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6  
7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF ARIZONA**

9  
10 DARLENE SMITH, derivatively on behalf  
of APOLLO GROUP, INC.,  
11  
12 Plaintiff,

Case No.

**VERIFIED SHAREHOLDER  
DERIVATIVE COMPLAINT**

13 vs.

**JURY TRIAL DEMANDED**

14 JOHN G. SPERLING, PETER V.  
SPERLING, CHARLES B. EDELSTEIN,  
GREGORY W. CAPPELLI, TERRI C.  
15 BISHOP, DINO J. DECONCINI, SAMEL  
A. DIPIAZZA, JR., STEPHEN J. GIUSTO,  
16 ROY A. HERBERGER, JR., ANN  
KIRSCHNER, K. SUE REDMAN, JAMES  
17 R. REIS, MANUEL F. RIVELLO, GEORGE  
ZIMMER, JOSEPH D'AMICO, GREGORY  
18 J. IVERSON, BRIAN L. SWARTZ, BRIAN  
MUELLER, P. ROBERT MOYA, ROBERT  
19 W. WRUBEL, WILLIAM J. PEPICELLO,  
and DOES 1- 25 inclusive,

20 Defendants,

21 vs.

22 APOLLO GROUP, INC., an Arizona  
corporation,

23 Nominal Defendant.  
24

1 Plaintiff Darlene Smith (“Plaintiff”), a longtime shareholder of Apollo Group, Inc (“Apollo  
2 Group” or the “Company”), brings this shareholder derivative lawsuit against certain officers and  
3 directors of Apollo Group for violations of federal securities laws, state law claims for breaches of  
4 fiduciary duties, abuse of control, gross mismanagement, unjust enrichment, corporate waste, and  
5 insider trading.

## 6 I. OVERVIEW OF THE ACTION

7 1. The federal government, through Title IV of the Higher Education Act, 20 U.S.C. §  
8 1070, *et seq.* (“Title IV”), administers billions of dollars in student financial assistance to students at  
9 both non-profit and for-profit educational institutions. When students default on the federal student  
10 loans, the federal government and the U.S. taxpayers are responsible for the bill. While students at for-  
11 profit institutions represent only 9% of all college students, they receive roughly 25% of all Federal Pell  
12 Grants and Loans, and are responsible for 44% of all student loan defaults. Based on the  
13 disproportionate percentage of student loan defaults associated with for-profit educational institutions,  
14 the federal government instructed the United States General Accounting Office (“GAO”) to investigate  
15 for-profit colleges.

16 2. Apollo Group provides various for-profit educational programs and services at the  
17 undergraduate, graduate, and doctoral levels. The Company’s most prominent school is The University  
18 of Phoenix. Apollo Group derives over 75% of its revenue from Title IV student loans and is the single  
19 largest recipient of Title IV student loan funds in the United States.

20 3. Institutions receiving Title IV funding are required to meet certain regulations, including  
21 a limit on the ratio of government loan funds to cash revenue (the “90/10 Rule”), limits on the  
22 percentage of their student borrowers who default on these loans (the “Cohort Default Rate”), and other  
23 regulatory requirements on how prospective students are recruited. Institutions that violate these  
24 requirements risk losing their Title IV accreditation.

25 4. Apollo Group’s officers and directors aggressively pursued Title IV’s vast reservoir of  
26 federal funds by targeting its marketing efforts on a new crop of individuals who could qualify for Title  
27 IV financial aid, but were not suitable candidates for higher education. Apollo Group resorted to  
28 deceptive techniques to prey upon prospective students to convince them to enroll, increasing Apollo

1 Group's access to Title IV funds. These hard-sell tactics resulted in increased enrollment, which the  
2 Company's public statements to shareholders falsely attributed to its purportedly valuable service  
3 offerings and commitment to academic quality.

4 5. Because of Apollo Group's unscrupulous business practices, large numbers of its  
5 students were unsuited for Apollo Group's scholastic programs and eventually withdrew from school.  
6 Most of these ill-qualified students had Title IV loans but were unable to repay those loans after  
7 dropping out. Apollo Group's officers and directors recognized that these students' withdrawal  
8 jeopardized Apollo Group's compliance with the Cohort Default Rate. In response, Apollo Group's  
9 officers and directors resorted to manipulative practices to maintain regulatory compliance when  
10 students with Title IV loans withdrew from its programs. Originally, when a student withdrew prior to  
11 completing a program or obtaining a degree, Apollo Group was required to return to the lender the  
12 unearned portion of the proceeds of that student's Title IV loans. But in many cases Apollo Group  
13 returned the full amount of the Title IV funds, including the portion that had been earned and that  
14 Apollo Group was legally entitled to keep, and which students had a legal right to have applied to their  
15 tuition bills. Apollo Group then sought to collect directly from the students the tuition payments for the  
16 time prior to the students' dropping out, and many cases also sought to collect the tuition payments for  
17 the portions of the course the students did not attend (*i.e.*, after the students withdrew). Apollo Group's  
18 officers and directors knew that many of the students who dropped out lacked the means to repay their  
19 student loans. That's why Apollo Group improperly returned the entirety of their Title IV loans in  
20 order to prevent these students from going into default and increasing Apollo Group's Cohort Default  
21 Rate, which would jeopardize its access to future Title IV funds.

22 6. Apollo Group's officers and directors also caused the Company to issue a series of  
23 materially false and misleading statements that perpetuated the illusion of Apollo Group's purportedly  
24 strong business model and financial performance. But the positive statements were materially false and  
25 misleading when made because the Apollo Group's officers and directors failed to disclose that the  
26 Company's purported growth and profits were achieved through an improper course of conduct,  
27 including misleading students into enrolling in Apollo Group's scholastic and educational programs  
28 through improper methods and engaging in other manipulative recruiting tactics. While the Apollo

1 Group's officers and directors were making the false and misleading statements, the Insider Selling  
2 Defendants (as defined in ¶38) sold over **\$470 million** of their privately held Apollo Group shares at  
3 artificially inflated prices. Further, the Apollo Group's officers and directors caused the Company to  
4 repurchase over **\$1.3 billion** of its own stock at artificially inflated prices due to the false and  
5 misleading statements.

6 7. On August 3, 2010, the GAO issued a report concluding that for-profit educational  
7 institutions, like Apollo Group had engaged in an illegal and fraudulent course of action designed to  
8 recruit students and over-charge the federal government for the cost of such education. As a result of  
9 the GAO report, Apollo Group's shares declined from \$47.14 per share on August 2, 2010 to close at  
10 \$38.94 on August 13, a decline of \$8.20 per share or approximately 17%.

11 8. Then, on October 13, 2010, Apollo Group announced that it was withdrawing its  
12 previous outlook for its 2011 fiscal year and said that new student enrollments could drop more than  
13 40% year on year in the coming quarter. Based on this news, shares in Apollo closed down 23% to a  
14 four year low of \$38.

15 9. On October 19, 2010, Yahoo! Finance reported that the state of Oregon was suing  
16 Apollo Group to recover \$10 million the state claims it lost from misleading financial statements.  
17 Oregon Treasurer Ted Wheeler and Attorney General John Kroger filed a securities fraud lawsuit  
18 claiming Apollo Group deceived investors about company revenue between 2007 and 2010.

19 10. Then, on October 22, 2010, Reuters reported that the Florida attorney general was  
20 investigating Apollo Group for unfair and deceptive enrollment practices.

21 11. Not surprisingly, on October 26, 2010, the Wall Street Journal reported that Apollo  
22 Group was being investigated by the Securities and Exchange Commission for insider trading.  
23 Specifically, the Securities and Exchange Commission's Enforcement Division asked Apollo Group for  
24 further information related to its insider-trading policies.

25 12. Under Arizona law, a shareholder who intends to bring a derivative suit must first make  
26 a written litigation demand on the Board of Directors, specifying the matters to be investigated, and  
27 providing the Board ninety days to take action. (A.R.S. § 10-742). Plaintiff made a demand by letter  
28 on December 9, 2010. This letter is attached to this Complaint as Exhibit A (the "Demand Letter").

1 The Board failed to respond to the Demand Letter. Plaintiff therefore has standing to bring this action,  
2 and to seek recovery on behalf of Nominal Defendant Apollo Group.

3 **II. JURISDICTION AND VENUE**

4 13. This Court has jurisdiction in this case arising under Article III of the United States  
5 Constitution and 28 U.S.C. §1331 because of claims arising under the Exchange Act. This Court also  
6 has jurisdiction over all causes of action asserted herein pursuant to 28 U.S.C. §1332 in that plaintiffs  
7 and defendants are citizens of different states and the amount in controversy exceeds \$75,000, exclusive  
8 of interest and costs. This Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367(a) over all  
9 other claims that are so related to claims in the action within such original jurisdiction that they form  
10 part of the same controversy under Article III of the United States Constitution. This action is not a  
11 collusive action designed to confer jurisdiction on a court of the United States that it would not  
12 otherwise have.

13 14. Venue is proper in this District pursuant to 28 U.S.C. §1391. Many of the acts  
14 complained of herein occurred in this District and Apollo Group is an Arizona corporation. Further,  
15 Apollo Group's principal place of business is located at 4025 South Riverpoint Parkway, Phoenix,  
16 Arizona 85040, where the day-to-day operations of the Company are directed and managed.

17 **III. THE PARTIES**

18 **A. Plaintiff**

19 15. Plaintiff Darlene Smith is a current shareholder of Apollo Group, was a shareholder of  
20 Apollo Group at the time of the transactions and events complained of herein, and has continuously  
21 held the stock. Plaintiff is a citizen of Colorado.

22 **B. Nominal Defendant Apollo Group**

23 16. Nominal Defendant Apollo Group is an Arizona corporation with its principal place of  
24 business located at 4025 South Riverpoint Parkway, Phoenix, Arizona 85040. As of December 10,  
25 2010, Apollo Group had approximately 157 million outstanding shares of Class A stock. Apollo Group  
26 is traded on the NASDAQ under the ticker symbol "APOL."

**C. Individual Defendants**

Defendant John G. Sperling (“John Sperling”) is a director. He is the founder of Apollo Group and the Executive Chairman of the Board. He was appointed Executive Chairman of the Board in 2008; he had been Acting Executive Chairman since January 2006. He was the Chairman of the Board of Directors from its inception until June 2004, was President of Apollo Group until February 1998 and Chief Executive Officer of Apollo Group until August 2001. He is the father of Peter V. Sperling. While the Individual Defendants were issuing false and misleading statements, John Sperling sold 4,178,893 shares of his Apollo Group stock for proceeds of \$228,198,812. Upon information and belief, John Sperling is a citizen of Arizona. Apollo Group paid John Sperling the following compensation:

Year	Salary	Stock Awards	Option Awards	Incentive Plan Compensation	Other	Total
2010	\$850,000	\$2,458,846	\$1,823,399	\$1,462,000	\$12,484	\$6,963,239
2009	\$850,000	\$2,875,298	\$2,827,791	\$1,700,000	\$99,252	\$8,617,597
2008	\$850,000	-	-	\$1,700,000	\$100,003	\$2,779,268

17. Defendant Peter V. Sperling (“Peter Sperling”) is a director. He has been with Apollo Group since 1983. He was appointed Vice Chairman of the Board in December 2007. He has been a Senior Vice President since June 1998. He was Secretary from June 2006 to December 2007 and Treasurer from December 2006 to December 2007. He was the Vice President of Administration from 1992 to June 1998 and the Secretary and Treasurer of Apollo Group from 1988 to February 2003. From 1987 to 1992, he was the Director of Operations at Apollo Education Corporation. From 1983 to 1987, he was Director Management Information Services of Apollo Group. He is the son of John Sperling. While the Individual Defendants were issuing false and misleading statements, Peter Sperling sold 3,121,036 shares of his Apollo Group stock for proceeds of \$210,704,588. Upon information and belief, Peter Sperling is a citizen of California.

18. Defendant Charles B. Edelstein (“Edelstein”) is a director of Apollo Group. He also serves as Co-Chief Executive Officer. He has served in the Office of the Chief Executive Officer and

1 as a member of the Board since he joined the Company in August 2008. While the Individual  
 2 Defendants were issuing false and misleading statements, Edelstein sold 22,639 shares of his Apollo  
 3 Group stock for proceeds of \$1,155,973. Upon information and belief, Edelstein is a citizen of New  
 4 York. Apollo Group paid Edelstein the following compensation:

Year	Salary	Stock Awards	Option Awards	Incentive Plan Compensation	Bonus	Total
2010	\$600,000	---	---	\$1,032,000	---	\$1,636,950
2009	\$600,000	---	---	\$1,200,000	---	\$1,800,000
2008	\$9,230	\$4,951,605	\$24,836,300	---	\$200,000	\$29,997,135

11 19. Defendant Gregory W. Cappelli (“Cappelli”) is a director of Apollo Group. He has  
 12 served as Co-Chief Executive Officer since April 2009, as Chairman of Apollo Global since its  
 13 inception in October 2007, and as a member of the Board since June 2007. Previously, he served as  
 14 Executive Vice president of Global Strategy and Assistant to the Executive Chairman. While the  
 15 Individual Defendants were issuing false and misleading statements, Cappelli sold 30,596 shares of his  
 16 Apollo Group stock for proceeds of \$2,033,675. Upon information and belief, Cappelli is a citizen of  
 17 Illinois. Apollo Group paid Cappelli the following compensation:

Year	Salary	Stock Awards	Option Awards	Incentive Plan Compensation	Bonus	Total
2010	\$600,000	---	---	\$1,000,000	---	\$1,659,712
2009	\$535,616	---	---	\$1,000,000	\$66,667	\$1,622,835
2008	\$500,000	---	---	----	---	\$1,500,900

24 20. Defendant Terri C. Bishop (“Bishop”) is a director and joined the Board in 2009. She  
 25 currently serves as Executive Vice President of External Affairs for Apollo Group, Inc. She was  
 26 previously Chief Communications Officer and Senior Vice President of Public Affairs. She has had a  
 27 long history with Apollo Group, having been with the Company since 1982. While the Individual  
 28

1 Defendants were issuing false and misleading statements, Bishop sold 44,837 shares of her Apollo  
2 Group stock for proceeds of \$3,316,445. Upon information and belief, Bishop is a citizen of California.

3 21. Defendant Dino J. DeConcini (“DeConcini”) is a director of Apollo Group. He has been  
4 a member of the Board since 1981. He is also the Chairman of the Nominating and Governance  
5 Committee, and a member of the Compensation Committee. While the Individual Defendants were  
6 issuing false and misleading statements, DeConcini sold 46,786 shares of his Apollo Group stock for  
7 proceeds of \$3,223,357. Upon information and belief, DeConcini is a citizen of Arizona.

8 22. Defendant Samuel A. DiPiazza, Jr. (“DiPiazza”) is a director of Apollo Group. He has  
9 been a director since December 2009 and is a member of the Audit Committee. Upon information and  
10 belief, DiPiazza is a citizen of New York.

11 23. Defendant Stephen J. Giusto (“Giusto”) was a director of the Company. He joined the  
12 Board in 2009 and resigned on February 22, 2011. He was a Board member when Plaintiff made the  
13 written litigation demand. Upon information and belief, Giusto is a citizen of Utah.

14 24. Defendant Roy A. Herberger, Jr. (“Herberger”) is a director of the Company. He has  
15 been a director since 2007 and the Lead Independent Director since September 2010. He is also the  
16 Chairman of the Compensation Committee. Upon information and belief, Herberger is a citizen of  
17 Arizona.

18 25. Defendant Ann Kirschner (“Kirschner”) is a director. She has been a director since  
19 November 2007 and is a member of the Compensation Committee and Audit Committee. While the  
20 Individual Defendants were issuing false and misleading statements, Kirschner sold 1,000 shares of her  
21 Apollo Group stock for proceeds of \$67,940. Upon information and belief, Kirschner is a citizen of  
22 New York.

23 26. Defendant K. Sue Redman (“Redman”) is a director. She has been a director of Apollo  
24 Group since December 2006 and is the Chairperson of the Audit Committee. While the Individual  
25 Defendants were issuing false and misleading statements, Redman sold 16,375 shares of her Apollo  
26 Group stock for proceeds of \$1,286,210. Upon information and belief, Redman is a citizen of Texas.

27 27. Defendant James R. Reis (“Reis”) was a director from January 2007 until he decided not  
28 to run for re-election in 2011. While the Individual Defendants were issuing false and misleading

1 statements, Reis sold 2,500 shares of his Apollo Group stock for proceeds of \$207,500. Upon  
2 information and belief, Reis is a citizen of Texas.

3 28. Defendant Manuel F. Ravelo (“Ravelo”) is a director. He joined the Board in 2009 and is  
4 a member of the Compensation Committee. Upon information and belief, Ravelo is a citizen of  
5 Washington.

6 29. Defendant George Zimmer (“Zimmer”) is a director. He has been a director of Apollo  
7 Group since June 2006 and is a member of the Nominating and Governance Committee. Upon  
8 information and belief, Zimmer is a citizen of California.

9 30. Defendant Joseph L. D’Amico (“D’Amico”) has been President since June 2008 and  
10 Chief Operating Officer since March 2009. He was Executive Vice President and Chief Financial  
11 Officer of the Company from June 2007 to March 2009 and Treasurer from December 2007 to March  
12 2009. He began with Apollo Group in November 2006 when he served as interim Chief Financial  
13 Officer. While the Individual Defendants were issuing false and misleading statements, D’Amico sold  
14 194,362 shares of his Apollo Group stock for proceeds of \$16,230,799. Upon information and belief,  
15 D’Amico is a citizen of Ohio. Apollo Group paid D’Amico the following compensation:

Year	Salary	Stock Awards	Option Awards	Incentive Plan Compensation	Other	Total
2010	\$525,000	\$2,300,164	\$1,705,690	\$903,000	\$75,333	\$5,500,246
2009	\$500,000	\$1,321,023	\$2,218,907	\$1,000,000	\$57,736	\$5,115,263
2008	\$500,000	---	---	\$1,000,000	\$17,350	\$1,557,736

21  
22 31. Defendant Gregory J. Iverson (“Iverson”) was appointed Vice President, Chief  
23 Accounting Officer and Controller in March 2009. He served as Vice President and Corporate  
24 Controller from April 2007 to March 2009. While the Individual Defendants were issuing false and  
25 misleading statements, Iverson sold 172 shares of his Apollo Group stock for proceeds of \$9,416.  
26 Upon information and belief, Iverson is a citizen of Arizona.

27 32. Defendant Brian L. Swartz (“Swartz”) has been Senior Vice President, Chief Financial  
28 Officer since March 2009. He held the additional title of Treasurer from March 2009 to March 2010.

