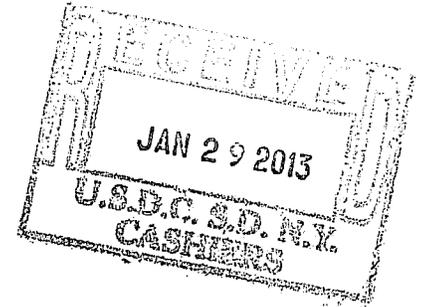


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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**



-----X  
UNITED STATES and STATE OF NEW YORK :  
ex rel. JANE DOE, :

Plaintiff, :

v. :

EDUCATION HOLDINGS 1, INC., f/k/a :  
THE PRINCETON REVIEW, INC., and :  
STEPHEN GREEN, :

Defendants. :

09 Civ. 6876 (BSJ)

**AMENDED COMPLAINT-IN-  
INTERVENTION OF THE UNITED  
STATES OF AMERICA**

-----X  
UNITED STATES OF AMERICA, :

Plaintiff, :

v. :

EDUCATION HOLDINGS 1, INC., f/k/a :  
THE PRINCETON REVIEW, INC., :  
ANA AZOCAR, ZORAYMA AZOCAR, and :  
ROBERT STEPHEN GREEN, :

Defendants. :  
-----X

**Jury Trial Demanded**

The United States of America (the "United States" or the "Government"), by its attorney, Preet Bharara, United States Attorney for the Southern District of New York, initially brought this civil fraud suit against The Princeton Review, Inc. ("Princeton Review") and Ana Azocar, a

former employee of Princeton Review, alleging that they had engaged in a scheme to obtain federal funds for thousands of hours of tutoring services that Princeton Review never in fact provided. In December 2012, the United States settled its claims against Princeton Review.<sup>1</sup> In this amended pleading, the United States reasserts its claims against Ana Azocar and also asserts claims against two additional former employees of Princeton Review, Robert Stephen Green (“Green”) and Zorayma Azocar (collectively with Ana Azocar, “Defendants”), alleging upon information and belief as follows:

### INTRODUCTION

1. Between 2006 and 2010 (the “Covered Period”), Princeton Review was paid tens of millions of dollars — in federal funds pursuant to the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 — for purportedly providing tutoring services to underprivileged students. In fact, however, Princeton Review was repeatedly billing for students who never received these services. Many of the Princeton Review employees who were responsible for overseeing the day-to-day operations of Princeton Review’s tutoring program routinely falsified student attendance records to make it appear as though more students had attended the program than had actually attended. These employees did this because they were pressured by their supervisors to maintain high daily student attendance. Moreover, some of these employees falsified student attendance records at the direction and/or urging of Green, Ana Azocar, and Zorayma Azocar. During the Covered Period, and as a result of these falsified attendance records, Princeton Review submitted false certifications to the New York City Department of Education (the “NYC DOE”) stating that the invoices it was submitting for its

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<sup>1</sup> In May 2012, Princeton Review sold the name and brand of The Princeton Review, Inc. to an unaffiliated third party and changed its name to Education Holdings 1, Inc. (“Education Holdings”). Accordingly, the December 2012 settlement was with Education Holdings.

tutoring services were “true and accurate” even though they were not. These false certifications misled the NYC DOE into paying Princeton Review millions of dollars for tutoring services that Princeton Review did not in fact provide.

2. During the Covered Period, Princeton Review was a provider of Supplemental Educational Services (“SES”) in New York City. As such, Princeton Review provided after-school tutoring to underprivileged students attending underperforming public schools in New York City. In exchange for providing these tutoring services, the NYC DOE paid Princeton Review a fixed amount of money per hour for each student that Princeton Review tutored. This money consisted entirely of funds provided to New York State by the federal Government under the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301, *et seq.*

3. During the Covered Period, Princeton Review entered into contracts with the NYC DOE. Pursuant to these contracts, Princeton Review was required to record attendance at each of its SES tutoring classes on a daily basis. For each tutoring class, Princeton Review was required to have each student who attended sign in and sign out on a standard attendance form. As a condition of getting paid for its tutoring services, Princeton Review was required to certify to the NYC DOE that its attendance records were “true and accurate.”

4. Many of the Princeton Review employees who oversaw the day-to-day operations of Princeton Review’s SES program, however, did not accurately keep track of daily student attendance. Rather, they routinely falsified entries on Princeton Review’s daily student attendance forms to make it appear as though more students had attended the program than had actually attended. These employees (“Site Managers”) were pressured by their supervisors (“Directors”) to maintain high daily student attendance, including by being threatened with

termination and/or having their pay cut. Moreover, Green, Ana Azocar, and Zorayma Azocar — all of whom were Directors during a portion of the Covered Period — instructed and/or encouraged some of these Site Managers to falsify entries on the daily student attendance forms, including by signing in for absent students.

5. During the Covered Period, Princeton Review had an incentive compensation system that encouraged the falsification of student attendance records. Princeton Review paid Directors substantial bonuses if the Site Managers they supervised consistently reported high daily student attendance. For example, Ana Azocar was paid bonuses of \$9,600 and \$6,600 in 2008 and 2009, respectively, because the Site Managers she supervised consistently reported high daily student attendance. Similarly, Zorayma Azocar was paid bonuses of \$9,000 and \$10,500 in 2008 and 2009, respectively, for this same reason. In addition, Green received an attendance-based bonus of \$75,000 in 2007. Directors therefore had a strong incentive to pressure and/or instruct their Site Managers to falsify entries on the daily student attendance forms, and Site Managers in turn had a strong incentive to falsify such entries — they wanted to keep their jobs and not have their pay cut.

6. Princeton Review's daily student attendance forms from the Covered Period are replete with falsifications, including forms completed by Site Managers who reported to Green, Ana Azocar, and Zorayma Azocar. For example, there are instances where the students' alleged signatures look nothing like their actual signatures. There are also instances where the students' alleged signatures change in appearance from class to class. In addition, there are instances where the students' alleged signatures contain misspellings. In one such instance, the first name "Dontae" was misspelled "Donate." Moreover, there are instances where parents have confirmed that their children did not attend Princeton Review's SES classes on specific days

when the children's purported signatures appear on daily student attendance forms. One parent has stated that her child was in Mexico on a family vacation on four days when the child's purported signature appears on daily student attendance forms. The child's passport confirms that the child was in fact in Mexico on the four dates. Another parent has stated that her child was at home recuperating from surgery on three days when the child's purported signature appears on daily student attendance forms. The parent has a copy of a doctor's note excusing the child from school on these three dates.

7. Princeton Review used these falsified daily student attendance forms to prepare invoices through which it billed the NYC DOE for its alleged tutoring services. Princeton Review submitted these invoices to the NYC DOE on a monthly basis. For each such invoice, Princeton Review certified that the information on the invoice was "true and accurate." Notwithstanding these certifications, most, if not all, of the monthly invoices contained false information; the invoices billed the NYC DOE for thousands of hours of SES tutoring that Princeton Review never actually provided. As a result of these false invoices, Princeton Review was paid millions of dollars for tutoring services that Princeton Review never in fact provided.

8. The United States seeks treble damages and penalties under the False Claims Act ("FCA"), 31 U.S.C. §§ 3729, *et seq.*, for money paid to Princeton Review for tutoring services that Princeton Review did not provide.

#### **JURISDICTION AND VENUE**

9. This Court has jurisdiction pursuant to 31 U.S.C. § 3730(a), 28 U.S.C. §§ 1331 and 1345, and the Court's general equitable jurisdiction.

10. Venue is appropriate in this judicial district pursuant to 28 U.S.C. § 1391(b) because the fraudulent activities of Defendants that form the basis of this action, and that are alleged in this amended complaint, took place within this district.

**PARTIES**

11. Plaintiff is the United States of America.

12. Defendant Robert Stephen Green is a former employee of Princeton Review. From 2006-2008, Green was employed within Princeton Review's New York City SES division. During the 2006/2007 academic year, Green was a Director. Thereafter, during the 2007/2008 academic year and a portion of the 2008/2009 academic year, Green was the Vice President in charge of Princeton Review's NYC SES program. Green currently resides in Maryland.

