

United States Senate

WASHINGTON, DC 20510

July 20, 2018

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

Dear Chairman Clayton:

We write today concerning the U.S. Securities and Exchange Commission's (SEC) incredible settlement with ITT Educational Services, Inc. (ITT) Chief Executive Officer Kevin Modany.

We were stunned to learn in the press that the SEC recently settled its fraud case against Mr. Modany – barring him from serving as a public company executive in the future but agreeing to a fine of just \$200,000. This measly fine amounts to nothing more than a parking ticket for a man who made \$36 million defrauding students, taxpayers, and investors at ITT between 2007 and 2014. In fact, Mr. Modany's last bonus in January 2016 – even as ITT was crumbling around him – was more than twice the amount of his fine from the SEC under the announced settlement. In addition, the settlement failed to secure an admission of guilt or provide relief to those impacted by Mr. Modany's fraud. With this settlement, you send a message to corporate executives across the for-profit college industry and public companies generally that massive fraud will be met with nothing more than a token slap on the wrist from the SEC.

The SEC's capitulation in this case is even more troubling in light of the ongoing lawsuit against Mr. Modany and former ITT directors by the ITT bankruptcy trustee which seeks \$250 million and sheds additional light on Mr. Modany's gross misconduct. According to the complaint, Mr. Modany "could not be trusted to place ITT's interests above his own personal interests given, among other things, his desire to retain control of ITT and obvious incentive to maintain the benefits of his substantial compensation package" and "rather than exploring strategies to maximize ITT's remaining value for the benefit of all stakeholders, Modany selfishly focused on securing a strategic transaction that would trigger his severance payment..." In fact, in at least one instance according to the complaint, Mr. Modany worked to torpedo a potential sale of ITT.

During your confirmation hearing you pledged that you are “100 percent committed to rooting out any fraud and shady practices.” In a June 2017 letter, Senators Durbin and Brown wrote, “Your handling of the SEC’s actions with regard to...Mr. Modany...will be an opportunity to prove it.” By that test, this settlement fails to uphold your commitment.

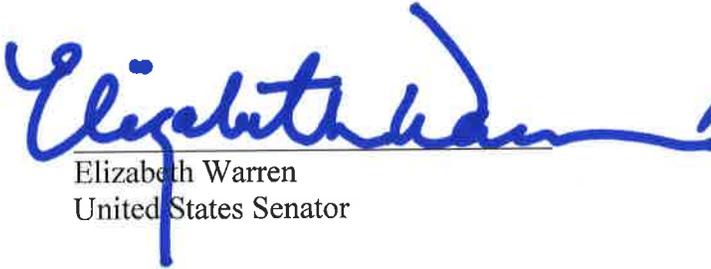
Sincerely,



Richard J. Durbin
United States Senator



Sherrod Brown
United States Senator



Elizabeth Warren
United States Senator



Richard Blumenthal
United States Senator

cc: The Honorable Kara M. Stein, Commissioner
The Honorable Robert J. Jackson Jr., Commissioner
The Honorable Hester M. Peirce, Commissioner