

**IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division**

DISTRICT OF COLUMBIA)	
441 4 TH Street, NW)	
Washington, D.C. 20001)	
)	
Plaintiff,)	Case No.
)	
v.)	
)	
IONOSPHERE TORRES)	JURY TRIAL DEMANDED
1500 Iverson Street, Apt. 101)	
Oxon Hill, Maryland 20745)	
)	
Defendant.)	
<hr/>		

FALSE CLAIMS ACT COMPLAINT AND JURY DEMAND

The District of Columbia (“District”), by its Office of the Attorney General, brings this action against Defendant Ionosphere Torres pursuant to the District’s False Claims Act, D.C. Code § 2-381.02(a), seeking treble damages and civil penalties, and the common law. The District alleges as follows:

Jurisdiction

1. This Court has subject matter jurisdiction over this case pursuant to D.C. Code § 11-921 and § 2-381.02(a).
2. This Court has personal jurisdiction over the Defendants pursuant to D.C. Code § 13-423(a)(1) and (3).

Parties

3. The District, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the permanent seat of the government of the United States. The District is represented by and through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code §§ 1-301.81(a)(1). The Attorney General is specifically authorized to enforce the District's False Claims Act, pursuant to D.C. Code § 2-381.03(a).

4. Defendant Ionosphere Torres is an individual residing at 1500 Iverson Street, Apt. 101, Oxon Hill, Maryland 20745.

Defendant's Children

5. Defendant Torres has four children; A.C., C.B., M.B., and N.H. All four children attended District of Columbia Public Schools (DCPS) during the 2014-2015, 2015-2016, and a portion of the 2016-2017 school years.

District of Columbia False Claims Act

6. The District of Columbia Procurement Reform Amendment Act (District's False Claims Act) awards treble damages and civil penalties for, *inter alia*, (1) knowingly making a false record or statement material to a false or fraudulent claim, or (2) knowingly making false statements to conceal, avoid, or

decrease an obligation to pay money to the District. D.C. Code § 2-381.02(a)(2), (6) (2013).

7. The District’s False Claims Act provides that:

(a) Any person who commits any of the following acts shall be liable to the District for 3 times the amount of damages which the District sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the District for the costs of a civil action brought to recover penalties or damages, and may be liable to the District for a civil penalty of not less than \$5,500, and not more than \$11,000, for each false or fraudulent claim for which the person:

* * *

(2) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

* * *

(6) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the District, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the District. . . .

D.C. Code § 2-381.02(a) (2013).

8. The District’s False Claims Act defines “knowing” or “knowingly” to mean that “a person, with respect to information, does any of the following: (i) Has actual knowledge of the information; (ii) Acts in deliberate ignorance of the truth or falsity of the information; or (iii) Acts in reckless disregard of the truth or falsity of the information.” The terms “knowing” and “knowingly” do not require proof of specific intent to defraud. D.C. Code § 2-381.01(7)(B).

9. The District’s False Claims Act defines “material” as “having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.” D.C. Code § 2-381.01(8).

10. “Obligation” is defined as “an established duty, whether or not fixed, arising from . . . statute or regulation, or from the retention of any overpayment.” D.C. Code § 2-381.01(9).

Nonresident Tuition

11. Nonresidents are required to pay tuition to enroll their children in DCPS because public funds are appropriated to the schools for the sole purpose of educating children and youth who are residents of the District. D.C. Code § 38-2902.

12. Nonresident tuition rates are set by the District’s Office of the State Superintendent of Education (OSSE) to “cover all expenses incurred by the District of Columbia public schools or public charter schools that are a result of each person’s use of a school’s services.” D.C. Code §§ 38-302(b), 38-1802.06(e).

13. “Nonresident student” means “[a]n individuals under the age of 18 who is enrolled in a District of Columbia public school or public charter school, and does not have a parent, guardian, custodian, or primary care giver . . . residing in the District of Columbia.” D.C. Code § 38-1800.02(25)(A).