13. Defendant Ana Azocar is a former employee of Princeton Review. From 2006-2010, Ana Azocar was employed within Princeton Review's New York City SES division. During the 2006/2007 academic year, Ana Azocar was a Site Manager. Thereafter, during the 2007/2008 academic year through the 2009/2010 academic year, Ana Azocar was a Director. Ana Azocar currently resides in New York County, New York.

14. Defendant Zorayma Azocar is a former employee of Princeton Review. From 2006-2010, Zorayma Azocar was employed within Princeton Review's New York City SES division. During the 2006/2007 academic year, Zorayma Azocar was a Site Manager. Thereafter, during the 2007/2008 academic year through the 2009/2010 academic year, Zorayma Azocar was a Director. Zorayma Azocar currently resides in New York County, New York.

## FACTS

### **I. BACKGROUND**

#### **A. THE STATUTORY FRAMEWORK GOVERNING THE PROVISION OF SES DURING THE COVERED PERIOD**

15. The No Child Left Behind Act of 2001 (the “NCLB Act”), 20 U.S.C. §§ 6301, *et seq.*, was a comprehensive reform of the Elementary and Secondary Education Act of 1965 (the “ESEA”), the federal spending program that provides funds to assist the States and their local educational agencies (“LEAs”) in the education of elementary and secondary school children. Title I, Part A of the ESEA, as amended by the NCLB Act, provides federal grants to assist the States and their LEAs in improving the academic achievement of disadvantaged students, and in ensuring that all students meet high academic standards.

16. During the Covered Period, Title I funds were distributed to the States by the United States Department of Education (“US DOE”). State educational agencies, in turn, allocated Title I sub-grants to LEAs. For example, the US DOE allocated Title I funds to the New York State Education Department (the “NYSED”), which, in turn, allocated funds to its LEAs, one of which was the NYC DOE. The vast majority of Title I funds received by LEAs were allocated to Title I schools to be used at the schools for activities designed to improve student achievement.

17. LEAs — such as the NYC DOE — were permitted to use a portion of their Title I allocation to pay for SES. SES included after-school tutoring, as well as remediation and other supplemental academic enrichment services.

#### **B. THE PROVISION OF SES TUTORING IN NEW YORK CITY DURING THE COVERED PERIOD**

18. In accordance with the ESEA, as amended by the NCLB Act, the NYC DOE entered into contracts with entities that were approved by the NYSED to provide SES tutoring and were selected by parents of eligible students to provide SES tutoring to their children (collectively, "SES providers"). Students were eligible to receive SES tutoring if they: (1) were from low-income families; and (2) attended a Title I school (*i.e.*, a school that received funds under Title I, Part A of the ESEA) that was in its second year of being identified for improvement, corrective action, or restructuring.

19. Parents of eligible students received a list of all of the entities that had been approved by the NYSED to provide SES tutoring. Each parent was permitted to select from this list one SES provider to provide SES tutoring to his or her child. Once a parent selected an SES provider for his or her child, the parent filled out a student enrollment form for that particular provider. The provider then submitted the completed student enrollment form to the NYC DOE, which upon receiving the form, enrolled the child in the provider's SES classes. An SES provider could not bill the NYC DOE for tutoring a particular student unless the student had been enrolled in the provider's classes, and a student would not be enrolled in a provider's classes unless the provider had submitted a completed enrollment form for the student to the NYC DOE.

20. SES providers hired teachers to provide SES tutoring to the students enrolled in their SES classes. SES providers were ultimately responsible for overseeing the SES teachers and for ensuring that their SES programs were administered properly.

21. The NYC DOE paid SES providers for each student they tutored with funds provided to the NYSED by the federal Government under Title I, Part A of the ESEA, as amended by the NCLB Act.

22. Each SES provider was paid a fixed hourly rate for each student it tutored. This fixed hourly rate was negotiated between the SES provider and the NYC DOE and was set forth in a contract between the parties.

23. SES providers billed the NYC DOE for the tutoring services they provided on a monthly basis.

24. Each year, SES providers were permitted to bill for a specified number of hours of tutoring per student. Once an SES provider reached the hour limit for a particular student, the student became ineligible for further tutoring. For example, during the Covered Period, Princeton Review was permitted to bill for 50 hours of tutoring per student per year.

25. During the Covered Period, the NYC DOE required that SES providers regularly make two distinct certifications in connection with their provision of SES tutoring. First, on a daily basis, SES providers were required to record student attendance at each of their tutoring classes, and certify that each day's attendance records were accurate. Second, when SES providers submitted invoices to the NYC DOE for the tutoring services they had provided, they were required to certify that the invoices were true and accurate (*i.e.*, that the SES providers in fact provided the tutoring services for which they were billing).

**1. Daily Student Attendance Certifications**

26. For each tutoring class during the Covered Period, SES providers serving students in New York City were required to record student attendance on a standard form approved by the NYC DOE (the "Daily Student Attendance Sheet"). A copy of a redacted Daily Student Attendance Sheet is attached to this complaint as Exhibit A. Princeton Review used the Daily Student Attendance Sheet to record student attendance throughout the Covered Period.

27. The Daily Student Attendance Sheet contained three sections. The first section — located at the top of each Daily Student Attendance Sheet — was labeled, “Session Details.” This section contained a basic description of the SES class, including the name of the SES provider, the date of the class, the location of the class, the subject matter of the class, and the scheduled start time and end time of the class.

28. The second section of the Daily Student Attendance Sheet — located in the middle of each Sheet — was labeled, “Student Information.” This section contained seven columns, titled (from left to right): (1) “Present”; (2) “Name of Student”; (3) “Student ID”; (4) “Start Time”; (5) “Student Signature (Start of Session)”; (6) “End Time”; and (7) “Student Signature (End of Session).”

29. The “Name of Student” column contained the pre-printed name of each student who was enrolled in the class. Similarly, the “Student ID” column contained the pre-printed identification number that the NYC DOE had assigned to each student.

30. To the left of each student’s pre-printed name and identification number, in the column titled, “Present,” there were two “Scantron” bubbles — one labeled “Y” and the other labeled “N.” If a student was present for class, the “Y” bubble was to be filled in; if a student was absent from class, the “N” bubble was to be filled in. These Scantron bubbles were machine-readable, thus enabling SES providers to quickly compile a list of those students who were present for (or absent from) a given class.

31. To the right of each student’s pre-printed name and identification number were the columns titled (from left to right): “Start Time”; “Student Signature (Start of Session)”; “End Time”; and “Student Signature (End of Session).” According to the SES Provider Manual issued by the NYC DOE, if a student was present for class, at the beginning of the class, the

student was to sign his or her name in the column titled, "Student Signature (Start of Session)"; and at the end of the class, the student was to sign his or her name in the column titled, "Student Signature (End of Session)." This requirement was also memorialized in the contract between each SES provider and the NYC DOE. If a student arrived late to class, the student was to sign in as soon as he or she arrived. Similarly, if a student left class early, the student was to sign out when he or she left class. In addition, the student or the SES teacher was to write the time that the student arrived at class and left class, respectively, in the columns titled, "Start Time" and "End Time."

32. The third and final section of the Daily Student Attendance Sheet — located at the bottom of each Sheet — was labeled, "Instructor & Supervisor Certification." This section contained the following language:

I hereby certify that I have provided supplemental educational services to the above named students on the date indicated herein. I understand that when completed and filed, this form becomes a record of the Department of Education and that any material misrepresentations may subject me to criminal, civic and/or administrative action.

33. Immediately below the above-quoted language on the Daily Student Attendance Sheet, there were two boxes in which the SES teacher and a representative of the SES provider were required to sign their names. By signing their names in these boxes, the SES teacher and the representative of the SES provider certified that tutoring services were provided to the students (1) whose signatures appeared in the "Student Signature (Start of Session)" and "Student Signature (End of Session)" columns, and (2) for whom the "Y" Scantron bubble had been filled in. The SES teacher and the representative of the SES provider also certified to the accuracy of the reported "Start Time" and "End Time" for these students.