1 He was Chief Accounting Officer from February 2007 to March 2009 and Senior Vice President,  
 2 Finance since June 2007. He was Vice President, Corporate Controller and Chief Accounting Officer  
 3 from February 2007 to June 2007. While the Individual Defendants were issuing false and misleading  
 4 statements, Swartz sold 2,499 shares of his Apollo Group stock for proceeds of \$148,505. Upon  
 5 information and belief, Swartz is a citizen of Arizona. Apollo Group paid Swartz the following  
 6 compensation:

7	8	9	10	11	12	13
Year	Salary	Stock Awards	Option Awards	Incentive Compensation	Plan	Other
2010	\$375,000	\$866,577	\$642,626	\$483,750	\$1,648	\$2,369,601
2009	\$337,808	\$791,038	\$779,337	\$300,000	\$5,946	\$2,345,379

12 Defendant William Pepicello (“Pepicello”) became Provost of University of Phoenix in January  
 13 2006 and was appointed as President in October 2006. He has been with the Company since 1995.  
 14 While the Individual Defendants were issuing false and misleading statements, Pepicello sold 50,099  
 15 shares of his Apollo Group stock for proceeds of \$4,212,454. Upon information and belief, Pepicello is  
 16 a citizen of Arizona. Apollo Group paid Pepicello the following compensation:

17	18	19	20	21	22	23
Year	Salary	Stock Awards	Option Awards	Incentive Compensation	Plan	Other
2010	\$350,000	\$705,740	\$523,280	\$451,500	\$4,950	\$2,035,470

21 33. Defendant Robert W. Wrubel (“Wrubel”) is Executive Vice President and Chief  
 22 Marketing and Product Development Officer. He served as Senior Vice President, Marketing from  
 23 November 2008 to December 2009 and as Vice President, Marketing from June 2008 to November  
 24 2008. He also served as Chief Executive Officer of Aptimus, Inc., a wholly owned subsidiary of  
 25 Apollo Group. While the Individual Defendants were issuing false and misleading statements, Wrubel  
 26 sold 6,376 shares of his Apollo Group stock for proceeds of \$512,476. Upon information and belief,  
 27 Wrubel is a citizen of California. Apollo Group paid Wrubel the following compensation:

Year	Salary	Stock Awards	Option Awards	Incentive Plan Compensation	Bonus	Total
2009	\$350,000	\$99,828	\$2,257,192	\$459,375	\$65,625	\$3,235,849

34. Defendant P. Robert Moya (“Moya”) is the Executive Vice President, Special Projects. Until September 2010, he was Executive Vice President, General Counsel and Secretary. He served as General Counsel since September 2007, Secretary since December 2007, and Executive Vice President since September 2008. He served as Senior Vice President from September 2007 to September 2008. While the Individual Defendants were issuing false and misleading statements, Moya sold 4,388 shares of his Apollo Group stock for proceeds of \$261,640. Upon information and belief, Moya is a citizen of West Virginia. Apollo Group paid Moya the following compensation:

Year	Salary	Stock Awards	Option Awards	Incentive Plan Compensation	Other	Total
2009	\$400,000	\$309,205	\$620,731	\$800,000	\$1,500	\$2,131,436
2008	\$400,000	\$248,666	\$588,993	\$800,000	---	\$2,037,659

35. Defendant Brian E. Mueller (“Mueller”) was President of Apollo Group from January 2006 to June 24, 2008 and also served as its Principal Executive Officer until June 24, 2008. He served as Chief Operating Officer of Apollo Group from December 1, 2005 to January 2006. He spent 19 years with Apollo Group.

36. John Sperling, Peter Sperling, Edelstein, Cappelli, Bishop, DeConcini, DiPiazza, Giusto, Herberger, Kirschner, Redman, Reis, Ravelo, and Zimmer are sometimes referred to herein as the “Director Defendants.”

37. John Sperling, Edelstein, Cappelli, D’Amico, Bishop, Swartz, Iverson, Moya, Wrubel, Pepicello, and Mueller are sometimes referred to herein as the “Officer Defendants.”

38. John Sperling, Peter Sperling, Edelstein, Cappelli, Bishop, DeConcini, Kirschner, Redman, Reis, D’Amico, Iverson, Swartz, Pepicello, Wrubel, and Moya are sometimes referred to herein as the “Insider Selling Defendants.”

1 39. The Director Defendants, the Officer Defendants, and the Insider Selling Defendants are  
2 sometimes referred to as the “Individual Defendants.”

3 40. The true names and capacities of Defendants sued herein as Does 1 through 25,  
4 inclusive, are presently not known to Plaintiff, who therefore sues these Defendants by such fictitious  
5 names. Plaintiff will seek to amend this Complaint pursuant to Federal Rule of Civil Procedure 15 and  
6 include these Doe Defendants’ true names and capacities when they are ascertained. Each of the  
7 fictitiously named Defendants is responsible in some manner for the conduct alleged herein and for the  
8 injuries suffered by Apollo Group as a result of Defendants’ wanton and illegal conduct.

9 **IV. SUBSTANTIVE ALLEGATIONS**

10 **A. Background**

11 41. Apollo Group is one of the world’s largest private education providers and has been in  
12 the educational business for more than 35 years. The Company offers associates, bachelors, masters,  
13 and doctoral degree programs in arts and sciences, business and management, criminal justice and  
14 security, education, human services, health care, psychology, technology, and nursing. The Company  
15 operates campus locations and learning centers in 40 states, the District of Columbia, and Puerto Rico,  
16 as well as through an online educational delivery system. The Company’s most prominent school is  
17 The University of Phoenix.

18 42. Apollo Group is controlled by its found John Sperling. Class B stock is the only Apollo  
19 Group stock entitled to vote on the election of directors. John Sperling and his son, Peter Sperling, own  
20 all 475,149 shares of Class B common stock. Thus, Plaintiff and all Class A shareholders have no  
21 ability to replace management or vote to replace the current directors.

22 **B. Title IV And The For-Profit Education Industry**

23 43. Title IV of the Higher Education Act, 20 U.S.C. § 1070 *et. seq.*, governs the federal  
24 student financial aid programs administered by the U.S. Department of Education. A Title IV loan  
25 refers to several types of student loans, including Unsubsidized Federal Stafford Loans, Federal Perkins  
26 Loans, and Federal PLUS Loans. Students who are undergraduates or graduate students enrolled in  
27 postsecondary education may qualify to receive these types of loans to pay for their education. Each  
28 loan has slightly different qualifications and criteria to meet.

1 44. Congress amended Title IV in February 2006 to allow institutions that offer online  
2 degrees to participate in federal funding programs for payment of educational expenses such as Pell  
3 Grants and low-interest Stafford loans. This amendment revolutionized the for-profit educational  
4 industry and enabled Apollo Group to target a new crop of prospective students. Federal aid to students  
5 at for-profit colleges jumped to \$26.5 billion in 2009 from \$4.6 billion in 2000.

6 45. Institutions receiving Title IV funding are required to comply with a variety of  
7 regulations to maintain their eligibility for Title IV funds, including a limit on the ratio of government  
8 loan funds to cash revenue (the 90/10 Rule), limits on the percentage of their student borrowers who  
9 default on these loans (the Cohort Default Rate), and other regulatory requirements on how prospective  
10 students are recruited.

11 ***1. The 90/10 Rule***

12 46. Apollo Group's for-profit educational institutions must comply with the 90/10 Rule. An  
13 educational institution will be ineligible to participate in Title IV programs if, for any two consecutive  
14 fiscal years, it derives more than 90% of its cash basis revenue from Title IV programs. An institution  
15 that derives more than 90% of its revenue from Title IV programs for any single fiscal year will be  
16 placed on provisional certification for two fiscal years and will be subject to potential sanctions by the  
17 Department of Education. Apollo Group's educational institutions are required to calculate this  
18 percentage at the end of each fiscal year, and if they are not in compliance, they must return any Title  
19 IV funds that were received while they were ineligible.

20 ***2. The Cohort Default Rate***

21 47. The Cohort Default Rate is the percentage of an institution's borrowers who enter  
22 repayment on certain federal student loans during a particular fiscal year and default prior to the end of  
23 the next fiscal year.

24 48. The Cohort Default Rate was initiated in the late 1980s to address concern that  
25 questionable trade schools were targeting unqualified applicants to apply for Pell Grants and guaranteed  
26 student loans that the students were unlikely to repay, especially if they received a subpar education that  
27 did not lead to adequate employment. Abnormally high student loan default rates strongly suggest a  
28 low-quality educational institution that is failing to prepare students for gainful employment.

1           49. To remain eligible to participate in Title IV programs, educational institutions must  
2 maintain an appropriate Cohort Default Rate. If an institution's Cohort Default Rate exceeds 10  
3 percent for any one of the three preceding years, it must delay for 30 days the release of the first  
4 disbursement of U.S. federal student loan proceeds to first-time borrowers enrolled in the first year of  
5 an undergraduate program. Institutions with three consecutive years of Cohort Default Rates of 25  
6 percent or greater, or with a Cohort Default Rate greater than 40 percent in any one year, could lose  
7 eligibility to participate in Title IV programs.

8           50. The Department of Education reviews an educational institution's Cohort Default Rate  
9 annually and publishes the rates 12 months after the end of the measuring period.

### 10           **C. The Individual Defendants Used Deceptive Recruitment Practices**

11           51. Title IV provided Apollo Group with access to billions of dollars in revenue. To  
12 increase revenues, Apollo Group embarked on an aggressive marketing campaign, enrolling anyone  
13 entitled to receive Title IV funds without regard to whether the individual was academically qualified.  
14 By way of example, in the past 10 years, Apollo Group has increased its enrollment by 200%, increased  
15 its faculty by 100%, and increased the number of enrollment counselors by 1000%. Apollo Group's  
16 business model shifted its focus, enrolling as many students as possible, regardless of whether the  
17 students were suited for college, had an ability to pay for an education, or had any probability of  
18 obtaining a degree.

19           52. Apollo employed heavy sales forces to identify and target new recruits. Prospective  
20 students were pressured to enroll and attend the minimum number of classes necessary for Apollo  
21 Group to earn the tuition and Title IV funding. Apollo Group frequently misled students about the cost  
22 of obtaining an education and their financial obligation to repay loans borrowed through Title IV  
23 programs. Apollo Group encouraged students to borrow the maximum amount instead of the actual  
24 amount necessary to fund their education.

#### 25           **1. The GAO Report Details Apollo Group's Improper Recruiting**

26           53. The August 4, 2010 GAO Report details examples of the University of Phoenix's  
27 deceptive recruitment practices. In one instance, an admissions representative at a University of  
28 Phoenix campus in Arizona told an undercover applicant that a bachelor's degree would take a

1 maximum of four years to complete, but then provided a one year cost estimate equal to only 1/5 of the  
2 required credit hours. This admissions representative told the applicant that he was qualified for \$9,500  
3 in student loans and that he should take out that full amount, even though the applicant had \$250,000 in  
4 savings. The applicant was further lied to about his prospects of graduating: the admissions  
5 representative told him that University of Phoenix had a 20% graduation rate when its actual rate was  
6 only 15%.

7 54. The GAO Report also reveals that another admissions representative at the University of  
8 Phoenix Arizona campus compared the University of Phoenix to the University of Arizona and Arizona  
9 State University, refused to disclose the graduation rate after being directly asked, claimed that he did  
10 not know the job placement rate “because a lot of students moved out of the area,” and encouraged the  
11 undercover applicant to continue with a master’s degree after finishing his bachelor’s degree, stating  
12 that “some countries pay teachers more than they do doctors and lawyers.”

13 55. Undercover applicants to a University of Phoenix campus in Pennsylvania were  
14 similarly misled by admissions representatives when asking about financial aid. According to the GAO  
15 report, one undercover applicant was told that she could take out the maximum of federal loans, even if  
16 she did not need all the money, and was encouraged to “put the extra money in a high interest savings  
17 account.” This applicant was not told that if the extra money she borrowed came from an unsubsidized  
18 loan, this loan would accrue interest while the student was still in school. In another instance at the  
19 same University of Phoenix campus, an undercover applicant was met with a refusal to disclose the  
20 graduation rate after directly asking, and was also told that the financial aid department might be able to  
21 use “professional judgment” to determine that the applicant would not be required to report over  
22 \$250,000 in savings on her federal financial aid application.

23 **2. *Apollo Group Routinely Attempted To Enroll Homeless Individuals***

24 56. In an article titled “Homeless High School Dropouts Lured By For-Profit Colleges,”  
25 *Bloomberg* reported on April 30, 2010 that the University of Phoenix was targeting homeless shelters to  
26 recruit prospective students. *Business Week* also reported an identical story titled “The Homeless At  
27 College.” In October 2009, two University of Phoenix recruiters “got themselves invited to a Cleveland  
28 shelter” and “pitched the advantages of going to the country’s largest for-profit college to 70 destitute

1 men.” One of these men, Benson Rollins, a recovering alcoholic who had been homeless for ten  
2 months, was “barraged” with phone calls and emails after the recruiters’ persuasive pitch led him to fill  
3 out an online form. Rollins noted that the University of Phoenix recruiters failed to mention that he  
4 would have to take out a government loan at 5% to 7% interest to pay the \$10,000-plus annual tuition.  
5 But Rollins ultimately rejected the enrollment offer noting “I’m in a homeless shelter and money is  
6 hard to come by. It’s not worth going to school to end up in debt.”

7 **3. *Apollo Group Improperly Compensated Its Enrollment Personnel***

8 57. Title IV prohibits an institution receiving Title IV funds from providing “any  
9 commission, bonus or other incentive payment based directly or indirectly on success in securing  
10 enrollments or financial aid to any person or entit[y] engaged in any student recruiting or admission  
11 activities or in making decisions regarding the award of student financial assistance ...” 20 U.S.C.  
12 §1094(a)(20).

13 58. In violation of Title IV’s compensation and incentive limitations, Apollo Group  
14 evaluated and compensated its recruiters based on the number of students they enrolled. Student  
15 recruiters were regularly required to meet certain enrollment and retention numbers to maintain their  
16 employment. Bonuses for recruiters and other recruiting personnel were structured based on the  
17 number of students enrolled.

18 **D. The Individual Defendants Manipulated the Cohort Default Rate and**  
19 **the 90/10 Rule Ratio To Preserve Access To Title IV Funds**

20 59. Apollo Group’s improper marketing and recruitment tactics enrolled a substantial  
21 number of students who lacked financial resources and did not fully understand the costs and nature of  
22 attending higher education. In other words, these students were ill-equipped to succeed in Apollo  
23 Group’s scholastic programs. Consequently, Apollo Group’s educational institutions suffered a high  
24 withdrawal rate.

25 60. According to the University of Phoenix’s 2010-2011 Consumer Information Guide, only  
26 42.23% of the first-time, full-time Bachelor’s degree-seeking students who enrolled at the University of  
27 Phoenix between August 1, 2008 and October 31, 2008 were still enrolled at the same time in 2009.  
28 Other data, released by the Chairman of the U.S. Senate’s Health, Education, Labor and Pensions  
Committee, indicates that of the 177,368 Associate’s degree-seeking students who enrolled at Apollo

1 Group's schools between August 2008 and July 2009, 66.4% had withdrawn (without obtaining a  
2 degree) by August 2010. The median number of months that these students attended before  
3 withdrawing was only 4.2.

4 61. The improper marketing and recruiting tactics, coupled with the high student turnover  
5 rate, placed Apollo Group dangerously close to violating the 90/10 Rule and the Cohort Default Rate.  
6 For the year ended August 31, 2007, Apollo Group reported a 90/10 Rule percentage of 69% for the  
7 University of Phoenix. Just two years later, Apollo Group reported that the University of Phoenix's  
8 percentage had increased to 86% and it increased to 88% by the year ended August 31, 2010. Since  
9 Apollo Group derived a majority of its total revenue from Title IV programs, the consequences of  
10 violating the 90/10 Rule or the Cohort Default Rate and losing eligibility to receive Title IV funds  
11 would be disastrous.

12 62. To preserve Apollo Group's eligibility status and maintain access to billions of dollars in  
13 Title IV revenues, the Individual Defendants devised a scheme to deceive both the Department of  
14 Education and shareholders about Apollo Group's compliance with Title IV.

15 63. The Individual Defendants caused Apollo Group to adopt a practice of returning all of a  
16 student's federal loan proceeds to lenders – i.e., cancelling student loans without the student's consent –  
17 when a student withdrew prior to completing coursework, even though Title IV regulations permitted  
18 Apollo Group to retain the earned portion of the Title IV funds (for the period prior to the student's  
19 withdrawal). Students were entitled to have the earned amounts applied toward their tuition bills, but  
20 for many students Apollo Group returned the full amount of their Title IV loans, including the earned  
21 portion, and then billed the students directly for the charges. In other words, instead of owing money to  
22 the federal government under a Title IV loan with favorable repayment terms, students found  
23 themselves unexpectedly owing money directly to Apollo Group.

24 64. By returning Title IV loans to the lenders for students at high risk of default, Apollo  
25 Group prevented those students from being counted as part of the calculation of Apollo Group's Cohort  
26 Default Rate because the students never entered payment under the Title IV program. Rather, the  
27 students' obligations to the lenders had been replaced with debts owed directly to Apollo Group. Thus,  
28 Apollo Group eliminated the very high risk that these students would default at the expiration of the

1 grace period, increase Cohort Default Rate, and jeopardize Apollo Group's continued access to valuable  
2 Title IV educational funding.

3 65. Apollo Group's return of student loan money to lenders also helped it comply with the  
4 90/10 Rule. Since these students were no longer recipients of Title IV funds, Apollo Group was able to  
5 shift the revenue into the non-Title IV category, meaning that it counted towards the 10% of revenues  
6 that Apollo Group was required to derive from non-Title IV sources. By employing these manipulative  
7 practices, Apollo Group was able to report that it was in compliance with the 90/10 Rule.

8 66. Apollo Group relied almost exclusively on Title IV funding. Apollo Group was willing  
9 to sacrifice charging off bad debts on its balance sheet in exchange for continued access to billions of  
10 dollars in Title IV funding. As long as Apollo Group continued to attract a new batch of enrollees with  
11 promises of free government money to cover the cost of attendance, the losses incurred as a result of  
12 returning Title IV funds were more than offset by the intake of new students.

13 67. Because of the conduct described above, the 90/10 calculation and the Cohort Default  
14 Rate that Apollo Group reported to the Department of Education and in the Company's public  
15 disclosures were deliberately false and misleading. Apollo Group failed to disclose that they were  
16 violating Title IV regulations and could lose eligibility to receive future Title IV funds.

17 **E. The Individual Defendants Issued False and Misleading Statements**

18 68. The Individual Defendants concealed from shareholders that Apollo Group's enrollment  
19 and revenue growth were due to deceptive marketing practices, and falsely attributed them to the  
20 purported quality of the Company's services. The bold-italicized statements referenced below were  
21 false and misleading because the Individual Defendants failed to disclose that the Company overstated  
22 its growth prospects by engaging in illicit and improper recruiting activities such as (i) refusing to  
23 disclose total tuition costs to prospective students before signing a binding agreement; (ii) lying about  
24 accreditation; (iii) enticing students to take out student loans even when the applicant had substantial  
25 savings which were sufficient to pay the tuition; (iv) misrepresenting extravagant and unlikely high  
26 salaries to students in their chosen profession once they graduated; (v) failing to disclose graduation  
27 rates; and (vi) offering tuition costs equivalent to 9 months of credit hours per year, when total program  
28 length was 12 months. These improper recruiting activities had the effect of artificially increasing

1 student enrollment and thus artificially inflating the Company's reported results and future growth  
2 prospects.

