

High Level Officials at the U.S. Department Of Education Worked Closely with Short Sellers and Anti-Career College Advocacy Groups to Achieve a Predetermined Result

High level Department of Education officials had inappropriate contact with short sellers

Steven Eisman and Employees of FrontPoint Partners

Steven Eisman, a known Wall Street short seller met with high level Department of Education officials on two occasions during the rulemaking process. He exchanged emails with high level Department officials on numerous other occasions.

- **Steve Eisman met with Robert Shireman and David Bergeron on April 16, 2010.**
 - Steve Eisman and several employees of FrontPoint Partners met with Robert Shireman and David Bergeron to discuss a slide deck on the for-profit industry that Eisman planned to present at an upcoming investor conference (tab 51).
 - The meeting was organized on April 7, 2010 when Diane Schulman a Partner with the Indago Group met with David Bergeron. After meeting with Bergeron she sent him an email stating, “As I mentioned, Steve Eisman [Partner with FrontPoint Partners], Matthew Leahy [Analyst with FrontPoint Partners] and I will be in Washington for meetings on Friday, April 16th. Steve and Matt would love to have a chance to share some of their exhaustive research on the for-profit education industry and get your input.” (tab 42)
 - Bergeron forwarded Diane’s email to Robert Shireman and Kathleen Smith at the Department of Education with the message, “I suggest we take this meeting. I have some background to share.” (tab 43).
 - After the meeting Chris Susanin, Portfolio Manager at FrontPoint Partners followed up with Shireman and Bergeron thanking them for the meeting. He then said, “If there is a better way to present some objective financial analysis and data that could be helpful and additive to your existing resources, we are more than happy to help in an arms – length fashion.” He ended his email by saying “I hope we have a chance to continue a healthily dialogue”. (tab 52)
 - Shireman forwarded this slide deck to Phil Martin at the Department on May 24th, two days prior to Eisman’s speech. (tab 70)
- **Steve Eisman met with Robert Shireman and David Bergeron again on April 26, 2010.**
 - An article in Fortune magazine titled, “Did Steve Eisman unduly influence the Education Department?” David A. Kaplan reported that Steve Eisman again “talked to two senior DOE staffers to discuss a speech Eisman was giving a few weeks later. The highly publicized speech at the Ira Sohn Investment Research Conference in Manhattan on May 26 was titled “Subprime Goes to College”. (tab 58)

- The article later confirmed that Eisman met with Robert Shireman and David Bergeron. It stated that, “What Shireman and Bergeron heard from Eisman would become his stock presentation. In a series of slides titled “Subprime goes to College,” Eisman talked about the for-profits’ operating margins, operating profits, executive compensation, and other matters - all the while arguing that for-profits don’t deliver on job promises related to the career-oriented and vocational degrees they grant.” (tab 58)
 - Robert Shireman gave a speech two days after meeting with Eisman where he likened for-profit colleges to the financial institutions that took excessive risks and caused the 2008 meltdown. Shireman mentioned “subprime” twice in his speech. (tab 59A/59B)
- **Steve Eisman and employees from FrontPoint Partners frequently communicated with Department officials.**

- On April 20, 2010 Steve Eisman forwarded a Heights Analytics research report titled “For-Profit Ed – ESI Lawsuit Docs Attached” to David Bergeron with the message, “For your reading pleasure.” (tab 54)
- On April 22, 2010 Matthew Leahy, a FrontPoint Partners employee sent David Bergeron and Bob Shireman an updated presentation with “new analysis that I thought you may find interesting.” (tab 56)
- On May 26, 2010 Steve Eisman emails David Bergeron notifying him that he just spoke at the Ira Sohn Investor conference. In the email he says “The presentation is very negative on the industry.” (tab 73)
- On May 28, 2010 Eisman sends an emailed to James Kvall and David Bergeron. In his email, Eisman mentioned that “I have been hearing that the DOE is considering adjusting the gainful employment metrics in response to the industry backlash against the proposal.” He also said, “In our opinion, if the Department were to move substantially away from the initial combination (8% and 10-yr repayment), that it would be better off to have no gainful employment rule at all...” (tab 76)
- On May 28, 2010 Steve Eisman sent an email to many individuals at the Department of Education. In his email he provided his presentation and a transcript of his speech at the conference. (tab 77)