34. Each completed Daily Student Attendance Sheet was a record of the NYC DOE and had to be retained in hard copy by the SES provider for at least six years.

## **2. Billing Certifications**

35. During the Covered Period, SES providers serving students in New York City were required to use an internet application maintained by the NYC DOE to submit monthly invoices to the NYC DOE for the tutoring services they provided. The internet application that was in use beginning with the 2008/2009 academic year was called "Vendor Portal"; the internet application that was in use prior to the 2008/2009 academic year was called "NCLB/SES Attendance." For purposes of this complaint, there are no material differences between Vendor Portal and NCLB/SES Attendance.

36. For each billing period beginning with the 2008/2009 academic year, SES providers were required to input the total time of each student's attendance into Vendor Portal. The NYC DOE treated this attendance data as an invoice. Prior to the 2008/2009 academic year, SES providers were required to input the same data into NCLB/SES Attendance, and the NYC DOE treated that data as an invoice.

37. Beginning with the 2008/2009 academic year, the NYC DOE made payments to SES providers based on the invoices they submitted using Vendor Portal. Prior to the 2008/2009 academic year, the NYC DOE made payments to SES providers based on the invoices they submitted using NCLB/SES Attendance.

38. Before an SES provider could submit an invoice to the NYC DOE using Vendor Portal, a representative of the SES provider had to click a "certification" icon. After the representative clicked the certification icon, a screen appeared with the following language:

This is to certify:

- (i) The below named individual is a duly authorized representative (“Representative”) of [the SES provider] and is authorized to submit information to the (DoE) and to make certifications and representations on the Agency’s behalf;
- (ii) the Representative is aware that this invoice, when submitted to the DoE, becomes a business record of the Department of Education (DoE) and that the DoE relies upon the information contained therein to compute payments to the Agency;
- (iii) the Agency and the Representative individually are subject to legal action, including criminal prosecution, if false information is submitted knowingly to the DoE; and
- (iv) based upon the books and records of the Agency, the information in this invoice submitted to the DoE is true and accurate and may be relied upon by the DoE to the same extent as an invoice submitted via hardcopy document and signed by an authorized representative of the Agency.
- (v) a hard copy Attendance/Progress report has been or will be sent to the parent of each student for whom payment is sought; that the provider has on file, and available for inspection by DoE, as [sic] signed Attendance/Progress report;
- (vi) a parent’s failure to sign the Attendance/Progress report was not a result of the parent’s communication to the provider that the attendance/Progress report is not accurate.

39. Immediately below the above-quoted language on the certification screen, there were four boxes. The first box was labeled, “Title”; the second box was labeled, “Last Name”; the third box was labeled, “First Initial”; and the fourth box was labeled, “I agree to the above terms.” The representative was required to type his or her title, last name, and first initial in the first three boxes, and place a check in the last box. An SES provider could not submit an invoice to the NYC DOE using Vendor Portal — and thus could not get paid — unless and until one of its representatives had completed the certification screen. A screenshot of the certification screen from Vendor Portal is attached to this complaint as Exhibit B.

40. Prior to the 2008/2009 academic year, before an SES provider could submit an invoice using NCLB/SES Attendance, a representative of the SES provider was routed to a screen with the following language:

The Provider is advised that this electronic attendance report, when completed and submitted, becomes a business record of the Department of Education (DoE) and that the DoE relies upon the information contained therein to compute payments to the Provider's agency. It is further advised that knowingly submitting false information to the DoE may subject the Provider's agency and individuals within the agency to legal action, including criminal prosecution. In submitting this electronic attendance report for payment, the Provider is certifying that, based on the books and records of the Provider's agency: (i) the information contained in the electronic attendance report is true and accurate; (ii) a hardcopy Attendance/Progress (A/P) report has been or will be sent to the parent of each student for whom payment is sought; (iii) that the Provider has on file, and available for inspection by the DoE, a signed A/P report or has documented that Provider made diligent efforts to obtain the parent's signature on the A/P report; and (iv) a parent's failure to sign the A/P report was not a result of the parent's communication to the Provider that the A/P report is inaccurate.

Immediately below this language, there were two buttons — one labeled “I accept” and the other labeled “I decline.” Prior to the 2008/2009 academic year, an SES provider could not submit an invoice to the NYC DOE using NCLB/SES Attendance — and thus could not get paid — unless and until one of its representatives clicked the “I accept” button. A screenshot of the certification screen from NCLB/SES Attendance is attached to this complaint as Exhibit C.

## **II. PRINCETON REVIEW'S NEW YORK CITY SES PROGRAM**

### **A. Princeton Review's Provision of SES Tutoring in New York City**

41. Princeton Review provided SES tutoring in New York City from 2002-2010.

42. Princeton Review entered into contracts with the NYC DOE in 2002, 2005, 2006 and 2009, which were periodically amended to reflect, among other things, updated pricing information. Pursuant to these contracts, from 2006-2010, Princeton Review was paid approximately \$35-\$75 per student per hour for providing SES tutoring.

43. Princeton Review's contracts with the NYC DOE in effect during the Covered Period contained additional certifications (beyond the above-described daily student attendance and billing certifications), including the following:

By signing the foregoing agreement Contractor [Princeton Review] certifies that any ensuing program and activity resulting from this Agreement will be conducted in accordance with . . . all applicable federal and state laws and regulations.

\* \* \*

The Contractor further certifies that all documentation submitted pursuant to this Agreement contains truthful and accurate information.

44. Princeton Review's contracts with the NYC DOE in effect during the Covered Period also required Princeton Review to have students sign in and sign out at the start and conclusion of each tutoring session, and stated that Princeton Review was to be paid only for the tutoring services that it actually provided to students. The contract in effect as of September 2006 provided:

Contractor shall use NYCDOE attendance sheets[.] . . . Attendance sheets must be signed by students at the start and conclusion of each session . . . .

\* \* \*

Billing for Services shall be in the form of detailed itemized invoices submitted by the Contractor on a periodic basis, as determined by the Board using the web-based electronic system. In addition, the Contractor certifies that any provision in this Agreement notwithstanding, the Board shall only make payment for Services actually provided to Students by the Contractor, for the number of hours of Services actually provided to Students by the Contractor, and only upon the submission of substantiated invoices in a form satisfactory to the Board.

45. Similarly, the contract in effect as of September 2009 provided:

Contractor shall use only NYCDOE attendance sheets for the purposes of recording attendance. . . . In addition, attendance sheets shall . . . indicate the start time and end time of each Student's tutoring session and must be signed by the Student at the start and conclusion of each session . . . .

\* \* \*

Billing for Services shall be in the form of detailed itemized invoices submitted by the Contractor on a monthly basis, using the web-based electronic system. . . . In addition, the Contractor certifies that any provision in this Agreement notwithstanding, the Board shall only make payment for Services actually provided to Students by the Contractor, for the number of hours of Services actually provided to Students by the Contractor, and only upon the submission of substantiated invoices in a form satisfactory to the Board.

**B. Princeton Review's Organizational Structure**

46. During the Covered Period, Princeton Review assigned one "Site Manager" and several "Site Aides" to each New York City school at which it provided SES tutoring. All of the Site Managers and Site Aides were employees of Princeton Review.

47. The Site Aides assigned to a school reported to the Site Manager for that school.

48. Each Site Manager was responsible for overseeing the day-to-day operations of Princeton Review's SES program at the school(s) to which he or she was assigned. Among the Site Manager's responsibilities was ensuring that a Daily Student Attendance Sheet was completed for each SES class at his or her school(s). After each SES class, the Site Manager would collect the Daily Student Attendance Sheet from the SES teacher. Thereafter, the Site Manager would sign the certification on the Daily Student Attendance Sheet and deliver the completed Sheet to Princeton Review's offices at 160 Varick Street, New York, New York 10013.

