

Documentation for Student Loan Sinkhole

Below is a point-by-point list of items that appeared on the NOW on PBS program entitled “Student Loan Sinkhole?” which aired on June 19, 2009, which were challenged by Sallie Mae. After each Sallie Mae challenge, NOW on PBS has submitted a response and their fact-check notes and corroboration of statements.

Statement #1:

NOW: “Today, there are 70 million people, about a quarter of the U.S. population, who owe a collective \$700 billion in student loans.”

Sallie Mae: The U.S. Department of Education’s Federal Student Aid 2008 Annual Report states an outstanding federal loan volume of \$556 billion, covering almost 95 million loans to more than 30 million borrowers.

NOW’s response:

- NOW did not specify “federal” borrowers, we are looking at all borrowers. Mark Kantrowitz (a nationally-recognized financial aid expert) sent a FOIA request to the Dept of Ed, the response showed him there were 61 million federal loan borrowers. He sent us the FOIA request. It reports that there are 60,678,209 borrowers. Private lenders don’t publish borrower estimates. Kantrowitz estimates there are about 20 million private borrowers and there is a 75% overlap of Federal and Private borrowers. That leaves an extra 5 million borrowers on top of the 61 million federal borrowers who have exclusively private loans. These are the numbers Kantrowitz has for 2008. However, this is June and a new class is graduating that will add another few million borrowers. According to our math that leaves us around 70 million borrowers.

Statement #2

NOW: “Many of today’s grads owe over \$100,000. We’re talking tens of millions of people in trouble.”

Sallie Mae: The facts do not support PBS’ statements:

According to the College Board (Trends in Student Aid 2008): In each year between 2000-01 and 2006-07, an estimated 60% of bachelor’s degree recipients borrowed to fund their education. Average debt per borrower rose 18%, from \$19,300 to \$22,700 in 2007 dollars over this time period.

According to the U.S. Department of Education, 204,507 borrowers defaulted last year out of 3.9 million in repayment.

NOW's response:

- We're including borrowers who borrow for professional degrees, not just bachelor degrees. We say "many" grads owe over \$100,000. We don't say it's the mean or the average.
- From <http://www.finaid.org>
"A quarter of graduate and professional students borrow more than \$42,898 for a Master's degree, more than \$75,712 for a doctoral degree and more than \$118,500 for a professional degree. At the 90th percentile cumulative debt for graduate and professional degrees exceeds \$59,869 for a Master's degree, \$123,650 for a doctoral degree and \$159,750 for a professional degree."

Statement #3

NOW: "But wait, here's why Gina's FFELP loans are in decent shape. She says collectors from these particular loans talked her into paying them before paying her rent."

NOW: "Is it really true that collectors for FFELP loans are pressuring student debtors this way? To find answers, we looked into the collection practices of a leader in the student loan industry, Sallie Mae. While Gina's FFELP loans came from other companies, Sallie Mae is the largest FFELP lender."

Sallie Mae: Why wouldn't PBS speak with Ms. Moss' lender (instead of Sallie Mae) about its collection practices?

PBS stated that Ms. Moss' loans were not with Sallie Mae, still asked Sallie Mae to respond to the rent/student loan payment accusation and then did not include any of the following response that Sallie Mae provided:

That is neither our policy nor part of our extensive employee training. We take these types of allegations very seriously, and if there were evidence to support such allegation claim, it would be addressed immediately with disciplinary action, up to and including termination of employment. To that end, supervisors, quality assurance agents and compliance representatives monitor calls to ensure that collectors adhere to our established model for handling calls.

Sallie Mae encourages customers to make payments as and when they are able because it is in their best financial interest. A customer is better off making some payment, even a reduced one, rather than making no payment and negatively amortizing the loan balance.

NOW's response:

- We reported Sallie Mae's denial of this in the program, and published their entire response on our website. In addition, Michael Zahara separately alleges that employees at Sallie Mae told people to make their student loan payment before their rent.

Statement #4

NOW: "Mike Zahara, a former Sallie Mae debt collector, was so angered by what he saw happen at his branch in 2005 that he decided to speak with us."

Sallie Mae: Sallie Mae shared with PBS that Mr. Michael Zahara was not a debt collector, but a default prevention specialist with Sallie Mae subsidiary Student Assistance Corporation.

NOW's response:

- We verified with Mr. Zahara that he did collect on student loan debt, so we called him a "debt collector" for the sake of clarity.

Statement #5

NOW: "Zahara says he wasn't given enough time to help debtors understand their options."

Zahara: "They wanted that collections effort done in two minutes. You were audited by your supervisors. And if you were over a two- minute average over that month, you got either written up, yelled at, or terminated."

