



Did the Department of Veterans Affairs Enable Insider Trading?

Law enforcement authorities may already be investigating who profited from advanced notice of a VA announcement that moved the markets. If not, why aren't they?

Average investors deserve equal access to market moving information in the hands of the government, but if bureaucrats leak inside details to select allies first, it can enrich sophisticated Wall Street traders at the expense of ordinary retail investors. This would be contrary to the purpose of our securities laws, which exist to ensure a level playing field for all investors.

On March 9, 2020, the Department of Veterans Affairs (VA) issued a press release suggesting that veterans would no longer be allowed to use their G.I. Bill benefits at certain for-profit schools. It reversed that decision a few months later, but not before triggering a sell-off in the stock of a publicly-traded education company referenced in the announcement. Whistleblowers and watchdog groups have alleged to Congress, the VA Inspector General, and the Office of Special Counsel (OSC) that a culture of conflicts and lax ethical standards at the Veterans Benefits Administration (VBA) have created an agency culture vulnerable to exploitation and abuse on multiple issues.

There are suspicious circumstances surrounding the timing and nature of the March 9th VA announcement and reversal of the VA's decision. A well-connected advocacy group backed by donors with deep pockets, including a hedge fund billionaire, was among those selected to receive an advanced heads-up prior to the announcement. Downward price movement and increasing short seller interest in the weeks leading up to the announcement raise questions about who outside the VA learned of and traded on it even earlier.

This research summarizes the public record on this controversy as well as relevant information from whistleblower contacts with Empower Oversight and Congress. An analysis of these circumstances suggests that further investigation by the proper authorities is necessary to:

- (1) confirm whether the VA's selective release of information enabled insider trading,
- (2) hold accountable any officials who improperly released information early,
- (3) improve the VA's procedures for handling market moving information to ensure fair and equal access for all investors.

Below is detailed background information on the key players and a timeline of key events.

Too often, the perceived political implications of whistleblower disclosures and good government efforts can lead observers to oversimplify a complex story. Unfortunately, if the facts do not fit neatly into a preferred political narrative, those stories may go untold. In our

polarized media and political environment, each side tends to want to probe only issues with no potential “blowback” to their own side. So, when disclosures implicate both sides of an ideological divide, the truth can be more difficult to expose.

This is one of those stories, and the public interest in a fair and level playing field in the markets demands further investigation.

The key events in the timeline occurred while political appointees of President Donald Trump ran the VA. Ultimately, the political leadership of the VA under that administration should be accountable for the VA’s actions on its watch. The evidence suggests that the VA failed to properly manage the release of material nonpublic information about an impending enforcement action involving publicly traded companies. The government’s failures to mitigate appearances of a conflict of interest and ensure full disclosures of potential conflicts undermine veterans’ confidence in the integrity of the VA under the previous administration.

However, the circumstances also raise questions about the role of long-time advocates of a cause célèbre on the left—opposition to for-profit colleges. Sources consulted by Empower Oversight come from varying perspectives on the merits of that dispute. Nothing in the discussion of the controversies over for-profit colleges is intended to suggest that Empower Oversight takes any position on those issues one way or the other; it does not. This research is intended only to lay out the known facts of a complex controversy and suggest that official investigations are necessary to either confirm *or dispel* the suspicions raised by those facts.

Background Summary

The Bogues & Veterans Education Success (VES): According to reports to the [Office of Special Counsel \(OSC\)](#) , [VA Inspector General](#), Congress and multiple public sources, Veterans Benefits Administration (VBA) official Charmain Bogue worked on matters while entities with business before her, including VES and Student Veterans of America (SVA), paid her husband Barrett Bogue. According to whistleblowers, documents, and public reports:

1. Specifically, Mr. Bogue's clients were allegedly considering active competition, shaping implementation, or helping others compete for contracts under the [VET TEC Act](#). Ms. Bogue oversaw VET TEC implementation and directly influenced the acquisition process.
2. Ms. Bogue allegedly engaged regularly with her husband's employers and clients, including SVA to facilitate public-private partnerships worth millions of dollars in grants and sponsorships.
3. In 2017, VA ethics attorneys reportedly advised VBA leadership and Ms. Bogue in writing that Ms. Bogue should recuse herself from matters involving her husband's clients. FOIA and Congressional requests have sought a copy of the opinion or any record of whether Ms. Bogue recused herself, but the VA has produced no record of any such recusal.
4. After initially declining to investigate, the VA Inspector General later reconsidered and [opened an administrative inquiry](#) into the Bogue conflict of interest issues following [questions from Senator Charles Grassley](#).
5. VES is run by Carrie Wofford, formerly on staff for Senator Tom Harkin and niece of the late Senator Harris Wofford. VES hired Barrett Bogue as a "[senior communications advisor](#)" in November 2018. By mid-2019, VES was lobbying his wife, Charmain Bogue, to crack down on for-profit colleges, a cause Wofford has championed since her days with Senator Harkin.
6. Ms. Bogue did not disclose on her ethics forms that her husband received income from VES and VES did not disclose any payments to Mr. Bogue on its IRS form 990, although according to [one unconfirmed report](#) VES paid him \$5,000 per month and \$160,000 total. It is unclear whether existing disclosure requirements were met, but if so, the Office of Government Ethics and Congress should re-examine the sufficiency of existing requirements in light of this controversy to ensure that they are sufficient to clearly inform the public of similar potential conflicts in the future.
7. One of VES's largest donor appears to be Arnold Ventures, run by John and Laura Arnold. The couple issued grants to Wofford's organization totaling more than \$4 million since 2017, according to the Arnolds' voluntary [disclosures](#).
8. Laura Arnold was a law school classmate of Carrie Wofford. John Arnold was trader at Enron who left the energy giant with an \$8 million bonus shortly before it collapsed in

2001. He started a successful hedge fund that made him a billionaire. The Arnolds originally began their philanthropy through a nonprofit foundation, but later [restructured as a for-profit company](#).