49. Each Site Manager reported to a Princeton Review employee called a "Director." Each Director, in turn, supervised a group of Site Managers, and thus managed Princeton Review's SES program at a number of New York City schools. For example, during the 2006/2007 academic year, when Green was a Director, he managed Princeton Review's SES program at 30 schools. Similarly, during the 2008/2009 academic year, when Ana Azocar and

Zorayma Azocar were Directors, they managed Princeton Review's SES program at 11 schools and 14 schools, respectively.

50. The Directors reported to the Vice President of Princeton Review's New York City SES division. This individual was in charge of Princeton Review's New York City SES program.

**C. Princeton Review's Incentive Compensation System**

51. During the Covered Period, Directors at Princeton Review were paid substantial bonuses if the schools they managed maintained high daily student attendance over the course of an academic year. For example, for the 2007/2008 and 2008/2009 academic years, Directors were paid \$500-\$750 for each school they managed if, for the year, the average daily student attendance at all of the schools they managed was 60% or greater of students enrolled. If the average daily student attendance was 60%-64%, the Director would be paid \$500 per school. If the average daily student attendance was 65%-69%, the Director would be paid \$600 per school. And if the average daily student attendance was 70% or greater, the Director would be paid \$750 per school.

52. During the Covered Period, Directors earned substantial bonuses under this incentive compensation system. For example, for the 2007/2008 academic year, Ana Azocar (who managed 16 schools) was paid \$600 per school, or \$9,600. For the 2008/2009 academic year, Ana Azocar (who managed 11 schools) was paid an attendance bonus of \$6,600.

53. Similarly, for the 2007/2008 academic year, Zorayma Azocar (who managed 15 schools) was paid an attendance bonus of \$9,000. For the 2008/2009 academic year, Zorayma Azocar (who managed 14 schools) was paid an attendance bonus of \$10,500.

54. Green also received substantial attendance-based incentive compensation during the Covered Period. For example, for the 2006/2007 and 2007/2008 academic years, Green was paid bonuses of \$75,000 and \$38,029, respectively.

### **III. PRINCETON REVIEW'S FALSE CERTIFICATIONS**

55. For each invoice that Princeton Review submitted to the NYC DOE from 2006-2010, Princeton Review certified that the invoice was "true and accurate" (*i.e.*, that Princeton Review had provided tutoring services sufficient to justify the billed amount). However, most, if not all, of these certifications were false. In response to pressure from their Directors, many Site Managers routinely falsified entries on the Daily Student Attendance Sheets to make it appear as though more students had attended Princeton Review's SES classes than had in fact attended. Moreover, Green, Ana Azocar, and Zorayma Azocar instructed and/or encouraged some of these Site Managers to falsify entries. In addition, after Green became the Vice President in charge of Princeton Review's New York City SES program, he failed to take adequate remedial action when confronted with evidence that Site Managers were falsifying entries on the Daily Student Attendance Sheets. These false entries ultimately resulted in: (1) Princeton Review submitting false invoices to the NYC DOE; and (2) the NYC DOE paying Princeton Review federal money for SES tutoring that Princeton Review had not in fact provided.

#### **A. Due to the Actions of Directors, Many Site Managers Routinely Falsified Entries on the Daily Student Attendance Sheets**

56. During the Covered Period, many Site Managers routinely falsified entries on the Daily Student Attendance Sheets to increase their daily attendance numbers. They did so because they were pressured by their Directors to maintain high daily student attendance.

57. During the Covered Period, most, if not all, of the Directors gave their Site Managers daily goals or quotas for student attendance and pressured the Site Managers to meet

the goals/quotas, including by threatening them with termination and/or having their pay cut if they failed to maintain high daily student attendance. The goals/quotas were 70% to 90% of total enrolled students. Afraid of losing their jobs or having their pay cut, many Site Managers, in turn, falsified entries on the Daily Student Attendance Sheets. Moreover, some Site Managers enlisted their Site Aides to assist them in falsifying entries.

58. During the Covered Period, some Site Managers in fact had their pay lowered and/or were terminated for reporting low daily student attendance.

59. There were several ways that Site Managers falsified entries on the Daily Student Attendance Sheets during the Covered Period. In some instances, Site Managers instructed the SES teachers not to fill in the "N"/"Y" Scantron bubbles and then filled in the "Y" bubbles for absent students and forged the corresponding signatures. On other occasions, Site Managers erased the "N" bubbles where the SES teachers had filled them in and then filled in the "Y" bubbles and forged the corresponding signatures. Site Managers also filled in the "Y" bubbles for absent students where the SES teachers had neglected to fill in the "N" bubbles and then forged the corresponding signatures. In falsifying entries on the Daily Student Attendance Sheets, Site Managers frequently copied or traced students' signatures from old Sheets (on which the students had actually signed their names) onto new Sheets. Some Site Managers had their Site Aides assist in these activities.

60. In addition to falsifying entries for students who were absent from class, Site Managers and Site Aides also signed out for students who had signed in at the start of class but had not signed out. The Site Managers and Site Aides signed out for these students and marked the students as having been present for the entire class without verifying that the students had in fact been present for the whole class.

## 1. Falsifications Prompted By Green

61. Numerous Site Managers who falsified entries on the Daily Student Attendance Sheets were prompted to do so by Green. Two such Site Managers are referred to below as Site Managers 1 and 2. Site Managers 1 and 2 were Site Managers during the 2006/2007 academic year, and reported to Green, who was their Director.

62. **Site Manager 1.** During the 2006/2007 academic year, Site Manager 1 was assigned to various schools, including PS 189 in Manhattan. According to Site Manager 1, a few minutes before the start of each tutoring session, Site Manager 1 was required to send Green a text message reporting the total number of students who had shown up for the session. Green would frequently send Site Manager 1 a text message in response indicating that the number of students was too low. Green would say (in substance) such things as, "find 15 more students" and "get more students." In response, Site Manager 1 would routinely falsify entries on the Daily Student Attendance Sheets, such that the final attendance figure for a given session was higher than the initially-reported number.

63. After each tutoring session, Site Manager 1 would report the final attendance figure for the session to a member of Princeton Review's administrative staff, who would then forward the final number to Green. According to Site Manager 1, if the final number was not high enough, Site Manager 1 would receive an angry response from Green. Green would say (in substance) such things as: "make it happen, I don't want any excuses"; "this is not acceptable"; "this is non-negotiable"; and "this is not an option, you're going to get fired." In response, Site Manager 1 would falsify additional entries on the Daily Student Attendance Sheets, such that the next morning — when Site Manager 1 submitted the hard copy Daily Student Attendance Sheets to Princeton Review's offices at 160 Varick Street and reported the "official" final attendance

figure for the session — the “official” final figure was higher than the number Site Manager 1 had reported the night before. Green tracked the daily student attendance figures and received variance reports showing the difference between the reported attendance numbers, and thus was aware of these further increases.

64. According to Site Manager 1, Site Manager 1 falsified up to 20 entries per day on the Daily Student Attendance Sheets. Site Manager 1 did so because Site Manager 1 was afraid of being fired for reporting attendance numbers that were not satisfactory to Green. According to Site Manager 1, in meetings, Green would give examples of Site Managers who had been fired for not achieving their attendance goals.

65. Princeton Review’s attendance records for PS 189 for the 2006/2007 academic year show that Site Manager 1’s reported final daily attendance numbers were remarkably high and remarkably consistent. There were two groups of students enrolled for tutoring at PS 189 during the 2006/2007 academic year. The first group had approximately 150 students eligible to receive tutoring, while the second group had approximately 39 students. For the first group, over the course of 43 sessions, Site Manager 1 never reported fewer than 117 students in attendance. For 10 sessions, Site Manager 1 reported between 140 and 144 students; for 24 sessions, Site Manager 1 reported between 130 and 139 students; for seven sessions, Site Manager 1 reported between 120 and 129 students; and for two sessions, Site Manager 1 reported between 117 and 119 students. For the second group, over the course of 41 sessions, Site Manager 1 never reported fewer than 28 students in attendance. For 33 sessions, Site Manager 1 reported between 33 and 37 students; for seven sessions, Site Manager 1 reported between 30 and 32 students; and for one session, Site Manager 1 reported 28 students.