Carmel Martin, Assistant Secretary for Planning, Evaluation and Policy Development, U.S. Department of Education forwarded Eisman’s email to Tony Miller, Deputy Secretary, U.S. Department of Education, Margot Rogers, Chief of Staff U.S. Department of Education, Peter Cunningham, Assistant Secretary for Communications and Outreach, U.S. Department of Education, Charlie Rose, General Counsel, U.S. Department of Education, Martha Kanter, Gabriella Gomez, Bob Shireman and Georgia Yuan, Deputy General Counsel, U.S. Department of Education. In her message she said “I’ll take a look to see if any of it is worth asking Maribel to give to Arne.” (tab 78)

Charlie Rose asked if this has been forwarded to Bob Shireman saying, “I’m sure he would be interested”. (tab 79)

- On June 1, 2010 Matthew Leahy at FrontPoint Partners sent David Bergeron and Kathleen Smith the email Steve sent on Friday with the message “courtesy of Steve.” (tab 81)

- On June 29, 2010 Diane Schulman sent Bob Shireman an article on Steve Eisman from Inside Higher Ed titled “Investor Who Criticizes For-Profit Colleges Will Help Indebted Student” (tab 94)

Antal Desai an Analyst with CPMG, Inc.

Antal Desai, a known Wall Street short seller organized a fictitious letter to Arne Duncan and met with high level Department of Education officials during the rulemaking process.

- Ann Manheimer, Director, Workforce Development met with Antal Desai, Lee Godown, a lobbyist working for CPMG, Rob McArthur, Founder of Alternative Research Services, Inc a company that according to McArthur’s LinkedIn page “provides research to long/short equity funds primarily in the for-profit, soon to be for-loss, education sector amongst other spaces in decline.” At the meeting the group shared “gainful employment” examples. (tab 38)
- On June 17, 2010 the National Coalition for Homeless and 19 administrators of homeless shelters urged Secretary Duncan to tighten its regulation of for-profit schools based on allegations that recruiting at homeless shelters “is a growing problem.” On July 9, 2010 a ProPublica article revealed that several signers of the June 17 letter from administrators of homeless shelters felt they were misled by the person who coordinated the signing of the letter, that she failed to disclose who she was working for, and that several did not have actual knowledge of recruiting occurring at homeless shelters. ProPublica later reported that the coordinator of the letter was paid by short seller Antal Desai’s CPMG Investment Management Company. (tab 89)

Manuel P Asensio. Managing Member of Mill Rock, LLC

- Manuel Asensio, a known Wall Street short seller founded the “Alliance for Economic Stability” a non-profit organization created to advocate for his short positions. He used this organization to send Arne Duncan several letters advocating against for-profit institutions. Bob Shireman forwarded Manuel’s letter from May 4 to Mary Mitchelson and Robin Minor of the U.S. Department of Education. (tab 61)

Non-Federal Negotiators had Inappropriate Contact with Short Sellers

Florida Community College at Jacksonville Employees

Jim Simpson, Associate Vice President of Workforce Development and a primary non-federal negotiator, Susan Lehr, Vice President of Government Relations and an alternate non-federal negotiator and Steven Wallace, the President had frequent inappropriate contact with short sellers.

- **Jim Simpson, in clear violation of the Organizational Protocols met with John Horton at Water Street Capital during the January negotiating session.**
 - Section VI C of the Organizational Protocols states that, "Contact with the media, the investment community, and other organizations outside the community of interest represented by the member will generally be limited to discussion of the overall objectives and progress of the negotiations. Members will refrain from characterizing the views, motives, and interests of other members during contact with the media, the investment community, and other organizations outside the community of interest represented by the member." (tab 25A/25B)
 - Jim Simpson confirmed meeting with John Horton, an employee at Water Street Capital during the January negotiating session.

In an email to John Horton, Jim Simpson stated, "It was a pleasure to meet you in DC during the US DOE Negotiated Rule Making. A friend provided me with this Credit Suisse analysis of the impact of USDOE's proposed gainful employment regulations. Thought you might be interested." (tab 31A)

