

United States Senate
WASHINGTON, DC 20510

November 13, 2018

Mr. Jack Remondi
President and CEO
Navient Corporation
123 Justison Street
Suite 300
Wilmington, DE 19801

Dear Mr. Remondi:

I write regarding a previously undisclosed audit report obtained by my staff from the U.S. Department of Education (“the Department”) that appears to demonstrate a disturbing record of failure by Navient Corporation (“Navient”) to adequately serve federal student loan borrowers. This report bolsters allegations that Navient illegally cheated struggling student borrowers out of their rights to lower repayments. It also directly contradicts information that you provided to me personally during a June 2018 meeting in my office. Given this new information, I write to offer you the opportunity to correct the misinformation you provided me during our June 2018 meeting and to explain the appalling findings of this audit.

The audit I received demands an explanation. It appears that, while the company was publicly stating that there was no truth to the allegations about Navient’s misbehavior by CFPB,¹ the company had received an official Education Department audit that revealed your company was not meeting federal standards or adequately servicing student loan borrowers. You made these same denials to me privately – compounding the problem by denying the existence of any third-party audit that identified Navient’s failures.

On Wednesday, June 6, 2018, you and I met in my Washington D.C. Senate office at your request to discuss Navient’s federal student loan servicing activities and other priorities. We discussed, among other matters, Navient’s acquisition of Earnest, Navient’s planned private student loan refinancing product, and ongoing lawsuits facing Navient from federal and state consumer protection officials, including several state Attorneys General. One of these lawsuits included a suit against Navient filed by the Consumer Financial Protection Bureau (CFPB) alleging Navient illegally created student loan repayment obstacles that cost students money and boosted the company’s profits.²

During our discussion about the CFPB’s lawsuit, which alleges that Navient steered struggling student borrowers into expensive loan forbearance programs, you strongly denied the allegations,

¹ Navient Corporation, “FACT SHEET on Legal Action,” June 29, 2018 , <https://news.navient.com/static-files/52a18ce6-7313-434c-81f8-0f30609b1963>.

² Consumer Financial Protection Bureau court filing vs. Navient Corporation, Navient Solutions, Inc., and Pioneer Credit Recovery, Inc. (January 18, 2017). Online at: http://files.consumerfinance.gov/f/documents/201701_cfpb_Navient-Pioneer-Credit-Recovery-complaint.pdf.

repeating the same denials you have made publicly.³ I then asked if you were aware of *any* third-party analysis of the CFPB’s allegations, including the allegation that Navient steered borrowers into forbearance plans rather than income-driven repayment plans. You said ‘no.’ I followed-up and asked if you were aware of any Department of Education analysis of these allegations, including whether Navient steered struggling borrowers into forbearance. You responded that the Education Department conducted routine and targeted audits of all the servicers, including Navient, but that you were unaware of any audit that looked into this specific issue.

To confirm the information that you provided, and to obtain as much information as possible on the allegations against Navient, I had my staff request all routine and targeted audits of Navient conducted by the Department’s Office of Federal Student Aid (FSA) from the past two years. The Department responded with all of the audits, including a May 18, 2017 audit report from FSA entitled, “Navient Use of Forbearance Site Visit Review.”⁴ According to the review methodology, which was included in the audit:

[T]he objective of the site visit was to assess whether the use of forbearance by the Navient CSRs met the standards outlined in federal regulations, contractual requirements, and implemented Change Requests. More specifically, the review team evaluated whether or not the Navient agents offered all the applicable options before placing a borrower in forbearance.⁵

The existence of this particular audit on the subject of forbearance surprised me, since you told me in my office that you were not aware of any such audits of Navient on this issue.

The results of the audit, which involved a site visit that occurred March 20-24, 2017, were even more disturbing. This audit found that during the call center review, out of 388 inbound and 2,000 outbound calls with struggling student borrowers, Navient offered *only* forbearance as an option for 220 of these calls—about 10 percent.⁶ Struggling student borrowers who spoke with Navient and needed help managing their loan burdens had a one-in-ten chance of receiving incomplete information and were unfairly steered to just one option—an option that allowed interest to accrue, causing them to pay more than they likely would have in other options.

A review of Navient’s servicing system during this audit is even more alarming, revealing that in twenty percent of samples, “Navient offered the borrower only forbearance.” The report states:

In a few of these instances, borrowers offered information that suggested their income had changed (like going through a divorce, recently lost job or was in the process of taking a new job). However, Navient did not suggest a new repayment plan or an unemployment deferment. In other instances, the borrower requested a month or two of

³ Washington Post, “Interview: Navient CEO Jack Remondi: CFPB is more interested in filing lawsuits than fixing student loan servicing,” Danielle Douglas-Gabriel, January 23, 2017, <https://www.washingtonpost.com/news/grade-point/wp/2017/01/23/navient-ceo-jack-remondi-cfpb-is-more-interested-in-filing-lawsuits-than-fixing-servicing/>.

⁴ U. S. Department of Education, Office of Federal Student Aid, “Navient Use of Forbearance Site Visit Review,” May 18, 2017, p. 10, *Attached*.

⁵ *Id.*

⁶ *Id.*

forbearance and Navient provided the forbearance without probing to see if there was a better option available to the borrower.⁷

According to the audit, student borrowers were “not given the opportunity to decide if another option (like one of the Income Driven plans or a deferment) would have been more favorable.”⁸ The audit report also states that, “in some instances, interest was capitalized when another option may have prevented it,”⁹ meaning that many struggling student borrowers who interacted with Navient for help—their assigned servicer who they depend on for assistance—ended up owing *more* money than if they had never spoken to the company. This finding is both tragic and infuriating, and the findings appear to validate the allegations that Navient boosted its profits by unfairly steering student borrowers into forbearance when that was often the worst financial option for them.

The CFPB alleged that, “[f]rom January 2010 to March 2015, [Navient] added up to \$4 billion in interest charges to the principal balances of borrowers who were enrolled in multiple, consecutive forbearances.”¹⁰ This audit report raises questions about whether a significant portion of these charges could have been avoided had Navient acted in the best interests of these borrowers. It also gives disturbing new weight to Navient’s astounding assertion in response to the CFPB’s lawsuit that, “There is no expectation that the servicer will ‘act in the interest of the consumer.’”¹¹

Given Navient’s admitted disregard for the best interests of students, the troubling finding of this May 2017 FSA audit, and your own misleading answers to questions about the existence of this audit during our June 2018 meeting, I am providing you the opportunity for you to correct the misinformation you provided me during our meeting, and explain the appalling findings of this audit. I ask that you do so no later than December 4, 2018 .

Sincerely,



Elizabeth Warren
United States Senator

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Consumer Financial Protection Bureau, “CFPB Sues Nation’s Largest Student Loan Company Navient for Failing Borrowers at Every Stage of Repayment,” press release, Jan 18, 2017, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-nations-largest-student-loan-company-navient-failing-borrowers-every-stage-repayment/>.

¹¹ Navient Corporation court filing vs. Consumer Financial Protection Bureau. (March 24, 2017). Online at: <https://news.navient.com/static-files/d95c10ce-11a3-41b6-8ea7-49a83a41cf04>.