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10 **UNITED STATES DISTRICT COURT**
11 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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13 UNITED STATES OF AMERICA, ex rel.
14 MARY HENDOW and JULIE ALBERTSON,

15 Plaintiff,

16 v.

17 UNIVERSITY OF PHOENIX,

18 Defendant.
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CASE NO. CIV. S-03-0457 GEB DAD

**JOINT STIPULATION OF DISMISSAL AND
[PROPOSED] ORDER**

[E.D. Cal. Local Rule 83-143]

**[[Proposed] Order also filed concurrently
herewith]**

Judge: The Honorable Garland E. Burrell, Jr.
Place: Courtroom 10

1 Through this Joint Stipulation Of Dismissal, the University of Phoenix (“University”) and
2 Relators Mary Hendow and Julie Albertson (“Relators”) stipulate to and jointly request that the Court
3 dismiss this action on account of the fact that they have entered into a settlement. The settlement
4 between Relators and the University, which has also been entered into and approved of by the United
5 States Department of Justice (“DOJ”), concludes this action. A Proposed Order is filed herewith.

6 **JOINT STIPULATION**

7 WHEREAS, Relators filed this *qui tam* action under the federal False Claims Act on behalf of
8 the United States on March 7, 2003.

9 WHEREAS, the government declined to intervene in this action on May 5, 2003.

10 WHEREAS, Relators filed their Second Amended Complaint in this action on March 4, 2003.

11 WHEREAS, the University answered Relators’ Second Amended Complaint on December
12 20, 2006.

13 WHEREAS, Relators, the University, and the DOJ have entered into a settlement agreement
14 to resolve this action, and desire that the Court dismiss all causes of action asserted by Relators in
15 this action with prejudice as to both Relators and the United States.

16 WHEREAS, all parties have agreed that they will each bear their own costs and attorneys’
17 fees with respect to this action, except as specifically set forth in the parties’ agreements.

18 WHEREAS, the Attorney General, through the DOJ, consents to the dismissal of this action
19 based on its determination that the settlement of this action is an appropriate resolution of the
20 allegations propounded by the Relators and will relieve the United States of any further discovery
21 costs and obligations.

22 WHEREAS, the Court must also give written consent to the dismissal and its reasons for
23 consenting in order to properly effectuate dismissal under the False Claims Act, 31 U.S.C.
24 § 3730(b)(1).

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1 ACCORDINGLY, pursuant to Local Rule 83-143, the parties, by and through their counsel of
2 record, hereby stipulate to, **and request the Court's approval of the following:**

- 3 1. An order dismissing this action, and all causes of action asserted by Relators herein,
4 with prejudice as to both Relators and the United States, for the reason that the parties
5 have settled the action.
- 6 2. An order that the parties shall bear their own costs and attorneys' fees with respect to
7 this action, except as specifically set forth in the parties' agreements.

8 IT IS SO STIPULATED.

9
10 DATED: December 14, 2009

By: /s/ James L. Zelenay, Jr.
James L. Zelenay, Jr.

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Attorneys for Defendant University of Phoenix

20
21 Dated: December 14, 2009

By: /s/ Robert J. Nelson (as authorized Dec. 14, 2009)
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*Attorneys for Mary Hendow and Julie Albertson,
Relators*

1 CONSENTING TO DISMISSAL FOR THE UNITED STATES:
2

3 DATED: December 14, 2009

BENJAMIN WAGNER
United States Attorney

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6 By: /s/ Kendall J. Newman (as authorized on Dec. 14, 2009)

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[PROPOSED] ORDER

This Court, having considered the parties' Joint Stipulation of Dismissal, as well as the United States' consent to that dismissal, finds good cause for dismissing this case. Specifically, the parties have entered into a settlement, which has also been entered into and approved of by the U.S. Department of Justice, to resolve this matter. This constitutes sufficient reason for the Court to consent to the dismissal of this case. Accordingly, the Court does so and orders as follows:

1. Relators' Second Amended Complaint shall be dismissed with prejudice as to relators and as to the United States.
2. The parties shall bear their own costs and attorneys' fees with respect to this action, except for as specifically set forth in the parties' agreements.
3. This case is now CLOSED and dismissed.

IT IS SO ORDERED.

DATED: _____

By: _____
The Honorable Garland E. Burrell, Jr.
United States District Court

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CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2009, the attached document, as well as the accompanying [Proposed] Order was electronically transmitted to the Clerk of the Court using the CM/ECF System which will send notification of such filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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13 I further certify that copies of the foregoing were sent on December 14, 2009, via email and
14 overnight mail to the following parties not registered on the CM/ECF:

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/s/ James L. Zelenay, Jr.