

## CLIENT ALERT

### Ambiguity Remains After *Escobar*

Nov.09.2016

In *U.S. ex rel. Nelson v. Sanford-Brown Ltd.* (Oct. 24, 2016), the Seventh Circuit, applying the materiality standard articulated by the Supreme Court in *Escobar* ([discussion available here](#)), held that the relator's allegations that the college inflated grades and job placement figures and paid bonuses to employees for recruitment to fraudulently obtain federal student aid money failed because there was no evidence that the college had made any express or implied representations with its claims for payment or evidence that the government's payment decision would likely have been different had it known of the alleged misrepresentations. In contrast, the Eighth Circuit in *U.S. ex rel. Miller v. Weston Educ. Inc.* (Oct. 19, 2016) held that similar allegations withstood summary judgment (as noted by C&M [here](#)), suggesting that the Supreme Court's decision in *Escobar* may not have resolved the circuit split on implied certification after all.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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