66. **Site Manager 2.** During the 2006/2007 academic year, Site Manager 2 was assigned to various schools, including PS 5 in Manhattan. Like Site Manager 1, shortly before the start of each tutoring session, Site Manager 2 was required to send Green a text message reporting the total number of students who had shown up for the session. According to Site Manager 2, for the first few sessions at PS 5, Green responded to Site Manager 2's initial text message by indicating that the number of students was too low. Green sent Site Manager 2 text messages that said (in substance) such things as, "what is this?" and "good, give me 10 more." At first, Site Manager 2 did not falsify entries on the Daily Student Attendance Sheets in response to Green's texts. Indeed, according to Site Manager 2, for the first few sessions, Site Manager 2's final attendance figure at the end of the day was the same as his/her initially-reported number. Green, however, met with Site Manager 2 after two of these sessions and informed Site Manager 2 that due to Site Manager 2's low attendance numbers, Green was going to have to switch Site Manager 2 to a part-time employee and/or give Site Manager 2 a less desirable school assignment. After the first few sessions (and the above-referenced meetings), Site Manager 2 began responding to Green's text messages by falsifying entries on the Daily Student Attendance Sheets, such that Site Manager 2's final attendance figures were higher than the initially-reported numbers.

67. Throughout the remainder of the 2006/2007 academic year, Site Manager 2 continued to send Green an initial text message before the start of each session in which Site Manager 2 reported the actual number of students who had shown up for the session. According to Site Manager 2, Green would consistently respond to these texts with such comments as (in substance), "get more" and "make it happen." After the sessions, Site Manager 2 would falsify entries on the Daily Student Attendance Sheets, such that the final attendance figures for the

sessions were consistently higher than the initially-reported numbers. Site Manager 2 falsified up to 20 entries per day on the Daily Student Attendance Sheets.

68. Princeton Review's attendance records for PS 5 for the 2006/2007 academic year bear out Site Manager 2's claims. Princeton Review's records show that for the first two sessions, November 4, 2006 and November 11, 2006, Site Manager 2 reported final attendance of 39 and 33 students, respectively. As the chart below shows, this was 38% and 32%, respectively, of the total number of students eligible to receive tutoring. For the next session, November 18, 2006, Site Manager 2's reported attendance jumped to 58 students — or 57% of the total number of eligible students. For the next 12 sessions, from December 2, 2006 to March 17, 2007, Site Manager 2 reported attendance of between 70 and 91 students — or between 68% and 93% of the total number of eligible students. For the final eight sessions, from April 14, 2007 to June 16, 2007, Site Manager 2 reported attendance of between 43 and 51 students. But for these eight sessions, the number of eligible students also dropped, such that the reported attendance was between 68% and 96% of the total number of eligible students.

<b>Session Date</b>	<b>Final Attendance Number as Reported by Site Manager 2</b>	<b>Number of Students Eligible for SES Tutoring</b>	<b>Percentage of Eligible Students Reported In Attendance</b>
11/4/06	39	102	38%
11/11/06	33	102	32%
11/18/06	58	102	57%
12/2/06	82	102	80%
12/9/06	83	102	81%
12/16/06	91	102	89%
1/6/07	78	103	76%
1/13/07	76	102	75%
1/20/07	75	102	74%
1/27/07	70	103	68%
2/3/07	76	102	75%
2/10/07	81	102	79%
3/3/07	90	104	87%
3/10/07	85	91	93%

3/17/07	75	103	73%
4/14/07	46	53	87%
4/21/07	51	53	96%
4/28/07	51	55	93%
5/12/07	42	58	72%
5/19/07	49	63	78%
6/2/07	46	63	73%
6/9/07	47	63	75%
6/16/07	43	63	68%

69. In addition to pressuring his subordinates to report high daily student attendance, Green also pressured them to obtain student enrollment forms. For example, in an email to various Directors, dated September 27, 2007, Green (who by then had been promoted to Vice President) stated:

I generally do not like to be nasty early in the morning, however I am sure that you are all aware that this week has been a disaster in terms of collecting [student enrollment forms] with yesterday being our worst day since the first two days of school. Please be advised that I am DEMANDING that each of your teams bring in a minimum of 100 labeled forms to the office today by 4:30 AND tomorrow by 4:30. The town hall meeting is cancelled. Get on your people and force them to deliver! I do not care what schools they come from, but it IS NOT AN OPTION. You will be evaluated on this. Confirm immediately (within 10 minutes).

In response to pressure such as this, Princeton Review's Site Managers not only falsified attendance records, but also falsified student enrollment forms.

## 2. Falsifications Prompted By Ana Azocar

70. At least six Site Managers who falsified entries on the Daily Student Attendance Sheets were prompted to do so by Ana Azocar. These Site Managers are referred to below as Site Managers 3 through 8.

71. Ana Azocar held regular team meetings with her Site Managers — including Site Managers 3 through 8 — during which she: (1) discussed each Site Manager's quotas and prior attendance; and (2) counseled those Site Managers who had low attendance. Ana Azocar also had one-on-one discussions with her Site Managers. During these one-on-one discussions, Ana

Azocar would instruct and/or encourage the Site Managers to falsify entries on the Daily Student Attendance Sheets, including by signing in for absent students. Ana Azocar had such discussions with Site Managers 3 through 8.

72. **Site Manager 3.** Site Manager 3 worked at Princeton Review from 2007-2009 and was assigned to various schools, including PS 25 in the Bronx, PS 52 in Manhattan, PS 153 in Manhattan, PS 165 in Manhattan, and PS 189 in Manhattan. According to Site Manager 3, Ana Azocar told Site Manager 3 that other Site Managers were signing “thirty or more” names on the Daily Student Attendance Sheets to meet their goals, and that Site Manager 3 should do the same. Ana Azocar instructed Site Manager 3 to make copies of old student attendance records, and indicated that Site Manager 3 should use them as templates in signing for absent students. Ana Azocar would say (in substance) such things as: “you can sign their names, it’s easy, who’s going to know”; “just do it, nothing’s going to happen”; and “nothing is going to happen, don’t be afraid, I used to do it.” Ana Azocar told Site Manager 3 that Site Manager 3 should not tell anyone else that Site Manager 3 had copies of old attendance records. Site Manager 3 would contact Ana Azocar in connection with each tutoring session to report the total number of students who had attended that day’s session. On several occasions, Ana Azocar told Site Manager 3 that she (Ana Azocar) would be reporting a higher number. Site Manager 3 understood that she was to falsify entries on the Daily Student Attendance Sheets to make up the difference.

73. Ana Azocar told Site Manager 3 that Site Manager 3’s “hours” depended on the number of students who were marked as present on the Daily Student Attendance Sheets. Site Manager 3 was paid based on the number of hours she worked. At one point, Site Manager 3’s pay was lowered because Site Manager 3 had failed to meet his/her attendance goals. At Ana

Azocar's direction, Site Manager 3 instructed the SES teachers not to fill in the "N"/"Y" Scantron bubbles on the Daily Student Attendance Sheets. Site Manager 3 did this to facilitate the falsification process. Nevertheless, the "N"/"Y" bubbles were sometimes filled in. When this occurred, Site Manager 3 would erase some of the "N" bubbles and then fill in the "Y" bubbles and forge the corresponding signatures. Site Manager 3 falsified as many as 10-12 entries per day on the Daily Student Attendance Sheets.