- **Frequent communication with Water Street Capital**
 - On April 24, 2009, Steven Wallace, President of Florida Community College at Jacksonville sent an email to Gilchrist Berg, Founder of Water Street Capital: "All right, my friend. Here is a bunch of good stuff to get you started in your exploration of greed, corruption and predatory schemes among Florida's proprietary and for-profit career 'colleges'....The two bonus documents were prepared by my VP for Government Relations [Susan Lehr, Vice President of Government Relations at Florida Community College at Jacksonville]. She is unquestionably the best higher ed lobbyist in Florida and is the designated antagonist of the privates." (tab 7)
 - On July 8, 2009, Jim Simpson sent an email to Susan Lehr and Elizabeth Baldwin forwarding email from Antal Desai with CPMG, Inc.: "Antal Desai would like to talk with one of you regarding the rules hearing and the state of 'for profit' education. He is interested in hearing additional student testimonials. CPMG is a mid size investment company located in Dallas. It appears they have made some investments (stocks) of publicly traded education companies. I think they are trying to determine the amount of risk that may be associated with these investments." (tab 19)
 - On July 28, 2010, Susan Lehr looked into Antal Desai by sending Barmak Nassirian an email stating, "Don't know if you remember me, I'm the lady from FL that is always lobbying against the for-profits. Quick question, do you know Antal Desai? He says he is working to persuade Congress to tighten regulations on the for-profits and asked me to provide student stories. Is he legitimate? He mentioned that he knew you and worked with you on these issues. I would like to know before I forward stuff to him."

Nassirian responded, "I know Antal and have been impressed with him and his firm. I don't care—or fully understand—what their financial interests in these matters might be, but have found them to be reliable and their information to be of very high quality." (tab 20)

- On April 7, 2010 Susan Lehr sent an email to Joe Jangro asking for the average profit margin for the for-profit industry. She wanted this information to give to a reporter doing a "big story on FP's". Joe responded with the average profit margin on April 8. (tab 42)

On April 11, 2010 Lehr sent an email to Antal Desai "Antal, can you give me the proper footnote to reference this figure [for profit education profit margins]? I think too will use this info in fighting a for-profit funding (state money) that is before the legislature in committee this week. (tab 46)

- On April 22, 2010 Joe Jangro, sent Susan Lehr an email with the subject line, "Don't know if you saw this". In the email he forwarded Arne Duncan's op-ed from April 21st. Susan forwarded Joe's email to Pauline Abernathy, Jim Simpson, Debbie Cochrane, Lauren Asher, Edie Irons, Luke Klipp and Connie Meyers (Jameson) asking Pauline "can one of you forward this to our group to see?" (tab 57)
- On July 22, 2010, Steven Wallace sent an email to Gilchrist Berg: "Breaking news Gilchrist. Reporters will be briefed by US DOE on the proposed gainful employment reg at 6pm tonight with public release at midnight. We expect lots of market churn. Susan Lehr will be able to share interpretations and insights tomorrow." (tab 100)

- **Communication with Steve Eisman**

- On May 26, 2010 Susan Lehr sent an email to Steve Eisman: "I cannot thank you enough for speaking out on the for-profit higher ed industry. I read your speech and could just leap with joy!"

Eisman responds, "You are welcome. Pls stay in touch." (tab 72)

- On July 21, 2010 Steve Eisman called Jim Simpson. This is confirmed in an email from Lehr to Abernathy: "Hey – Eisman had questions for Jim on Wednesday. they spoke for about an hour...I was so happy for him to have such a cool conversation. I love having found such friends as all of you to help wage this battle." (tab 96)

Robert Shireman, Deputy Under Secretary for Postsecondary Education Violated President Obama's Ethics Code by Having Improper Contact With the Organization He Founded, The Institute for College Access and Success (TICAS)

- Prior to joining the Obama Administration, Robert Shireman was the Founder and President of The Institute for College Access and Success or TICAS, which is a “registered lobbying client.” (tab 1A)
- TICAS provided grants to US PIRG, USSA and the National Consumer Law Center. All three organizations were represented on the negotiating committee.
- According to a November 17, 2008 Inside Higher Ed article, Robert Shireman joined the Obama transition team in November of 2008. (tab 1)
- In February of 2009 Robert Shireman became a consultant serving as Senior Advisor to the Secretary.
- On April 22, 2009 Arne Duncan announced that Robert Shireman is joining the administration on a permanent basis, as Deputy Under Secretary for Postsecondary Education, which a department spokesman described as a new position that would not require Senate confirmation, unlike the Assistant Secretary for Postsecondary Education job that many observers had expected Shireman to fill. (tab 6)

- The Obama Transition Project Ethics Code states –

I will disqualify myself from involvement in any particular Obama Transition Project matter which to my knowledge may directly conflict with a financial interest of an immediate family member, partner, client, or other individual or organization with which I have had a business relationship within the past 12 months. (tab 39A/39B)

