

1 public funds from the State of California. Fresno State is located
2 in Fresno, California, State and Eastern District of California.

3 3. At all relevant times herein, defendant John Escalera was
4 employed at Fresno State as a computer assistant at the Help Desk
5 and Digital Campus center.

6 4. At all relevant times herein, defendant Gustavo Razo, Jr.
7 was a student at Fresno State and a friend of defendant John
8 Escalera.

9 **II. CONSPIRACY/SCHEME TO DEFRAUD**

10 5. Beginning at a date unknown but no later than in or about
11 June 30, 2004, and continuing through no earlier than on or about
12 June 30, 2004, the defendants and others known and unknown to the
13 grand jury knowingly combined, conspired, and agreed among
14 themselves to engage and attempt to engage, and cause and aid and
15 abet others to commit:

16 (A) honest services wire fraud, in violation of Title 18,
17 United States Code, Section 1343.

18 (B) fraud and related activities in connection with
19 computers, in violation of Title 18, United States Code, Section
20 1030(a)(5)(A)(iii) and (B)(i); and

21 (C) identity theft, in violation of Title 18, United States
22 Code, Section 1028(a)(7).

23 **III. FRESNO STATE'S GRADING PROCESS**

24 **a. Introduction**

25 6. Fresno State maintains grades for its student who are
26 enrolled at the university. Those grades are stored electronically
27 as part of the university's computer system. At present, Fresno
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1 State uses the PeopleSoft program to store and access these grades.
2 All of the electronic academic record data from Fresno State,
3 including student grade records, reside in an Oracle database
4 located at the CMS HOSS Data Center run by Unisys in Salt Lake
5 City, Utah. This data includes the results of grade change
6 postings by faculty and subsequent changes by faculty or
7 administrative units. This information, including initial grades
8 and subsequent grade changes, are entered at Fresno State in
9 Fresno, California or other locations in which Internet access can
10 be obtained and then sent across state lines to be stored in Salt
11 Lake City, Utah.

12 7. In or around 2000, Fresno State began a software
13 migration in which student records were converted from a legacy
14 computer system known as SIMS/R into a web enabled browser base
15 software application in the name of PeopleSoft. The records
16 migration was completed in the summer of 2002 but the old SIMS data
17 was maintained for backup and cross reference purposes. The
18 PeopleSoft software provided greater flexibility for management of
19 records and also allowed faculty, staff members and students' ro
20 access their personal records remotely using a standard Internet
21 browser.

22 8. Since the summer of 2002, Fresno State has used the
23 PeopleSoft student information system to record all initial grades
24 assigned by faculty. Faculty members access the system online via
25 the Internet and gain access to their grade roster through a
26 security system that authenticates their user name and confidential
27 password. The system keeps a record of the date and the time that

1 a faculty or staff member logs into the security system via the
2 Internet. The PeopleSoft system also records the PeopleSoft
3 identification number of the user. Once an initial grade is
4 entered, it cannot be changed without following the set procedures
5 required for a grade change.

6 9. With regard to grade changes, Fresno State has set policy
7 and procedures whenever a grade change is requested. Only faculty,
8 certain staff members and student staff assistants have the
9 authority to make grade changes. The defendants in this case did
10 not have authority to make grade changes. Each user must login to
11 the PeopleSoft system using a unique user identification and
12 password. Each request must be accompanied by a grade change form
13 or corresponding documentation, completed by the professor or
14 administrator justifying the grade change. Faculty members and
15 professors can login remotely using their identification and
16 password only during specific grade posting periods. When grades
17 are issued by Fresno State for each semester, a specific date is
18 set when professors and faculty members are required to post
19 student grades. After that date, the university has certain
20 procedures for which a grade may be changed by a professor without
21 requiring paper documentation. However, professors have a limited
22 time period in which this can be done and are required to log into
23 the system using their user identification and password. This
24 allows the change to be recorded through the Audit logs creating a
25 specific entry for the professors user identification. On rare
26 occasions, when a professor is out of town or on sabbatical, a
27 grade change request may be corroborated by a professor via an

1 email to the Registrars office directly. In those instances, the
2 email will contain the justification for the grade change. The
3 grade change will then be conducted by a staff member from the
4 system and the justification annotated in a transcript note. In
5 all standard instances where grade changes are conducted, some form
6 of auditing, electronic, or paper documentation accompanies the
7 grade change.

8 10. Students or former students at Fresno State are allowed
9 to electronically view their academic record via an Internet
10 browser but they are not allowed to change their grades on their
11 own.