3 69. On February 12, 2007, The New York Times published an article titled "Troubles Grow  
4 for a University Built on Profits." The article reported that Apollo Group's rapid growth and profits  
5 were achieved by the erosion of academic quality and through deceptive and fraudulent recruitment  
6 practices, all of which were supported by lawsuits brought by former employees and the resignation of  
7 the top management of the Company, including Apollo's President and CEO. The next day, Apollo  
8 Group responded, referring to each of the allegations as "fiction" and further stating "[t]his ... is about  
9 two disgruntled former employees of The University of Phoenix attempting to extract a large financial  
10 settlement..."

11 70. On May 22, 2007, Apollo filed its quarterly report for the quarter ended May 31, 2006  
12 with the SEC on Form 10-Q, which was signed by Defendants D'Amico and Swartz. Moreover,  
13 Defendants DeConcini, Redman, and Reis reviewed and approved the 10-Q prior to the time it was  
14 issued. Indeed, they are specifically required to do so as members of the Audit Committee. The  
15 Charter of the Audit Committee requires the members of the Committee to "review the Company's  
16 quarterly and annual financial statements and related press releases and filings with the SEC and  
17 discuss such items with management and the Company's independent auditors prior to issuance and  
18 filing with the SEC."

19 71. The 10-Q stated, among other things, that "Enrollment and Revenue Growth While  
20 Investing in our Business for the Future- Despite the management changes discussed above, we were  
21 able to achieve 5.7% average quarterly Degreeed Enrollment growth in 2006 versus 2005, which  
22 resulted in 11.7% increase in revenue. ***These increases help fund a significant portion of our  
23 investment in product development and marketing and lead generation to ensure our continued  
24 growth and viability in the future.***"

25 72. Also, on May 22, 2007, Apollo filed its annual report for the fiscal year ended August  
26 31, 2006 with the SEC on Form 10-K, which was signed by Defendants John Sperling, D'Amico,  
27 Mueller, Swartz and Peter Sperling. Moreover, Defendants DeConcini, Redman, and Reis reviewed and  
28 approved the 10-K prior to the time it was issued. Indeed, they are specifically required to do so as

1 members of the Audit Committee. The Charter of the Audit Committee requires the members of the  
2 Committee to “review the Company’s quarterly and annual financial statements and related press  
3 releases and filings with the SEC and discuss such items with management and the Company’s  
4 independent auditors prior to issuance and filing with the SEC.”

5 73. The 10-K stated, in part, the following:

6 Enrollment and Revenue Growth While Investing in our Business for  
7 the Future ... we were able to achieve 5.4% average quarterly  
8 Degreed Enrollment growth in 2006 versus 2005, which resulted in  
9 10.1 % increase in revenue. These increases help fund a significant  
10 portion of our investment in product development and marketing and  
11 lead generation to ensure our continued growth and viability in the  
12 future.

13 ***We believe that our track record for enrollment and revenue growth  
14 is attributable to our offering comprehensive services combining  
15 quality educational content, teaching resources and customer  
16 service with formats that are accessible and easy to use for students  
17 as well as corporate clients. We maintain a single-minded focus on  
18 providing quality education to serve the needs of working students.***

19 74. Also on May 22, 2007, Apollo filed its quarterly report for the quarter ended November  
20 30, 2006 with the SEC on Form 10-Q, which was signed by Defendants D'Amico and Swartz.  
21 Moreover, Defendants DeConcini, Redman, and Reis reviewed and approved the 10-Q prior to the time  
22 it was issued. Indeed, they are specifically required to do so as members of the Audit Committee. The  
23 Charter of the Audit Committee requires the members of the Committee to “review the Company’s  
24 quarterly and annual financial statements and related press releases and filings with the SEC and  
25 discuss such items with management and the Company’s independent auditors prior to issuance and  
26 filing with the SEC.”

27 75. The 10-Q stated, among other things that “Enrollment and Revenue Growth While  
28 Investing in our Business for the Future - We achieved 8.3% average quarterly Degreed Enrollment  
29 growth for the three months ended November 30, 2006, which resulted in 6.2% increase in revenue for  
30 the three months ended November 30, 2006. ***These increases help fund a significant portion of our  
31 investment in product development and marketing and lead generation to ensure our continued  
32 growth and viability in the future.***”

1           76.     Also on May 22, 2007, Apollo filed its quarterly report for the quarter ended February  
2 27, 2007 with the SEC on Form 10-Q, which was signed by Defendants D' Amico and Swartz.  
3 Moreover, Defendants DeConcini, Redman, and Reis reviewed and approved the 10-Q prior to the time  
4 it was issued. Indeed, they are specifically required to do so as members of the Audit Committee. The  
5 Charter of the Audit Committee requires the members of the Committee to “review the Company’s  
6 quarterly and annual financial statements and related press releases and filings with the SEC and  
7 discuss such items with management and the Company’s independent auditors prior to issuance and  
8 filing with the SEC.”

9           77.     The 10-Q stated, among other things that “Enrollment and Revenue Growth While  
10 Investing in our Business for the Future - We achieved a 9.3% average quarterly Degreed Enrollment  
11 growth for the six months ended February 28, 2007, which resulted in 6.4% increase in revenue for the  
12 six months ended February 28, 2007. *These increases help fund a significant portion of our*  
13 *investment in product development and marketing and lead generation to ensure our continued*  
14 *growth and viability in the future.”*

15           78.     Also on May 22, 2007, Apollo had a conference call to discuss its quarterly results  
16 during which the following statements were made:

17                   First enrollment; we are pleased by second quarter results from an  
18 enrollment standpoint as we reported year-over-year growth of  
19 10.2%. We bottomed out in enrollment growth in the third quarter of  
20 fiscal year 2006 at 3.3% and have been building ever since. As I  
21 indicated, we currently expect the fiscal third quarter enrollment  
22 gains to exceed second quarter growth.

23                   Total enrollments reached nearly 298,000 due to an approximate 24%  
24 year-over-year increase in new starts and some improvement in  
25 retention rates. *New starts of approximately 59,000 increased*  
26 *primarily because lead quality is improving. Our qualifying center*  
27 *is growing in effectiveness, conversion rates are up overall, and*  
28 *show rates from our ground counselors selling online have*  
*improved.* In addition, retention rates in our associate degree  
programs are up slightly.

                  The productivity of the 600 new enrollments counselors hired in the  
fourth quarter of 2006 is improving, but they are still not at 100%  
effectiveness. We expect them to hit their stride by the first quarter  
of fiscal 2008. Enrollment counselor salaries at the percent of  
revenue are up two percentage points, but they will also come down.

1            *The third initiative is to continue to leverage our capability as a*  
 2            *leader in marketing, advertising lead generation, student*  
 3            *recruitment and branding, which will further drive enrollment*  
 4            *growth and decrease expenses.*

5            *During the second quarter, we made continued progress in this*  
 6            *area. Currently, our advertising costs are higher than we would like*  
 7            *but they are coming down and we expect them to improve further as a*  
 8            *percentage of revenue in the third quarter. We continue to improve*  
 9            *our intelligence around the lead generation process and*  
 10           *concentrate our dollars spent with those suppliers that are*  
 11           *providing the highest quality leads.*

12           Additionally, conversion rates have improved because of increase in  
 13           quality and we expect this trend to continue. *The productivity of*  
 14           *enrollment counselors have increased because of improved lead*  
 15           *quality and because we have over half of our sales force offering*  
 16           *multiple delivery models.* Finally, our branding campaign continues  
 17           to drive search activity to our website, which is positive.

18           79. On May 27, 2007, Apollo filed an amended quarterly report for the quarter ended  
 19           February 27, 2007 with the SEC on Form 10-Q/A, which was signed by Defendants D'Amico and  
 20           Swartz. Moreover, Defendants DeConcini, Redman, and Reis reviewed and approved the 10-Q/A prior  
 21           to the time it was issued. Indeed, they are specifically required to do so as members of the Audit  
 22           Committee. The Charter of the Audit Committee requires the members of the Committee to "review  
 23           the Company's quarterly and annual financial statements and related press releases and filings with the  
 24           SEC and discuss such items with management and the Company's independent auditors prior to  
 25           issuance and filing with the SEC."

26           80. The 10-Q/A stated:

27           Phoenix, Arizona, June 28, 2007 - Apollo Group, Inc. (Nasdaq:  
 28           APOL) ("Apollo Group" or the "Company") today reported fiscal  
 29           2007 financial results for the third quarter ended May 31, 2007 ....

30           **Third Quarter Fiscal 2007 Results of Operations**

31           Net income was \$131.4 million, or \$0.75 per diluted share (174.6  
 32           million weighted average shares outstanding), compared to \$131.5  
 33           million, or \$0.75 per diluted share (174.5 million weighted average  
 34           shares outstanding) for three months ended May 31, 2007 and 2006,  
 35           respectively .... Consolidated revenues for the three months ended  
 36           May 31, 2007, totaled \$733.4 million, which represents a 12.2%  
 37           increase over the third quarter of fiscal 2006. Total degreed  
 38           enrollments grew by 12.2% year-over-year to 311,100.

1           Commenting on the quarter, Brian Mueller, president of Apollo  
2           Group, Inc., said, “Our fiscal third quarter is showing promising signs  
3           that the investments we made over the last 18 months are paying off.  
4           *We are very pleased with the improvement we are seeing in*  
5           *enrollment and revenue growth*, as well as in our operating margin.  
6           *The continued progress is driven by further productivity*  
7           *improvements from new enrollment hires, enhanced retention*  
8           *strategies, efficiencies in our advertising spend and our branding*  
9           *campaign.* New Degreeed Enrollments increased 21.2% year-over-  
10          year. We are proud to have achieved double-digit revenue growth due  
11          to our strong enrollments and continued improvement in retention.  
12          As a reminder, over the long-term, we remain committed to our goal  
13          of mid-to-high single-digit revenue growth and low double-digit  
14          annual operating income and free cash flow growth.”

15           81.       On June 28, 2007, Apollo filed its quarterly report for the quarter ended May 31, 2007  
16          with the SEC on Form 10-Q, which was signed by Defendants D’Amico and Swartz. Moreover,  
17          Defendants DeConcini, Redman, and Reis reviewed and approved the 10-Q prior to the time it was  
18          issued. Indeed, they are specifically required to do so as members of the Audit Committee. The  
19          Charter of the Audit Committee requires the members of the Committee to “review the Company’s  
20          quarterly and annual financial statements and related press releases and filings with the SEC and  
21          discuss such items with management and the Company’s independent auditors prior to issuance and  
22          filing with the SEC.”

23           82.       The 10-Q stated that “Enrollment and Revenue Growth While Investing in our Business  
24          for the Future – We Achieved a 10.3% average quarterly Degreeed Enrollment growth for the nine  
25          months ended May 31, 2007, which resulted in an 8.5% increase in revenue for the nine months ended  
26          May 31, 2007. *These increases helped fund a significant portion of our investment in product*  
27          *development and marketing and lead generation over the same period to ensure our continued*  
28          *growth and viability in the future.*”

81           83.       Also on June 28, 2007, Defendants held a conference call to discuss quarterly results and  
82          stated, in part, as follows:

83                   *Lead quality continues to improve enrollment counselor*  
84                   *productivity on an average monthly basis is moving up slightly.*  
85                   Show rates are continuing to go up with ground counselors selling  
86                   online and retention rates are stable with doctoral, master’s and  
87                   bachelor’s students and improving with associate's students.

1 Turning to the operating margin, excluding share based compensation  
2 and unusual items; we generated a 30% margin in the third quarter  
3 slightly less than the 31.8% margin in the third quarter of the prior  
4 year. *Over the last 18 months we invested in internet advertising, a  
5 branding campaign, an increase in enrollment counselors and  
6 support staff, product development and development of our online  
7 learning capabilities. Even though these investments suppressed  
8 margins in the short run, they prove to be the right initiatives for  
9 the business in the long-run.* We are pleased with our operating  
10 performance in the third quarter.

11 Several factors led to the success. Selling and promotional expenses  
12 as a percent of revenue were 22.2%, slightly above the 21.1 % in the  
13 third quarter of the prior year, but significantly improved over the  
14 prior three quarters. *Effectiveness in both advertising and  
15 enrollment counselor productivity has improved.* Instructional costs  
16 and services were 43.8% of revenues which is only a 40 basis point  
17 increase versus the 43.4% in the prior year. It's definitely an  
18 improvement over the last couple of quarters. Bad debt expense is an  
19 area of concern, as Joe mentioned a major factor in continuing bad  
20 debt expense is continuing to improve retention. We continue to  
21 work on several projects devoted to retention effectiveness.

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84. On October 22, 2007, Defendants caused Apollo Group to issue a press release that  
stated, in part, the following:

Phoenix, Arizona, October 22, 2007 - Apollo Group, Inc. (Nasdaq:  
APOL) ("Apollo Group" or the "Company") today reported fiscal  
2007 unaudited financial results for the fourth quarter and fiscal year  
ended August 31, 2007.

#### **Unaudited Fourth Quarter Fiscal 2007 Results of Operations**

Net income for the three months ended August 31, 2007 was \$103.2  
million, or \$0.60 per diluted share (171.3 million weighted average  
shares outstanding), compared to \$75.7 million, or \$0.43 per diluted  
share (174.5 million weighted average shares outstanding) for three  
months ended August 31, 2006 ... Consolidated revenues for the three  
months ended August 31, 2007, totaled \$713.9 million, which  
represents a 14.2% increase over the fourth quarter of fiscal 2006.  
Total degreed enrollments grew by 11.1 % year-over-year to 313,700.

Commenting on fiscal 2007, Brian Mueller, president of Apollo  
Group, Inc., said, "This was a rewarding year for Apollo Group and  
its stakeholders. We began seeing the benefits of the significant  
investments we made over the last couple of years and are very  
pleased with the progress we made both in our operations as well as  
from a corporate perspective .... We are pleased with our fourth  
quarter results as we again achieved double-digit revenue and  
enrollment growth, while continuing to produce significant cash flow  
and earnings growth. *We have made productivity gains in our  
enrollment counselor effectiveness, advertising, student persistence,  
academic excellence and program expansion ....* "

1 85. Also on October 22, 2007, Apollo held a conference call to discuss its fiscal year and  
2 quarterly results during which Defendants made the following statements:

3 Let me review our progress toward each of our key objectives around  
4 enrollment, revenue, and margin growth and update you on some of  
5 the initiatives we have in place to achieve these objectives. First,  
6 with regards to enrollment, as I mentioned, total enrollment in the  
7 fourth quarter increased 11.1% year-over-year, reaching a total of  
8 313,700 students. As Joe indicated earlier, associate student  
9 enrollment increased 41 % year-over-year and importantly the decline  
10 in bachelors students continues to slow, declining only 1.4% year-  
11 over-year versus the 2.6% we experienced last quarter. We've started  
12 again a record 69,800 students, a 15.4% increase over the prior year.  
13 ***While overall this is slower new start growth than last quarter, we***  
14 ***know that the students we are starting are better prepared and are***  
***persisting at higher rates.*** A year ago we hired 600 new enrollment  
counselors and we were training our on-ground counselors to sell our  
online delivery methodology. As a result we started a number of  
students who weren't as prepared as we would have liked. The  
number of those students dropped fairly quickly. This also produced  
an abnormally high revenue per enrollment growth increase which I'll  
speak to in a moment. ***As our enrollment counselors have become***  
***more experienced and have increased training -- and have had***  
***increased training, we are seeing better prepared students and as a***  
***result improved conversion and retention rates and an overall***  
***decline in cost per start.***

15 86. On October 29, 2007, Apollo filed its annual report for the fiscal year ended August 31,  
16 2007 with the SEC on Form 10-K, which was signed by Defendants John Sperling, D'Amico, Mueller,  
17 Cappelli, Swartz, and Peter Sperling. Moreover, Defendants DeConcini, Redman, and Reis reviewed  
18 and approved the 10-K prior to the time it was issued. Indeed, they are specifically required to do so as  
19 members of the Audit Committee. The Charter of the Audit Committee requires the members of the  
20 Committee to "review the Company's quarterly and annual financial statements and related press  
21 releases and filings with the SEC and discuss such items with management and the Company's  
22 independent auditors prior to issuance and filing with the SEC."

23 87. The 10-K stated, in part, the following:

24 ***We believe that our track record for enrollment and revenue growth***  
25 ***is attributable to our offering comprehensive services combining***  
26 ***quality educational content, teaching resources and customer***  
27 ***service with formats that are accessible and easy to use for students***  
28 ***as well as corporate clients.*** We maintain a primary focus on  
providing quality education to serve the needs of working students.

1 Enrollment and Revenue Growth While Investing in our Business for  
2 the Future - We achieved a 10.5% average quarterly Degreed  
3 Enrollment growth for the year ended August 31, 2007, which  
4 resulted in a 9.9% increase in revenue for the year ended August  
5 31,2007. *These increases helped fund a significant portion of our  
6 investment in product development and marketing and lead  
7 generation over the same period to ensure our continued growth  
8 and viability in the future.*

6 88. On January 28, 2008, Defendants caused Apollo Group to issue a press  
7 release that stated, in part, the following:

8 Phoenix, Arizona, January 8, 2008 - Apollo Group, Inc. (Nasdaq:  
9 APOL) ("Apollo Group" or "the Company") today reported unaudited  
10 financial results for the first quarter offjscal2008, which ended  
11 November 30, 2007.

#### 12 **Unaudited First Quarter of Fiscal 2008 Results of Operations**

13 Net income for the three months ended November 30, 2007, was  
14 \$139.9 million, or \$0.83 per diluted share (169.3 million weighted  
15 average diluted shares outstanding), compared to \$113.9 million, or  
16 \$0.65 per diluted share (174.5 million weighted average diluted  
17 shares outstanding) for the three months ended November 30, 2006  
18 .... Consolidated revenues for the three months ended November 30,  
19 2007, totaled \$780.7 million, which represents a 16.9% increase over  
20 the first quarter of fiscal 2007. Total Degreed Enrollment grew by  
21 11.4% year-over-year to 325,000. Revenues in the first quarter of  
22 fiscal 2008 also benefited from previously implemented selective  
23 tuition price increases based on geographic areas and programs.