NOW: "And you're aware that there are some better options for some people who find themselves in a bind. Were you allowed to share all those good options with the people you're talking to?"

Zahara: "No, we were not. We were not allowed to discuss and inform them. We were there simply to collect."

Sallie Mae: In fact, Mr. Zahara's job was not to collect from customers but to counsel them on the options available to avoid loan default.

PBS ignored Sallie Mae's response to the talk time allegation and omitted the fact that Sallie Mae's average customer contact is 5 minutes.

Sallie Mae's full response on this point follows:

Sallie Mae's goal is to help customers manage their debt and avoid the negative consequences of loan default. The benefits to the customer of avoiding default are huge, which is why we invest the time to counsel customers and help them construct a payment plan that works with their financial situation.

The allegation is patently false, and the facts show that the opposite is true: the average call time for a typical customer contact is more than 5 minutes.

In fact, extremely low talk time, such as the figure you cited, indicates that a collector is not gathering full and complete customer information and would trigger corrective action by the employee's manager.

NOW's response:

- We put Sallie Mae's response to the two minute allegation on our website.
- We spoke with two other whistleblowers who independently told us that they were not allowed to fully discuss all options with borrowers. One of them told us he was informed he was "not customer service." They both said supervisors put pressure on them to keep their calls limited to a very short call time. They reported between 2 and 3 and 2 and 5 minutes.
- A five-minute system-wide average, even if accurate, does not contradict that far shorter conversations were the norm in Mr. Zahara's unit and others; a five-minute average allows for many two-minute calls, as well as longer calls.

Statement #6

NOW: "Zahara argues that Sallie Mae had an incentive to let loans balloon that way because if the borrower couldn't pay back, the taxpayer would cover the bill. And since Sallie Mae allows FFELP loans to stay suspended for years, he says he's seen some loans double in size."

Sallie Mae: PBS ignored the following facts provided by Sallie Mae:

- Nearly half of our customers who default on their student loans have used no forbearance.
- Less than 10 percent of forbearance users exhaust the maximum allowable forbearance time.
- Three quarters of those who use forbearance are still in good standing four years afterward.
- Sallie Mae's usage of forbearance is consistent with the U.S. Department of Education's for its own student loan portfolio
- We cannot nor will not ignore the default prevention options prescribed under federal law to help students avoid the negative and lasting consequences of default.

NOW's response:

- We put this full response on our website;
- Corroboration: From Mark Kantrowitz: all lenders have a financial incentive to encourage borrowers to use deferments and forbearances as an alternative to default. That's inherent in the nature of a forbearance.

Statement #7

NOW: "Zahara claims that Sallie Mae sometimes even put loans into forbearance without borrower permission. After he complained to the government about the practice, he was fired.

The termination letter stated Zahara had violated the company policy that "we expect our employees to safeguard confidential information."

NOW: "His allegations are supported both by a lawsuit filed last year by Sallie Mae's own shareholders, and in company e-mails and documents from a lawsuit Zahara once filed against the company."

Sallie Mae: Under the FFEL program, the operating parameters are clearly defined regarding forbearance and all servicing aspects of the loans, and Sallie Mae takes great effort to service within those requirements.

Sallie Mae has made clear to PBS and its production company concerns and information about the credibility of PBS' sources, in particular Mr. Michael Zahara, a former short-term entry level employee.

As Sallie Mae told PBS and its production company, Mr. Zahara was terminated in August 2005 (nearly 4 years ago for misconduct in violation of the company's Code of Business Conduct (sending customers' non-public information to his personal email account). During his short tenure, he also was disciplined for sexual and racial harassment and for inappropriate behavior towards customers. His termination had nothing to do with forbearance policy or practice as implied by PBS.

After termination, Mr. Zahara filed a Sarbanes-Oxley complaint with the U.S. Department of Labor/OSHA. In that matter, a federal investigator specifically determined that Mr. Zahara was not terminated because he spoke to the government, but rather because he sent customer information to his home e-mail address. During the investigation Mr. Zahara admitted that he sent the information to his home e-mail. The investigator determined that the complaint was without merit and dismissed it. The dismissal of his complaint was further upheld on appeal.

Sallie Mae brought to the attention of PBS other examples of his credibility. For example, the July 24, 2009, Nevada Review Journal stated that Mr. Zahara's credentials to the Nevada State Democratic convention "were revoked after he threatened other delegates." Additionally, a May 13, 2009 column in the Las Vegas Tribune describes Mr. Zahara as a "disgruntled, former employee" of the newspaper and has this to say about Mr. Zahara's comments about the newspaper's funding: "Nothing that Mike Zahara said could be further from the truth and I have no idea why he came out with that pile of lies."