12 V. MANNER AND MEANS OF THE CONSPIRACY/SCHEME TO DEFRAUD

13 11. During the above-described time period, the defendants,
14 with the assistance of others, executed the conspiracy/scheme and
15 artifice to defraud by the following manner and means:

16 12. As an employee of Fresno State, defendant Escalera worked
17 for Fresno State as a student assistant at the Help Desk in the
18 Information Technology Service Unit. As a Help Desk Analyst, the
19 defendant had access to the computer management system which was
20 used to authenticate users of the PeopleSoft software. All Help
21 Desk Analysts had personal access to the management console of the
22 computer management system. Defendant Escalera had his own unique
23 user identification and password to access the management system.
24 As part of his duties, defendant Escalera had to regularly assist
25 users and employees who had been locked out of their accounts. He
26 was also employed by Fresno State as a assistant in the Digital
27 Campus office which assists students and departments with access to
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1 the online Backboard system used by faculty to post course
2 materials and assignment via the Internet. Defendant Escalara was
3 not allowed to make grade changes for any reason. The defendant
4 never had authority to enter Fresno State's computer system in
5 order to enter the grade change program. The computer programs and
6 the computers of the university are used in interstate and foreign
7 commerce and communication.

8 13. Using computer software, his knowledge of Fresno State's
9 computer system and computer hacking techniques, defendant Escalara
10 was able to acquire the computer password of a Fresno State
11 supervisor who was working as an operating systems analyst. Using
12 this fraudulently acquired password, the defendant was able to
13 access and acquire administrative privileges. Utilizing these
14 newly acquired and elevated access rights defendant Escalara was
15 able to obtain access to protected databases and acquire computer
16 data which included user names and passwords for other Fresno State
17 employees. These protected databases were obtained by defendant
18 Escalera in an undeciphered format. Once he acquired this data, he
19 was able to use computer software which deciphered the computer
20 data and allowed him to acquire the user name and accompanying
21 password for certain employees. As a result of this, the defendant
22 was able to acquire the user name and passwords for Christina
23 Beddall, Registrar, and Monica Acosta, Extension Academic Program
24 Registrar, MaryKay Stratham, Academic Records Coordinator, and
25 others. As Registrar and Assistant Registrar, both individuals had
26 authority to make grade changes for students. Using Ms. Acosta's
27 unique employee identification number coupled with the defendant's

1 access to Fresno State's computer management system, defendant
2 Escalera was able to change his grade as well as the grades of
3 others. At no time did Ms. Beddall or Ms. Acosta, or any other
4 Fresno State official, ever give the defendant permission to use
5 anyone else identification, including but not limited to Phil
6 Jensen, Christina Beddall, MaryKay Stratham and Monica Acosta, for
7 any purpose, including that of changing grades.

8 14. After acquiring this authority to make grade changes,
9 defendant Escalera then accessed the PeopleSoft software systems to
10 change grades and did so from remote computer locations not located
11 on the Fresno State campus. Using this access, the defendant made
12 grade changes from lower grades to higher grades for himself and
13 later for his friend, Gustavo Razo, Jr.

14 15. In or about the Summer of 2003, officials at Fresno State
15 ran a routine audit to determine the accuracy of the conversion
16 from SIMS/R to PeopleSoft. During this routine audit, university
17 officials noticed discrepancies between the two systems in terms of
18 grades. In January 2005, a greater audit was performed by Fresno
19 State based upon information received from the first audit. During
20 the audits, it was discovered that there existed discrepancies
21 between the SIMS/R database and the PeopleSoft database.

22 16. It was noted that the class and grade designation in the
23 SIMS/R database was different than the same class and grade
24 designation reflected in the PeopleSoft database. Both audits
25 revealed discrepancies in grades with the grades in the PeopleSoft
26 database higher than the grades in the SIMS/R database. Upon
27 further investigation into these discrepancies, Fresno State also
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1 found no documentation to support these grade changes. Upon
2 further investigation by Fresno State, it was determined that the
3 grades that were modified in the Peoplesoft system did not exist in
4 the SIMS system.

5 17. It was discovered that the defendant made the changes on
6 behalf of himself and defendant Razo. Razo paid defendant Escalera
7 in cash for making his grade change.

8 18. Upon discovery of this intrusion, Fresno State incurred a
9 loss aggregating more than \$5,000, which loss included the cost of
10 responding to the offense, conducting a damage assessment, and cost
11 incurred as a result of this conduct.

12 IV. OVERT ACTS

13 19. In furtherance of the conspiracy and to effectuate the
14 objects of the conspiracy, the following overt acts, in addition to
15 others, were committed in the Eastern District of California and
16 elsewhere:

17 a. On or about June 30, 2004, defendant Escalera made a
18 grade change for defendant Razo's by using the identification of
19 Monica Acosta.

20 All in violation of Title 18, United States Code, Section 371.

21 COUNTS TWO THROUGH FIVE: [18 U.S.C. §§ 1343, 1346 and 2- Honest
22 Services Wire Fraud and Aiding and
Abetting]

23 The Grand Jury further charges:

24 Defendants herein described below, as follows:

25 20. Paragraphs 1 through and including 19, inclusive of Count
26 One, above, are fully incorporated by reference as though fully set
27 forth herein.