24 Commenting on the quarter, Brian Mueller, President of Apollo  
25 Group, said, "We are pleased with our first quarter results as we  
26 achieved double-digit revenue and enrollment growth for the third  
27 consecutive quarter. Our investments in the business are proving  
28 very effective and we again improved operating efficiencies as  
compared to a year ago ... *Over the next several months and  
quarters, we will be implementing innovative marketing plans to  
more effectively communicate with prospective students and other  
constituents online.*"

23 89. Also on January 8, 2008, Apollo filed its quarterly report for the quarter ended  
24 November 30, 2007 with the SEC on Form 10-Q, which was signed by Defendants D'Amico and  
25 Swartz. Moreover, Defendants DeConcini, Redman, and Reis reviewed and approved the 10-Q prior to  
26 the time it was issued. Indeed, they are specifically required to do so as members of the Audit  
27 Committee. The Charter of the Audit Committee requires the members of the Committee to "review  
28 the Company's quarterly and annual financial statements and related press releases and filings with the

1 SEC and discuss such items with management and the Company's independent auditors prior to  
2 issuance and filing with the SEC."

3 90. The 10-Q stated, among other things that "Enrollment and Revenue Growth While  
4 Investing in our Business for the Future - We achieved 11.4% growth in Degreed Enrollment for the  
5 three months ended November 30, 2007 as compared to the three months ended November 30, 2006,  
6 which, coupled with previously implemented selective tuition price increases depending on geographic  
7 area and program, resulted in a 16.9% increase in revenue over the same period. *These increases*  
8 *helped fund a significant portion of our investment in product development and marketing and lead*  
9 *generation during the quarter to ensure our continued growth and viability in the future."*

10 91. On March 27, 2008, Apollo issued a press release that stated, in part, the following:

11 Phoenix, Arizona, March 27, 2008 - Apollo Group, Inc. (Nasdaq:  
12 APOL) ("Apollo Group" or "the Company") today reported unaudited  
13 financial results for the second quarter of fiscal 2008, which ended  
14 February 29, 2008.

#### 15 **Unaudited Second Quarter of Fiscal 2008 Results of Operations**

16 Consolidated revenues for the three months ended February 29, 2008,  
17 totaled \$693.6 million, which represents a 13.9% increase over the  
18 second quarter of fiscal 2007. Total Degreed Enrollment grew by  
19 10.7% year-over-year to 330,200 . . .

20 Before giving effect to the litigation charge in the second quarter of  
21 fiscal 2008, and to special items related to the stock option  
22 investigation and restatement costs of \$5.7 million and share-based  
23 compensation of \$12.1 million that was associated with stock option  
24 modifications in the second quarter of fiscal 2007, net income was  
25 \$70.3 million, or \$0.41 per share (170.5 million weighted average  
26 diluted shares outstanding) in the second quarter of fiscal 2008, as  
27 compared to net income of \$71.2 million, or \$0.41 per share (174.6  
28 million weighted average diluted shares outstanding) in the second  
quarter of fiscal 2007 ....

29 *"We reported solid revenue and enrollment growth in the second*  
30 *quarter, and continue to invest for the long-term success of the*  
31 *Company.* The demand for high-quality and accessible education  
32 continues, and we believe our academic system and technology  
33 positions us well to meet this demand," said Brian Mueller, President  
34 of Apollo Group . . . Our goal is to positively impact our students'  
35 lives while also creating value for our shareholders. We remain  
36 committed to our long-term goals of mid-to-high single-digit revenue  
37 growth and low double-digit operating profit and free cash flow  
38 growth."

1 92. Also on March 27, 2008, Apollo held a conference call to discuss its quarterly results  
2 during which the following statements were made:

3 Additionally, as I mentioned we continue to hire enrollment  
4 counselors in the second quarter as our regional directors saw unmet  
5 demand. ***We believe we can supply the leads necessary to support  
6 this growth*** and while we know there is a ramp up period for new  
7 enrollment counselors. ***We believe the investment is essential in  
8 order to capitalize on demand and drive enrollment growth for the  
9 long-term.***

10 We know exactly how many enrollment counselors we need to have  
11 based upon the new student enrollment numbers that we are going to  
12 need to achieve next fiscal year and so we'll need to add another  
13 couple of hundred, but ***based upon those numbers it's obvious we've  
14 made the majority of that investment at this point***, we decided to  
15 push it forward because of what we think long-term could happen in  
16 those areas.

17 In terms of enrollments as far as strategic plan is concerned, yeah,  
18 we've said the revenue from a - for a high single, high mid or mid to  
19 high single digit perspective at 6.2%, I would tell you that as we think  
20 about it today, that's not enough new enrollments to get high single  
21 digit or low double digit revenue growth. ***I believe that we have to  
22 do better than that and we are going to target high single digits in  
23 terms of new enrollment growth in the future.***

24 93. Also on March 27, 2008, Apollo filed its quarterly report for the quarter ended February  
25 29, 2008 with the SEC on Form 10-Q, which was signed by Defendants D' Amico and Swartz.  
26 Moreover, Defendants DeConcini, Redman, and Reis reviewed and approved the 10-Q prior to the time  
27 it was issued. Indeed, they are specifically required to do so as members of the Audit Committee. The  
28 Charter of the Audit Committee requires the members of the Committee to "review the Company's  
quarterly and annual financial statements and related press releases and filings with the SEC and  
discuss such items with management and the Company's independent auditors prior to issuance and  
filing with the SEC."

94. The 10- Q stated, among other things that "Enrollment and Revenue Growth While  
Investing in our Business for the Future - We achieved 11.0% growth in average Degreed Enrollment  
for the six months ended February 29, 2008 as compared to the six months ended February 28, 2007,  
which, coupled with previously implemented selective tuition price increases, depending on geographic  
area and program, resulted in a 15.8% increase in revenue over the same period. ***These increases***

1 *helped fund a significant portion of our investment in product development and marketing and lead*  
2 *generation during the first six months of fiscal 2008 to ensure our continued growth in the future.”*

3 95. On July 1, 2008 Apollo Group issued a press release in which it stated, among other  
4 things, the following:

5 Phoenix, Arizona, July 1, 2008 - Apollo Group, Inc. (Nasdaq: APOL)  
6 (“Apollo Group,” “Apollo” or “the Company”) today reported  
7 unaudited financial results for the three and nine months ended May  
8 31, 2008.

8 **Unaudited Third Quarter of Fiscal 2008 Results of Operations**

9 Consolidated revenues for the three months ended May 31, 2008,  
10 totaled \$835.2 million, which represents a 13.9% increase over the  
11 third quarter of fiscal 2007. Total Degreed Enrollment grew by  
12 11.0% year-over-year to 345,300. The Company reported net income  
13 for the three months ended May 31, 2008, of \$139.1 million, or \$0.85  
14 per share (163.8 million weighted average diluted shares  
15 outstanding), compared to net income of \$131.4 million, or \$0.75 per  
16 share (174.6 million weighted average diluted shares outstanding) for  
17 the three months ended May 31, 2007 ....

18 *“We reported another quarter of solid revenue and enrollment*  
19 *growth, and importantly, we experienced improvement in the*  
20 *growth rate of New Degreed Enrollments as compared to last*  
21 *quarter,”* said Joe D'Amico, President, Chief Financial Officer and  
22 Treasurer of Apollo Group . . .

23 96. Also, on July 1, 2008, Apollo filed its quarterly report for the quarter ended May 31,  
24 2008 with the SEC on Form 10-Q, which was signed by Defendants D'Amico and Swartz. Moreover,  
25 Defendants DeConcini, Redman, and Reis reviewed and approved the 10-Q prior to the time it was  
26 issued. Indeed, they are specifically required to do so as members of the Audit Committee. The  
27 Charter of the Audit Committee requires the members of the Committee to “review the Company’s  
28 quarterly and annual financial statements and related press releases and filings with the SEC and  
discuss such items with management and the Company’s independent auditors prior to issuance and  
filing with the SEC.”

97. The 10-Q stated, among other things that “Enrollment and Revenue Growth While  
Investing in our Business for the Future – We achieved 11% growth in average Degreed Enrollment for  
the nine months ended May 31, 2008 as compared to the nine months ended May 31, 2007, which  
coupled with previously implemented selective tuition price increases, depending on geographic area

1 and program, resulted in a 14.9% increase in revenue over the same period. *These increases helped*  
 2 *fund a significant portion of our investment in product development and marketing and lead*  
 3 *generation during the first nine months of fiscal 2008 to ensure our continued growth in the future.”*

4 98. Also on July 1, 2008, Apollo Group held a conference call to discuss its quarterly results  
 5 during which the following statements were made:

6 For the third quarter, we reported consolidated net revenues of 835  
 7 million, a 13.9% increase. The key contributor to this growth was our  
 8 11 % enrollment growth. Enrollment growth was, in turn, fueled by  
 9 new student enrollments, which increased 9.8%. *We are very pleased*  
 10 *to see this rebounding in the growth rate of new student*  
 11 *enrollments* after several quarters of decelerating growth.

12 *Helping our enrollment counselors achieve success in managing*  
 13 *the costs so they are more consistent with our revenue growth is a*  
 14 *key objective.*

15 99. On October 28, 2008 Apollo issued a press release that stated, in part, the following:

16 Phoenix, Arizona, October 28, 2008 - Apollo Group, Inc. (Nasdaq:  
 17 APOL) ("Apollo Group," "Apollo" or "the Company") today reported  
 18 financial results for the three months and fiscal year ended August 31,  
 19 2008 ....

#### 20 **Unaudited Fourth Quarter of Fiscal 2008 Results of Operations**

21 Consolidated revenues for the three months ended August 31, 2008,  
 22 totaled \$831.4 million, which represents a 16.5% increase over the  
 23 fourth quarter of fiscal 2007. Total Degreed Enrollment grew by  
 24 15.4% year-over-year to 362,100. The Company reported net income  
 25 for the three months ended August 31, 2008, of \$229.6 million, or  
 26 \$1.43 per share (160.1 million weighted average diluted shares  
 27 outstanding), compared to net income of \$103.2 million, or \$0.60 per  
 28 share (171.3 million weighted average diluted shares outstanding) for  
 the three months ended August 31, 2007 ....

“In the fourth quarter we again reported solid revenue and enrollment  
 growth, and we experienced an increase in the year-over-year growth  
 rate of New Degreed Enrollments for the second quarter in a row.  
 During the fourth quarter we had Degreed Enrollment of 362,100  
 students, having started a record 83,100 students during the quarter.  
 And, while the overall cost to acquire a student is still higher than we  
 would like, *we continue to work diligently and are pleased with the*  
*efforts we have in process.”*

100. Also on October 28, 2008, Apollo filed its annual report for the fiscal year ended August  
 31, 2008 with the SEC on Form 10-K, which was signed by Defendants John Sperling, D’Amico,  
 Edelstein, Cappelli, Swartz, and Peter Sperling. Moreover, Defendants DeConcini, Redman, and Reis

1 reviewed and approved the 10-K prior to the time it was issued. Indeed, they are specifically required  
2 to do so as members of the Audit Committee. The Charter of the Audit Committee requires the  
3 members of the Committee to “review the Company’s quarterly and annual financial statements and  
4 related press releases and filings with the SEC and discuss such items with management and the  
5 Company’s independent auditors prior to issuance and filing with the SEC.”

6 101. The 10-K stated, in part, the following:

7 ***We believe that our track record for enrollment and revenue growth***  
8 ***is attributable to our offering comprehensive services combining***  
9 ***quality educational content, teaching resources, and customer***  
10 ***service with formats that are accessible and easy to use for students***  
11 ***as well as corporate clients.*** We maintain a primary focus on  
12 providing quality education to serve the needs of working students.

13 *Enrollment and Net Revenue Growth* - We achieved 12.1 % growth in  
14 average quarterly Degreed Enrollment for the fiscal year ended  
15 August 31, 2008 as compared to fiscal year ended August 31,2007,  
16 which, coupled with selective tuition price increases, depending on  
17 geographic area and program, were the primary factors contributing  
18 to a 15.3% increase in net revenue over the same period.

19 102. Also on October 28, 2008, Apollo Group held a conference call to discuss its quarterly  
20 and fiscal year results during which the following statements were made:

21 We're very pleased that our 2008 results have generated meaningful  
22 operating income growth for the first time in three years. ***Leading***  
23 ***this was strong revenue growth, significant new degreed enrollment***  
24 ***growth, and improved persistence.***

25 Regarding revenues, for the fourth quarter we reported consolidated  
26 net revenues of 831 million, a 16.5% increase. The primary  
27 contributor to this growth was our 15.4% total enrollment growth,  
28 which was driven by very strong new enrollment growth of 19.1 %,  
and continued improvement in student retention. ***This is the second***  
***quarter in a row that we have seen an acceleration of our new***  
***enrollment growth, which we believe is the result of a number of***  
***factors, including better quality leads as we gain more visibility into***  
***the advertising channels that produce the best-converting and***  
***persisting leads.***

103. On January 28, 2009 Defendants caused Apollo Group to issue a press release that  
stated, in part, the following:

Phoenix, Arizona, January 8, 2009 - Apollo Group, Inc. (Nasdaq:  
APOL) ("Apollo Group," "Apollo" or "the Company") today reported  
financial results for the three months ended November 30, 2008.

**Unaudited First Quarter of Fiscal 2009 Results of Operations**

1 Consolidated revenues for the three months ended November 30,  
2 2008, totaled \$971.0 million, which represents a 24.4% increase over  
3 the first quarter of fiscal 2008. Total Degreed Enrollment in the first  
4 quarter grew by 18.4% year-over-year to 384,900. The Company  
5 reported net income for the three months ended November 30, 2008,  
6 of \$180.4 million, or \$1.12 per share (160.8 million weighted average  
7 diluted shares outstanding), compared to net income of \$139.9  
8 million, or \$0.83 per share (169.3 million weighted average diluted  
9 shares outstanding) for the three months ended November 30, 2007.

6 “Our year-end momentum carried into the first quarter of fiscal 2009  
7 as we continue to benefit from the significant investments we have  
8 made over the past several years and we are very pleased with our  
9 results,” said Chas Edelstein, Chief Executive Officer of Apollo  
10 Group. “We reported year-over-year operating income growth of  
11 approximately 40% on 24% revenue growth, and Degreed Enrollment  
12 reached a record 384,900 students during the quarter. While we  
13 cannot quantify the significance of the current economy on our  
14 growth, we believe we are experiencing a positive impact, and we  
15 continue to generate meaningful cash flow. Additionally, *our growth  
16 is directly impacted by the efforts of our thousands of employees  
17 and faculty who are dedicated to providing great academic service  
18 and support to our students.*”

13 Mr. Edelstein continued, “Our flagship University of Phoenix  
14 contributed significantly to our results, and *we are very pleased with  
15 the continued growth in bachelor degree seeking students*, which is  
16 an important market for us. In the first quarter, new degreed  
17 enrollment of bachelor students grew close to 20% over the prior  
18 year. We are making progress in our other investment areas as well  
19 including our online high school, Insight Schools and Apollo  
20 Global.”

18 104. Also on January 28, 2009, Apollo Group filed its quarterly report for the quarter ended  
19 November 30, 2008 with the SEC on Form 10-Q, which was signed by Defendants D’Amico and  
20 Swartz. Moreover, Defendants DeConcini, Redman, and Reis reviewed and approved the 10-Q prior to  
21 the time it was issued. Indeed, they are specifically required to do so as members of the Audit  
22 Committee. The Charter of the Audit Committee requires the members of the Committee to “review  
23 the Company’s quarterly and annual financial statements and related press releases and filings with the  
24 SEC and discuss such items with management and the Company’s independent auditors prior to  
25 issuance and filing with the SEC.”

26 105. The 10-Q stated, among other things that “Enrollment and Start Growth – We achieved  
27 18.4% growth in Degreed Enrollment as of November 30, 2008 as compared to November 30, 2007.  
28 Our New Degreed Enrollment increased 25.6% in the first quarter of fiscal year 2009 as compared to

1 the first quarter of fiscal year 2008. *We believe that a portion of this increased enrollment is due to*  
 2 *the current global financial crisis and economic uncertainty, as working adults seek to advance their*  
 3 *education to improve their job security or reemployment prospects.”*

4 106. On January 8, 2009, Apollo Group held a conference call to discuss its quarterly results  
 5 during which the following statements were made:

6 Total enrollment was driven by very strong new student enrollment  
 7 growth of about 26% *as well as from continued year-over-year*  
 8 *improvement in our overall persistence rate.* Additionally, this is  
 9 the third quarter in a row we've seen an acceleration of our new  
 10 student enrollment growth, which we believe is the result of a number  
 11 of factors that Joe will discuss in more detail.

12 As Chas mentioned, driving our 26% new revenue growth were  
 13 increases in enrollment, retention, and net tuition pricing. We were  
 14 pleased to see these strong results occurred across each degree level.  
 15 *We believe this is in large part attributable to the many marketing*  
 16 *initiatives we have been implementing, including better targeting of*  
 17 *higher quality leads that convert.*

18 And while we continue to hire enrollment counselors in areas where  
 19 we see particularly strong demand, *we are putting equal focus on*  
 20 *better tools and support systems for our existing enrollment staff to*  
 21 *help them become more effective.*

22 107. On March 31, 2009, Defendants caused Apollo Group to issue a press release that stated,  
 23 in part, the following:

24 Phoenix, Arizona, March 31, 2009 - Apollo Group, Inc. (Nasdaq:  
 25 APOL) ("Apollo Group," "Apollo" or "the Company") today reported  
 26 financial results for the three and six months ended February 28,  
 27 2009.

#### 28 **Unaudited Second Quarter of Fiscal 2009 Results of Operations**

Consolidated net revenue for the three months ended February 28,  
 2009, totaled \$876.1 million, which represents a 26.3% increase over  
 the second quarter of fiscal 2008. Contributing to the growth was a  
 20.4% year-over-year increase in University of Phoenix total Degreeed  
 Enrollment to 397,700. The Company reported net income for the  
 three months ended February 28, 2009, of \$125.3 million, or \$0.77  
 per share (162.8 million weighted average diluted shares  
 outstanding), compared to a net loss of \$32.0 million, or \$0.19 per  
 share (168.0 million weighted average diluted shares outstanding) for  
 the three months ended February 29, 2008 ....

*“We are pleased with the growth in revenue and enrollments in our*  
*second quarter and we believe we are continuing to benefit from*  
*investments we are making in key academic and operational areas.”*

1 said Chas Edelstein, Chief Executive Officer of Apollo Group.  
2 “University of Phoenix again contributed significantly to our results,  
3 driven by 20% Degreed Enrollment growth, bringing the total during  
4 the quarter to nearly 400,000 students. ***This growth would not be  
possible without the incredible commitment of our faculty and staff  
who work tirelessly to provide a high level of academic quality in  
the classroom and outstanding support to our students.***”

5 108. Also on March 31, 2009, Apollo Group filed its quarterly report for the quarter ended  
6 February 29, 2009 with the SEC on Form 10-Q, which was signed by Defendants Iverson and Swartz.  
7 Moreover, Defendants Redman, Reis, and Giusto reviewed and approved the 10-Q prior to the time it  
8 was issued. Indeed, they are specifically required to do so as members of the Audit Committee. The  
9 Charter of the Audit Committee requires the members of the Committee to “review the Company’s  
10 quarterly and annual financial statements and related press releases and filings with the SEC and  
11 discuss such items with management and the Company’s independent auditors prior to issuance and  
12 filing with the SEC.”