Leaks of Inside Information: In response to pressure from VES and others in early 2020, the VA considered and then publicly threatened to prevent veterans from using their G.I. Bill benefits at certain for-profit schools. However, the VA failed to safeguard information about its pending announcement. Based on stock price, volume, and data on short selling (betting that a stock price will fall), it appears that some in the market may have traded on that inside information in the weeks leading up to the VA’s official public announcement.

1. Short interest in one of the companies mentioned grew significantly toward the end 2019 and the stock price declined significantly in the weeks *before* the VA’s March 9, 2020, public announcement of a threatened enforcement action. This raises reasonable questions about whether VA officials were selectively tipping certain allies with inside information about the impending public announcement naming a publicly traded company.
2. In an internal email obtained through FOIA, a VA official warned colleagues that the information about the impending enforcement announcement should be kept confidential to prevent a “panic” and “insider trading.” Those warnings were apparently ignored.
3. VES President, and Mr. Bogue’s employer, Carrie Wofford was quoted in a *Stars and Stripes* [article](#) on March 9th and issued her own [press release](#) about the VA’s impending announcement. Both the article and press release issued during the trading day, before the 5:59 p.m. timestamp on the VA’s [official announcement](#).
4. The stock price of the education company mentioned plummeted between January and March 2020 from \$18.83 to \$7.96, a loss of 58%—representing about [\\$800 million](#) in lost market capitalization. Anyone with advanced knowledge of the VA announcement had an enormous opportunity to profit at the expense of ordinary retail investors by shorting the stock (betting that the price would fall).
5. On July 2, 2020, the VA [withdrew its threat](#) and took no enforcement action, stating that the issues raised by VES had already been adequately addressed by corrective measures. However, by that time, retail investors had already suffered losses while any insiders who traded on advanced knowledge of the VA’s March 9th threat benefited.

Timeline of Key Events

Historical Context

- June 2010:** Senate HELP committee begins its investigation of the for-profit college industry and hears testimony from controversial short-seller Steve Eisman.
- July 2012:** HELP committee releases the “Harkin report,” triggering fierce objections from Republicans and nonpartisan ethics watchdogs about short-sellers potentially profiting from the crackdown while cooperating with Sen. Harkin’s staff.
- Feb 2013:** Veterans Education Success (VES) is incorporated as a non-profit by former Harkin staffer Carrie Wofford.

The Bogues

- Mar 2017:** SVA celebrates via press release a public-private partnership with VBA, gaining access to more than one million records of Veteran students. The partnership is memorialized through [a report](#) titled NVEST, with Barrett Bogue as one its authors.
- Nov 2017:** Concerns are reportedly raised internally about ethics of VBA official Charmain Bogue’s interactions with clients and employers of her husband, Barrett Bogue. Charmain Bogue is reportedly asked to execute a recusal, and VA ethics counsel becomes involved.
- Dec 2017:** Ethics counsel reportedly provides guidance regarding the need for a recusal but chose to focus narrowly on only one program that Ms. Bogue administered, VET TEC, rather than mitigating all potential conflicts.
- Feb 2018:** VA ethics lawyers [reportedly](#) provide an opinion to VA leadership and Ms. Bogue recommending her recusal.
- July 2018:** Barrett Bogue incorporates Evocati, saying he started what he called his “[side hustle](#)” at his wife’s encouragement.
- Nov 2018:** Charmain Bogue is promoted to Acting Director of Education Services at the VBA, and Barrett Bogue joins VES as a senior communications advisor the same month.
- May 2019:** Social media posts show Barrett Bogue/VES lobbying Ms. Bogue and the VA, as she [meets with student veterans](#) and VES officials in a session [involving her husband](#), which he promotes on Twitter.
- June 2019:** Charmain Bogue [testifies](#) before a House subcommittee and claims she is legally constrained from acting against for-profit colleges.
- Oct 2019:** VA Inspector General receives information on Bogue conflict issues, but declines to investigate.

Nov-Dec 2019: Net short interest in PRDO (the publicly traded company among the for-profit entities mentioned by the VA) grows to more than 5 million shares, up from 1.5 million in the middle of 2019.

Pressure on the VA

Dec 2019: The lobbying campaign targeting Charmain Bogue on for-profit schools intensifies, with Barrett [tweeting](#) an [article](#) citing criticism of her congressional testimony and VES [demanding](#) that the VA take action.

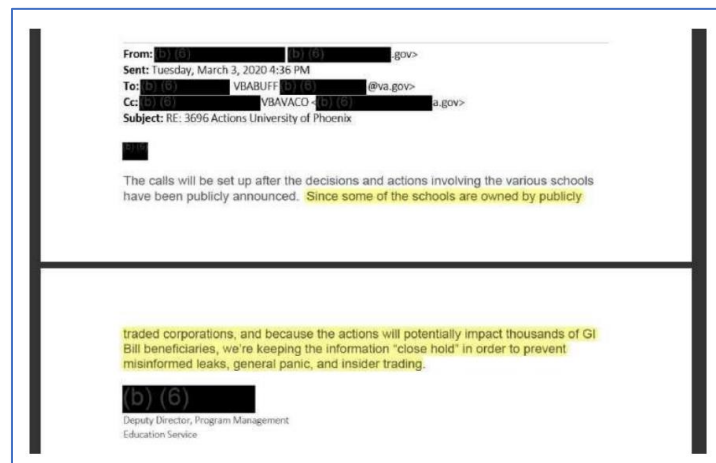
Jan 21, 2020: VES delivers [a letter](#) to the VA renewing its calls for a crackdown on “misleading advertising and enrollment practices” by for-profit schools. It is sent to Mrs. Bogue with the salutation, “Dear Charmain.”