- The Obama administration's ethics pledge for all executive branch political appointees states –

Revolving Door Ban: All Appointees Entering Government. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts. (tab 39A/39B)

- In a clear violation of both President Obama's Code of Ethics and the Obama administration Ethics Pledge, Robert Shireman and other high level Department officials worked closely with TICAS to ensure a predetermined result. Robert Shireman and high level Department officials constantly exchanged emails with TICAS from 2009 to 2010. In addition to those emails, they were involved with the following exchanges.
 - On April 15, 2009, days before being appointed as Deputy Under Secretary Robert Shireman received an email from a Fortune reporter working on a social/peer-to-peer lending for college story. Shireman forwarded the story to Edie Irons at TICAS who had Lauren Asher, TICAS's President provide a quote.

In Edie's response to Shireman she said, “Belated congratulations on your new almost-official position! We're all proud of you and excited for what's to come, but also missing you.” (tab 5)

- On February 2, 2010 (The week after negotiations ended) Pauline Abernathy (TICAS) forwarded a Height Analytics research note titled, "For-Profit Ed: Gainful Employment Means Higher Wage & Lower Tuition" to Robert Shireman, Steve Burd, the editor of Higher Ed Watch, a public policy blog published by the New America Foundation, Deanne Loonin, James Kvaal who at this time was with the White House National Economic Council, Lauren Asher, President of TICAS, Luke Klipp, Policy Analyst with TICAS, Luke Swarthout and Barmak Nassirian with the message, "FYI". Deanne Loonin responded, "Can we set up a strategy session at some point relatively soon? The responses so far I have seen from the industry, while not surprising, show how hard they will be fighting this."

Pauline Abernathy replied to this email asking Luke Swarthout, James Kvaal and Bob Shireman – "Do you want to be part of a for-profit call, or should we schedule a neg reg follow-up conference call without you?"

Luke Swarthout responded to this email indicating they would be interested in joining the call.

Bob Shireman responded that he would like to join if available and that "[Michael] Dannenberg [Department of Education] has now joined us too and might be available". Bob copies Michael Dannenberg and Leigh Arsenault, Confidential Assistant Office of the Under Secretary.

Luke Swarthout responded, "I would like to call in as well." (tab 30)

- On March 15, 2010, Pauline Abernathy send an email to Robert Shireman, Leigh Arsenault, Gabrilla Gomez, Assistant Secretary for Legislation and Congressional Affairs, U.S. Department of Education, Dan Madzellan, Michael Dannenberg, Lauren Asher, Debbie Cochrane, Program Director at TICAS, Connie Meyers, lobbyist for TICAS, and Deanne Loonin. In the message she states that the Payne/Hastings Dear Colleague letter asks members to sign a letter to Secretary Duncan urging the Department not to move forward on gainful employment until "a comprehensive data-based review" is conducted. Pauline ends her message by saying, "It would be helpful to know what if anything the Dept. is doing in response to inform what TICAS and other organizations that support changes in gainful employment regulations do. Thanks, Pauline"
- On March 31, 2010, Pauline Abernathy sent an email to Susan Lehr, Margaret Reiter a lawyer who has been an advocate against for-profit colleges, Deanne Loonin, Rich Williams a student with affiliations to USPIRG, Steve Burd, Barmak Nassirian, David Hawkins, Amanda Modar, Government Relations Manager at NACAC, Jamie Studley, President and CEO of Public Advocates Inc, James Simpson, Luke Klipp, Lauren Asher, and Debbie Cochrane. In her email she documented a conversation she had with Ann Manheimer.

Pauline said, "She [Ann Manheimer] asked for gainful employment examples in whatever format we have them (e.g examples of people who took on debt but can't find job in promised field or the jobs don't pay enough to repay). She does not need names, but as much information as we have is helpful and will make it more useful to them. Please send them directly to her. But do not ask others to send things directly to her. So if you know people with examples or legal documents with examples in them, please send them to Ann yourself rather than asking others to do so. She has all the examples from the public hearing and the Westwood litigation and Lee Godown [Lobbyist] from Public Strategies Inc has brought Rob McArther and Antal Desai in to meet with them. She does not know Diane Schulman, a partner with the Indago Group." (tab 38)