13 109. The 10-Q stated that “Degreed Enrollment and New Degreed Enrollment Growth. We  
14 achieved 19.4% growth in average University of Phoenix Degreed Enrollment for the six months ended  
15 February 29, 2008. University of Phoenix New Degreed Enrollment during the first six months of  
16 fiscal year 2009 increased 24.4% as compared to the first six months of fiscal year 2008. ***The  
17 enrollment growth is primarily attributable to continued investments in enhancing and expanding  
18 University of Phoenix service offerings and academic quality***, which has attracted new students and  
19 increased student retention. ***We also believe that a portion of the increase in University of Phoenix  
20 Degreed Enrollment and New Degreed Enrollment is due to the current economic downturn, as  
21 working adults seek to advance their education to improve their job security or reemployment  
22 prospects.***”

23 110. Also on March 31, 2009, Apollo Group held a conference call to discuss its quarterly  
24 results during which the following statements were made:

25 Now for the results, we reported 26% revenue growth, driven by  
26 increases in enrollment, retention, and net tuition pricing. ***We are  
27 pleased with the continued growth in new student enrollment and in  
28 retention across each degree level. We believe this is in large part  
due to the robust marketing initiatives we have been implementing,  
which are producing better quality student inquiries, resulting in  
students who are more seriously interested and ready to enroll in  
our programs.***

1 With respect to enrollment counselors, we continue to experience  
2 lower employee turnover which along with better quality student  
3 inquiries led to further improvement in enrollment counselor  
4 effectiveness. And while we continue to hire enrollment counselors  
5 in areas where we see particularly strong demand, *we are also  
6 focused on providing better tools and support systems for our  
7 existing enrollment staff to further enhance their effectiveness.*

8 111. On June 29, 2009 Defendants caused Apollo Group to issue a press release that stated, in  
9 part, the following:

10 Phoenix, Arizona, June 29, 2009 - Apollo Group, Inc. (NASDAQ:  
11 APOL) ("Apollo Group," "Apollo" or "the Company") today  
12 reported financial results for the three and nine months ended May  
13 31, 2009.

14 **Unaudited Third Quarter of Fiscal 2009 Results of Operations**

15 Consolidated net revenue for the three months ended May 31, 2009,  
16 totaled \$1,051.3 million, which represents a 25.9% increase over the  
17 third quarter of fiscal 2008. Contributing to the growth was a 21.8%  
18 year-over-year increase in University of Phoenix total Degreed  
19 Enrollment to 420,700. The Company reported net income for the  
20 three months ended May 31, 2009, of \$201.1 million, or \$1.26 per  
21 share (159.3 million weighted average diluted shares outstanding),  
22 compared to net income of \$139.1 million, or \$0.85 per share (163.8  
23 million weighted average diluted shares outstanding) for the three  
24 months ended May 31, 2008 ....

25 *"We are pleased to report a record third quarter, driven largely by  
26 continuing increases in enrollments and improved student retention  
27 at University of Phoenix,"* said Co-Chief Executive Officer of Apollo  
28 Group, Chas Edelstein.

112. Also on June 29, 2009, Apollo Group filed its quarterly report for the quarter ended May  
31, 2009 with the SEC on Form 10-Q, which was signed by Defendants Iverson and Swartz. Moreover,  
Defendants Redman, Reis, and Giusto reviewed and approved the 10-Q prior to the time it was issued.  
Indeed, they are specifically required to do so as members of the Audit Committee. The Charter of the  
Audit Committee requires the members of the Committee to "review the Company's quarterly and  
annual financial statements and related press releases and filings with the SEC and discuss such items  
with management and the Company's independent auditors prior to issuance and filing with the SEC."

113. The 10-Q stated that "Degreed Enrollment and New Degreed Enrollment Growth. We  
achieved 20.3% growth in average University of Phoenix Degreed Enrollment for the nine months  
ended May 31, 2009 as compared to the nine months ended May 31, 2008. University of Phoenix New

1 Degreed Enrollment during the first nine months of fiscal year 2009 increased 23.7% as compared to  
2 the first nine months of fiscal year 2008. *We believe the enrollment growth is primarily attributable to*  
3 *continued investments in enhancing and expanding University of Phoenix service offerings and*  
4 *academic quality, which has attracted new students and increased student retention. Enhancements*  
5 *in our marketing capabilities have also contributed to the increases. We also believe that a portion of*  
6 *the increase in University of Phoenix Degreed Enrollment and New Degreed Enrollment is due to*  
7 *the current economic downturn, as working learners seek to advance their education to improve*  
8 *their job security or reemployment prospects.”*

9 114. Also on June, 2009, Apollo Group held a conference call to discuss its quarterly results  
10 during which the following statements were made:

11 We continued to enjoy the benefits from the investments we've been  
12 making in key academic and operating areas, which drove 26%  
13 revenue growth and a 48% EPS growth in the third quarter. *The*  
14 *primary drivers of the revenue growth were higher enrollment and*  
15 *the benefits of the 2008 increased tuition rates at University of*  
16 *Phoenix.* Degreed enrollment at University of Phoenix contributed  
17 about 22 points of that total 26% revenue growth and higher tuition  
18 rates accounted for the balance. Total enrollment growth at  
19 University of Phoenix was driven by continued strong new degreed  
20 enrollment growth of approximately 23%.

21 115. On October 27, 2009, Defendants caused Apollo Group to issue a press release that  
22 stated, in part, the following:

23 Phoenix, Arizona, October 27, 2009 - Apollo Group, Inc. (NASDAQ:  
24 APOL) ("Apollo Group," "Apollo" or the "Company") today reported  
25 financial results for the three months and fiscal year ended August 31,  
26 2009. “We are pleased to report another quarter of excellent financial  
27 and operating performance for the fourth quarter of fiscal 2009,” said  
28 Apollo Group Co-Chief Executive Officer Chas Edelstein. “We  
continue to focus on enhancing the student experience and delivering  
quality academic programs that are relevant to today's working  
learner. *The combination of these efforts is being recognized in the*  
*marketplace and resulted in solid enrollments* and continued  
improvement in the retention of our current students.”

Apollo Group Co-Chief Executive Officer and Apollo Global  
Chairman Greg Cappelli added, “We also continue to execute on our  
strategy by investing to maximize the value of the University of  
Phoenix, *including a focus on our admissions process to more*  
*effectively reach students who retain at higher rates ....*”

**Unaudited Fourth Quarter of Fiscal 2009 Results of Operations**

1 Consolidated net revenue for the three months ended August 31,  
2 2009, totaled \$1,075.8 million, which represents a 29.4% increase  
3 over the fourth quarter of fiscal 2008. Contributing to the growth in  
4 the fourth quarter was a 22.3% year-over-year increase in University  
5 of Phoenix total Degreed Enrollment to 443,000. The Company  
6 reported net income for the three months ended August 31, 2009, of  
7 \$91.5 million, or \$0.59 per share (155.7 million weighted average  
8 diluted shares outstanding), compared to net income of \$229.6  
9 million, or \$1.43 per share (160.1 million weighted average diluted  
10 shares outstanding) for the three months ended August 31, 2008 ....

11 116. Also on October 27, 2009, Apollo Group filed its annual report for the fiscal year ended  
12 August 31, 2009 with the SEC on Form 10-K, which was signed by Defendants John Sperling,  
13 Edelstein, Cappelli, Swartz, Iverson, Bishop and Peter Sterling. Moreover, Defendants Redman, Reis,  
14 and Giusto reviewed and approved the 10-K prior to the time it was issued. Indeed, they are  
15 specifically required to do so as members of the Audit Committee. The Charter of the Audit  
16 Committee requires the members of the Committee to “review the Company’s quarterly and annual  
17 financial statements and related press releases and filings with the SEC and discuss such items with  
18 management and the Company’s independent auditors prior to issuance and filing with the SEC.”

19 117. The 10-K stated, in part, the following:

20 Degreed Enrollment and New Degreed Enrollment Growth. We  
21 achieved 20.8% growth in average University of Phoenix Degreed  
22 Enrollment in fiscal year 2009 compared to fiscal year 2008.  
23 University of Phoenix aggregate New Degreed Enrollment increased  
24 23.5% in fiscal year 2009 compared to 2008. *We believe the  
25 enrollment growth is primarily attributable to continued  
26 investments in enhancing and expanding University of Phoenix  
27 service offerings and academic quality*, which has attracted new  
28 students and increased student retention, and to enhancements in our  
marketing capabilities. *We also believe that a portion of the  
increase in University of Phoenix Degreed Enrollment and New  
Degreed Enrollment is due to the current economic downturn, as  
working learners seek to advance their education to improve their  
job security or reemployment prospects*, and that this element of our  
growth will diminish as the economy and the employment outlook  
improve in the U.S.

118. Also on October 27, 2009 Apollo Group held a conference call to discuss its quarterly  
and fiscal year results during which the following were made:

We're pleased to be sharing another strong quarter, which capped an  
exceptional year from the perspective of improved retention, higher  
*enrollment* and increased margins ... . University of Phoenix, our

1 flagship institution enrolled 102,000 new students during the fourth  
2 quarter for total degreed enrollment of 443,000 students.

3 Our fourth quarter results were driven by revenue increasing over  
4 29% compared to the same period a year ago and excluding the one  
5 month of revenue contribution from our recent acquisition of BPP of  
6 \$13 million, revenue growth would have been 28%. The components  
7 of this increase were primarily *University of Phoenix's 22%  
8 enrollment growth combined with increased tuition rates.*

9 119. On January 7, 2010, Apollo Group issued a press release that stated, in part, the  
10 following:

11 Apollo Group, Inc. Reports Fiscal 2010 First Quarter Results

12 PHOENIX, Jan 07, 2010 (BUSINESS WIRE) -- Apollo Group, Inc.  
13 (NASDAQ: APOL) ("Apollo Group," "A 110" or the "Company")  
14 today reported financial results for the three months ended November  
15 30,2009.

16 **Unaudited First Quarter of Fiscal 2010 Results of Operations**

17 Consolidated net revenue for the three months ended November 30,  
18 2009, totaled \$1,270.3 million, which represents a 30.8% increase  
19 over the first quarter of fiscal 2009. Contributing to the growth in the  
20 first quarter was an 18.4% year-over-year increase in University of  
21 Phoenix total Degreed Enrollment to 455,600 as well as \$88.7 million  
22 in revenue from recently acquired BPP Holdings. The Company  
23 reported net income attributable to Apollo Group for the three months  
24 ended November 30, 2009, of \$240.1 million, or \$1.54 per share  
25 (156.0 million weighted average diluted shares outstanding),  
26 compared to net income attributable to Apollo Group of \$180.4  
27 million, or \$1.12 per share (160.8 million weighted average diluted  
28 shares outstanding) for the three months ended November 30, 2008

....  
29 *"We are pleased with our first quarter results and continued  
30 enrollment growth, particularly among our core bachelor's  
31 programs,"* said Apollo Group Co-Chief Executive Officer and  
32 Apollo Global Chairman Greg Cappelli. *"We remain committed to  
33 providing access to high-quality education, while ensuring that only  
34 students who have a reasonable chance to succeed enroll in our  
35 institutions."*

36 120. Also on January 7, 2010, Apollo Group held a conference call to discuss its quarterly  
37 results during which the following statements were made:

38 Our flagship institution, University of Phoenix, enrolled 98,100 new  
39 students during the first quarter for total degree enrollment of  
40 455,600 students. That's an 18% increase versus a year ago. And  
41 importantly, *we are now experiencing stronger growth in our core  
42 bachelor programs, which has been a key focus and important goal  
43 of ours over the last couple of years.*

1 121. On March 29, 2010 Apollo issued a press release that stated, in part, the following:

2 Apollo Group, Inc. Reports Fiscal 2010 Second Quarter Results

3 PHOENIX, Mar 29, 2010 (BUSINESS WIRE) --Apollo Group, Inc.  
4 (NASDAQ:APO) ("Apollo Group," "Apollo" or the "Company")  
today reported financial results for the three and six months ended  
5 February 28, 2010.

6 **Unaudited Second Quarter of Fiscal 2010 Results of Operations**

7 Consolidated net revenue for the three months ended February 28,  
8 2010, totaled \$1,070.3 million, which represents a 23.1% increase  
9 over the second quarter of fiscal 2009. Contributing to the growth in  
10 the second quarter was a 15.3% year-over-year increase in University  
of Phoenix total Degreed Enrollment to 458,600 as well as \$53.6  
11 million in revenue from recently acquired BPP Holdings. The  
Company reported income from continuing operations attributable to  
12 Apollo Group for the three months ended February 28, 2010,  
of \$103.2 million, or \$0.67 per share (155.2 million weighted average  
13 diluted shares outstanding), compared to income from continuing  
operations attributable to Apollo Group of \$128.8 million, or \$0.79  
14 per share (162.8 million weighted average diluted shares outstanding)  
for the three months ended February 28, 2009.

15 “We are pleased with our second quarter results, particularly with  
16 respect to the continued mix shift in student enrollments towards  
bachelor degree level students,” said Apollo Group Co-Chief  
Executive Officer Chas Edelstein. ***“We have set forth a strategy to  
17 transition the University of Phoenix to focus on better identifying  
and enrolling students who have a reasonable chance to succeed in  
our rigorous programs, and we are delivering on that plan.”***

18 Apollo Group Co-Chief Executive Officer and Apollo Global  
Chairman Greg Cappelli added, “Through our ***refined marketing  
19 efforts focused on identifying students who are better prepared for  
our programs***, as well as the positive early results we are seeing from  
our University Orientation pilot, we are beginning to see the shift in  
20 student mix that we have been targeting, ***which we believe over time  
will result in more consistent, higher quality growth*** and  
21 profitability and will positively impact a number of our key metrics.”

22 122. Also on March 29, 2010, Apollo Group held a conference call to discuss its quarterly  
23 results and stated, in part, the following:

24 Consistent with our expectations, University of Phoenix experienced  
25 greater bachelor new enrollment growth but slower growth at the  
associate level. In total, we enrolled 87,500 new students during the  
26 second quarter for total degreed enrollment of 458,600 students.  
That's a 15% increase in total degreed enrollment versus a year ago.

27 Revenue increased 23% compared to the same period a year ago ....  
28 The components of this increase were primarily University of  
Phoenix's 15% total enrollment growth combined with increased  
tuition rates.

1            *We also continue to see improvement in enrollment counselor*  
2            *effectiveness.*

3            123. On June 21, 2010, Defendants caused Apollo to issue a press release that stated, in part,  
4 the following:

5            PHOENIX, Jun 21, 2010 (BUSINESS WIRE) --Apollo Group, Inc.  
6            (NASDAQ:APOL) today announced that subsidiary University of  
7            Phoenix has received the Final Program Review Determination Letter  
8            associated with its February 2009 program review by the U.S.  
9            Department of Education (Department) and *that the University has*  
10           *successfully completed the corrective actions and satisfied the*  
11           *obligations arising from the review.*

12           “We are pleased to have successfully resolved the findings reported  
13           by the Department through a collaborative and productive process,”  
14           said Joseph L. D'Amico, president and chief operating officer of  
15           Apollo Group, Inc. “In so doing, we have adopted a series of  
16           processes and procedures to further strengthen our already rigorous  
17           internal controls and administrative capability.”

18           As required, Apollo has posted a Letter of Credit in the amount of  
19           proximately \$125 million to comply with the Department's standards  
20           of financial responsibility. The Department's regulations require  
21           institutions to post a Letter of Credit where a program review report  
22           cites untimely return of unearned Title IV funds for more than 10  
23           percent of the sampled students in a period covered by the review.

24           Of the six findings contained in the Final Program Review  
25           Determination Letter, three related to University of Phoenix's  
26           procedures for determining student withdrawal dates and associated  
27           timing of the return of unearned Title IV funds, which averaged no  
28           more than six days outside the required timeframe in the affected  
29           sample files. Importantly, there were no findings that indicated  
30           incorrect amounts of Title IV funds had been returned. In the second  
31           quarter of fiscal year 2010, Apollo made payments totaling \$660,000  
32           to reimburse the Department for the cost of Title IV funds associated  
33           with these findings.

34           The remaining findings involved isolated clerical errors verifying  
35           student supplied information and, as self-reported by University of  
36           Phoenix in 2008, the calculation of student financial need where  
37           students were eligible for tuition and fee waivers and discounts, and  
38           the use of Title IV funds for non program purposes such as  
39           transcripts, applications and late fees.

40           124. On June 30, 2010, Defendants caused Apollo to issue a press release that stated, in part,  
41 the following:

42           PHOENIX, Jun 30, 2010 (BUSINESS WIRE) - Apollo Group, Inc.  
43           (NASDAQ: APOL) (“Apollo Group,” “Apollo” or the “Company”)  
44           today reported financial results for the three and nine months ended  
45           May 31, 2010.

## Unaudited Third Quarter of Fiscal 2010 Results of Operations

Consolidated net revenue for the three months ended May 31, 2010, totaled \$1,337.4 million, which represents a 27.7% increase over the third quarter of fiscal 2009. Contributing to the growth in the third quarter was a 13.3% year-over-year increase in University of Phoenix total Degreed Enrollment to 476,500, as well as \$75.8 million in net revenue from BPP Holdings, which was acquired in the fourth quarter of fiscal 2009. The Company reported income from continuing operations attributable to Apollo Group for the three months ended May 31, 2010, of \$177.2 million, or \$1.16 per share (152.3 million weighted average diluted shares outstanding), compared to income from continuing operations attributable to Apollo Group of \$206.4 million, or \$1.30 per share (159.3 million weighted average diluted shares outstanding) for the three months ended May 31, 2009.

*“We are pleased to have made significant progress on our strategic initiatives designed to enhance the student experience, expand student protections and ensure we enroll students who we believe can succeed in our programs,”* said Apollo Group Co-Chief Executive Officer and Apollo Global Chairman Greg Cappelli. “This quarter’s results reflect continued success with our efforts to shift the mix of our enrollments toward bachelor level students. Additionally, based on the favorable results we’ve seen from our University Orientation pilot, we have decided to roll out the program more broadly this fall. We are confident that this is the right thing to do for our students, and believe it will allow us to deliver sustainable, high quality results over the long term.”

Apollo Group Co-Chief Executive Officer Chas Edelstein added, *“We are committed to strengthening and capitalizing on Apollo Group’s position as a leading provider of high quality, accessible education for individuals around the world, and for us that means putting the student first.* We are focused on delivering quality academic programs that are relevant to today’s working learners, and providing them with high levels of service and support from their first day in class through graduation--all of which should maximize the value of our students’ return on their educational investment.”

125. Also on June 30, 2010, Apollo Group held a conference call to discuss its quarterly results during which the following statements were made:

Now in recent quarters we’ve discussed a number of key initiatives, which will allow us to execute on our long-term plan at Apollo Group. And although time won’t allow us to go through all of these today, I’d like to touch on a couple of them with you now. *We’ve been investing in our admissions process by better aligning our marketing efforts to focus on attracting and putting the right students into the right programs at the University of Phoenix.*

Selling and promotional expense as a percentage of revenue was down 260 basis points, some of which was due to BPP’s operations.