Stock Market Impacts

Feb 2020: The company’s stock price begins to fall significantly in the weeks *before* the March 9th VA announcement, eventually losing 58% (about \$800 million in market capitalization) afterward. Yet, there appears to have been no major negative news about the stock. To the contrary, it [announced](#) on [February 19](#) that adjusted operating income had *increased* 21.3 percent.

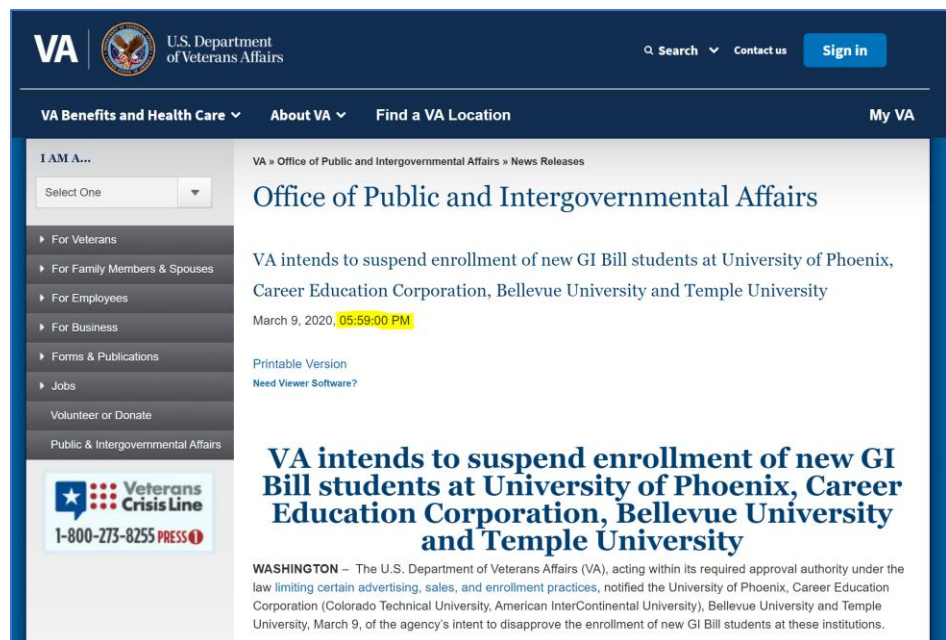


Mar 6, 2020: VA official warns colleagues that, because “some of the schools are owned by publicly traded corporations ... we’re keeping the information ‘close hold’ in order to prevent ... insider trading.”



Mar 9, 2020: Monday trading volume in PRDO stock triples from the previous Friday to 1.6 million shares and the stock tumbles 10%, with a volume spike of about 100,000 shares just before 4pm.

- 11:00 a.m.** VA [reportedly](#) holds a conference call with certain outside interest groups, including VES, to give them a heads-up about the impending announcement. The VA sets an embargo on further dissemination of the information until after 1 p.m.
- 12:31 p.m.** A *Stars and Stripes* reporter [tweets](#) about impending VA announcement, half an hour before the end of the VA embargo.
- 1:32 p.m.** An association of student financial aid administrators [tweets a link](#) to the [VA press release](#), although the release is timestamped later that day, at 5:59pm.
- 1:56 p.m.** A reporter [tweets](#) the text of a VA letter to students at impacted schools.
- 2:26 p.m.** During the trading day, VES tweets a link to [its own press release](#) naming a publicly traded company, PRDO, as the subject of an impending VA enforcement action. It does not link to the VA press release but discloses that the VA briefed VES and other groups earlier in the day.
- 3:46 p.m.** *Stars and Stripes* reporter [tweets](#) a link to [his story](#), quoting Wofford from VES.
- 5:59 p.m.** The VA's [official announcement](#) of its threat to suspend new GI Bill enrollments at certain schools is timestamped after the markets closed at 5:59 p.m. However, the 1:32 p.m. tweet above suggests the VA release was posted during the trading day—raising more serious questions about the VA's failure to release market moving information in a fair and orderly process after hours, consistent with best practices.





- Mar 10-11:** The company's stock declines by double-digit percentages on the VA announcement news.
- April-Jun:** The stock price recovers, rising to pre-March 9 levels by May, significantly *before* the VA back down from its threatened suspension.
- July 2, 2020:** The VA backs down from its threat to suspend new GI Bill enrollments and the net short interest in this stock declines to less than 3 million shares.

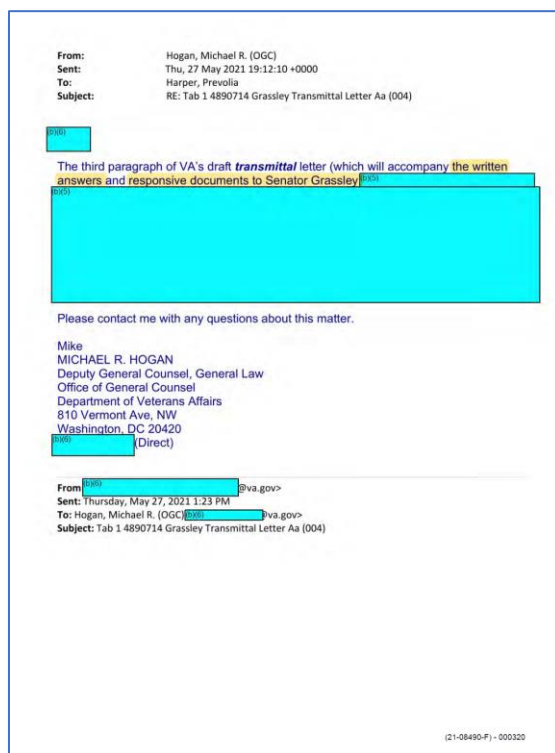
Aftermath

- Nov 2020:** The National Legal and Policy Center ([NLPC](#)), a non-profit public interest organization, begins to publish a series of articles exploring the Bogue generally and the lack of adequate disclosure of potential conflicts on federal ethics forms.
- Jan 2021:** A [FOIA suit](#) is filed in San Diego for failure to produce documents related to alleged leaks of material nonpublic information about the March 9, 2020 VA announcement.
- Apr 2, 2021:** Following discussions with whistleblowers, Senator Charles Grassley (R-IA) [writes](#) to the VA, the VA Inspector General, and the Securities and Exchange Commission (SEC) asking about the ethical issues raised by whistleblowers and the suspicious trading issues raised in the FOIA lawsuit. His letter seeks documents such as the alleged ethics opinion involving Charmain Bogue and payments to her husband from VES and SVA.
- April 27, 2021:** A freelance reporter who covers the VA publishes a [long blog post](#) framing the controversy in terms of what he called a "thinly sourced theory" that it might all be a "dirty trick by the for-profit industry." That notion was put forward, he wrote, by some veteran advocates who also offered him "clarifying information" in response to questions about the issues whistleblowers brought to Senator Grassley.