- On April 29/30, 2010, Robert Shireman, Deanne Loonin, Margaret Reiter, Tim Ranzetta, Founder and President of Student Lending Analytics, Jamie Studley, Michelle Rodriguez, Senior Staff Attorney at Public Advocates, Lauren Asher, Eddie Irons and Pauline Abernathy attended a two day brainstorming session at the TICAS offices focused on distressed federal student loan borrowers. (tab 60A - F)
- On May 5, 2010, Fred Sellers notified Pauline Abernathy that APSCU (Career College Trade Association) had set up a website urging its members to have students sign a petition to “reject the Department of Education’s definition of Gainful Employment”. Using the information, Pauline Abernathy sendt an email to Ann Manheimer, Leigh Arsenault, Gabriella Gomez, Robert Shireman, James Kvaal, Hal Plotkin, Senior Policy Advisor to Under Secretary of Education, U.S. Department of Education, Martha Kanter, Under Secretary of Education U.S. Department of Education and Dan Madzelan with the subject line “CCA astroturfing opposition to defining gainful employment”. In her email Abernathy mentioned that CCA is urging members to have students reject the Gainful Employment proposal.

Pauline forwarded the email she sent to Fred Sellers thanking him for sharing the information. Pauline said, “I assumed you didn’t want it attributed but pls let me know if I assumed incorrectly.” Fred Sellers responds, “Yep, would not want my name attached to it but knew some folks would care very much about these activities.” (tab 63)

- On June 6, 2010, Pauline Abernathy sent an email to Luke Swarthout, Bethany Little, Chief Education Counsel for the Committee on Health, Education, Labor and Pensions, Robin Juliano, James Kvaal (private email account), Robert Shireman, Connie Meyers, Lauren Asher and Debbie Cochrane. In the email she said, "FYI - After hearing CCA refer to its members as taxpaying and unsubsidized, we created the attached spreadsheet with the actual numbers from their member’s reports to the SEC. (tab 82)

On the same day Pauline Abernathy sent an email to James Kvaal (at his personal address) and Robert Shireman. In the email she attached a file and said, "FYI We did the attached for Luke S in Feb and he said we could share it with you." The file is titled “CCA Fact Checks Feb 24 Final”. (tab 83)

Robert Shireman, Deputy Under Secretary for Postsecondary Education and Other High Level Department Officials Selected Negotiators Biased Against For-Profit Colleges to Ensure a Predetermined Result.

The Department selected 17 primary non-federal negotiators and 17 alternate non-federal negotiators. One primary non-federal negotiator represented the for-profit sector and one alternate non federal negotiator represented the for-profit sector and 2 negotiators represented National Accreditation Agencies.

An Inside Higher Ed article titled, "In the Crosshairs", stated:

"Given the issues on the panel's agenda, its membership leans notably toward critics of the for-profit sector of higher education, and decidedly short on representatives of the colleges."

"What's more unexpected, perhaps, is that the group gathered by the department to negotiate a set of issues that relate heavily to for-profit institutions contains so many other members with a clearly stated antipathy toward the sector, and so few members from for-profit institutions themselves. "(tab 24A/24B)

An Inside Higher Ed article titled, "It's Up to the Department Now", stated

"On incentive compensation, the department risks being seen as attacking only the for-profits, a charge that emerged as the Obama administration took control, and that further intensified with the realization that just four of the 28 primary and alternate negotiators on the panel to discuss all the issues at play in this rule making session represented for-profit institutions."

"On the first day of rule making, Elaine Neely, senior vice president of regulatory affairs for Kaplan Higher Education, tried to add two more primary negotiators to the panel, both of whom represented for-profit institutions different in size and management from Kaplan, which is owned by the Washington Post Co. Margaret Reiter, a former California deputy attorney general who prosecuted cases against for-profit institutions, opposed the additions."

A review of the negotiators shows that the membership is composed primarily of members with a severe bias towards for-profit colleges.