1           However, *the improvement was also due to improved enrollment*  
 2           *counselor efficiency* and lower advertising costs as a percentage of  
 revenue.

3           126. By failing to disclose Apollo Group’s deceptive recruiting and marketing practices, the  
 4 Individual Defendants created the false, public impression that the Company’s increased enrollment  
 5 revenue resulted primarily from Apollo Group’s ability to attract new students through enhanced and  
 6 expanded educational services and improvements in academic quality. In truth, the increased revenue  
 7 resulted from Apollo Group’s deceptive and unsustainable business model.

8           **F. The Truth Emerges**

9           **1. The GAO Report Details Apollo Group’s Deceptive Recruiting Tactics**

10          127. On August 3, 2010, the news media circulated an undercover investigative report  
 11 conducted by the GAO entitled, “For-Profit Colleges: Undercover Testing Finds Colleges Encouraged  
 12 Fraud and Engaged in Deceptive and Questionable Marketing Practices.” The report concluded that (1)  
 13 certain for-profit schools used deceptive recruiting practices; (2) certain for-profit schools “encouraged  
 14 fraudulent practices” to their students such as falsifying their financial aid forms to qualify for federal  
 15 aid; (3) certain for-profit schools substantially inflated their tuition costs; and (4) certain for-profit  
 16 schools engaged in other “troubling” practices. The *Wall Street Journal* reported that the GAO accused  
 17 several colleges of encouraging fraud and engaging in deceptive and questionable marketing practices.  
 18 By using undercover tests at 15 for-profit colleges, the GAO “found that four privately held schools  
 19 encouraged fraudulent practices and all 15 made deceptive or otherwise questionable statements to the  
 20 GAO's undercover applicants.” Further, the *Wall Street Journal* reported the following:

21           The GAO report said that four undercover applicants were encouraged by  
 22 college personnel to falsify their financial-aid forms to qualify for federal aid,  
 23 while other college representatives exaggerated potential salaries after  
 graduation and failed to provide clear information about program duration,  
 costs or graduation rates despite federal regulations requiring them to do so.

24           The GAO said in the report that it plans to refer cases of school officials  
 25 encouraging fraud and engaging in deceptive practices to the Department of  
 Education's Office of Inspector General, where appropriate.

26           The report is scheduled to be presented as part of the testimony Wednesday  
 27 before the Senate Committee on Health, Education, Labor and Pensions,  
 chaired by Sen. Tom Harkin (D., Iowa).

1 “The results of this broad-reaching survey of for-profit school recruiting  
2 practices leave little question that these practices occur across the industry  
3 and are in no way limited to a few rogue recruiters or even schools,” a  
4 spokeswoman for Mr. Harkin said.

5 128. On August 4, 2010, the U.S. Senate Health, Education, Labor and Pensions Committee  
6 (the “Committee”) held a congressional hearing on recruitment practices of many of the for-profit  
7 educational providers. Senator Tom Harkin, the Committee’s Chairman, noted in his remarks at the  
8 hearing that the GAO report illustrates that the recruitment process at for-profit educational providers is  
9 “specifically designed to do whatever it takes to drive up enrollment numbers, more often than not to  
10 the disadvantage of students” and is “disturbingly clear that abuses in for-profit recruiting are not  
11 limited to a few rogue recruiters or even a few schools with lax oversight. To the contrary, the evidence  
12 points to a problem that is systemic to the for-profit industry.”

## 13 2. *Apollo Group Announces a Series of Investigations*

14 129. On August 6, 2010, the Company filed a Form 8-K with the SEC disclosing that it  
15 received a request for information from the U.S. Senate Committee on Health, Education, Labor and  
16 Pensions relating to for-profit colleges receiving Title IV student financial aid. Specifically, Apollo  
17 Group announced:

18 [T]hat it has received a request for information from the U.S. Senate  
19 Committee on Health, Education, Labor and Pensions relating to the  
20 Committee’s ongoing hearings relating to for-profit colleges  
21 receiving Title IV student financial aid. The request seeks  
22 information to more accurately understand how the Company uses  
23 Federal resources, including how it recruits and enrolls students, sets  
24 program price or tuition, determines financial aid including private or  
25 institutional loans, tracks attendance, handles withdrawal of students  
26 and return of Title IV dollars and manages compliance with the  
27 requirement that no more than 90% of revenues come from Title IV  
28 dollars. The request also seeks an understanding of the number of  
29 students who complete or graduate from programs offered by the  
30 Company, how many of those students find new work in their  
31 educational area, the debt levels of students enrolling and completing  
32 programs and how the Company tracks and manages the number of  
33 students who risk default within the cohort default rate window.

34 In furtherance of this, the Committee has requested that the Company  
35 provide information about a broad spectrum of the Company’s  
36 business, including detailed information relating to financial results,  
37 management, operations, personnel, recruiting, enrollment,  
38 graduation, student withdrawals, receipt of Title IV funds,  
39 institutional accreditation, regulatory compliance and other matters.  
40 The Company intends to cooperate with the Committee and to work

1 with the Committee to provide the requested information in a manner  
2 that does not compromise the Company's sensitive proprietary  
operating and other information.

3 The Committee has requested that the Company produce a portion of  
4 the specified information by August 26, 2010 and the remainder of  
the information by September 16, 2010.

5 130. On August 16, 2010, the Company filed a Form 8-K with the SEC disclosing that it  
6 received a letter from the Higher Learning Commission ("HLC") requiring the Company to provide  
7 certain information and evidence of compliance with HLC accreditation standards. Specifically, Apollo  
8 Group announced:

9 [T]hat its subsidiary, University of Phoenix, Inc., has received a letter  
10 from the Higher Learning Commission ("HLC") requiring the  
11 University to provide certain information and evidence of compliance  
12 with HLC accreditation standards. HLC is a regional accrediting body  
13 recognized by the U.S. Department of Education and is the principal  
14 accreditor of University of Phoenix and its programs. The HLC letter  
relates to the recent report published by the U.S. Government  
15 Accountability Office ("GAO") of its undercover investigation into  
16 the enrollment and recruiting practices of a number of for-profit  
17 institutions of higher education, including University of Phoenix.

18 The letter requires that University of Phoenix submit a report to HLC  
19 by September 1, 2010 that addresses the specific GAO allegations  
20 regarding University of Phoenix and any remedial measures being  
21 undertaken in response to the GAO report. In addition, the report  
22 must include (i) evidence demonstrating that University of Phoenix,  
23 on a university-wide basis, currently is meeting and in the future will  
24 meet the HLC Criteria for Accreditation relating to operating with  
25 integrity and compliance with all state and federal laws, (ii) evidence  
26 that University of Phoenix has adequate systems in place which  
27 currently and in the future will assure appropriate control of all  
28 employees engaged in the recruiting, marketing or admissions  
process, (iii) evidence demonstrating that Apollo Group is not  
encouraging inappropriate behavior on the part of recruiters and is  
taking steps to encourage appropriate behavior, and (iv) detailed  
information about University of Phoenix policies, procedures and  
practices relating to marketing, recruiting, admissions and other  
related matters.

The letter indicates that if the response by University of Phoenix is  
unsatisfactory, HLC may impose additional monitoring or sanctions  
at its meeting in November 2010.

University of Phoenix believes it is in full compliance with the HLC  
accreditation criteria and Apollo Group and University of Phoenix  
intend to cooperate fully with HLC in this matter.

1           3.     ***Apollo Group Revises Its 2011 Outlook***

2           131.   Then, on October 13, Apollo Group announced that it was withdrawing its previous  
3 outlook for its 2011 fiscal year and said that it would be revising its marketing techniques. Specifically,  
4 Apollo Group announced:

5           The Company expects fiscal 2011 to be a year of continuing  
6 transition in its operations as it implements initiatives, primarily at  
7 University of Phoenix, aimed at enhancing the student experience,  
8 expanding student protections and shifting the mix of enrollment to  
9 more experienced students who have a greater likelihood of  
10 succeeding in the Company's programs. Some of these initiatives  
11 include:

- 12           • Changes in the roles of the Company's admissions personnel  
13 and comprehensive changes in their evaluation and  
14 compensation systems, including the elimination of  
15 enrollment results as a component of compensation effective  
16 September 1, 2010
- 17           • University Orientation, a free, three-week, non-credit bearing  
18 program which, beginning November 1, 2010, will be  
19 required for all new students enrolling at University of  
20 Phoenix with fewer than 24 transfer credits; and
- 21           • The continued reduction in emphasis on third-party affiliates  
22 for lead generation and other enhancements to the Company's  
23 marketing approach.

24           The Company expects that the implementation of these initiatives,  
25 together with the effect of other challenges the proprietary education  
26 industry is facing will adversely impact its operating metrics and  
27 financial results. Some of the industry challenges include ongoing  
28 regulatory and other scrutiny which has led to heightened media  
attention, much of which has portrayed the sector in an unflattering  
light. Given the transitional state of the business, and the uncertain  
regulatory environment, the Company is withdrawing its prior  
preliminary business outlook for fiscal 2011. However, the Company  
provides the following commentary:

- 29           • The decline in University of Phoenix new degreed enrollment  
30 experienced in the fourth quarter of fiscal year 2010 is  
31 expected to accelerate during the first quarter of fiscal 2011,  
32 resulting in a significant year-over-year decline.
- 33           • During this period of transition, the Company expects to  
34 continue to make investments in key areas to support its long-  
35 term objectives but also intends to more aggressively manage  
36 its cost structure.
- 37           • The Company believes that, over time, its efforts will  
38 improve student outcomes, including student retention and  
completion rates, and will position the Company for quality  
long-term growth.

1           **4. Attorneys General of Oregon and Florida Launch Investigations**

2           132. On October 19, Yahoo! Finance reported that the state of Oregon was suing Apollo  
3 Group to recover \$10 million the state claims it lost from misleading financial statements. Oregon  
4 Treasurer Ted Wheeler and Attorney General John Kroger filed a securities fraud lawsuit claiming  
5 Apollo Group deceived investors about company revenue between 2007 and 2010.

6           133. On October 22, 2010, the Company filed a Form 8-K with the SEC disclosing that it  
7 received notice from the State of Florida Office of the Attorney General initiated an investigation into  
8 Apollo Group's unfair and deceptive trade practices. Specifically, Apollo Group announced:

9                   [T]hat its subsidiary, The University of Phoenix, Inc. ("University of  
10 Phoenix"), has received notice that the State of Florida Office of the  
11 Attorney General in Fort Lauderdale, Florida has commenced an  
12 investigation into possible unfair and deceptive trade practices  
13 associated with certain alleged practices of University of Phoenix.  
The notice includes a subpoena to produce documents and detailed  
information for the time period of January 1, 2006 to the present  
about a broad spectrum of University of Phoenix's business.

14           **5. The SEC Expands Its Insider Selling Investigation**

15           134. On October 26, 2010, the Company filed a Form 8-K with the SEC disclosing that it  
16 received a request for additional information in connection with Apollo Group's insider trading  
17 policies. Specifically, the Apollo Group announced:

18                   [T]hat it has received from the Enforcement Division of the Securities  
19 and Exchange Commission a request for additional information in  
20 connection with the Division's ongoing informal inquiry regarding  
21 Apollo Group. The most recent inquiry requests information  
22 regarding, among other things, Apollo Group's insider trading  
policies and procedures, a chronology of the internal processing and  
availability of information about the U.S. Department of Education  
program review of University of Phoenix commenced in early 2009,  
and certain information relating to non-Title IV revenue sources..

23           135. As a result of the disclosures, the Company's stock fell over 21% from \$47.14 on  
24 August 2, 2010 to \$36.94 on October 26, 2010.

25           **6. Kentucky Launches An Investigation Of For-Profit Colleges**

26           136. On December 15, 2010, the Kentucky Attorney General's office announced an  
27 investigation into six for-profit colleges that do business in Kentucky, to determine whether their  
28 business practices violate Kentucky's Consumer Protection Act and other state laws. In connection

1 with the investigation, the Attorney General's office subpoenaed documents from the schools regarding  
2 their student loan default rates, advertising claims, student recruitment practices, claims about job  
3 placement, how financial aid funds are managed and dispersed, and accreditation claims. While the  
4 colleges under investigation have not been publicly identified, it is believed that Apollo Group is one of  
5 the colleges being investigated.

6 **7. *The Senate HELP Committee Continues To Investigate***

7 137. The HELP Committee's investigation of the for-profit education industry is still  
8 ongoing. During a February 8, 2011 speech on the Senate floor, Senator Harkin described the HELP  
9 Committee's findings to date as follows:

10 For-profit colleges receive more than \$26 billion in federal student  
11 aid each year. While some of these schools may be doing a good job,  
12 taxpayers deserve to know that their education dollars are being spent  
13 wisely.... According to data released last week by the Department of  
14 Education, percent of for-profit college student loan borrowers  
15 default within three years of leaving school.

16 For-profit colleges have correctly pointed out that they educate a  
17 disproportionate number of low-income and minority students. And  
18 they argue that if they weren't doing a good job, students would not  
19 continue to enroll. How then is it possible that schools with very high  
20 rates of withdrawal, high rates of loan debt, and high rates of default  
21 continue to enroll more and more students each year?

22 The answer, according to my Committee's investigation, lies in the  
23 enormous expenditure of money and effort that for-profit colleges put  
24 into their recruitment process. There have been many stories about  
25 abusive recruitment practices in newspapers and television programs  
26 across the country. Last August, the Government Accountability  
27 Office documented many of those abuses in undercover videos that  
28 were presented at the HELP Committee hearing. The industry argued  
that these misleading and deceptive practices were the work of a few  
rogue actors. But the overwhelming evidence of misleading,  
deceptive and even fraudulent conduct documented by GAO cannot  
be attributed to anything but a systemic effort to enroll students at any  
costs.

24 138. Senator Harkin has also released details on his website regarding the student withdrawal  
25 rates of particular for-profit companies, to supplement the industry-wide information presented in the  
26 HELP Committee's September 30, 2010 report. This company-specific data reveals that Apollo  
27 enrolled 177,368 new students in Associates Degree programs between August 2008 and July 2009 –  
28 over three times more than any other for-profit education company – but that the median attendance

1 time for these students was only 4.2 months, and 66.4% of them had withdrawn by August 2010  
2 without completing the program. See <http://harkin.senate.gov/forprofitcolleges.cfm>.

### 3 **V. THE STOCK REPURCHASES**

4 139. The Board improperly authorized the Company's senior officers to repurchase  
5 outstanding shares of Apollo Group common stock. As of February 28, 2007, the Company's senior  
6 officers had authorization to repurchase up to \$136.1 million of Apollo Group common stock. On June  
7 22, 2007, the Board increased the authorization to repurchase up to \$500 million of Apollo Group  
8 common stock. On October 25, 2007, the Board authorized a stock repurchase program of up to \$500  
9 million of Apollo Group common stock. On June 27, 2008, the Board authorized an increase in the  
10 amount available under the stock repurchase program of up to an aggregate amount of \$500 million of  
11 Apollo Group common stock. As of November 30, 2008, the Company had \$500 million available  
12 under the repurchase authorization. On June 25, 2009, the Board authorized an increase in the amount  
13 available under the stock repurchase program of up to an aggregate amount of \$500 million of Apollo  
14 Group common stock. On February 18, 2010, Apollo Group's Board authorized a \$500 million  
15 increase in the amount available under the share repurchase program up to an aggregate amount of \$1  
16 billion.

17 140. The Board failed to act in the face of a known duty to act when they allowed the  
18 Company's senior officers to purchase a total of over **\$1.3 billion** of its own stock.

19 141. The purchases of the Company's stock, however, were at artificially inflated prices as a  
20 result of the false and misleading statements, press releases, and filings with the SEC that failed to  
21 disclose that the Company's purported growth and profits were achieved through an improper course of  
22 conduct, including misleading students into enrolling in Apollo Group's scholastic and educational  
23 programs through improper methods and engaging in other manipulative recruiting tactics.

24 142. Additionally, Apollo Group's Board was well aware of the false and misleading  
25 statements during the entire repurchase period from March 31, 2008 through May 30, 2010.  
26 Nonetheless, the Board did not halt the Company's purchases and continued to allow the Company to  
27 purchase shares at artificially inflated prices. The Board's decision was not the product of a valid  
28 business judgment.

1 143. The following were the average prices paid for the Company's common stock during the  
2 buyback:

3 Time Period	4 # of Shares	Ave. Price	Total Cost
5 03/31/08 - 04/29/08	9,665,000	\$46.31	\$447,586,150
6 04/30/08 - 05/30/08	159,000	\$42.99	\$6,835,410
7 03/31/09 - 04/29/09	5,139,000	\$63.26	\$325,093,140
8 04/30/09 - 05/30/09	2,073,000	\$57.55	\$119,301,150
9 01/31/10 - 02/27/10	3,355,000	\$59.61	\$199,991,550
10 03/31/10 - 04/29/10	667,000	\$58.10	\$38,752,700
11 04/30/10 - 05/30/10	1,834,000	\$54.54	\$100,026,360
12 05/31/10 - 08/31/10	2,010,000	\$49.76	\$100,017,600
<b>TOTAL</b>	<b>24,902,000</b>		<b>\$1,337,604,060</b>

13 144. Under the Board's authorization, the Company bought back more than \$1,337,604,060  
14 worth of its shares at a weighted average price of \$53.71. Tellingly, this weighted average price is  
15 substantially higher than Apollo Group's share price when its true business health was revealed,  
16 dropping Apollo Group's stock price to \$38 per share on October 13, 2010. This drop removed the  
inflation from Apollo Group's stock price, causing real economic loss to the Company.

17 145. Because the price of Apollo Group's shares was artificially inflated by way of the  
18 Individual Defendants' concealment and misrepresentations, the Company materially overpaid for its  
19 own stock. The stock purchases falsely signaled to Apollo Group's shareholders and the public that the  
20 purchase of the Company's stock at those prices was the best use of Apollo Group's cash. Besides  
21 constituting corporate waste and a violation of fiduciary duties by the Board, the Company's share  
22 purchases also violated the federal securities laws because the Individual Defendants caused Apollo  
23 Group to purchase its own shares at prices that were artificially inflated by the Individual Defendants'  
24 material misrepresentations and omissions, thereby damaging Apollo Group.

## 25 VI. INSIDER SELLING ALLEGATIONS

26 146. Defendants John Sperling, Peter Sperling, D'Amico, Pepicello, Bishop, DeConcini,  
27 Capelli, Redman, Edelstein, Wrubel, Moya, Reis, Swartz, Kirschner, and Iverson made good use their  
28

1 inside knowledge of Apollo Group's false and misleading statements about Apollo Group's growth  
2 prospects.