The piece reports: (1) a [now-deleted website](#) run by Consumer Action for a Strong Economy ([CASE](#)) had named Wofford and VES as dedicated to “depriving veterans educational freedom,” (2) the name of the VA official, James Ruhlman, who warned against early release of the VA announcement, and (3) Carrie Wofford’s defenses for VES’s role, including alleged payments to Barret Bogue totaling \$160,000.

May 26, 2021: The VA Inspector General replies to Senator Grassley ([PDF, p. 4](#)) confirming that it has opened an administrative inquiry into the Bogue ethics issues, but deferring to the SEC on potential insider trading issues.

May 27, 2021: Internal VA email circulates a draft letter with written answers and documents to be provided to Senator Grassley. However, as of this writing two-and-a-half months later, the VA appears to be still sitting on this draft reply to the Senator. Empower Oversight received this email in response to its [August 6, 2021 FOIA request](#), while the Ranking Member of the Senate Judiciary Committee has yet to receive answers to questions posed in April.



July 1, 2021: The SEC replies to Senator Grassley ([PDF, p. 7](#)) refusing to “acknowledge the existence or non-existence of any investigation unless and until charges are filed” citing its policy on conducting inquiries confidentially.

July 20, 2021: Following months of his questions being ignored by the VA, Senator Grassley [writes to the VA again](#), releasing reply letters from the VA Inspector General and the SEC who *had* responded to his inquiries.

Aug 6, 2021: The VA’s refusal to answer Senator Grassley for more than four months, prompts Empower Oversight to file a [FOIA request](#) seeking VA records relating to its handling of Senator Grassley’s inquiries, its communications with the inspector general, and its handling of the underlying allegations.

Historical Context: The Harkin Report, Short Sellers, and Carrie Wofford

In June 2010, the U.S. Senate Committee on Health, Education, Labor & Pensions (HELP) began a two-year investigation of for-profit schools, culminating in a final report dated July 30, 2012.¹ Committee chairman Tom Harkin (D-Iowa) held six hearings on 30 for-profit education companies. The Harkin report cited news reports as prompting its probe, but some of that news coverage was driven by a hedge fund manager, who it would turn out, was betting millions of dollars that education stocks would lose value while he publicly advocated for tighter regulation.²

The HELP Committee was known for a long history of bipartisanship in an increasingly partisan era. Yet, Committee Republicans, in the minority at the time, issued a public rebuke of the Harkin report. In their minority views appended to the report, they accused the majority of investigative “abuses” that “undermined the credibility” of their findings and “raised substantial doubt about the accuracy of the information contained in the report.”³

They pointed to the testimony of Steve Eisman, a notorious short seller whose story became the basis of the book *The Big Short*. Eisman admitted that he had a financial interest in the for-profit sector during his testimony, but not before.⁴ The minority views cited the left-leaning Citizens for Responsibility and Ethics in Washington (CREW), which wrote that Eisman’s “financial conflicts of interest could not be more blatant, yet they were not disclosed in advance of his testimony”⁵

Moreover, Harkin had requested a Government Accountability Office (GAO) report in connection with the hearings that became a focal point of controversy after errors in the report required extensive revisions.⁶ A news website unearthed internal GAO emails blaming the widespread errors on pressure from Senator Harkin’s staff to stick to “extreme short time frames”⁷ A Democratic member of Congress, Rep. Rob Andrews of New Jersey, was critical. “It certainly discredits the report, doesn’t it?” he was quoted as saying. “The fact that they felt pressure to finish this on time is disquieting.”⁸

¹ *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, Majority Staff Report and Accompanying Minority Staff Views, U.S. Senate Committee on Health, Education, Labor and Pensions ([Jul 30, 2012](#)).

² “Facing Cuts in Federal Aid, For-Profit Colleges Are in a Fight,” *New York Times* ([Jun 5, 2010](#)); “Steve Eisman on For-Profit Colleges,” *Future of Capitalism* ([Jun 7, 2012](#)).

³ *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, Majority Staff Report and Accompanying Minority Staff Views, U.S. Senate Committee on Health, Education, Labor and Pensions ([Jul 30, 2012](#)).

⁴ *Id.* at 179.

⁵ *Id.* at 179.

⁶ “Political pressure tainted error-ridden GAO report,” *Daily Caller* ([May 17, 2011](#)). “GAO replaces top official behind error-riddled report on for-profit colleges,” *Daily Caller* ([Mar 3, 2011](#)).

⁷ *Id.*

⁸ *Id.*

According to the minority views, the entire episode had cast significant doubt “on the overall accuracy and objectivity of the investigation.”⁹ The minority staff wrote, “The partisan nature with which the majority has chosen to carry out this investigation has resulted in numerous examples of malpractice that have plagued this inquiry.”¹⁰ They concluded “These examples are troubling under any circumstance, but when viewed cumulatively, they demonstrate a disturbing pattern of abuse that has damaged the credibility of the committee.”¹¹

Despite these criticisms, the Senate probe led to serious enforcement efforts and reforms. According to a 2011 article, the Democrats on Capitol Hill took “an active hand” in the work of state attorneys general, with several prosecutors having met with Senator Harkin, Senator Richard Durbin (D-IL), “and their investigative staffs.”¹² Carrie Wofford and others on Senator Harkin’s staff during the HELP committee inquiry later founded Veterans Education Success (VES).

