

C A M P A I G N F O R

ACCOUNTABILITY

February 27, 2019

By Email: 2019-NPRM-PaydayReconsideration@cfpb.gov

Comment Intake
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: **Docket No. CFPB-2019-0006/RIN 3170-AA80**

Dear Sir or Madam:

Campaign for Accountability (“CfA”), a nonprofit government watchdog organization, is writing to comment on the recently proposed rule concerning Payday, Vehicle Title, and Certain High-Cost Installment Loans.¹ CfA has conducted several investigations into the payday lending industry, and our research has uncovered many examples of the industry’s efforts to influence the Consumer Financial Protection Bureau (“CFPB”) through deceptive tactics. In light of the CFPB’s proposed rule, which would dramatically benefit payday lending companies, CfA is submitting this comment to inform the CFPB about the industry’s hidden maneuvers.

Investigations

On November 2, 2015, CfA released a report, *Academic Deception*, which documented the relationship between a payday lending lawyer, Hilary Miller, the chairman of the Consumer Credit Research Foundation (“CCRF”), a nonprofit group funded by the payday lending industry, and a professor at Arkansas Tech University, Marc Anthony Fusaro.² Mr. Miller is CCRF paid Dr. Fusaro nearly \$40,000 to write a study defending the payday lending industry.³

In 2011, Dr. Fusaro and Patricia J. Cirillo, President of Cypress Research, published a paper entitled, *Do Payday Loans Trap Consumers in a Cycle of Debt?*⁴ The paper concluded, unsurprisingly, that payday loans are not responsible for a debt cycle.⁵ CfA’s investigation uncovered emails showing Mr. Miller reviewed and edited drafts of the study.⁶ He directed Dr.

¹ Press Release, *Payday, Vehicle Title, and Certain High-Cost Installment Loans*, Consumer Financial Protection Bureau, February 6, 2019, available at <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/open-notices/payday-vehicle-title-and-certain-high-cost-installment-loans/>.

² Stephen J. Dubner, *Are Payday Loans really as Evil as People Say*, *Freakonomics*, April 6, 2016, available at <http://freakonomics.com/podcast/payday-loans/>; *Academic Deception*, Campaign for Accountability, November 2, 2015, available at <https://assets.documentcloud.org/documents/2930174/288230891-Academic-Deception.pdf>.

³ *Academic Deception*, Nov. 2, 2015.

⁴ Marc Anthony Fusaro and Patricia J Cirillo, *Do Payday Loans Trap Consumers in a Cycle of Debt?*, *SSRN*, November 16, 2011, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1960776.

⁵ *Id.*

⁶ *Academic Deception*, Nov. 2, 2015.

Fusaro to remove negative information about payday lenders, and instructed him to delete any acknowledgment of Mr. Miller's role in producing the report. The complete report documenting Mr. Miller's role in drafting the paper with Dr. Fusaro and Dr. Cirillo can be found here: <https://www.documentcloud.org/documents/2930174-288230891-Academic-Deception.html>.

More recently, on February 25, 2019, CfA released another report, *Academic for Hire*, revealing Mr. Miller's relationship with a different academic, Jennifer Lewis Priestley, a professor at Kennesaw State University in Georgia.⁷ In 2014, Dr. Priestley published a paper entitled *Payday Loan Rollovers and Consumer Welfare*, the premise of which is that payday loans are beneficial for consumers.⁸

Emails between Mr. Miller and Dr. Priestley, which CfA obtained through an open records request, reveal that Mr. Miller funded, designed, and edited Dr. Priestley's paper.⁹ The emails show, for instance, that Mr. Miller rewrote entire drafts of Dr. Priestley's paper without tracking his changes. He repeatedly implored her to add references to other papers he had funded and solicited comments from CCRF-funded academics to refine her work. In response to one of Mr. Miller's suggested edits, Dr. Priestley wrote, "I am here to serve."¹⁰

