.C. § 1343, the five defendant  
16 parcels are subject to judicial forfeiture pursuant to 18 U.S.C. § 981(a)(1)©.

17 FOURTH CAUSE OF ACTION  
18 (property involved in money laundering)

19 63. The United States incorporates by reference the allegations in paragraphs one  
20 through paragraph 62 as though fully set forth.

21 64. Section 1957(a) makes it unlawful for any person who knowingly engages in a  
22 monetary transaction in criminally derived property of a value greater than \$10,000 and is derived  
23 from specified unlawful activity. Specified unlawful activity includes fraud and misuse of visas,  
24 permits, and other documents; mail fraud; and wire fraud. 18 U.S.C. § 1961(1).

25 65. In light of the foregoing and because defendant parcels of real property were  
26 purchased with money involved in Section 1957(a) money laundering, the five defendant parcels are  
27 subject to judicial forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A).

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2 Accordingly, plaintiff United States of America requests that due process issue to enforce the  
3 forfeiture of defendants, that notice be given to all interested parties to appear and show cause  
4 why forfeiture should not be decreed, that judgment of forfeiture be entered and that plaintiff be  
5 awarded such other relief as may be proper and just.

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7 Respectfully submitted,

8 MELINDA HAAG  
United States Attorney

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10 PATRICIA J. KENNEY  
Assistant United States Attorney

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Dated: January 19, 2011

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VERIFICATION

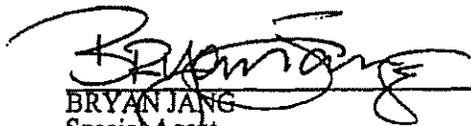
I, Special Agent Bryan Jang, state as follows:

1. I am a Special Agent with the United States Department of Homeland Security – Homeland Security Investigations. I am the case agent in connection with this case, and familiar with the facts, and the investigation leading to the filing of this Complaint for Forfeiture. The information in the Complaint is based on my personal knowledge and on information which came to me in the ordinary course of this investigation

2. I have read the Complaint for Forfeiture and believe the allegations contained in it to be true.

\* \* \* \* \*

I declare under penalty of perjury that the foregoing is true and correct. Executed this 18 day of January, 2010, in SAN FRANCISCO, California.

  
BRYAN JANG  
Special Agent  
United States Department of Homeland Security  
Homeland Security Investigations