Wofford and VES

Carrie Wofford graduated from Bryn Mawr College and Yale Law School, then practiced law as a senior associate at the WilmerHale law firm.¹³ She is the niece of former Senator Harris Wofford (D-PA) and is married to Colin Crowell, a former aid to Senator Ed Markey (D-MA) and formerly Vice President of Global Public Policy, Government, and Philanthropy for Twitter, Inc.¹⁴ One of her current board members at VES is Tom Tarantino, a Senior Public Policy Manager for Twitter, Inc. where he “manages the Political Action Committee (#PAC).”¹⁵ Wofford worked for Democratic campaigns in the early 1990s, before becoming a policy aide in the Clinton White House and under Labor Secretary Robert Reich.¹⁶

Wofford worked for Senate Majority Leader Harry Reid (D-NV) running “an in-house think tank for Democratic Senators.”¹⁷ She was a senior counsel at Harkin’s HELP Committee where she worked on the Harkin report.¹⁸ According to her biography, Wofford is “noted ... for working with the nation’s top veterans’ leaders” on a “successful bipartisan bill sent to the President at the end of 2012.”¹⁹ The law directed the VA secretary to “develop a comprehensive policy to improve outreach and transparency to veterans ... through the provision of information

⁹ *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, Majority Staff Report and Accompanying Minority Staff Views, U.S. Senate Committee on Health, Education, Labor and Pensions ([Jul 30, 2012](#)) at 179.

¹⁰ *Id.* at 181.

¹¹ *Id.*

¹² “Kentucky Showdown,” *Inside Higher Education* ([Nov 3, 2011](#)).

¹³ Biography of Carrie Wofford, [VES](#).

¹⁴ “Liberal Group ‘Veterans Education Success’ Seeks to Re-Instate Obama-Era Education Policy Targeting Private Colleges,” *Tennessee Star* ([May 28, 2020](#)); Colin Crowell, [Twitter profile](#).

¹⁵ Biography of Tom Tarantino, [VES](#).

¹⁶ Biography of Carrie Wofford, [VES](#).

¹⁷ *Id.*

¹⁸ “The Recession and For-Profit College Recruiting,” *Inside Higher Education* ([Apr 17, 2020](#)).

¹⁹ Biography of Carrie Wofford, [VES](#).

on institutions of higher learning.”²⁰ Congress approved the measure on Jan. 10, 2013.²¹ The following month, Wofford formed VES, “to ensure effective implementation of the Executive Order and legislation, and to find new ways to stop scams and help veterans find the high-quality colleges they deserve.”²²

VES says it “brought to the FTC’s attention” fake military websites that the FTC shut down in 2018, then sent the agency a November 2018 Freedom of Information Act request demanding the names of schools that participated.²³ Nearly a year later, the FTC settled a related case for \$30 million.²⁴ Wofford and VES also claim credit for “behind-the-scenes legal work” that led to a settlement with the state attorneys general.²⁵ That settlement with 48 state attorneys general in 2019 totaled nearly \$500 million.²⁶

VES and Arnold Ventures

The connection between Arnold Ventures and VES was highlighted recently in a now-deleted website run by Consumer Action for a Strong Economy (CASE).²⁷ The public information about those connections is still accessible and are cited as direct sources below.

In 2017, VES received its first grant from Arnold Ventures, the start of a revenue stream that now totals about \$4.1 million.²⁸ It appears to be one of VES’s largest donors. Its founders are John and Laura Arnold. The Arnolds built their wealth from an Enron bonus, which helped create a wildly successful hedge fund. Wofford and Laura Arnold were law school classmates at Yale.

John Arnold grew up in Dallas, graduated from Vanderbilt University in 1995, and started working at Enron four days later.²⁹ By age 22, Arnold was overseeing Enron’s Texas natural gas trading desk, where his “appetite for risk” stood out.³⁰ His \$8 million bonus came days before Enron filed for bankruptcy.³¹ Arnold walked away from the mess “unscathed,” never

²⁰ GovInfo summary ([Public Law 112–249](#)).

²¹ *Id.*

²² “Our History,” [VES](#).

²³ “Our Work with the Executive Branch: Deceptive Websites,” [VES](#); “FTC Takes Action against the Operators of Copycat Military Websites,” *FTC Press Release* ([Sep 6, 2018](#)); letter from VES to FTC General Counsel ([Nov 20, 2018](#)).

²⁴ “Operator of Colorado Technical University and American InterContinental University Will Pay \$30 Million to Settle FTC Charges it Used Deceptive Lead Generators to Market its Schools,” *FTC Press Release* ([Aug 27, 2019](#)).

²⁵ VES Annual Report ([2018](#)).

²⁶ “Why This For-Profit College Will Cancel \$500 Million Of Student Loans,” *Forbes* ([Jan 7, 2019](#)).

²⁷ “Are New Allegations Against Veteran Education Officials a Serious Scandal or a Political Smear?” *Battle Borne* ([Apr 27, 2021](#)) (including a [dead link](#) to the defunct website, though it can still be reached through the Internet Archive where it was last archived on [Apr 15, 2021](#)). According to reports quoting those involved on both sides of the controversy, it appears that some people mentioned on the site (people other than Wofford and the Arnolds) threatened litigation against CASE, causing it to delete the site to avoid the expense. See, “Falsehood-Filled Website on For-Profit Colleges Shuts Down” *Republic Report* ([Apr 21, 2021](#)); “How a ‘Killer’ Consumer Choice Website Got Killed,” *Inside Sources* ([Jun 14, 2021](#)).

²⁸ Grants list, [Arnold Ventures](#).