74. **Site Manager 4.** Site Manager 4 worked at Princeton Review from 2007-2009 and was assigned to various schools, including PS 25 in the Bronx, PS 89 in Queens, PS 132 in Manhattan, PS 152 in Manhattan and IS 349 in Brooklyn. According to Site Manager 4, on Site Manager 4's first day of work at Princeton Review (at which time Site Manager 4 was a Site Aide), Ana Azocar instructed Site Manager 4 to sign the Daily Student Attendance Sheets for students who either had not signed in or had not signed out. Subsequently, after Site Manager 4 had been promoted to the position of Site Manager, Ana Azocar indicated that Site Manager 4 should keep copies of old student attendance records and use them as templates in falsifying signatures. Ana Azocar said (in substance), "if you have old attendance, sign for them." Ana Azocar also informed Site Manager 4 that Site Manager 4's paycheck would go down and/or Site Manager 4's Site Aides would have to be let go if Site Manager 4 did not meet his/her attendance goals. Site Manager 4 personally falsified entries on Daily Student Attendance Sheets for absent students, and also instructed his/her Site Aides to falsify entries. Together, Site Manager 4 and Site Manager 4's Site Aides falsified as many as 40 entries per day.

75. **Site Manager 5.** Site Manager 5 worked at Princeton Review from 2006-2008 and was assigned to various schools, including PS 153 in Manhattan and MS 399 in the Bronx. According to Site Manager 5, Ana Azocar instructed Site Manager 5 to sign the Daily Student

Attendance Sheets for absent students. In addition, Ana Azocar told Site Manager 5 to make copies of old student attendance records, and indicated that Site Manager 5 should use them as templates in falsifying signatures. When Site Manager 5 reported low attendance, Ana Azocar would meet one-on-one with Site Manager 5 and say (in substance) such things as “why didn’t you listen, make the copies.” Ana Azocar told Site Manager 5 that Site Manager 5 should not tell anyone else that Site Manager 5 had copies of old attendance records. Site Manager 5 followed Ana Azocar’s direction and falsified as many as 60-70 entries per day on the Daily Student Attendance Sheets.

76. **Site Manager 6.** Site Manager 6 worked at Princeton Review from 2007-2008 and was assigned to various schools, including PS 25 in the Bronx and PS 89 in Queens. According to Site Manager 6, Ana Azocar had a one-on-one meeting with Site Manager 6 after Site Manager 6’s daily student attendance numbers had begun to decline. During this meeting, Ana Azocar said (in substance), “if you have to, do the special project, just do it, just sign them in.” Ana Azocar told Site Manager 6 that doing “the special project” was the only way to not get fired. Site Manager 6 followed Ana Azocar’s instruction and falsified up to five entries per day on the Daily Student Attendance Sheets. Site Manager 6 also instructed his/her Site Aides to falsify additional entries.

77. **Site Manager 7.** Site Manager 7 worked at Princeton Review from 2008-2010 and was assigned to various schools, including PS 152 in the Bronx and PS 161 in Manhattan. According to Site Manager 7, Ana Azocar told Site Manager 7 to sign in and/or sign out for students to meet his/her attendance goals, even if the students were not present for SES tutoring. Site Manager 7 falsified as many as 8-10 entries per day on the Daily Student Attendance Sheets.

78. **Site Manager 8.** Site Manager 8 worked at Princeton Review from 2007-2008 and was assigned to various schools, including PS 165 in Manhattan, PS 189 in Manhattan, and PS 192 in Manhattan. According to Site Manager 8, Ana Azocar instructed Site Manager 8 to keep copies of old student attendance records and to sign the Daily Student Attendance Sheets for absent students. Ana Azocar would say (in substance) such things as “you have to write signatures if your attendance is low,” and “you know what you have to do, I already reported a higher [attendance] number to Green.” On one occasion, Site Manager 8 told Ana Azocar that he/she did not feel comfortable signing for absent students. In response, Ana Azocar told Site Manager 8 that she (Ana Azocar) had previously done it. Ana Azocar said (in substance), “I did it before, why can’t you do it.” When falsifying entries on the Daily Student Attendance Sheets, Site Manager 8 would erase some of the “N” Scantron bubbles and then fill in the “Y” bubbles and forge the corresponding signatures. On some occasions, however, the SES teachers did not fill in the “N”/“Y” bubbles. On these occasions, Site Manager 8 simply filled in the “Y” bubbles for absent students and then forged the corresponding signatures. Site Manager 8 falsified up to 8 entries per day on the Daily Student Attendance Sheets.

79. Ana Azocar also instructed some of her Site Managers to fabricate Daily Student Attendance Sheets for days on which there were no SES classes to make it appear as though there were classes, and that students had attended the classes. Ana Azocar instructed one of these Site Managers, Site Manager 3, to tell the SES teachers that Princeton Review had lost the Daily Student Attendance Sheets from prior classes and needed to complete new Sheets to replace the lost ones. Site Manager 3 then had students and teachers sign the new Sheets. These new Sheets reflected dates on which there were no SES classes. Site Manager 3 fabricated

approximately four days of SES classes in this way. Ana Azocar also instructed Site Manager 5 to fabricate an entire day of SES classes.

80. In addition to prompting Site Managers to falsify entries on the Daily Student Attendance Sheets, Ana Azocar herself falsified entries on the Daily Student Attendance Sheets when she was a Site Manager. As stated above, in encouraging Site Managers 3 and 8 to sign for absent students, Ana Azocar told them that she had previously done the same thing.

### **3. Falsifications Prompted By Zorayma Azocar**

81. Like Green and Ana Azocar, Zorayma Azocar prompted Site Managers to falsify entries on the Daily Student Attendance Sheets.

82. **Site Manager 3.** Although Site Manager 3 was not directly supervised by Zorayma Azocar, Site Manager 3 had several conversations with Zorayma Azocar about forging student signatures. Zorayma Azocar told Site Manager 3 that when she (Zorayma Azocar) was a Site Manager, she had forged student signatures. Zorayma Azocar said (in substance), "when I was a Site Manager I had to do it to make my numbers." Zorayma Azocar also told Site Manager 3 that Site Manager 3 should forge student signatures, assuring Site Manager 3 that he/she would not get caught. During one of these conversations, Zorayma Azocar identified by name a particular Site Manager who worked for her and who forged student signatures, and stated (in substance), "she doesn't get caught."

83. **Site Manager 4.** In addition to being supervised by Ana Azocar, Site Manager 4 was also supervised for a period by Zorayma Azocar. According to Site Manager 4, in the spring of 2008 or 2009, Site Manager 4 asked Zorayma Azocar for permission to take a leave of absence for one month. Zorayma Azocar told Site Manager 4 that she (Zorayma Azocar) would approve the leave request — and arrange for Site Manager 4 to continue to be paid while on

leave — if Site Manager 4 submitted completed attendance records for the period when Site Manager 4 was to be on leave. Before Site Manager 4 went on leave: (1) Site Manager 4 completed the attendance records for the period when he/she was to be on leave by having students sign the records for future sessions; and (2) Site Manager 4 gave the completed attendance records to Zorayma Azocar.

84. **Site Manager 9.** Site Manager 9 worked at Princeton Review from 2008-2010 and was assigned to various schools. According to Site Manager 9, Zorayma Azocar required Site Managers 9 to send her a text message shortly before each tutoring session reporting the total number of students in attendance. Zorayma Azocar would respond to these texts with such comments as (in substance), “get more” and “make it happen.” At the end of the sessions, Site Manager 9 would report final attendance numbers that were higher than his/her initial numbers. To support these final attendance numbers, Site Manager 9 falsified entries on the Daily Student Attendance Sheets.

85. In addition to prompting Site Managers to falsify entries on the Daily Student Attendance Sheets, Zorayma Azocar herself falsified entries on the Daily Student Attendance Sheets when she was a Site Manager. As stated above, in encouraging Site Manager 3 to sign for absent students, Zorayma Azocar told Site Manager 3 that she had previously done the same thing. Moreover, according to one former Princeton Review employee who worked as a Site Aide for Zorayma Azocar when Zorayma Azocar was a Site Manager (the “Site Aide”), the final attendance numbers that Zorayma Azocar reported at the end of tutoring sessions were higher than the numbers she reported shortly before the sessions. The Site Aide stated that the additional students whom Zorayma Azocar reported as being in attendance did not actually

attend the sessions. The Site Aide further stated that Zorayma Azocar told him/her that she falsified entries on the Daily Student Attendance Sheets.