His recent federal lawsuit also was dismissed after his attorneys withdrew because Mr. Zahara was not forthcoming about his then pending criminal felony extortion charges filed against him by a subsequent employer then proceeding in Nevada state criminal court. During this court proceeding, Mr. Zahara accused the federal Magistrate Judge of wrongdoing and "no longer worthy of the robe she wears," engaged in vulgarity in communication with the Court, and demanded that the federal Magistrate Judge recuse herself. Allegations filed in the lawsuit were never proved and in no way are supported by merely filing a lawsuit. Sallie Mae provided PBS will copies of these pleadings, but not one was mentioned in the program or posted to the Web site.

The pending securities lawsuit is completely unrelated to Mr. Zahara's claims. The court in the securities lawsuit has not yet set a schedule for Sallie Mae to file a responsive pleading (answer or motion to

dismiss). The Company believes that it has good defenses to this lawsuit and told PBS; however, PBS chose to ignore it.

NOW's response:

- We posted a timeline on our website showing that Zahara's lawsuit was declined by the Attorney General before he was accused of extortion and before his lawyers withdrew from his case. We also show that it was dismissed without prejudice because he could not find a lawyer within the timeframe allotted to him. Finally we show that he was exonerated of the extortion charges against him.
- We spoke with student loan advocates who hear from thousands of student borrowers and who had heard many stories of student borrowers dealing with aggressive debt collection practices and not being explained their options, as outlined by Mr. Zahara.
- We spoke with other former Sallie Mae employees who backed up Zahara's allegations.
- We have additional backup from a lawsuit filed by Sallie Mae's shareholders.

Statement #8

NOW: "In contrast, she says, her son could spend the rest of his life paying off a total loan of \$140,000-- five times the amount he originally borrowed-- and he's never missed a payment. High-interest private loans like that used to be rare. But in recent years, the cost of college has risen at double the rate of inflation."

Sallie Mae: PBS never raised this account with Sallie Mae or gave the company an opportunity to respond.

Although we would not discuss a customer's account without written permission, we can confirm that the company's average private loan interest rate is 6.5%.

NOW's response:

- We have the paperwork that shows the amount of Jay Slivocka's loan and the fact that his initial interest rate was 18%.

Statement #9

NOW/Applebaum: "Talk about predatory lending. These private lenders are the epitome of predatory. They're going after kids."

NOW: "Robert Applebaum is an advocate for student borrowers. He believes the Obama administration should create a way out for student borrowers drowning in bottomless debt."

Sallie Mae: Who is Robert Applebaum and what are his credentials?

According to BusinessWeek, Applebaum is no expert on predatory lending or on student loans. He did, however, create a Facebook group.

"Applebaum, a 35-year-old attorney in New York, started a Facebook group in January called "Cancel Student Loan Debt to Stimulate the Economy," fed up with news reports about bank executives spending millions to redecorate their offices and receiving hefty bonuses. "I wanted to rant, so instead of sending an e-mail to a couple of my friends, I decided to start a Facebook group," says Applebaum, who finished law school owing \$80,000 in student loans. " BusinessWeek 03-24-09

Predatory lending is a very serious accusation and implies that a lender has deceptively convinced borrowers to agree to unfair and abusive loan terms, or systematically violated those terms in ways that make it difficult for the borrower to defend against.

Sallie Mae's private lending complies with applicable laws and regulations.

NOW's response:

- We never call Applebaum an expert. We call him an "advocate." He now works full time as an advocate for student loan borrowers. Here is his website: <http://www.forgivestudentloandebt.com>.
- In Jay Slivocka's case, we do believe the loan fits the description of "predatory." Slivocka's loan documentation, in our possession, states nowhere that he was signing onto a private and not a government loan, nowhere was the interest rate disclosed nor was the amortized amount he'd have to pay over the life of the loan. There was also no mention of the costs he would incur if he didn't make full payments every month.
- In 2007, Rep. George Miller, D-Calif., head of the House education committee, asked the FTC to look into "deceptive marketing practices" on private loans. Such tactics, Miller says, amount to "predatory lending."
- http://www.usatoday.com/money/perfi/college/2007-05-29-student-loans-usat_N.htm
- Title X, secs 1021 and 1022 were added to the Higher Education Opportunity Act of 2008 specifically to address how private loans (like Jay Slivocka's) did not contain enough information to fully inform the borrower. The act states that private loans should include more information for the borrower on private loan paperwork. Our experts confirmed for us that those changes have not yet taken place.