3 147. While the Individual Defendants were issuing false and misleading statements, John  
4 Sperling sold 4,178,893 shares of his Apollo Group stock for proceeds of \$228,198,812. The following  
5 chart identifies his insider sales of Apollo Group stock:

Name	Date	Shares	Ave. Price	Proceeds
<b>John Sperling</b>	01/14/2008	250,000	79.70	\$19,925,895
	01/15/2008	225,000	79.92	\$17,983,098
	01/16/2008	15,000	80.09	\$1,201,454
	07/11/2008	141,250	55.16	\$7,791,731
	07/14/2008	2,100	55.15	\$115,815
	07/15/2008	75,223	55.03	\$4,139,389
	07/16/2008	47,500	55.51	\$2,636,839
	07/17/2008	29,823	56.79	\$1,693,673
	10/30/2008	5,525	69.64	\$384,761
	01/15/2009	59,500	87.74	\$5,220,397
	01/16/2009	190,500	87.92	\$16,748,301
	01/22/2009	250,000	88.23	\$22,057,710
	04/24/2009	436,500	49.17	\$21,463,294
	07/13/2009	281,250	65.24	\$18,350,550
	07/14/2009	281,250	66.40	\$18,673,783
	07/21/2009	211,202	67.05	\$14,161,923
	07/22/2009	80,298	69.23	\$5,558,729
	07/23/2009	38,500	67.49	\$2,598,688
	07/24/2009	165,000	66.92	\$11,041,425
	07/27/2009	20,311	66.26	\$1,345,843
	07/28/2009	150,000	66.96	\$10,044,930
	07/29/2009	100,000	69.62	\$6,962,970
	07/30/2009	200,000	69.74	\$13,948,918
	07/31/2009	50,000	69.78	\$3,489,170
	08/31/2009	5,525	64.84	\$358,241
	10/29/2009	1,511	58.15	\$87,865
	08/31/2010	5,023	42.49	\$213,428
<b>TOTAL</b>		<b>4,178,893</b>		<b>\$228,198,812</b>

1 148. While the Individual Defendants were issuing false and misleading statements, Peter  
 2 Sperling sold 3,121,036 shares of his Apollo Group stock for proceeds of \$210,704,588. The following  
 3 chart identifies his insider sales of Apollo Group stock:

Name	Date	Shares	Price	Proceeds
<b>Peter Sperling</b>	08/31/2007	1,126	58.67	\$66,062
	10/26/2007	40,000	75.84	\$3,033,840
	10/29/2007	110,000	74.49	\$8,194,538
	10/30/2007	85,000	75.26	\$6,397,814
	10/31/2007	265,000	78.07	\$20,690,167
	11/05/2007	203,725	77.94	\$15,879,345
	01/15/2008	275,000	79.68	\$21,912,523
	01/16/2008	15,997	80.03	\$1,280,286
	07/16/2008	47,500	55.51	\$2,636,839
	07/17/2008	137,500	56.79	\$7,808,744
	07/21/2008	11,500	60.00	\$690,022
	07/22/2008	40,000	60.18	\$2,407,596
	07/23/2008	13,500	61.80	\$834,256
	07/29/2008	100,000	60.82	\$6,082,000
	09/01/2008	1,026	63.68	\$65,336
	10/31/2008	117,500	69.61	\$8,179,567
	01/15/2009	61,100	87.98	\$5,376,061
	01/16/2009	188,900	88.78	\$16,771,120
	01/22/2009	51,179	89.36	\$4,573,785
	07/13/2009	156,250	64.98	\$10,153,677
	07/14/2009	100,000	66.19	\$6,619,000
	07/17/2009	2,000	67.09	\$134,190
	07/20/2009	48,000	67.17	\$3,224,635
	07/21/2009	82,500	67.45	\$5,565,054
	07/22/2009	80,100	69.19	\$5,542,569
	07/23/2009	41,000	67.49	\$2,767,426
	07/29/2009	46,400	68.29	\$3,168,747
	08/31/2009	801	64.84	\$51,937
	04/28/2010	78,332	61.62	\$4,827,092
	04/29/2010	106,279	57.79	\$6,142,724
	04/30/2010	113,821	58.02	\$6,603,769
	07/08/2010	150,000	43.76	\$6,564,975
	07/13/2010	100,000	43.83	\$4,383,770
	07/20/2010	100,000	47.67	\$4,767,170
	07/22/2010	20,000	46.55	\$931,180
	07/23/2010	75,000	50.55	\$3,791,288
	07/29/2010	55,000	47.00	\$2,585,484

<b>TOTAL</b>		<b>3,121,036</b>		<b>\$210,704,588</b>

149. While the Individual Defendants were issuing false and misleading statements, Defendant D'Amico sold 194,362 shares of his Apollo Group stock for proceeds of \$16,230,799. The following chart identifies his insider sales of Apollo Group stock:

Name	Date	Shares	Price	Proceeds
<b>Joseph D'amico</b>	10/30/2008	8,840	69.64	\$615,618
	01/15/2009	166,667	87.31	\$14,553,129
	06/15/2009	8,840	63.62	\$562,401
	10/29/2009	1,617	58.15	\$94,029
	06/15/2010	8,398	48.30	\$405,623
<b>TOTAL</b>		<b>194,362</b>		<b>\$16,230,799</b>

150. While the Individual Defendants were issuing false and misleading statements, Defendant Pepicello sold 50,099 shares of his Apollo Group stock for proceeds of \$4,212,545. The following chart identifies his insider sales of Apollo Group stock:

Name	Date	Shares	Price	Proceeds
<b>William Pepicello</b>	01/14/2008	2,500	78.00	\$195,000
	01/14/2008	3,750	78.00	\$292,500
	10/30/2008	1,197	69.64	\$83,359
	01/15/2009	40,000	87.35	\$3,494,336
	08/31/2009	1,547	64.84	\$100,307
	08/31/2010	1,105	42.49	\$46,951
<b>TOTAL</b>		<b>50,099</b>		<b>\$4,212,454</b>

151. While the Individual Defendants were issuing false and misleading statements, Defendant Bishop sold 44,837 shares of her Apollo Group stock for proceeds of \$3,316,445. The following chart identifies her insider sales of Apollo Group stock:

Name	Date	Shares	Price	Proceeds
<b>Terry Bishop</b>	01/14/2008	1,733	77.01	\$133,470
	01/14/2008	150	75.70	\$11,356
	01/14/2008	10,000	75.70	\$757,098
	01/14/2008	17,500	75.70	\$1,324,922
	01/14/2008	2,500	75.70	\$189,275
	01/14/2008	2,500	75.70	\$189,275
	01/14/2008	3,750	75.70	\$283,912
	01/14/2008	2,000	75.70	\$151,420
	10/30/2008	1,602	69.64	\$111,563
	08/31/2009	1,252	64.84	\$81,180
	10/20/2009	279	58.15	\$16,224
	08/31/2010	287	42.49	\$12,195
	08/31/2010	1,284	42.49	\$54,557
<b>TOTAL</b>		<b>44,837</b>		<b>\$3,316,445</b>

152. While the Individual Defendants were issuing false and misleading statements, Defendant DeConcini sold 46,786 shares of his Apollo group stock for proceeds of \$3,223,357. The following chart identifies his insider sales of Apollo Group stock:

Name	Date	Shares	Price	Proceeds
<b>Dino DeConcini</b>	07/17/2007	15,562	62.54	\$973,360
	07/17/2007	12,750	62.54	\$797,477
	10/31/2007	1,900	76.86	\$146,034
	10/31/2007	100	76.87	\$7,687
	01/14/2008	6,459	78.69	\$508,296
	01/16/2009	6,500	87.23	\$566,995
	07/27/2009	1,500	66.03	\$99,059
	04/28/2010	2,015	61.76	\$124,450
<b>TOTAL</b>		<b>46,786</b>		<b>\$3,223,357</b>

153. While the Individual Defendants were issuing false and misleading statements, Defendant Capelli sold 30,596 shares of his Apollo Group stock for proceeds of \$2,033,675. The following chart identifies his insider sales of Apollo Group stock:

Name	Date	Shares	Price	Proceeds
<b>Gregory Capelli</b>	10/30/2008	11,233	69.64	\$782,266
	04/02/2009	9,756	67.71	\$660,579
	04/02/2010	9,607	61.50	\$590,831
<b>TOTAL</b>		<b>30,596</b>		<b>\$2,033,675</b>

154. While the Individual Defendants were issuing false and misleading statements, Defendant Redman sold 16,375 shares of her Apollo Group stock for proceeds of \$1,286,210. The following chart identifies her insider sales of Apollo Group stock:

Name	Date	Shares	Price	Proceeds
<b>Sue Redman</b>	01/14/2008	5,500	77.00	\$423,500
	01/13/2009	860	86.00	\$73,960
	01/13/2009	8,000	86.00	\$688,000
	07/23/2010	2,015	50.00	\$100,750
<b>TOTAL</b>		<b>16,375</b>		<b>\$1,286,210</b>

155. While the Individual Defendants were issuing false and misleading statements, Defendant Edelstein sold 22,639 shares of his Apollo Group stock for proceeds of \$1,155,973. The following chart identifies his insider sales of Apollo Group stock:

Name	Date	Shares	Price	Proceeds
<b>Charles Edelstein</b>	10/29/2009	11,238	58.15	\$653,490
	10/29/2009	1,263	58.15	\$73,443
	08/26/2010	943	42.32	\$39,908
	08/26/2010	9,195	42.32	\$389,132
<b>TOTAL</b>		<b>22,639</b>		<b>\$1,155,973</b>

156. While the Individual Defendants were issuing false and misleading statements, Defendant Wrubel sold 6,376 shares of his Apollo Group stock for proceeds of \$512,476. The following chart identifies his insider sales of Apollo Group stock:

1 157.

Name	Date	Shares	Price	Proceeds
<b>Robert Wrubel</b>	01/16/2009	3,671	87.01	\$319,414
	01/16/2009	1,400	86.99	\$121,795
	07/10/2009	644	65.05	\$41,892
	07/10/2010	661	44.44	\$29,375
<b>TOTAL</b>		<b>6,376</b>		<b>\$512,476</b>

7  
8 158. While the Individual Defendants were issuing false and misleading statements,  
9 Defendant Moya sold 4,388 shares of his Apollo Group stock for proceeds of \$261,640. The following  
10 chart identifies his insider sales of Apollo Group stock:

Name	Date	Shares	Price	Proceeds
<b>Robert Moya</b>	10/30/2008	1,593	69.64	\$110,936
	09/01/2009	1,454	63.63	\$92,518
	09/01/2010	1,341	43.39	\$58,185
<b>TOTAL</b>		<b>4,388</b>		<b>\$261,640</b>

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16 159. While the Individual Defendants were issuing false and misleading statements,  
17 Defendant Reis sold 2,500 shares of his Apollo Group stock for proceeds of \$207,500. The following  
18 chart identifies his insider sales of Apollo Group stock:

Name	Date	Shares	Price	Proceeds
<b>James Reis</b>	01/13/2009	2,500	83.00	\$207,500
<b>TOTAL</b>		<b>2,500</b>		<b>\$207,500</b>

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23 160. While the Individual Defendants were issuing false and misleading statements,  
24 Defendant Swartz sold 2,499 shares of his Apollo Group stock for proceeds of \$148,505. The  
25 following chart identifies his insider sales of Apollo Group stock:  
26  
27  
28

Name	Date	Shares	Price	Proceeds
<b>Brian Swartz</b>	10/30/2008	855	69.64	\$59,542
	08/31/2009	855	64.84	\$55,438
	08/31/2010	789	42.49	\$33,525
<b>TOTAL</b>		<b>2,499</b>		<b>\$148,505</b>

161. While the Individual Defendants were issuing false and misleading statements, Defendant Kirschner sold 1,000 shares of her Apollo Group stock for proceeds of \$67,940. The following chart identifies her insider sales of Apollo Group stock:

Name	Date	Shares	Price	Proceeds
<b>Ann Kirschner</b>	10/31/2008	1,000	67.94	\$67,940
<b>TOTAL</b>		<b>1,000</b>		<b>\$67,940</b>

162. While the Individual Defendants were issuing false and misleading statements, Defendant Iverson sold 172 shares of his Apollo Group stock for proceeds of \$9,416. The following chart identifies his insider sales of Apollo Group stock:

Name	Date	Shares	Price	Proceeds
<b>Gregory Iverson</b>	7/10/09	86	65.05	\$5,594
	7/10/10	86	44.44	\$3,821
<b>TOTAL</b>		<b>172</b>		<b>\$9,416</b>

163. In total, these insider selling Defendants sold 7,722,558 shares for proceeds of \$471,569,791.

## VII. DUTIES OF THE INDIVIDUAL DEFENDANTS

### A. Fiduciary Duties

164. By reason of their positions as officers, directors and/or fiduciaries of Apollo Group and because of their ability to control the business and corporate affairs of Apollo Group, the Individual Defendants owed the Company and its shareholders fiduciary obligations of trust, loyalty, good faith, and due care, and were and are required to use their utmost ability to control and manage Apollo Group in a fair, just, honest, and equitable manner. The Individual Defendants were and are required to act in

1 furtherance of the best interests of Apollo Group and its shareholders so as to benefit all shareholders  
2 equally and not in furtherance of their personal interest or benefit.

3 165. Each director and officer of the Company owes to Apollo Group and its shareholders the  
4 fiduciary duty to exercise good faith and diligence in the administration of the affairs of the Company  
5 and in the use and preservation of its property and assets, and the highest obligations of fair dealing. In  
6 addition, as officers and/or directors of a publicly held company, the Individual Defendants had a duty  
7 to promptly disseminate accurate and truthful information with regard to the Company's operations,  
8 performance, management, projections, and forecasts so that the market price of the Company's stock  
9 would be based on truthful and accurate information.

#### 10 **B. Audit Committee Duties**

11 166. In addition to these duties, the members of the Audit Committee owed specific duties to  
12 Apollo Group under the Audit Committee's Charter to review and approve quarterly and annual  
13 financial statements, earnings press releases, and to ensure that the Company had appropriate and  
14 effective internal controls over financial reporting. In particular, the Audit Committee's Charter  
15 provided as follows:

#### 16 **Responsibilities**

- 17 3. The Committee will review the Company's quarterly and annual  
18 financial statements and related press releases and filings with the  
19 SEC and discuss such items with management and the Company's  
20 independent auditors prior to issuance and filing with the SEC,  
21 including the Company's disclosures under "Management's  
22 Discussion and Analysis of Financial Condition and Results of  
23 Operations" and any certifications regarding the financial statements  
24 or the Company's internal accounting and financial controls and  
25 procedures and disclosure controls or procedures filed with SEC by  
26 the Company's senior executive management, the Chief Audit  
27 Executive and the independent auditors, the Committee shall  
28 recommend to the Board of Directors whether the Company's  
financial statements should be included in the Company's Annual  
Report on Form 10-K (or the annual report to stockholders if  
distributed prior to the filing of the Form 10-K).
21. The Committee will review reports prepared by management, the  
Chief Audit Executive and the Company's independent auditors with  
respect to the Company's system of internal control over financial  
reporting, including controls relating to the Company's information  
systems, and monitor the implementation of any related  
recommendations for improvements.

1           22.    The Committee will review and discuss with management and the  
2           Company's independent auditors any major issues as to the adequacy  
3           of the Company's internal control over financial reporting, any  
4           special steps adopted in light of material control deficiencies and the  
5           adequacy of disclosures in the Company's periodic SEC filings about  
6           changes in internal control over financial reporting.

7           23.    The Committee will review disclosures made to the Committee by the  
8           Company's Chief Executive Officer and Chief Financial Officer, or  
9           persons performing similar functions, during their certification  
10          process for the Form 10-K and Form 10-Q about any significant  
11          deficiencies in the design or operation of internal controls or material  
12          weaknesses therein and any fraud involving management or other  
13          employees who have a significant role in the Company's internal  
14          controls.

15          24.    The Committee will meet at least annually with management and the  
16          Company's general counsel to discuss the Company's compliance  
17          with applicable legal and regulatory requirements, including any  
18          related internal control systems facilitating such compliance, as well  
19          as the status of any material legal matters affecting the Company.

20           **C.    Control, Access, and Authority**

21          167.    The Individual Defendants, because of their positions of control and authority as  
22          directors and/or officers of Apollo Group, were able to and did, directly and/or indirectly, exercise  
23          control over the wrongful acts complained of herein, as well as the contents of the various public  
24          statements issued by Apollo Group.

25          168.    Because of their advisory, executive, managerial, and directorial positions with Apollo  
26          Group, each of the Individual Defendants had access to adverse, non-public information about the  
27          financial condition, operations, and improper representations of Apollo Group, including information  
28          regarding the student admissions rate and future growth rate.

29          169.    At all times relevant hereto, each of the Individual Defendants was the agent of each of  
30          the other Individual Defendants and of Apollo Group, and was at all times acting within the course and  
31          scope of such agency.

32           **D.    Reasonable and Prudent Supervision**

33          170.    To discharge their duties, the officers and directors of Apollo Group were required to  
34          exercise reasonable and prudent supervision over the management, policies, practices and internal  
35          controls of the Company. By virtue of such duties, the officers and directors of Apollo Group were  
36          required to, among other things:

1 (a) refrain from acting upon material inside corporate information to benefit  
2 themselves;

3 (b) ensure that the Company complied with its legal obligations and requirements,  
4 including acting only within the scope of its legal authority and disseminating truthful and accurate  
5 statements to the investing public;

6 (c) conduct the affairs of the Company in an efficient, business-like manner so as to  
7 make it possible to provide the highest quality performance of its business, to avoid wasting the  
8 Company's assets, and to maximize the value of the Company's stock;

9 (d) properly and accurately guide investors and analysts as to the true financial  
10 condition of the Company at any given time, including making accurate statements about the  
11 Company's financial results;

12 (e) remain informed as to how Apollo Group conducted its operations, and, upon  
13 receipt of notice or information of imprudent or unsound conditions or practices, make reasonable  
14 inquiry in connection therewith, and take steps to correct such conditions or practices and make such  
15 disclosures as necessary to comply with securities laws; and

16 (f) ensure that Apollo Group was operated in a diligent, honest, and prudent manner  
17 in compliance with all applicable laws, rules, and regulations.

18 **VIII. BREACHES OF DUTIES**

19 171. Each Individual Defendant, by virtue of his or her position as a director and/or officer,  
20 owed to Apollo Group and to its shareholders the fiduciary duty of loyalty and good faith and the  
21 exercise of due care and diligence in the management and administration of the affairs of Apollo Group,  
22 as well as in the use and preservation of its property and assets. The conduct of the Individual  
23 Defendants complained of herein involves a knowing and culpable violation of their obligations as  
24 directors and officers of Apollo Group, the absence of good faith on their part, and a reckless disregard  
25 for their duties to Apollo Group and its shareholders that the Individual Defendants were aware or  
26 should have been aware posed a risk of serious injury to Apollo Group.