²⁹ “John Arnold Made a Fortune at Enron. Now He’s Declared War on Bad Science,” *Wired* ([Jan 22, 2017](#)).

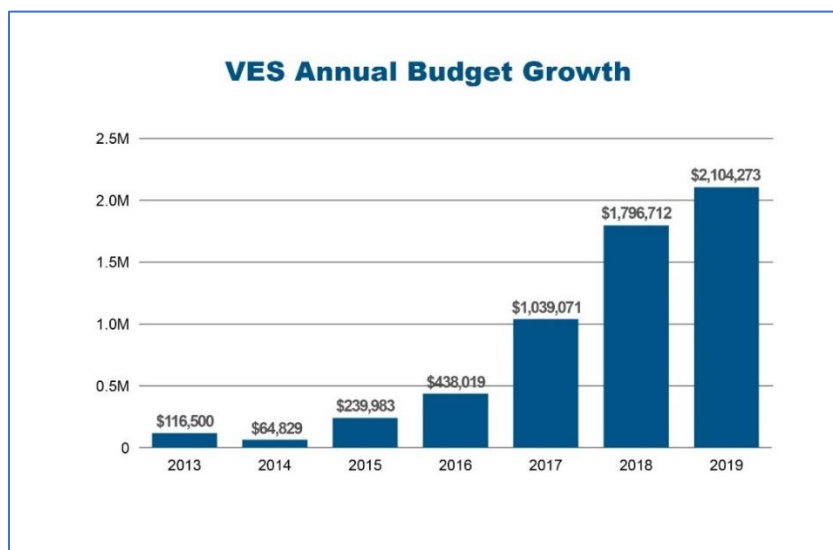
³⁰ *Id.*

³¹ *Id.*

accused of any wrongdoing.³² He soon started a hedge fund that became one of the most successful energy trading funds in history. His fund, Centaurus, returned more than 300 percent in one year and Arnold became the youngest billionaire in the country.³³

The Arnolds have taken an unconventional approach to philanthropy, converting their non-profit entity to a for-profit limited liability company in 2019.³⁴ It has been called a “controversial move in itself because it lowers transparency requirements.”³⁵ Arnold Ventures CEO Kelli Rhee acknowledged the concerns at a philanthropy roundtable event in October 2019. “The criticism that an LLC model or any sort of kind of hybrid vehicle allows donors to have darkness or perhaps outside influence, I think those arguments have merit,” she said.³⁶ Arnold Ventures has also been criticized for its support for controversial programs associated with warrantless police surveillance in Baltimore and the release of a repeat criminal who then murdered a San Francisco man.³⁷

The Arnolds have disclosed about \$4.1 million in grants to VES through their various entities since 2017.³⁸ Based on these voluntary disclosures and the public charitable tax forms filed by VES, the Arnolds’ support appears to be the driving force enabling VES to grow its annual revenue to more than \$2 million in 2019.³⁹



³² *Id.*

³³ *Id.*

³⁴ “Laura and John Arnold Foundation to Restructure as LLC,” *Philanthropy News Digest* ([Jan 29, 2019](#)).

³⁵ “Two Texas Billionaires Think They Can Fix Philanthropy,” *Bloomberg* ([Dec 12, 2019](#)); “How a Former Hedge Fund Manager and Corporate Lawyer Are Treating Philanthropy Like a Wall Street Bet,” *Inside Sources* ([Oct 15, 2018](#)).

³⁶ “Should you give through an LLC,” *Philanthropy Roundtable* ([Oct 25, 2019](#)).

³⁷ “A look at recent Baltimore Police scandals,” *Baltimore Sun* ([Oct 11, 2018](#)); “Billionaire donors Laura and John Arnold support far more in Maryland than police surveillance,” *Baltimore Sun* ([Aug 26, 2018](#)); “Did A Bail Reform Algorithm Contribute To This San Francisco Man’s Murder?” *NPR* ([Aug 18, 2017](#)).

³⁸ Grants list, [Arnold Ventures](#).

³⁹ VES IRS Forms 990 ([2013-2019](#)).

The Bagues and VES

In November of 2018, Ms. Charmain Bogue became the Acting Executive Director of Education Service at the Veteran's Benefit Administration (VBA). A few months earlier, her husband, Mr. Barrett Bogue, had incorporated a consulting LLC called Evocati, which he described as a "side hustle."⁴⁰ The same month that Ms. Bogue became the Executive Director of VBA's Education Service, VES entered into a contract with her husband.⁴¹ By his own account, the VES contract was generous enough to allow him to quit his day job and focus on his consulting business full time.⁴²

In January of 2020, while apparently still paying Mr. Bogue, VES wrote to Ms. Bogue,⁴³ urging her to prohibit veterans from being allowed to use GI Bill benefits at several for-profit universities.⁴⁴ In March of that year, the VBA issued a press release "threatening to do exactly what VES had asked [Ms. Bogue] to do."⁴⁵ By July of 2020, the VBA reportedly relented on its threat, but not before the stock of some of the publicly traded companies threatened had plummeted. Ms. Bogue allegedly failed to disclose this seeming conflict of interest in her mandatory federal financial disclosure forms; however, it is unclear whether she was required to or whether the disclosure rules are inadequate to provide meaningful disclosures.⁴⁶ In April 2021, Senator Chuck Grassley wrote to the VA, the VA Office of Inspector General, and the SEC raising concerns about the appearance of a conflict of interest and whether selective release information about the pending announcement had enabled any insider trading.⁴⁷ According to its reply to Senator Grassley, the VA Office of Inspector General has since opened an administrative investigation into the potential conflict issues involving the Bagues, but has deferred to the SEC on the potential insider trading concerns.⁴⁸

Wofford on Stock Prices and Crediting Arnolds with VA Decision

In February 2020 Wofford's public comments suggested that she was at least somewhat focused on the stock price of the education companies and the connection of those prices to regulatory announcements by government agencies. Apparently upset at the VA for renewing GI Bill eligibility for students at a school called Ashford University, she linked the move to the stock price of the entity operating the school.⁴⁹ "Looks like VA's decision to give Ashford a

⁴⁰ "Why I Founded Evocati," Barrett Bogue, [LinkedIn](#).