14. “Parent” is defined as a person who has custody of a student, and who (i) is a parent or stepparent, (ii) has adopted the student, or (iii) has been “appointed as a guardian for the [student] by a court of competent jurisdiction.” D.C. Code § 38-1800.02(26)

Defendant's Children's Attendance at District Schools

15. In 2007, A.C., C.B., and M.B. began attending DCPS schools.

16. In April 2014, A.C., C.B., and M.B. moved with Defendant to 1500 Iverson Street, Unit 101, Oxon Hill, Maryland.

17. A.C. attended Wheatley Educational Campus (Wheatley) tuition-free, as if he were a District resident, for the entirety of the 2014-2015, 2015-2016, and a portion of the 2016-2017 school years. During that time, A.C. was living with Defendant in Oxon Hill, Maryland.

18. C.B. attended McKinley Technology High School (McKinley High) tuition-free, as if he were a District resident, for the entirety of the 2014-2015, 2015-2016, and a portion of the 2016-2017 school years. During that time, C.B. was living with Defendant in Oxon Hill, Maryland.

19. M.B. attended McKinley High tuition-free, as if he were a District resident, for the entirety of the 2014-2015, 2015-2016, and a portion of the 2016-2017 school years. During that time, M.B. was living with Defendant in Oxon Hill, Maryland.

20. In 2008, N.H. began attending DCPS.

21. In April 2014, N.H. moved with Defendant to 1500 Iverson Street, Unit 101, Oxon Hill, Maryland.

22. N.H. attended Wheatley tuition-free, as if she were a District resident, for the entirety of the 2014-2015 and 2015-2016 school years. During that time, N.H. was living with Defendant in Oxon Hill, Maryland.

Defendant Torres' False Statements to DPCS Enrolling A.C. and N.H
(2014-2015 School Year)

23. On June 17, 2014, Defendant Torres initialed and submitted an Annual Student Enrollment Form to enroll her son, A.C., as a student at Wheatley for the 2014-2015 school year.

24. On June 17, 2014, Defendant Torres initialed and submitted an Annual Student Enrollment Form to enroll her daughter, N.H., as a student at Wheatley for the 2014-2015 school year.

25. On the Enrollment Forms, Defendant Torres listed her address as 901 New Jersey Avenue, NW, Apt. 203, Washington D.C. 20001.

26. On August 7, 2014, Defendant Torres signed and submitted a D.C. Residency verification form to OSSE for A.C. Defendant Torres certified that she resided at 901 New Jersey Avenue, NW, Apt. 203, Washington D.C. 20001, signed a sworn statement of D.C. Residency, and certified that she understood the penalties for submitting false statements to the District.

27. On August 7, 2014, Defendant Torres signed and submitted a D.C. Residency verification form to OSSE for N.H. Defendant Torres certified that she resided at 901 New Jersey Avenue, NW, Apt. 203, Washington D.C. 20001, signed a sworn statement of D.C. Residency, and certified that she understood the penalties for submitting false statements to the District.

28. Relying on the residency information provided by Defendant Torres in the Enrollment Forms and D.C. Residency Verification Form, Wheatley enrolled

A.C. and N.H. as students for the 2014-2015 school year. Both children were enrolled as District residents.

29. Defendant Torres knew the information she provided on the enrollment forms was incorrect, and that her sworn statements of D.C. residency were false, because when she signed and submitted the forms, she knew that her children were living with her in Oxon Hill, Maryland and not at the District address she stated on the forms.

30. A.C. and N.H. attended DCPS tuition-free for the entirety of the 2014-2015 school year. Non-resident tuition for A.C. was \$10,251, and for N.H. was \$10,251, for that school year.

**Defendant Torres' False Statements to DPCS Enrolling M.B., A.C., and N.H.
(2015-2016 School Year)**

31. On May 15, 2015, Defendant Torres initialed and submitted an Annual Student Enrollment Form to enroll her son, M.B., as a student at McKinley High for the 2015-2016 school year.