27 172. The Individual Defendants each breached their duty of loyalty and good faith by  
28 allowing Defendants to cause, or by themselves causing, the Company to make false and/or misleading

1 statements and or failing to disclose: (1) the Company overstated its growth prospects by engaging in  
2 illegal and improper recruiting activities, which also artificially inflated the Company's reported results  
3 and future growth prospects; (2) the Company was manipulating Title IV education funds to lower the  
4 Cohort Default Rate and give the appearance that it was complying with the 90/10 Rule; and (3) the  
5 Individual Defendants lacked a basis for their positive statements about the Company's prospects and  
6 growth. In addition, as a result of the Individual Defendants' illegal actions and course of conduct, the  
7 Company is now being investigated by the SEC for insider trading, investigated by the Florida attorney  
8 general for securities fraud, sued by the Oregon attorney general for securities fraud, and the subject of  
9 class action lawsuits that allege violations of the federal securities laws. As a result, Apollo Group has  
10 expended, and will continue to expend, significant sums of money to rectify the Defendants'  
11 wrongdoing.

#### 12 **IX. CONSPIRACY, AIDING AND ABETTING, AND CONCERTED ACTION**

13 173. In committing the wrongful acts alleged herein, the Individual Defendants have pursued,  
14 or joined in the pursuit of, a common course of conduct, and have acted in concert with and conspired  
15 with one another in furtherance of their wrongdoing. The Individual Defendants further aided and  
16 abetted and/or assisted each other in breaching their respective duties.

17 174. During all times relevant hereto, the Individual Defendants collectively and individually  
18 initiated a course of conduct that was designed to and did conceal the fact that: (1) the Company  
19 overstated its growth prospects by engaging in illegal and improper recruiting activities, which also  
20 artificially inflated the Company's reported results and future growth prospects; (2) the Company was  
21 manipulating Title IV education funds to lower the Cohort Default Rate and give the appearance that it  
22 was complying with the 90/10 Rule; and (3) the Individual Defendants lacked a basis for their positive  
23 statements about the Company's prospects and growth. In furtherance of this plan, conspiracy, and  
24 course of conduct, the Individual Defendants collectively and individually took the actions set forth  
25 herein.

26 175. The purpose and effect of the Individual Defendants' conspiracy, common enterprise,  
27 and/or common course of conduct was, among other things, to: (a) disguise the Individual Defendants'  
28 violations of law, including breaches of fiduciary duty and unjust enrichment; (b) disguise and

1 misrepresent the Company's future business prospects; and (c) make it appear the Company was in  
2 compliance with the Cohort Default Rate and the 90/10 Rule.

3 176. The Individual Defendants accomplished their conspiracy, common enterprise, and/or  
4 common course of conduct by causing the Company to purposefully, recklessly, or negligently release  
5 improper statements. Because the actions described herein occurred under the authority of the Board,  
6 each of the Individual Defendants was a direct, necessary, and substantial participant in the conspiracy,  
7 common enterprise, and/or common course of conduct complained of herein.

8 177. Each of the Individual Defendants aided and abetted and rendered substantial assistance  
9 in the wrongs complained of herein. In taking such actions to substantially assist the commissions of  
10 the wrongdoing complained of herein, each Individual Defendant acted with knowledge of the primary  
11 wrongdoing, substantially assisted the accomplishment of that wrongdoing, and was aware of his or her  
12 overall contribution to and furtherance of the wrongdoing.

13 **X. DAMAGES TO APOLLO GROUP**

14 178. As a result of the Individual Defendants' wrongful conduct, Apollo Group disseminated  
15 false financial statements which failed to disclose that the Company's admissions rates were the result  
16 of improper and illicit marketing techniques and that it was manipulating Title IV education funds. The  
17 improper statements have devastated Apollo Group's credibility. Additionally, Apollo Group is now  
18 the subject of an SEC insider trading investigation and a Florida securities fraud investigation. The  
19 Company is also the subject of an Oregon lawsuit alleging securities fraud, and class action lawsuits  
20 alleging securities laws violations in connection with the improper financial reporting and false  
21 statements. The Company will face substantial costs in connection with these investigations and  
22 lawsuits.

23 179. As a direct and proximate result of the Individual Defendants' actions as alleged above,  
24 Apollo Group's market capitalization has been substantially damaged.

25 180. Further, as a direct and proximate result of the Individual Defendants' conduct, Apollo  
26 Group has expended and will continue to expend significant sums of money. Such expenditures  
27 include, but are not limited to:  
28

1 (a) costs incurred in investigating and defending Apollo Group and certain officers  
2 in class action lawsuits, plus potentially hundreds of millions of dollars in settlement or to satisfy an  
3 adverse judgment;

4 (b) costs incurred from compensation and benefits paid to the Individual Defendants,  
5 which compensation was based at least in part on Apollo Group's artificially-inflated stock price and  
6 inflated revenues; and

7 (c) costs incurred from the loss of the Company's customers' confidence in Apollo  
8 Group's services.

9 181. Moreover, these actions have irreparably damaged Apollo Group's corporate image and  
10 goodwill. For at least the foreseeable future, Apollo Group will suffer from what is known as the  
11 "liar's discount," a term applied to the stocks of companies who have been implicated in illegal  
12 behavior and have misled the investing public, such that Apollo Group's ability to raise equity capital  
13 or debt on favorable terms in the future is now impaired.

14 **XI. DERIVATIVE ALLEGATIONS**

15 182. Pursuant to A.R.S. § 10-742, Plaintiff made written demand on Apollo Group's Board of  
16 Directors to institute this action on December 8, 2010. (Exhibit A).

17 183. The Apollo Board has not responded to Plaintiff's demand, and has not initiated  
18 litigation to protect the Company and its innocent shareholders.

19 184. Consequently, Plaintiff has satisfied the demand requirement of A.R.S. § 10-742, and  
20 has specified the efforts taken to attempt to obtain action prior to filing suit, as required by Fed. R. Civ.  
21 P. 23.1.

22 **COUNT I**

23 **Against Defendants John Sperling, Peter Sperling, Cappelli, Edelstein, Mueller, Bishop,**  
24 **Iverson, D'Amico, and Swartz For Violation of §10(b) of the Exchange Act and SEC Rule**  
**10b-5 Promulgated Thereunder**

25 185. Plaintiff incorporates by reference and realleges each and every allegation contained  
26 above, as though fully set forth herein.

27 186. The wrongful conduct alleged regarding the issuance of false and misleading statements  
28 by Defendants John Sperling, Peter Sperling, Cappelli, Edelstein, Mueller, Bishop, Iverson, D'Amico,

1 and Swartz was continuous, connected, and was on-going throughout the applicable time period. It  
2 resulted in continuous, connected, and on-going harm to the Company.

3 187. As alleged above, Defendants John Sperling, Peter Sperling, Cappelli, Edelstein,  
4 Mueller, Bishop, Iverson, D'Amico, and Swartz knowingly, or with deliberate recklessness, made and  
5 caused the publication of false and misleading statements regarding the Company's growth prospects

6 188. Apollo Group purchased 24,902,000 shares of its own stock on the open market, for a  
7 total cost to Apollo Group of \$1,337,604,060, when Defendants John Sperling, Peter Sperling, Cappelli,  
8 Edelstein, Mueller, Bishop, Iverson, D'Amico, and Swartz knew that Apollo Group's stock price was  
9 artificially inflated due to their misleading statements.

10 189. The false statements and repurchases of Apollo Group stock were intended to and did  
11 manipulate and/or deceive Apollo Group and its shareholders and served to further artificially inflate  
12 the Company's stock price.

13 190. Defendants Defendants John Sperling, Peter Sperling, Cappelli, Edelstein, Mueller,  
14 Bishop, Iverson, D'Amico, and Swartz thereby violated §10(b) of the Exchange Act and SEC Rule 10b-  
15 5 in that they:

16 (a) employed devices, schemes, and artifices to defraud Apollo Group;

17 and

18 (b) made untrue statements of material facts or omitted to state material  
19 facts necessary in order to make the statements made, in light of the circumstances under  
20 which they were made, not misleading; and

21 (c) engaged in acts, practices, and a course of business that operated as a  
22 fraud or deceit upon Apollo Group in connection with the purchases of Apollo Group  
23 common stock.

24 191. As a direct and proximate result of the wrongful conduct of Defendants John Sperling,  
25 Peter Sperling, Cappelli, Edelstein, Mueller, Bishop, Iverson, D'Amico, and Swartz, Apollo Group has  
26 and will suffer damages in connection with its purchases of Apollo Group common stock at prices that  
27 Defendants John Sperling, Peter Sperling, Cappelli, Edelstein, Mueller, Bishop, Iverson, D'Amico, and  
28 Swartz knew to be artificially inflated.

1 192. But for the misconduct of Defendants John Sperling, Peter Sperling, Cappelli, Edelstein,  
2 Mueller, Bishop, Iverson, D'Amico, and Swartz, Apollo Group would not have purchased its stock at  
3 artificially inflated prices. Apollo Group reasonably relied on the diligence, loyalty, and good faith of  
4 Defendants John Sperling, Peter Sperling, Cappelli, Edelstein, Mueller, Bishop, Iverson, D'Amico, and  
5 Swartz in purchasing its stock.

6 193. Defendants John Sperling, Peter Sperling, Cappelli, Edelstein, Mueller, Bishop, Iverson,  
7 D'Amico, and Swartz are therefore liable to Apollo Group for damages in an amount to be determined  
8 at trial pursuant to §10(b) of the Exchange Act and SEC Rule 10b-5 promulgated thereunder.

9 **COUNT II**

10 **Against The Director Defendants for Violation of §20(a) of the Exchange Act**

11 194. Plaintiff incorporates by reference and realleges each and every allegation contained  
12 above as though fully set forth herein.

13 195. The wrongful conduct alleged regarding the issuance of false and misleading statements  
14 was continuous, connected, and was on-going throughout the applicable time period. It likewise  
15 resulted in continuous, connected, and on-going harm to the Company.

16 196. The Director Defendants had the power, and/or ability to, and did, directly, or indirectly  
17 control or influence the Company's general affairs, and had the power and/or ability directly or  
18 indirectly to control or influence Defendants John Sperling, Peter Sperling, Cappelli, Edelstein,  
19 Mueller, Bishop, Iverson, D'Amico, and Swartz, in connection with the specific conduct that violated  
20 §10(b) of the Exchange Act and SEC Rule 10b-5 as alleged above.

21 197. The Director Defendants did not act in good faith and did not act loyally with respect to  
22 their conduct. They are jointly and severally liable under §20(a) of the Exchange Act to the same  
23 extent as Defendants John Sperling, Peter Sperling, Cappelli, Edelstein, Mueller, Bishop, Iverson,  
24 D'Amico, and Swartz for the primary violations of §10(b) and Rule 10b-5 promulgated thereunder, as  
25 set forth herein

**COUNT III**

**Against All Defendants for Breach of Fiduciary Duty**

198. Plaintiff incorporates by reference and realleges each and every allegation contained above, except those contained in the counts, as though fully set forth herein.

199. Defendants owed and owe Apollo Group fiduciary obligations. By reason of their fiduciary relationships, Defendants owed and owe Apollo Group the highest obligation of good faith, fair dealing, loyalty, due care, reasonable inquiry, oversight and supervision.

200. Defendants violated and breached their fiduciary duties of good faith, fair dealing, loyalty, due care, reasonable inquiry, oversight and supervision.

201. Defendants each knowingly, recklessly or negligently signed or approved the issuance of false annual and quarterly financial statements that misrepresented and failed to disclose material information concerning the Company's growth prospects and recruiting activities. These actions could not have been a good faith exercise of prudent business judgment to protect and promote the Company's corporate interests.

202. As a direct and proximate result of Defendants' failure to perform their fiduciary obligations, Apollo Group has sustained significant damages. As a result of the misconduct alleged herein, these Defendants are liable to the Company.

203. Plaintiff, on behalf of Apollo Group, has no adequate remedy at law.

**COUNT IV**

**Against Defendant John Sperling, Peter Sperling, D'Amico, Pepicello, Bishop, DeConcini, Capelli, Redman, Edelstein, Wrubel, Moya, Reis, Swartz, Kirschner, and Iverson for Breach of Fiduciary Duty for Insider Selling and Misappropriation of Information**

204. Plaintiff incorporates by reference and realleges each and every allegation contained above, except those contained in the counts, as though fully set forth herein.

205. At the time Defendants John Sperling, Peter Sperling, D'Amico, Pepicello, Bishop, DeConcini, Capelli, Redman, Edelstein, Wrubel, Moya, Reis, Swartz, Kirschner, and Iverson sold their Apollo Group stock, they knew the information described above, and sold Apollo Group stock on the basis of such information.

1 206. The information described above was proprietary non-public information concerning the  
2 Company's financial condition and future business prospects. It was a proprietary asset belonging to  
3 the Company, which Defendants John Sperling, Peter Sperling, D'Amico, Pepicello, Bishop,  
4 DeConcini, Capelli, Redman, Edelstein, Wrubel, Moya, Reis, Swartz, Kirschner, and Iverson used for  
5 their own benefit when they sold 7,722,558 shares of Apollo Group stock for proceeds of  
6 \$471,569,791.

7 207. At the time of their stock sales, Defendants John Sperling, Peter Sperling, D'Amico,  
8 Pepicello, Bishop, DeConcini, Capelli, Redman, Edelstein, Wrubel, Moya, Reis, Swartz, Kirschner, and  
9 Iverson knew that the Company's financial results were overstated due to the wrongdoing alleged  
10 herein. Their sales of Apollo Group stock while in possession and control of this material adverse, non-  
11 public information was a breach of their fiduciary duties of loyalty and good faith.

12 208. Since the use of the Company's proprietary information for their own gain constitutes a  
13 breach of Defendants John Sperling, Peter Sperling, D'Amico, Pepicello, Bishop, DeConcini, Capelli,  
14 Redman, Edelstein, Wrubel, Moya, Reis, Swartz, Kirschner, and Iverson's fiduciary duties of loyalty  
15 and good faith, the Company is entitled to the imposition of a constructive trust on any profits they  
16 obtained thereby.

17 209. Plaintiff, on behalf of Apollo Group, has no adequate remedy at law.

18 **COUNT V**

19 **Against The Director Defendants for Breach of Fiduciary Duty for Authorizing and Failing to**  
20 **Halt the Company's Stock Purchases**

21 210. Plaintiff incorporates by reference and realleges each and every allegation contained  
22 above, except those contained in the counts, as though fully set forth herein.

23 211. The wrongful conduct alleged regarding the issuance of false and misleading statements,  
24 was continuous, connected, and was on-going throughout the applicable time period. It resulted in  
25 continuous, connected, and on-going harm to the Company.

26 212. The Director Defendants owed and owe Apollo Group fiduciary obligations. By reason  
27 of their fiduciary relationships, these Defendants owed and owe Apollo Group the highest obligation of  
28 loyalty, fair dealing, and good faith.



**COUNT VII**

**Against Defendants John Sperling, Peter Sperling, D’Amico, Pepicello, Bishop, DeConcini, Capelli, Redman, Edelstein, Wrubel, Moya, Reis, Swartz, Kirschner, and Iverson for Unjust Enrichment**

221. Plaintiff incorporates by reference and realleges each and every allegation contained above, except those contained in the counts, as though fully set forth herein.

222. By their wrongful acts and omissions, Defendants John Sperling, Peter Sperling, D’Amico, Pepicello, Bishop, DeConcini, Capelli, Redman, Edelstein, Wrubel, Moya, Reis, Swartz, Kirschner, and Iverson were unjustly enriched at the expense of and to the detriment of Apollo Group.

223. Defendants John Sperling, Peter Sperling, D’Amico, Pepicello, Bishop, DeConcini, Capelli, Redman, Edelstein, Wrubel, Moya, Reis, Swartz, Kirschner, and Iverson were unjustly enriched as a result of the compensation they received while breaching their fiduciary duties owed to Apollo Group.

224. Plaintiff, as a shareholder and representative of Apollo Group, seeks restitution from these Defendants and seeks an order from this Court disgorging all profits, benefits, and other compensation obtained by these Defendants from their wrongful conduct and fiduciary breaches.

225. Plaintiff, on behalf of Apollo Group, has no adequate remedy at law.

**XII. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff demands judgment as follows:

A. Against all the Individual Defendants for the amount of damages sustained by the Company as a result of the Individual Defendants’ violations of federal securities laws, breaches of fiduciary duties, aiding and abetting breaches of fiduciary duty, and unjust enrichment;

B. Directing Apollo Group to take all necessary actions to reform and improve its corporate governance and internal procedures to comply with applicable laws and to protect Apollo Group and its shareholders from a repeat of the damaging events described herein, including, but not limited to, putting forward for shareholder vote resolutions for amendments to the Company’s By-Laws or Articles of Incorporation and taking such other action as may be necessary to place before shareholders for a vote the following Corporate Governance Policies:

- 1 • a proposal to strengthen the Board’s supervision of recruitment  
2 operations and policies;
- 3 • a proposal to strengthen internal controls and policies concerning  
4 student eligibility for federal financial aid and for monitoring and  
5 reporting Cohort Default Rates;
- 6 • a proposal to strengthen the Board’s supervision of operations and  
7 develop and implement procedures for greater shareholder input into  
8 the policies and guidelines of the Board;
- 9 • a provision to permit the shareholders of Apollo Group to nominate at  
10 least two candidates for election to the Board;
- 11 • a proposal to ensure the accuracy of the qualifications of Apollo  
12 Group’s directors, executives and other employees;
- 13 • a proposal to strengthen the Company’s procedures for the receipt,  
14 retention and treatment of complaints received by the Company  
15 regarding accounting, internal controls and auditing matters; and
- 16 • a provision to appropriately test and then strengthen the internal audit  
17 and control functions;

13 C. Awarding to Apollo Group restitution from the Individual Defendants, and each of them,  
14 and ordering disgorgement of all profits, benefits and other compensation obtained by the Individual  
15 Defendants;

16 D. Awarding to Plaintiff the costs and disbursements of the action, including reasonable  
17 attorneys’ fees, accountants’ and experts’ fees, costs, and expenses; and

18 E. Granting such other and further relief as the Court deems just and proper.

19 **XIII. JURY DEMAND**

20 Plaintiff demands a trial by jury.

21 Respectfully submitted,

22 Date: April 12, 2011

23 /s/ Hart L. Robinovitch

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**VERIFICATION**

I, Darlene Smith, hereby verify that I am a shareholder of Apollo Group, Inc. (the "Company"), and am ready, willing, and able to pursue this action in the hope of improving the Company and recovering damages for the Company caused by the defendants' conduct. I have reviewed the allegations made in this Verified Shareholder Derivative Complaint and to those allegations of which I have personal knowledge I believe those allegations to be true. As to those allegations of which I do not have personal knowledge, I rely upon my counsel and their investigation and believe them to be true. Having received a copy of this Complaint, having reviewed it with my counsel, I hereby authorize its filing.

Date: 3/18/2011

A handwritten signature in cursive script that reads "Darlene Smith". The signature is written in black ink and is positioned above the printed name.

Darlene Smith