86. When Zorayma Azocar and Ana Azocar were Directors, Green told them to give the Site Managers they supervised a daily quota for student attendance (of 70%-90% of total enrolled students), and to pressure the Site Managers to meet the quota, including by threatening to fire them or lower their pay if they reported low attendance. Green also threatened to fire Zorayma Azocar and Ana Azocar, or lower their pay, if the Site Managers they supervised reported low attendance.

87. Princeton Review based its monthly invoices to the NYC DOE on the information reflected on the Daily Student Attendance Sheets. Princeton Review would compile the attendance data as reflected on the Daily Student Attendance Sheets and submit the data to the NYC DOE using Vendor Portal or NCLB/SES Attendance. The NYC DOE would then pay Princeton Review based on the data that Princeton Review had submitted through Vendor Portal or NCLB/SES Attendance. In this way, the false entries on the Daily Student Attendance Sheets caused Princeton Review to overbill the NYC DOE, and caused the NYC DOE to pay Princeton Review federal money for SES tutoring that Princeton Review had not provided.

**B. Princeton Review's Daily Student Attendance Sheets Confirm the Fraud**

88. Princeton Review's Daily Student Attendance Sheets from the Covered Period are replete with falsifications, including Sheets completed by Site Managers who reported to Green, Ana Azocar, and Zorayma Azocar.

89. There are thousands of entries on Princeton Review's Daily Student Attendance Sheets from the Covered Period where: (1) the "N" Scantron bubble was initially filled in for a student (indicating that the student was absent); (2) the "N" bubble was subsequently erased; and

(3) the “Y” bubble was then filled in for the student (indicating that the student was present). For example, during the 2008/2009 academic year, Site Manager 7 submitted Daily Student Attendance Sheets for classes at PS 152 in the Bronx and PS 161 in Manhattan that contained more than 1,000 entries where the “N” bubble was erased and changed to “Y.” Similarly, during the 2007/2008 academic year, another Site Manager submitted Daily Student Attendance Sheets for classes at PS 328 in Brooklyn that contained more than 250 entries where the “N” bubble was erased and changed to “Y.”

90. Moreover, for some of the above-described entries where the “N” bubble was erased and changed to “Y,” the students’ signatures look nothing like the signatures that appear for the same students on other Daily Student Attendance Sheets where the “N” bubbles were not erased and changed to “Y.” For example, there are entries for the same student where: (1) the student’s name was written neatly and in print on a day when the “N” was changed to “Y” (as though an adult had written it), but sloppily and in a mixture of print and cursive — with some letters written consistently in cursive — on days when there was no change from “N” to “Y” (as though a child had written it); (2) the student’s first and last name was written — and was written neatly — on a day when the “N” was changed to “Y” (as though an adult had written it), but only the first name was written — and was written sloppily — on days when there was no change from “N” to “Y” (as though a child had written it); (3) only the first letter of the student’s first and last name was capitalized on a day when the “N” was changed to “Y” (e.g., “Elaine”), but additional letters were capitalized on days when there was no change from “N” to “Y” (e.g., “ELainE”); and (4) the student’s name was written so as not to include any accent marks on a day when the “N” was changed to “Y” (e.g., “Jone”), but to include accent marks on days when

there was no change from “N” to “Y” (e.g., “Joné”). There are also entries where the same student’s purported signature looks different from session to session.

91. Additionally, for some of the above-described entries where the “N” bubble was erased and changed to “Y,” the students’ purported signatures contain misspellings. For one of these entries, the first name signed in the signature block is spelled “Donate.” Notably, the student’s first name was misspelled “Donate” on the pre-printed portion of the Daily Student Attendance Sheet. On other Daily Student Attendance Sheets where there was no change from “N” to “Y,” the first name signed in the signature block is correctly spelled “Dontae.”

92. For most of the above-described entries where the “N” bubble was erased and changed to “Y,” Princeton Review billed the NYC DOE for the students’ attendance at the SES classes. Moreover, for most of the above-described entries, the NYC DOE paid Princeton Review the full amount that Princeton Review had billed. These payments were made using federal funds.

93. The examples described above reflect only a portion of the fraud. The examples reflect only those instances where “N” bubbles were erased and changed to “Y.” There were, however, instances where: (1) the SES teachers did not fill in the “N” bubbles for absent students; and after class (2) Site Managers filled in the “Y” bubbles for absent students and forged the corresponding signatures. There were also instances where Site Managers fabricated entire Daily Student Attendance Sheets for days on which there had been no SES classes.

**C. Parents Also Confirm the Fraud**

94. Parents of students who were enrolled in Princeton Review’s New York City SES program have confirmed that their children did not attend SES classes on certain days on which: (1) Princeton Review’s Daily Student Attendance Sheets indicate that the children were present;

and (2) Princeton Review billed the NYC DOE — and was paid by the NYC DOE using federal funds — as though the children were present. These particular children were enrolled in classes supervised by Ana Azocar.

95. The parent of one child who, according to Princeton Review's attendance and billing records, attended Princeton Review's SES classes at PS 152 in Manhattan on January 27, 2009, January 29, 2009, February 3, 2009, and February 5, 2009 has stated that, on these dates, the child was in Mexico on a family vacation. The child's passport confirms that the child arrived in Mexico on January 23, 2009 and returned to the United States on February 8, 2009. Princeton Review's Daily Student Attendance Sheets for each of these dates, however, state that the child arrived at class at 3:00 p.m. and departed class at 5:00 p.m. Princeton Review billed the NYC DOE — and was paid by the NYC DOE using federal funds — as though this child had attended SES classes from 3:00 p.m. to 5:00 p.m. on these four dates. Princeton Review was paid \$278.08 for these four dates.

96. Additionally, the parent of another child who, according to Princeton Review's attendance and billing records, attended Princeton Review's SES classes at PS 189 in Manhattan on June 5, 2009, June 11, 2009, and June 12, 2009 has stated that, on these three dates, the child was at home recuperating from surgery. In fact, the parent has a copy of a note from the child's doctor, dated June 12, 2009, requesting that the child be excused from school for the period June 2, 2009 through June 12, 2009, as a result of the surgery. Princeton Review's Daily Student Attendance Sheets for each of the above dates, however, state that this child arrived at class at 3:00 p.m. and departed class at 5:00 p.m. Princeton Review billed the NYC DOE — and was paid by the NYC DOE using federal funds — as though this child had attended Princeton

Review's SES classes from 3:00 p.m. to 5:00 p.m. on each of the above dates. Princeton Review was paid \$208.57 for these three dates.

**D. When Green was Vice President, He Was On Notice that the Fraud Was Ongoing**

97. In March 2008, Site Manager 5 informed Green — who was then the Vice President in charge of Princeton Review's New York City SES division — that Ana Azocar had instructed Site Manager 5 to forge student signatures for SES classes at MS 399 in the Bronx. In response, Green fired Site Manager 5 and took no action against Ana Azocar, with the result that Ana Azocar continued to instruct her Site Managers to falsify entries on the Daily Student Attendance Sheets. After this incident, Green had a "preliminary audit" done of Site Manager 5's attendance records from 14 tutoring sessions at MS 399 between November 8, 2007 and January 29, 2008. This "preliminary audit" identified three students whose signatures differed from session to session on 21 occasions. Not only did Green not follow up on this, but Princeton Review billed the NYC DOE — and was paid by the NYC DOE — for these three students for each of these 21 instances.

98. Green failed to respond adequately to Site Manager 5's allegations. An adequate investigation would have revealed that Ana Azocar's Site Managers were routinely falsifying student attendance records, and that the problem extended beyond just Ana Azocar's team. Instead, despite being put on notice of Ana Azocar's misconduct, Green turned a blind eye and allowed Ana Azocar to keep her job and the fraud to continue.

