

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

UNITED STATES SECURITIES AND )  
EXCHANGE COMMISSION, )

Plaintiff, )

v. )

ITT EDUCATIONAL SERVICES, INC., )  
KEVIN M. MODANY, and DANIEL M. )  
FITZPATRICK, )

Defendants. )

Civil Action No. 1:15-cv-00758-JMS-MJD

**STATUS REPORT**

Plaintiff United States Securities and Exchange Commission (“SEC”) and Defendants Kevin M. Modany and Daniel M. Fitzpatrick (“Individual Defendants”), by their respective counsel, submit this status report to update the Court on the status of finalizing the relevant settlement documents.

As indicated in the parties’ Joint Motion for Extension of Time to File Motions to Resolve Case [Doc. # 174], since the settlement conference the SEC and Individual Defendants have been negotiating in good faith to finalize the relevant settlement documents. The parties further indicated that they would file a status report updating the Court when the parties have finalized the language in the documents that SEC counsel will recommend to the Commission. The parties hereby inform the Court that the settlement documents have been finalized and, by June 30, 2017, were signed by Messrs. Modany and Fitzpatrick. SEC counsel has begun the process of recommending this settlement for approval by the SEC’s Commissioners.

Dated: July 3, 2017

Respectfully submitted,

/s/ Nicholas P. Heinke

Nicholas P. Heinke

Polly A. Atkinson

Zachary T. Carlyle

U.S. Securities and Exchange Commission

Byron G. Rogers Federal Building

1961 Stout Street, Suite 1700

Denver, CO 80294-1961

Phone: (303) 844-1071 (Heinke)

(303) 844-1046 (Atkinson)

(303) 844-1084 (Carlyle)

*HeinkeN@sec.gov*

*AtkinsonP@sec.gov*

*CarlyleZ@sec.gov*

*Attorneys for Plaintiff United States  
Securities and Exchange Commission*

/s/ David I. Miller (by consent)

David I. Miller (*pro hac vice*)  
Matthew R. Ladd (*pro hac vice*)  
MORGAN, LEWIS & BOCKIUS LLP  
101 Park Ave.  
New York, NY 10178  
Telephone: (212) 309-6000  
Fax: (212) 309-6001  
*david.miller@morganlewis.com*  
*matthew.ladd@morganlewis.com*

and

Eric W. Sitarchuk (*pro hac vice*)  
Ryan P. McCarthy (*pro hac vice*)  
MORGAN, LEWIS & BOCKIUS LLP  
1701 Market St.  
Philadelphia, PA 19103  
Telephone: (215) 963-5000  
Fax: (215) 963-5001  
*eric.sitarchuk@morganlewis.com*  
*ryan.mccarthy@morganlewis.com*

and

Steve Korotash (*pro hac vice*)  
MORGAN, LEWIS & BOCKIUS LLP  
171 Main St., Suite 3200  
Dallas, TX 75201-7347  
Telephone: (214) 466-4000  
Fax: (214) 466-4001  
*steve.korotash@morganlewis.com*

Philip A. Whistler (#1205-49)  
Thomas E. Mixdorf (#16812-49)  
ICE MILLER, LLP  
One American Square, Suite 2900  
Indianapolis, IN 46282-0200  
Telephone: (317) 236-5832  
Fax: (317) 592-4708  
*Philip.Whistler@icemiller.com*  
*Thomas.Mixdorf@icemiller.com*

*Attorneys for Defendant Kevin M. Modany*

/s/ Michael A. Ungar (by consent)  
Fredric D. Firestone (*pro hac vice*)  
Michael A. Ungar (*pro hac vice*)  
James M. Commons (*pro hac vice*)  
Alison L. Nadel (*pro hac vice*)  
MCDERMOTT WILL & EMERY LLP  
500 North Capitol St., N.W.  
Washington, DC 20001  
Telephone: (202) 756-8000  
Fax: (202) 756-8087  
*rfirestone@mwe.com*  
*mungar@mwe.com*  
*jcommons@mwe.com*  
*anadel@mwe.com*

Alan S. Brown (#3536-49)  
Bryan S. Strawbridge (#29076-49)  
FROST BROWN TODD LLC  
201 N. Illinois St.  
Suite 1900  
Indianapolis, IN 46204-4236  
Telephone: (317) 237-3841  
Fax: (317) 237-3900  
*abrown@fbtlaw.com*  
*bstrawbridge@fbtlaw.com*

*Attorneys for Defendant Daniel M. Fitzpatrick*

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a copy of the foregoing document to be served upon all counsel of record by operation of the Court's Electronic Notification system this 3rd day of July, 2017.

/s/ Nicholas P. Heinke  
Nicholas P. Heinke