

United States Senate

WASHINGTON, DC 20510

June 30, 2017

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Clayton:

We write today about the need to ensure accountability for ITT Educational Services, Inc. (ITT), its Chief Executive Officer Kevin Modany, and Chief Financial Officer Daniel Fitzpatrick.

It has been more than two years since the Securities and Exchange Commission (SEC) filed fraud charges against ITT, Mr. Modany, and Mr. Fitzpatrick. When announcing its lawsuit, the SEC noted that top executives, including Mr. Modany, “engineered a campaign of deception and half-truths that left ITT’s auditors and investors in the dark” with respect to its private student loan scheme.

But, the SEC was not alone. The Consumer Financial Protection Bureau sued ITT for illegal conduct related to its private student loan program. The CFPB’s lawsuit claims that ITT pressured students into loans with interest rates as high as 16.5 percent and origination fees up to 10 percent that ITT knew they would never have the ability to repay. This was done by misleading students about the value of an ITT degree, lying about their job prospects, and rushing them through the loan origination process by means of high-pressure and deceptive tactics. According to the CFPB, thousands of students took out expensive loans that “they could not afford, did not want, did not understand, or did not even know they had.”

Amid this illegal misconduct, ITT was receiving billions in federal taxpayer dollars – enriching investors and executives like Mr. Modany and Mr. Fitzpatrick. According to recent analysis by the Department of Education, ITT received \$961 million in federal taxpayer funds between 2013 and 2014 – accounting for 100 percent of the company’s total revenue. From 2007 to 2014, Mr. Modany received more than \$36 million in total compensation. In January 2016, just months before the company collapsed under the weight of its wrongdoing, ITT awarded Mr. Modany and Mr. Fitzpatrick performance bonuses amounting to \$515,048 and \$112,348, respectively.

Across the country, ITT’s failure shuttered 130 campuses and affected nearly 45,000 students, including more than 6,000 veterans. It saddled students with mountains of student debt that they will never be able to repay – subjecting them to ruined credit, wage garnishments, and asset seizures. It left students with nowhere to turn but to federal taxpayers for relief through closed

school discharges and borrower defense to repayment. It is estimated that closed school discharges alone for ITT students will cost federal taxpayers half a billion dollars.

Even after defrauding investors, students, and federal taxpayers in a scheme that led to one of the largest collapses in the history of U.S. higher education, Mr. Modany is coming back for more. He has shamelessly submitted a claim in the ITT bankruptcy proceedings seeking nearly \$3.4 million in severance pay and deferred compensation. He should not be permitted to extract any further blood from the lifeless body of the company that he was responsible for killing.

In fact, justice demands that any outcome in this matter include the highest applicable civil money penalties and disgorgement of the ill-gotten gains with which Mr. Modany and Mr. Fitzpatrick have thus far absconded. In addition, Mr. Modany should be permanently barred from acting as an officer or director of any public company. We also encourage the SEC to work with the Department of Justice to determine whether criminal referral is appropriate. Preventing future misconduct in the for-profit college industry requires that the SEC hold executives in the ITT case accountable. We request an update on what steps the SEC is taking to provide this accountability.

During your confirmation hearing, you pledged that you are "100 percent committed to rooting out any fraud and shady practices." Your handling of the SEC's actions with regard to ITT Tech, Mr. Modany, and Mr. Fitzpatrick will be an opportunity to prove it.

Thank you for your attention to this matter. We look forward to your prompt response.

Sincerely,



Richard J. Durbin
United States Senator



Sherrod Brown
United States Senator

cc: The Honorable Kara M. Stein, Commissioner
The Honorable Michael S. Piwowar, Commissioner