32. On June 30, 2015, Defendant Torres initialed and submitted an Annual Student Enrollment Form to enroll her son, A.C., as a student at Wheatley for the 2015-2016 school year.

33. On June 30, 2015, Defendant Torres initialed and submitted an Annual Student Enrollment Form to enroll her daughter, N.H., as a student at Wheatley for the 2015-2016 school year.

34. On these Enrollment Forms, Defendant Torres listed her address as 901 New Jersey Avenue, NW, Apt. 203, Washington D.C. 20001.

35. On May 15, 2015, Defendant Torres signed and submitted a D.C. Residency verification form to OSSE for M.B. Defendant Torres certified that she resided at 901 New Jersey Avenue, NW, Apt. 203, Washington D.C. 20001, signed a sworn statement of D.C. Residency, and certified that she understood the penalties for submitting false statements to the District.

36. On August 19, 2015, Defendant Torres signed and submitted a D.C. Residency verification form to OSSE for A.C. Defendant Torres certified that she resided at 901 New Jersey Avenue, NW, Apt. 203, Washington D.C. 20001, signed a sworn statement of D.C. Residency, and certified that she understood the penalties for submitting false statements to the District.

37. On June 30, 2015, Defendant Torres signed and submitted a D.C. Residency verification form to OSSE for N.H. Defendant Torres certified that she resided at 901 New Jersey Avenue, NW, Apt. 203, Washington D.C. 20001, signed a sworn statement of D.C. Residency, and certified that she understood the penalties for submitting false statements to the District.

38. Relying on the residency information provided by Defendant Torres in the Enrollment Forms and D.C. Residency Verification Form, Wheatley enrolled A.C. and N.H. as students for the 2015-2016 school year. Both children were enrolled as District residents.

39. Relying on the residency information provided by Defendant Torres in the Enrollment Forms and D.C. Residency Verification Form, McKinley High

enrolled M.B. as a student for the 2015-2016 school year. M.B. was enrolled as a District resident.

40. Defendant Torres knew the information she provided on the enrollment forms was incorrect, and that her sworn statements of D.C. residency were false, because when she signed and submitted the forms, she knew that her children were living with her in Oxon Hill, Maryland and not at the District address she stated on the forms.

41. M.B., A.C., and N.H. attended DCPS tuition-free for the entirety of the 2015-2016 school year. Non-resident tuition for A.C. was \$10,251, for N.H. was \$10,251, and for M.B. was \$11,580 for that school year.

Defendant Torres' False Statements to DPCS Enrolling C.B. and M.B.
(2016-2017 School Year)

42. On June 10, 2016, Defendant Torres initialed and submitted an Annual Student Enrollment Form to enroll her son, C.B., as a student at McKinley High for the 2016-2017 school year.

43. On July 20, 2016, Defendant Torres initialed and submitted an Annual Student Enrollment Form to enroll her son, M.B., as a student at McKinley High for the 2016-2017 school year.

44. On June 10, 2016, Defendant Torres signed and submitted a D.C. Residency verification form to OSSE for C.B. Defendant Torres certified that she resided at 901 New Jersey Avenue, NW, Apt. 203, Washington D.C. 20001, signed a sworn statement of D.C. Residency, and certified that she understood the penalties for submitting false statements to the District.

45. On July 27, 2016, Defendant Torres signed and submitted a D.C. Residency verification form to OSSE for M.B. Defendant Torres certified that she resided at 901 New Jersey Avenue, NW, Apt. 203, Washington D.C. 20001, signed a sworn statement of D.C. Residency, and certified that she understood the penalties for submitting false statements to the District.

46. Relying on the residency information provided by Defendant Torres in the Enrollment Forms and D.C. Residency Verification Form, McKinley High enrolled C.B. and M.B. as students for the 2016-2017 school year. Both children were enrolled as District residents.

47. Defendant Torres knew the information she provided on the enrollment forms was incorrect, and that her sworn statements of D.C. residency were false, because when she signed and submitted the forms, she knew that her children were living with her in Oxon Hill, Maryland and not at the District address she stated on the forms.

