

AB

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
FUCHSIA DAVIS and )  
STEVE DAVIS, )  
)  
Defendants. )

08 4758  
Civil Action No.

A TRUE COPY CERTIFIED TO FROM THE RECORD  
DATE: OCT 03 2008  
ATTEST: Steve Tomas  
DEPUTY CLERK, UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

**COMPLAINT**

The United States of America, by LAURIE MAGID, Acting United States Attorney for the Eastern District of Pennsylvania, and Virginia R. Powel, Assistant United States Attorney for said District, brings this action for triple damages and civil penalties under the False Claims Act, 31 U.S.C. § 3729, *et seq.*, and in the alternative, for repayment under theories of payment by mistake and unjust enrichment.

**Jurisdiction and Venue**

1. This court has jurisdiction over this matter pursuant to 31 U.S.C. § 3730(a) and 28 U.S.C. § 1345.
2. Venue is proper in the Eastern District of Pennsylvania pursuant to 31 U.S.C. § 3732(a), 28 U.S.C. § 1391, and 28 U.S.C. § 1395(a).

**Parties**

3. The plaintiff is the United States of America on behalf of the United States Department of Education ("the Department").
4. Defendant, Steve Davis, is a domiciliary of the Commonwealth of Pennsylvania

and resides at 1708 St. Paul Street, Philadelphia, Pennsylvania 19140.

5. Defendant, Fuchsia Davis, is a domiciliary of the State of Utah and resides at 212 Sun Arbor Terrace Apt. 209, Salt Lake City, Utah 84116.

6. Defendant, Fuchsia Davis, has agreed to jurisdiction in the United States District Court for the Eastern District of Pennsylvania pursuant to stipulation 2 of the "Settlement Agreement and Release" (hereinafter "the Settlement Agreement") attached hereto as Exhibit "A".

### **Factual Background**

7. The United States provides student financial assistance in the form of Pell Grants and subsidized Stafford Loans to eligible students to help defray the costs of their education following high school.

8. The Pell Grant and Stafford Loan programs are authorized pursuant to 20 U.S.C. §§ 1070(a) and 1071 *et seq.* These programs are administered by the Department and provide federal monies to eligible post-secondary students in financial need.

9. To qualify for the Pell Grant and subsidized Stafford Loans, students must meet financial eligibility requirements. The post-secondary institution determines a student's eligibility for grants based upon the student's financial need, which involves an evaluation of income. If a student has been supported by his or her parents in the previous year, then the student is considered a dependant student and the parents' income for the previous year is used to determine financial need.

10. The post-secondary institution acts as the disbursement agent for the Department.

Pell Grant and subsidized Stafford Loan funds received from the Department are credited to the student's account and applied against tuition costs or issued to the student by the post-secondary institution.

11. From 2002 through 2004, defendant, Fuchsia Davis, lived with and was supported by her father, defendant, Steve Davis and, therefore, was considered a dependent student. Because Fuchsia Davis was a dependent student, she was obligated to declare both parents' income on her student financial aid applications for purposes of determining her eligibility for federal financial aid.

12. In the school years commencing in 2003 and 2004, defendant Fuchsia Davis knowingly submitted financial aid applications ("Free Application for Federal Student Aid" or "FAFSAs") to the Department using false income information. Fuchsia Davis created a false identify to submit the application and forged the signature of her mother, her non-custodial parent, to the application. Fuchsia Davis omitted defendant Steve Davis's financial information and salary from the FAFSAs in order to qualify for federal financial assistance to which she was not entitled. Defendant Fuchsia Davis then deliberately concealed this false information from the plaintiff.

13. Defendant, Steve Davis, knowingly advised, encouraged and caused his daughter, defendant, Fuchsia Davis, to submit false FASFAs to the Department which omitted reporting his financial information and salary in order to qualify Fuchsia Davis for federal financial assistance to which she was not entitled.

14. Based on the false income information submitted by Fuchsia Davis, she received

overpayments of Pell Grants and subsidized Stafford Loans as follows:

**Fuchsia Davis's Grants/Loans**

<b><u>School Year</u></b>	<b><u>Type of Award</u></b>	<b><u>Amount</u></b>
2002/2003	Pell Grant	\$ 4,050
	Stafford Loans	\$ 3,938
2003/2004	Pell Grant	\$ 2,000
	Stafford Loans	\$ 1,312
	<b>Total Disbursed:</b>	<b>\$ 11,300</b>

15. The Department, reasonably relying on the materially false FASFA's submitted by the defendant, issued the Pell Grants and the subsidized Stafford loans to Fuchsia Davis.

16. But for defendant Fuchsia Davis' false statements and claims, she would not have received Pell Grant's in the amount of \$6,050, nor would she have qualified to receive subsidized Stafford loans totaling \$5,250.

17. As a result of defendants' actions, plaintiff has been damaged in the amount of \$17,485, (including \$11,300 in fraudulently received educational aid and \$6,185 in costs of investigation) plus interest and on-going costs.