⁴¹ "On Tax Return, Group Did Not Disclose Payments to Husband of VA Official," *NLPC* ([Nov 4, 2020](#)).

⁴² Letter from Senator Charles Grassley to VA Secretary Denis McDonough ([Apr 2, 2021](#)).

⁴³ Letter from VES to VBA Education Services Director Charmain Bogue ([Jan 21, 2021](#)).

⁴⁴ Complaint, *Pomares v. United States Department of Veterans Affairs*, Case # 21-cv-00084-H-MSB (S.D. Cal., [Jan 15, 2021](#))

⁴⁵ *Id.* at 5.

⁴⁶ "VA Official Charmain Bogue Did Not Disclose Links to Outside Group," *NLPC* ([Nov 12, 2020](#)).

⁴⁷ "Grassley Seeks Sweeping Review Into Allegations Of Whistleblower Reprisal, Ethics Violations At Veterans Benefits Administration," Grassley Press Release ([Apr 6, 2021](#)).

⁴⁸ "OIG Confirms Investigation Following Grassley Probe of Alleged Ethics, Conflicts of Interest Violations at Veterans Benefits Administration; Senator Pushes For Answers From V.A.," Press Release ([Jul 20, 2021](#)).

⁴⁹ "VA's Approval of Ashford for GI Bill," VES Press Release ([Feb 14, 2020](#)).

stamp of approval for #GIBill and throw #Veterans under the bus has helped Ashford enjoy a 30% stock increase in 1 day. Maybe that was Trump Administration's goal?" she tweeted.⁵⁰

The record also suggests that Arnold Ventures was tracking the GI Bill eligibility issue. In an April 2020 interview posted on the Arnold Ventures website—after the March 9th VA announcement but *before* the July 2nd reversal—the questioner asked Wofford:

For years, Veterans Education Success has been advocating for the VA to crack down on colleges for violating a federal law barring deceptive practices when recruiting veterans. Finally, on March 9, the VA said it would halt new GI Bill enrollments at the University of Phoenix, Temple University, and three other schools because of evidence that the institutions misled prospective students. Why do you think it took the VA this long to act; what was different this time?⁵¹

In reply, Wofford credited her billionaire patrons for enabling her to pressure the VA: “There’s no question that the support that Arnold Ventures has given us over the past five years has enabled us to mobilize a more robust voice,” she said. “With Arnold Ventures’ help, we had been able to put increased public pressure on VA to enforce the law.”⁵² However, the VA ultimately took no enforcement action, finding that there were no new allegations that had not already been addressed by the previous settlements and corrective measures.⁵³

Selective Leaks and Suspicious Trading

According to an internal VA email released pursuant to a Freedom of Information Act request, in the lead up to the VBA’s March announcement threatening the for-profit schools, a VA official reportedly named James Rhulman noted that the impending announcement needed to be kept “‘close hold’ in order to prevent misinformed leaks, general panic, and insider trading.”⁵⁴ Despite this warning, prior to the public release of the announcement, the VA reportedly held a private phone call with a select few organizations to inform them of the decision: “At 11 a.m. on the 9th, VA official Mandy Hartman organized a call with 30 veterans service organizations for a ‘University of Phoenix update.’ It was on this call that the VA told advocates about their decision. According to an email, the VA embargoed this information until 1 p.m.”⁵⁵ The VAs reported embargo time would allow for release of the information during the trading day. VES claimed in a statement that it honored the embargo.⁵⁶

⁵⁰ Carrie Wofford, Twitter ([Feb 18, 2020](#)).

⁵¹ “Carrie Wofford, Fighting to Protect Veterans From Predatory, For-Profit Colleges,” Arnold Ventures ([Apr 22, 2020](#)).

⁵² *Id.*

⁵³ “VA backs down from plan to suspend University of Phoenix and other colleges from accessing GI Bill benefits,” Washington Post ([Jul 2, 2020](#)); “Trump Administration Clears For-Profit Colleges To Register Veterans Again,” *NPR* ([Jul 16, 2020](#)).

⁵⁴ Letter from Senator Grassley to SEC Acting Chair Allison Heren Lee ([Apr 2, 2021](#)); “Are New Allegations Against Veteran Education Officials a Serious Scandal or a Political Smear?” *Battle Borne* ([Apr 27, 2021](#)).

⁵⁵ *Id.*

⁵⁶ *Id.*

At 1:32pm, an association of financial aid professionals appears to have tweeted a link to the VA's official press release.⁵⁷ However, the VA press release was timestamped "5:59pm," after the close of the markets.⁵⁸ That timing of the public release is what would normally be expected to ensure fair, orderly, and equal access to a government announcement of market-moving information. As of this writing, the VA had not responded to inquiries about this discrepancy in the timing of the release.

At 2:26pm on the day of the announcement, VES tweeted its own press release praising the VA's decision during the trading day.⁵⁹ The press release stated, "The U.S. Department of Veterans Affairs (VA) notified military and veterans service organizations today, including Veterans Education Success, of its intent to suspend new GI Bill enrollments at five institutions of higher learning..."⁶⁰

This public record clearly indicates that the VA released non-public information about its impending announcement *before* informing the general public. The circumstances also suggest that the information may have leaked earlier in the weeks before March 9th. In light of the timing of press reports and communications by VES and the VA on that day, the suspicious circumstances become even more apparent when analyzing: (1) price and volume information on and around the March 9th VA announcement and (2) semi-monthly net short data from July 2019 through July 2020.⁶¹

One of the companies mentioned in the VA announcement was publicly traded under the symbol PRDO.⁶² March 9, 2020 was a Monday. Following the previous week's relatively flat trading at an average daily volume of about 540,000 shares, the price of PRDO dipped sharply in early trading, declined steadily through the day, and dipped sharply again just before 4 p.m. in what appears to be spike in volume of more than 100,000 shares (see the red question marks on the figure in the timeline above).⁶³

Total trading volume for PRDO on March 9th topped 1.6 million shares—about three times the previous week's average volume. Shares lost 10% of their value that day and suffered double-digit losses the following two days as well, after news outlets amplified the VA's announcement. Anyone shorting the stock during that time could have profited handsomely. The net short interest (representing total short seller positions betting that the stock price would fall)

⁵⁷ The National Association of Student Financial Aid Administrators, Twitter ([Mar 9, 2020, 1:32pm](#)).