99. A few months later, in June 2008, the Office of the State Comptroller (the "OSC") requested that Princeton Review provide it with all of Princeton Review's attendance records from May 7, 2008 and May 29, 2008. Before providing these records to the OSC, Princeton Review conducted an internal audit of the records. In connection with this internal audit,

Princeton Review's Assistant Director of Operations sent Green an email on June 5, 2008, in which the Assistant Director of Operations reported that the auditor reviewing the records had encountered "Inconsistent Signatures," as well as "Pre-Populated Times," "Same Time In/Out," "No Time Out," "Students who are not approved," and "Missing Supervisor Signatures." Before providing the attendance records to the OSC, Princeton Review removed the Daily Student Attendance Sheets for certain classes because, according to an email dated June 10, 2008, "(1) many students on the sheet were not approved, (2) [a] majority of the times on the sheet were inconsistent (example, same sign in and sign out) [or] (3) [a] majority of the signatures look fraudulent, etc." The email stated that "MS 399x" — the same school for which Site Manager 5 had told Green that he/she falsified attendance records at the direction of Ana Azocar — "ha[d] classes 1 through 9, but classes 1, 3, 5, and part of 7 [had been] excluded [from the May] 29<sup>th</sup> selection to be sent to OSC." Green was aware that these Daily Student Attendance Sheets had been removed. Notwithstanding this further evidence of fraud, Green failed to take adequate remedial action and thereby allowed the fraud to continue.

100. On another occasion, after Site Manager 2 had been promoted to the position of Director, Green attended a meeting with Site Manager 2 and two of Princeton Review's compliance officers to discuss forgeries that had been identified on the Daily Student Attendance Sheets of one of Site Manager 2's subordinates. In response, Green did not discipline the subordinate or do anything to deter the subordinate from continuing to forge student signatures in the future.

**IV. DEFENDANTS' ACTIONS CAUSED THE UNITED STATES MILLIONS OF DOLLARS IN LOSSES**

101. For the academic years 2006/2007 through 2009/2010, the NYC DOE paid Princeton Review approximately \$38 million in federal funds to provide tutoring services to underprivileged students at underperforming New York City public schools.

102. The NYC DOE paid Princeton Review the approximately \$38 million based on invoices that Princeton Review had submitted to the NYC DOE for that amount. In connection with each of these invoices, Princeton Review certified that the information reflected on the invoice was "true and accurate" — that it had provided tutoring services sufficient to justify the billed amount.

103. Notwithstanding its certifications to the contrary, Princeton Review did not provide tutoring services sufficient to justify the billed amounts. Rather, Princeton Review's invoices inflated the number of hours of tutoring services that Princeton Review had provided. As set forth above, many Site Managers and Site Aides — prompted by the actions of Defendants — routinely falsified entries on the Daily Student Attendance Sheets to make it appear as though more students had attended Princeton Review's SES classes than had in fact attended. And Princeton Review based the invoices that it submitted to the NYC DOE on the attendance information reflected on these Daily Student Attendance Sheets. Accordingly, as a result of Defendants' actions, Princeton Review routinely submitted false billing certifications to the NYC DOE.

104. Absent the above-referenced false billing certifications, Princeton Review would not have been able to submit the false invoices to the NYC DOE, and the NYC DOE would not have paid Princeton Review millions of dollars — in federal funds — for tutoring services that Princeton Review never actually provided.

**FIRST CLAIM**

**Violations of the False Claims Act  
(31 U.S.C. § 3729(a)(1) (2006), and as amended, 31 U.S.C. § 3729(a)(1)(A))  
The Submission of, or Causing the Submission of, False Claims**

105. The Government incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

106. The Government seeks relief against Defendants under Section 3729(a)(1) of the FCA, 31 U.S.C. § 3729(a)(1) (2006), and as amended, Section 3729(a)(1)(A) of the FCA, 31 U.S.C. § 3729(a)(1)(A).

107. As set forth above, Defendants knowingly, or acting with deliberate ignorance and/or with reckless disregard of the truth, presented and/or caused to be presented to the NYC DOE (*i.e.*, a sub-grantee receiving federal funds) false and fraudulent claims for payment or approval in connection with Princeton Review's provision of SES tutoring. Specifically, Defendants presented, or caused Princeton Review to present, false invoices to the NYC DOE for tutoring services that Princeton Review had not actually provided.

108. The NYC DOE paid Princeton Review for providing tutoring services that Princeton Review had not in fact provided because of Defendants' false claims.

109. By reason of Defendants' false claims, the Government has been damaged in a substantial amount to be determined at trial, and is entitled to a civil penalty as required by law for each violation.

**SECOND CLAIM**

**Violations of the False Claims Act  
(31 U.S.C. § 3729(a)(1)(B))  
Use of False Statements**

110. The Government incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

111. The Government seeks relief against Defendants under Section 3729(a)(1)(B) of the FCA, 31 U.S.C. § 3729(a)(1)(B), or in the alternative, under Section 3729(a)(2) of the FCA, 31 U.S.C. § 3729(a)(2) (2006).

112. As set forth above, Defendants knowingly, or acting with deliberate ignorance and/or with reckless disregard of the truth, made, used or caused to be made or used false records and/or statements material to false or fraudulent claims in connection with Princeton Review's provision of SES tutoring. Specifically, Defendants made, or caused Princeton Review to make, false records and/or statements — in the form of false daily student attendance records, false billing invoices, and false certifications — that were material to Princeton Review's claims for payment for the tutoring services it allegedly provided.

113. The NYC DOE paid Princeton Review for providing tutoring services that Princeton Review had not in fact provided because of Defendants' false records and/or statements.

114. By reason of Defendants' false records and/or statements, the Government has been damaged in a substantial amount to be determined at trial, and is entitled to a civil penalty as required by law for each violation.

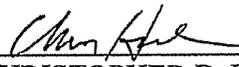
WHEREFORE, the Government respectfully requests that judgment be entered in its favor and against Defendants as follows:

- a. For treble the Government's damages for payments made to Princeton Review for tutoring services that Princeton Review did not in fact provide, in an amount to be determined at trial;
- b. For such civil penalties as are required by law;
- c. For costs, pursuant to 31 U.S.C. § 3729(a); and
- d. For such further relief as the Court deems proper.

Dated: New York, New York  
January 29, 2013

PREET BHARARA  
United States Attorney for the  
Southern District of New York  
Attorney for the United States

BY:

  
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# Exhibit A



# Exhibit B

# Invoice Certification

BATCH ID: 22 | STATUS: SUBMITTED

### Invoice Details

NOTE: Only accepted maximum service hours will be paid for.

Provider ID: 60      Provider Name: TEST VENDOR  
Famis Vendor ID: 113316253      Total Hours: 16.00  
Invoice Number: NCLB12JANG000001      Total Students: 1  
Cost before facility charge: \$704.00      Facility charge: \$63.36      Total payment due: \$640.64

### Certify

This is to certify:

- The below named individual is a duly authorized representative of "Representative" of " " and is authorized to submit information to the (DoE) and to make certifications and representations on the Agency's behalf.
- The Representative is aware that this invoice, when submitted to the DoE, becomes a business record of the Department of Education (DoE) and that the DoE relies upon the information contained therein to compute payments to the Agency.
- The Agency and the Representative individually are subject to legal action, including criminal prosecution, if false information is submitted knowingly to the DOE and
- based upon the books and records of the Agency, the information in this invoice submitted to the DoE is true and accurate and may be relied upon by the DoE to the same extent as an invoice submitted via hardcopy document and signed by an authorized representative of the Agency.
- A hard copy Attendance/Progress report has been or will be sent to the parent of each student for whom payment is sought that the provider has on file, and available for inspection by DOE, as signed Attendance/Progress report
- A parent's failure to sign this Attendance/Progress report was not a result of the parent's communication to the provider that the attendance/Progress report is not accurate.

The DOE will not approve any invoice for hours that exceed the maximum allowable as per the Agency's contract.

Title:   
Last Name:   
First Initial:

I agree to the above terms

Continue  Cancel

# Exhibit C