Primary Non-Federal Negotiators

- Jim Simpson - associate vice president of workforce development and adult education at Florida State College (formerly Florida Community College at Jacksonville), was appointed to fill a slot designed to represent the interests of "work force development." Simpson traveled to Denver in June to speak at one of three regional hearings and offered a stinging critique of for-profit colleges. Simpson appears in emails with both short sellers and advocacy groups fighting against the for-profit colleges.
 - Involved with noted short seller Steve Eisman – Susan Lehr sent an email stating, "Hey – Eisman had questions for Jim on Wednesday.. they spoke for about an hour..." (tab 99)
 - Jim sent an email to John Horton at Water Street Capital (Gilchrest Berg's firm). In his email he states, "It was a pleasure to meet you in DC during the US DOE Negotiated Rule Making. A friend

provided me with this Credit Suisse analysis of the impact of US DOE's proposed gainful employment regulations. Thought you might be interested." (tab 31A)

- Jim forwarded an email to Susan Lehr from noted short seller Antal Desai saying "Antal Desai would like to talk with one of you regarding the rules hearing and the state of 'for profit' education." (tab 19)
- David Hawkins – director of public policy at the National Association for College Admission Counseling (NACAC) represented the interests of admissions officers. NACAC does not let for-profit colleges into its membership. Examples of emails Hawkins is involved in are -
 - Hawkins received emails from Rob MacArthur the President of a firm working with noted short sellers. (tab 33)
 - In a 2007 article Hawkins wrote, "In reality, the 'contest' in Washington is one to preserve the integrity of student-aid programs in an environment characterized by increasingly aggressive recruiting, indiscriminate admissions and loan financing -- often with little to no regard for the student's ability to benefit or repay -- and questionable 'return on investment' for many students lured in by the publicly traded for-profit colleges' massive advertisement complex." (tab 24A/24B)
- Margaret Reiter – was selected as a primary negotiator representing Consumer Advocacy Organizations. Margaret testified at the June 24, 2010 HELP hearing on for-profit colleges. At the hearing she stated –
"I worked as a Deputy Attorney General, then a Supervising Deputy Attorney General in the Consumer Law Section of the California Attorney General's Office for 20 years, until I retired at the end of 2008. The first cases I prosecuted in the late 80's and early 90's and one of the last prosecutions I supervised before I left were against postsecondary proprietary schools..."
- Rich Williams – a student representing US PIRG was selected as a primary negotiator. US PIRG is an organization that consistently advocates against for-profit colleges. From 2005 – 2008, TICAS provided over \$1.25M in grants to support their advocacy efforts. Before joining Senator Harkin, Luke Swarthout worked as an advocate for US PIRG. Williams appears prominently in emails with advocacy groups fighting against the for-profit institutions.
- Terry Hartle – a senior vice president for government and public affairs at the American Council on Education (ACE) was the primary negotiator representing College Presidents. According to Insider Higher Ed, "ACE, as the lead lobbying group for higher education, almost always sides with traditional colleges in policy debates." (tab 24A/24B)
- Elaine Neely was the only primary non-federal negotiator representing the for-profit sector.
- 6 primary non-federal negotiators represented public/non-profit institutions or regional accreditors with known bias against for-profit institutions.

Alternate Non-Federal Negotiators

- Susan Lehr – Vice President of Government Relations at Florida Community College at Jacksonville was described in 2009 by her boss as, “the best higher ed lobbyist in Florida and is the designated antagonist of the privates.” (tab 7) She is included on several emails including the following -
 - In an email to Barmak Nassirian, Susan Lehr says, “Don’t know if you remember me, I’m the lady from FL that is always lobbying against the for-profits. (tab 20)
 - Susan Lehr sends Pauline Abernathy at TICAS an emails saying, “I love having found such friends as all of you to help wage this battle.” (tab 99)
- Deanne Loonin - Loonin is a Staff attorney with the National Consumer Law Center and the Director of NCLC’s Student Loan Borrower Assistance Project. The Student Loan Borrower Assistance Project is a project Deanne works on with TICAS. Loonin appears prominently in emails including the following –
 - Upon learning of Shireman’s departure Loonin sent an email to several negotiators stating "We are fortunate Bob was on these as long as he was. And hopefully they will bring someone in to keep things rolling." (tab 65)
 - Immediately following the January negotiating session Loonin sent an email to several advocates stating, “Can we set up a strategy session at some point relatively soon? The responses so far I have seen from the industry, while not surprising, show how hard they will be fighting this.” (tab 30)
- Angela Peoples – a student representing USSA is selected as an alternate negotiator. USSA is another organization that consistently advocates against for-profit colleges.
- Amanda Modar – Government Relations Manager at National Association for College Admission Counseling (NACAC) an alternate negotiator represented the interests of admissions officers. NACAC does not let for-profit colleges into its membership.
- David Rhodes was the only alternate non-federal negotiator representing the for-profit sector.
- Six alternate non-federal negotiators represented public/non-profit institutions or regional accreditors with known bias against for-profit institutions.