48. C.B. and M.B. attended DCPS tuition-free for a portion of the 2016-2017 school year. Non-resident tuition for C.B. was \$5,074, and for M.B. was \$5,074, for this school year.

Defendant Torres' Failure to Pay Nonresident Tuition Owed

49. Nonresident tuition for Defendant's child A.C. to attend DCPS during the 2014-2015 and 2015-2016 school years totaled \$20,502. Nonresident tuition for A.C. to attend DCPS during a portion of the 2016-2017 school years totaled \$5,049.

50. Nonresident tuition for Defendant's child C.B. to attend DCPS during a portion of the 2016-2017 school years totaled \$5,074. Nonresident tuition for C.B. to attend DCPS during the 2014-2015 and 2015-2016 school years totaled \$23,160.

51. Nonresident tuition for Defendant's child M.B. to attend DCPS during the 2015-2016 and a portion of the 2016-2017 school years totaled \$16,654. Nonresident tuition for M.B. to attend DCPS during the 2014-2015 school year totaled \$11,580.

52. Nonresident tuition for Defendant's child N.H. to attend DCPS during the 2014-2015 and 2015-2016 school years totals \$20,502.

53. To date, Defendant has not paid any of the nonresident tuition owed to the District for her children to attend a District of Columbia public school, nor have any tuition payments been made on her behalf.

COUNT I
False Claims Act
Knowingly Making a False Record or Statement Material
to Avoid an Obligation to Pay the District
(D.C. Code § 2-381.02(a)(6) (2013))

54. The allegations of paragraphs 1 through 53 are realleged as if fully set forth herein.

55. Defendant Torres knowingly concealed or knowingly and improperly avoided an obligation to pay the District. Defendant Torres signed and submitted false enrollment documents for her children, causing DCPS to decline to charge nonresident tuition for A.C. and N.H. during the 2014-2015 school year, A.C., M.B.,

and N.H. during the 2015-2016 school year, and C.B. and M.B. during the 2016-2017 school year in violation of D.C. Code § 2-381.02(a)(6).

COUNT II
Unjust Enrichment

56. The allegations of paragraph 1 through 53 are realleged as if fully set forth herein.

57. By having her children enrolled in DCPS during the 2014-2015, 2015-2016, and a portion of the 2016-2017 school year, when Defendant and her children resided in Maryland, and avoiding her obligation to pay nonresident tuition to the District, Defendant has been unjustly enriched to the detriment of the District in the amount of \$102,521.

Prayer for Relief

WHEREFORE, the District respectfully requests that the Court enter judgment in its favor and award damages as follows:

- (1) On Count I against Defendant Torres, award the District treble statutory damages in an amount to be determined at trial, but not less than \$188,196 (single damages of \$62,732), civil penalties of not less than \$5,500, and not more than \$11,000, payable to the District, for each violation of the District's False Claims Act; and the cost of this action;
- (2) On Count II against Defendant Torres, award the District actual damages in an amount to be determined at trial, but not less than \$102,521;

- (3) Awarding the District interest, costs, and other recoverable expenses permitted by law; and
- (4) Awarding the District such further and additional relief as the Court may deem just and proper.

Jury Demand

The District of Columbia hereby demands a trial by jury by the maximum number of jurors permitted by law.

Dated: December 7, 2018

Respectfully submitted,

KARL A. RACINE
Attorney General for the District of Columbia

ROBYN R. BENDER
Deputy Attorney General
Public Advocacy Division

/s/ Catherine A. Jackson
CATHERINE A. JACKSON [D.C. Bar No. 1005415]
Chief, Public Integrity Section

/s/ Matthew W. Meyer
MATTHEW W. MEYER [D.C. Bar No. 1045084]
Assistant Attorney General
Office of the Attorney General
441 Fourth Street, N.W.,
Suite 630 South
Washington, D.C. 20001
(202) 807-0369
(202) 730-1438 (fax)
Email: matthew.meyer2@dc.gov

Attorneys for the District of Columbia