After Mr. Miller was satisfied with Dr. Priestley's paper, she published it and the payday lending industry began relying on it to lobby the CFPB to defeat the agency's regulations concerning payday loans. On July 24, 2014, Joi Sheffield, a lobbyist for the Community Financial Services Association of America ("CFSA"), a payday lending trade association, delivered Dr. Priestley's study to David Silberman, the Associate Director for Research, Markets, and Regulation at the CFPB.¹¹ Ms. Sheffield urged Mr. Silberman to "dig deeper into this area."¹² The complete report documenting Mr. Miller's role in drafting Dr. Priestley's paper can be found here: <https://campaignforaccountability.org/wp-content/uploads/2019/02/CfA-Report-Payday-Loans-Miller-Priestley-2-25-19.pdf>.

Ms. Sheffield, the payday lending lobbyist, appears to have violated lobbying disclosure laws when she delivered the paper to the CFPB, failing to include her contacts with the CFPB on behalf of CFSA on her lobbying disclosure forms.¹³ Additionally, CFSA never disclosed that it

⁷ *Academic for Hire*, Campaign for Accountability, February 25, 2019, available at <https://campaignforaccountability.org/wp-content/uploads/2019/02/CfA-Report-Payday-Loans-Miller-Priestley-2-25-19.pdf>.

⁸ Jennifer Lewis Priestley, *Payday Loan Rollovers and Consumer Welfare*, SSRN, December 5, 2014, available at <https://www.documentcloud.org/documents/5686189-Priestley-Miller-Payday-Loan-Rollvers-and.html>.

⁹ *Academic for Hire*, Feb. 25, 2019.

¹⁰ *Id.*, Exhibit I.

¹¹ *Id.*, Exhibit SS.

¹² *Id.*

¹³ Sheffield Brothers, 2011-2018 Lobbying Disclosure Reports on behalf of Community Financial Services Association of America, Secretary of the Senate, Office of Public Records, accessed at <https://soprweb.senate.gov/index.cfm?event=selectFields&reset=1>.

had lobbied the CFPB although *Politico* reported “CFSA officials met at least three times with CFPB Director Richard Cordray” between 2012 and 2015, according to his public calendars.¹⁴

On February 25, 2019, CfA filed a complaint with the Secretary of the Senate and the Clerk of the House of Representatives seeking an investigation into whether CFSA and Ms. Sheffield violated the Lobbying Disclosure Act.¹⁵ CfA’s complaint can be found here: <https://campaignforaccountability.org/wp-content/uploads/2019/02/CfA-LDA-Complaint-Payday-2-25-19.pdf>.

Conclusion

CfA’s investigations of payday lenders have uncovered evidence that representatives of the payday lending industry have bought and paid for seemingly unbiased academic studies to defend their business model and lobby against regulations to protect consumers from payday lending companies. As the CFPB finalizes this rule, the agency should ensure it has not been hoodwinked into relying on what in the end is no more than the payday lending industry’s promotional materials in crafting important consumer protections..

Sincerely,



Daniel E. Stevens
Executive Director

¹⁴ Community Financial Services Association of America, *2012-2018 Lobbying Disclosure Reports*, Secretary of the Senate, Office of Public Records, accessed at <https://soprweb.senate.gov/index.cfm?event=selectFields&reset=1>; Anna Palmer, *Emails Reveal Consumer Protection Agency’s Cozy Ties*, *Politico*, November 19, 2015, available at <https://www.politico.com/story/2015/11/payday-loans-consumer-financial-protection-ties-215797>.

¹⁵ Letter from Daniel Stevens to Julie E. Adams, Secretary of the Senate, and Karen L. Haas, Clerk of the U.S. House of Representatives, February 15, 2019, available at <https://campaignforaccountability.org/wp-content/uploads/2019/02/CfA-LDA-Complaint-Payday-2-25-19.pdf>.