Department Officials Conducted A Non-Transparent Process And Mislead For-Profit Colleges By Stating That The Regulations Were Intended To Affect All Institutions When In Reality The Regulations Affect Only For-Profit Institutions

Non-Transparent Process

- The Department held conference calls with both Career Colleges and Analysts on Friday, May 29, 2010. These calls are posted on the "Program Integrity" website and transcripts are available. The Department held 2 additional conference calls on May 28, 2010 with "friends/non-profits" and the "higher ed associations". This call never appears on the "Program Integrity" website, nor is a transcript available.

Robert Shireman list of "friends / non-profits" included - IHEP, College Board, Pathways to College, Pell Institute, Ed Trust, Ed Sector, MDRC, USSA, US PIRG, New America, CAP, AACRAO, National Consumer Law Center, NACAC, TICAS, Mark Kantrowitz, BHEF and the New American Foundation - Steve Burd/MaryEllen McGuire. (tab 10)

- Martha Kanter and Robert Shireman met in September of 2009 with Barmak Nassirian, Deanne Loonin, Christine Lindstrom and David Hawkins. After the meeting Barmak sends Robert Shireman and Martha Kanter an email thanking them for the meeting. He says, "We believe that a strong statement on the importance of 90/10, the publication of a multi-year default rates that capture defaults that occur outside the current two-year window, and additional program reviews would be immediate steps that the Department can take to better protect students and the taxpayers."
- On two instances emails obtained by CREW in their FOIA requested contain blacked out passages.
 - In an April 15, 2010 email, Pauline Abernathy sends an email to Ann Manheimer asking questions on Gainful Employment. Ann forwards these questions to John Kolotos. The message Ann sends to John is blacked out and his response is blacked out. (tab 50)
 - In an August 20, 2010 email, Debbie Cochrane from TICAS asks John Kolotos a question on the repayment rate. John forwards her email to Susan Chesley (unknown). Her response is blacked out. John responds to her response, "thanks". (tab 114)
- On several occasions, high level Department officials receive emails from advocates at their personal email account.
 - On June 6, 2010 James Kvaal receives 2 emails from Pauline Abernathy at his private email address. (tab 82 / tab 83)
 - On May 22, 2010, Pauline Abernathy emails Robert Shireman at his TICAS email account. (tab 69)

Misleading Statements

- On a conference call held directly after the Department issued their intention to have a rulemaking session Robert Shireman stated"

“Our interest overall in the Administration and with this particular Federal Register notice is to make sure that students, potential students have access to post-secondary education. That it's as highest quality that it can be. They have the information that they need. And that ultimately students and taxpayers are well served by the program. And I've been asked, you know, is this about any particular type of school or sector or anything like that? And really it's broadly wanting to make sure that students and taxpayers are served well, whether the schools are public, nonprofit, for profit, 2-year, less than 2-year, 4-year, graduate school, all of the above.” (tab 12A – 12C)

Department Officials Pre-Released Material Non-Public Information To A Closed Group Of Advocates To Enhance The Negative Media Effect.

- On June 15, 2010 TICAS receives an embargoed copy of the regulations set to be released on June 16th. Edie Irons from TICAS sends an email to the Gainful Employment distribution list with the following message -

“THESE ARE EMBARGOED AND SHOULD NOT BE SHARED WITH ANYONE UNTIL AFTER MIDNIGHT.”

- On July 21, 2010 Susan Lehr sends an email to Pauline Abernathy and the Gainful Employment Group alerting them “that reporters on the hill will be briefed tomorrow on GE and release is midnight tomorrow” (tab 96)

Pauline Abernathy sends Susan Lehr an email stating, “you learned about the regs coming out today at the same time that I did! you clearly have very good sources too!” (tab 98)

Susan Lehr alerts Steven Wallace, the President of Florida Community College at Jacksonville that - “it will come out tomorrow after the markets close and I think it will be good...” (tab 98)

Steven Wallace forwards Susan’s email to noted short seller Gilcrest Berg stating, ““Breaking news Gilchrist. Reporters will be briefed by US DOE on the proposed gainful employment reg at 6pm tonight with public release at midnight. We expect lots of market churn. Susan Lehr will be able to share interpretations and insights tomorrow.” (tab 100)