1 21. Beginning at a time unknown to the grand jury, but no
2 later than in or about January 8, 2004, and continuing to or about
3 June 30, 2004, in the Eastern District of California, and
4 elsewhere, the defendants, as described below, executed a scheme
5 and artifice to defraud, or to aid and abet the same, Fresno State
6 of the intangible right of honest services.

7 22. On or about the dates set forth below, in the Eastern
8 District of California and elsewhere, for the purposes of executing
9 the scheme and artifice to defraud, aiding and abetting and
10 attempting to do so, the defendants, as described below, knowingly
11 sent and/or caused to be sent, on or about the dates set forth
12 below, the following signs, signals and/or sounds transmitted by
13 means of wire communications in interstate and/or foreign commerce
14 to the Eastern District of California:

15 **JOHN ESCALERA**

<u>COUNT</u>	<u>DATE</u>	<u>DESCRIPTION AND RECEIVER</u>
16 TWO	January 8, 2004	Wire transmission reflecting one (1) 17 grade change for himself transmitted 18 from Fresno, California to Salt Lake 19 City, Utah
20 THREE	January 27, 2004	Wire transmission reflecting two (2) 21 grade changes for himself transmitted 22 from Fresno, California to Salt Lake 23 City, Utah
24 FOUR	June 30, 2004	Wire transmission reflecting one (1) 25 grade change for himself transmitted 26 from Fresno, California to Salt Lake 27 City, Utah

28 **JOHN ESCALERA and GUSTAVO RAZO, JR**

<u>COUNT</u>	<u>DATE</u>	<u>DESCRIPTION AND RECEIVER</u>
26 FIVE	June 30, 2004	Wire transmission reflecting one (1) 27 grade change for Gustavo Razo, Jr.

transmitted from Fresno, California
to Salt Lake City, Utah

All in violation of Title 18, United States Code, Sections
1343, 1346 and 2.

COUNTS SIX THROUGH EIGHT: [18 U.S.C. §§ 1030(a)(5)(A)(iii) and
(B)(i) - Fraud and Related Activity in
Connection with Computers]

The Grand Jury further charges:

JOHN ESCALERA,

23. Paragraphs 1 through 19, inclusive of Count One, above,
are fully incorporated by reference as though fully set forth
herein.

24. Defendant herein, on or about the dates set forth below,
intentionally accessed a protected computer without authorization,
and as a result of such access caused damage aggregating at least
\$5,000 in value:

COUNT	DATE
SIX	January 8, 2004
SEVEN	January 27, 2004
EIGHT	June 30, 2004

All in violation of Title 18, United States Code, Sections
1030(a)(5)(A)(iii) and (B)(i).

COUNTS NINE THROUGH ELEVEN: [18 U.S.C. §§ 1028(a)(7) and 2-
Identity Theft and Aiding and
Abetting]

The Grand Jury further charges:

JOHN ESCALARA,

defendant herein, as follows:

25. Paragraphs 1 through 24, inclusive of Counts One through

1 Eight, are fully incorporated by reference as though fully set
2 forth herein.

3 26. Beginning at a time unknown but no later than in or about
4 January 8, 2004 to on or about June 30, 2004, within the State and
5 Eastern District of California and elsewhere, the defendant,
6 without lawful authority, possessed and/or used in interstate
7 commerce, and thereby effected interstate commerce, a means of
8 identification of another person, including, but not limited to,
9 the below described names and other means of identification, with
10 the intent to commit an unlawful activity that constitutes a
11 violation of federal law, to wit: wire fraud, as described in
12 Counts One through Five, above, and unauthorized computer access,
13 as described in Counts Six through Eight, above, and that
14 constitutes a violation of state law, to wit: fraudulent computer
15 access in violation of California Penal Code 502(c)(1):

<u>COUNT</u>	<u>DATE</u>	<u>MEANS OF IDENTIFICATION</u>
16 NINE	January 8, 2004	Grade changes for himself using 17 the means of identification of 18 Christina Beddall
19 TEN	January 27, 2004	Grade changes for himself using 20 the means of identification of MaryKay Stratham
21 ELEVEN	June 30, 2004	Grade changes for himself using 22 the means of identification of Monica Acosta
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1 All in violation of Title 18, United States Code, Sections
2 1028(a)(7) and 2.

3
4 A TRUE BILL.

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6 15)
FOREPERSON

7 MCGREGOR W. SCOTT
8 United States Attorney

9 By Mark E. Cullers
10 MARK E. CULLERS
11 Assistant U.S. Attorney
12 Chief, Fresno Office
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