⁵⁸ "VA intends to suspend enrollment of new GI Bill students at University of Phoenix, Career Education Corporation, Bellevue University and Temple University," *VA Press Release* ([Mar 9, 2020](#)) (The University of Phoenix represents a relatively small portion of the assets of a publicly traded firm traded under the symbol APO, and Career Education Corporation is the former name of a publicly traded company that now trades on under the symbol PRDO).

⁵⁹ VES, Twitter ([Mar 9, 2020, 2:26pm](#)).

⁶⁰ "Veterans Education Success Praises Decision by the Department of Veterans Affairs to Suspend New GI Bill Students from Enrolling at the University of Phoenix, Career Education Corporation Institutions, Bellevue University, and Temple University," VES Press Release ([Mar 9, 2020](#)).

⁶¹ Semi-monthly net short data [reported](#) by Nasdaq.

⁶² See illustrations in the timeline above for relevant stock price charts.

⁶³ If the SEC conducts an inquiry, it should examine the trading at the times marked by the red question marks on March 9, 2020 as well as during the highlighted time frame prior to the March 9 and July 2, 2020 VA announcements.

grew significantly before the VA's public announcement. Net short interest increased from about 1.5 million shares in early 2019 to more than 5 million shares in early 2020 and through March. It then dramatically decreases after the VA announcement to less than 3 million shares by the time the VA reversed its threat of enforcement action on July 2, 2020.

This trading pattern—characterized by increasing volume, decreasing price, and increasing short interest—suggests that material non-public information about the impending VA press release may have been shared outside the VA. Additionally, it is clear from the public record that VES received information from the VA about its impending enforcement action prior to the official announcement. Those with knowledge of this inside information could profit from access to such information. Only a thorough SEC inquiry can reassure investors that they were not taken advantage of by sophisticated traders with access to inside information about the VA decision.

Conclusion and Key Questions

In light of all of these circumstances, it is clear that the VA selectively released material nonpublic information, at a minimum on its reported 11 a.m. call with VES and other organizations on March 9, 2020. Other data suggest the information may have leaked in the weeks beforehand as well. However, when pressed about this matter, the VA has refused to answer questions from a U.S. Senator for five months and withheld documents requested under FOIA for nine months.

While failing to respond to the Ranking Member of the Senate Judiciary Committee, the VA recently produced nearly 600 pages of documents to Empower Oversight in response to its [August 6, 2021, FOIA request](#). One of those documents is cited and reproduced in the timeline entry for May 27, 2021 above. The VA email indicates that a draft reply answering Senator Grassley's questions and producing documents was circulating months ago, but as of this writing, has not been provided to the Senator's office. This raises questions about why the VA has failed to send its reply and document production to the Senator, yet it is producing documents to others under FOIA.

The VA inspector general opened an administrative inquiry into the potential conflict of interest issues regarding the Bogues, but it has deferred to the SEC on issues related to the improper release of material nonpublic information. For its part, the SEC refuses "to acknowledge the existence or non-existence of any investigation unless and until charges are filed" citing its policy on conducting inquiries confidentially.

These circumstances raise the following questions:

1. Did the VA ethics counsel treat the Bogues differently than others when advising on the need to recuse from matters related to a spouse's company, employer, or clients?
2. Why was a recusal not required to prevent the appearances of a conflict of interest; is the VA's ethics advice on these issues consistent with Office of Government Ethics guidance; and is the current guidance regarding business interests of spouses adequate to ensure public confidence in integrity of government operations at the VBA and other agencies?
3. Is the VA Inspector General's administrative inquiry limited in scope to potential conflict of interest issues because it is waiting for the SEC to conclude its own inquiry?
4. Has the SEC opened an inquiry? If so, what is its nature and scope?
5. If there is no SEC inquiry, then why would the VA Inspector General fail to examine the important administrative issues related to the proper training, procedures, and policies for handling nonpublic information at the VA?
6. Did anyone at VES learn about the impending VA announcement in the weeks before March 9, 2020, whether through Barret Bogue or anyone else with close ties to key VA officials?
7. If so, did anyone at VES share that information with anyone outside of VES, such as its donors, other advocates, analysts, or researchers tracking education company stocks?
8. Who is responsible for the discrepancy, and why, between the VA's timestamp on its press release after the markets closed and the public record suggesting that the link was live much earlier in the day? (See chart in timeline)
9. Who actively traded large volumes of targeted company stock on March 9 and shorted it in the weeks prior?
10. Were any anomalous trades responsible for the large price drops in the weeks before March 9, at the open on March 9, before the VA's 11a.m. call with interest groups, or near the close of the trading day on March 9, 2020? (see chart in timeline above)

Many of these questions can only be answered by the proper authorities through a thorough investigation. Such an inquiry is necessary to reassure the public that average investors were not unfairly disadvantaged by the VA's selective release of material nonpublic information. Moreover, VA leadership and its inspector general should evaluate the VA's training, policies, procedures, and accountability mechanisms for disclosure of potential conflicts of interest and the handling of material nonpublic information about publicly traded companies to prevent circumstances like those outlined above from recurring and damaging public confidence in the integrity of the VA.