**Count I**

**False Claims Act – False Claims**

18. Plaintiff repeats and realleges each allegation set forth above in paragraphs 1 through 17 as if set forth fully herein.

19. By virtue of the acts described above, in 2002/03 and 2003/04, the defendants knowingly presented, or caused others to present, to an officer, employee or agent of the United

States false or fraudulent claims to obtain payment or approval in violation of the False Claims Act, 31 U.S.C. §§ 3729-3733.

20. As used in this count, the term "knowingly" means that the person, with respect to information, (a) has actual knowledge of the information; (b) acts in deliberate ignorance of the truth or falsity of the information; or (c) acts in reckless disregard of the truth or falsity of the information.

21. Plaintiff paid false or fraudulent claims because of the acts of defendant and, as a result, the United States has incurred actual damages in the amount of \$17,485, exclusive of interest.

22. Pursuant to the False Claims Act, 31 U.S.C. § 3729(a)(1), as amended, defendants may be liable to the United States under the treble damage and civil penalty provision of the False Claims Act for civil penalty of not less than \$5,500 and not more than \$11,000 for each of the false or fraudulent claims herein, plus three (3) times the amount of damages which the United States has sustained because of the defendant's actions.

## **Count II**

### **Payment by Mistake**

23. Plaintiff repeats and realleges each allegation set forth above in paragraphs 1 through 22 as if set forth fully herein.

24. Plaintiff made payments on the claims submitted by defendant Fuchsia Davis under the erroneous belief that the claims for payment were based upon representations which were factually accurate and which represented actual amounts of income.

25. Plaintiff's erroneous belief was material to the payments made by plaintiff to the defendant, and had the true facts been known, plaintiff would not have made the payments to defendant Fuchsia Davis.

26. Because of these mistakes of fact, defendant Fuchsia Davis has received monies to which she is not entitled.

27. By reason of the overpayments described above, plaintiff is entitled to damages in the amount of at least \$17,485 plus interest.

### **Count III**

#### **Unjust Enrichment**

28. Plaintiff repeats and realleges each allegation set forth above in paragraphs 1 through 27 as if set forth fully herein.

29. Because of the defendants' conduct, defendant Fuchsia Davis has been unjustly enriched with federal monies which in good conscience she should not be allowed to retain.

30. Defendant has been unjustly enriched to the detriment of the United States in the amount of \$11,300..

### **Count IV**

#### **Common Law Fraud**

31. Plaintiff repeats and realleges each allegation set forth above in paragraphs 1 through 30 as if set forth fully herein.

32. From 2002 to 2004, defendant knowingly made material false representations to plaintiff with the intent that plaintiff rely on them.

33. Plaintiff reasonably relied upon defendant's knowingly false representations, and plaintiff was injured in the amount of \$17,485 as the result of its reliance.

### **Count V**

#### **Negligent Misrepresentation**

34. Plaintiff repeats and realleges each allegation set forth above in paragraphs 1 through 33 as if set forth fully herein.

35. In the course of applying for student loans, defendants made false representations to plaintiff. Defendants had a pecuniary interest in making the statements. Defendants owed a duty of care to see that they communicated truthful information to plaintiff. Defendants failed to exercise reasonable care or competence in communicating the information to plaintiff.

Defendants breached the duty of care owed to plaintiff by failing to exercise due care.

36. Plaintiff justifiably relied on the defendants' representations.

37. Plaintiff suffered a pecuniary loss of \$17,485 as the proximate result of reliance upon the defendants' misrepresentations.

#### **Claim For Relief**

WHEREFORE, the United States demands judgment against the defendants as follows:

(a) on Count I (False Claims), judgment against the defendants for treble plaintiff's single damages of \$17,485 plus civil penalties as provided in the statute;

(b) on Count II (Payment by Mistake), judgment against defendants for single damages, pre- and post-judgment interest, and any such further relief as the court deems appropriate; and

appropriate; and

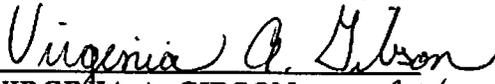
(c) on Count III (Unjust Enrichment), judgment against defendant for single damages, pre- and post- judgment interest, and any such further relief as the court deems appropriate; and

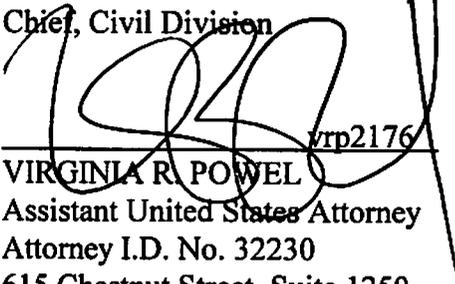
(d) on Count IV (Common Law Fraud), judgment against defendant for single damages, pre- and post- judgment interest, and any such further relief as the court deems appropriate; and

(e) on Count V (Negligent Misrepresentation), judgment against defendant for single damages, pre- and post- judgment interest, and any such further relief as the court deems appropriate.

Respectfully submitted,

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