Business

How a payday lending industry insider tilted academic research in its favor

By Renae Merle
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Shortly after the Consumer Financial Protection Bureau began preparing what would become the first significant federal regulations for the multibillion-dollar payday-lending industry, Hilary Miller went to work.

Miller, an attorney who has worked closely with the industry for more than a decade, contacted a Georgia professor with a proposal: Would she like to test one of the chief criticisms of the industry, that its customers are harmed by repeatedly taking out loans?

Over the next year, Miller worked closely with Jennifer Lewis Priestley, a professor of statistics and data science at Kennesaw State University, suggesting research to cite, the type of data to use and even lecturing her on proofreading. "Punctuation and capitalization are somewhat random," he said in a February 2014 email responding to a draft of the report. "You might want to have your maiden aunt who went to high school before 1960 read this."

Priestley's report ultimately concluded that taking out repeated loans didn't harm borrowers, and, according to the emails, Miller discussed the results with a CFPB economist. It's unclear how it factored into bureau decisions, but it has been repeatedly touted by payday lending supporters.

Its origins shed new light on the extensive battle payday lenders have waged to influence and undermine federal regulations.

In a December 2013 exchange, Miller told Priestley that he wanted to persuade her to change the way she analyzed data about borrowers' credit scores. "I am here to serve," Priestley responded. "I just want to make sure that what I am doing analytically is reflecting your thinking." Her email ended with a smiley face.

On the front page of the report, Priestley states that Miller's nonprofit organization, which provided an $30,000 grant, did not exercise any control "over the editorial content of this paper." In an interview with The Washington Post, Priestley said she offered to share authorship of the report with Miller but he declined.

"Not only is the payday-lending industry choosing professors to write studies on their behalf; in this case they are writing the studies themselves," said Daniel Stevens, executive director of the Campaign for Accountability. "I have never seen anything like this."

The D.C.-based nonprofit group obtained the emails through a public records request after a three-year legal fight that reached the Georgia Supreme Court in 2018.

Miller declined to comment for this report.

'Party time'

The exchanges are among hundreds of pages of emails — reviewed by The Post and being publicly disclosed for the first time — that illustrate the industry's extensive efforts to influence federal rulemaking. In addition to commissioning studies, payday lenders extensively lobbied lawmakers, sought the support of black clergy members, and even changed the location of an annual conference. The Community Financial Services Association of America held its 2018 meeting at the Trump National Doral Golf Club near Miami and plans to meet there again this year.

"The venue is popular with our members and it meets our needs," Dennis Shaul said in a statement. Shaul is chief executive of the group, which includes some of the industry's biggest players, such as Advance America and MoneyTree.

The industry had a significant recent win: Earlier this month, the CFPB backed down from sweeping new regulations, potentially saving short-term lenders $10 billion through 2020. On paydayloanindustryblog.com, a website run by an industry consultant, the news was welcomed with a GIF of President Trump's head on the body of dancing people and the phrase "It's party time, baby!"

The CFPB says it was not influenced by the industry's lobbying on the issue. The bureau re-examined all existing evidence, including research supportive and critical of payday lending, and determined they collectively didn't support the existing rule, said Marisol Garibay, a CFPB spokeswoman. The bureau did not discuss its proposal to rescind the rule with industry officials before making the announcement, Garibay said.

The bureau's proposed reversal threatens broad Obama-era regulations, including a requirement that lenders verify borrowers' income and make sure they can afford to repay them on time, demands the industry considers potentially disastrous. Headed by Trump appointee Kathy Kraninger, the CFPB now says it wants to drop those requirements, arguing that there wasn't enough legal basis to justify such tough underwriting standards.

As part of its justification for the change, among other items, the CFPB also cited "two industry-sponsored surveys." The surveys had limitations, the CFPB said, but showed that consumers understood how long it would take to repay their loans, a concern of many of the industry's critics.

Democrats and consumer groups have lashed out at the CFPB's decision, arguing that payday lenders are being let off the hook after decades of trapping millions of low-income Americans in cycles of debt. The average payday loan is about $350 and comes with an interest rate above 300 percent.

Unable to pay off their loans, borrowers take out another and then another to keep up with the payments, consumer advocates say. A 2014 CFPB study found that the majority of borrowers renew their loans so many times that they end up paying more in fees than the amount they initially borrowed.

The industry "launched an enormous campaign against making payday-lending rules," said Richard Cordray, the bureau's former director, who led the development of the initial regulations. "They pulled out all the stops."

The bureau did extensive research on the issue, he said, but the industry was "not forthcoming with data," complicating the process.

Payday lenders say they provide a critical service to customers ignored by traditional banks. Without these short-term loans, borrowers would be forced to go to loan sharks or take other risky or dangerous steps to cover emergency expenses, industry officials argue. Some federal standards are warranted, but the CFPB's original rules would have put most of them out of business, they say.

The study commissioned by Miller represented a little-known front in the payday lenders' campaign.

Miller is a prominent industry figure and testified before the Senate in 2006 on behalf of the Community Financial Services Association, the large industry group. He also served as president of the Payday Loan Bar Association.

In a 2016 deposition, Miller said he established the Consumer Credit Research Foundation to fund industry research, but he declined to answer questions about where it gets its money. He fought the release of his email exchanges with Priestley because the nonprofit organization would suffer "irreparable injury," according to his lawsuit.

'A terrific paper'

In an interview with The Post, Priestley said she saw the project as an opportunity to have two masters' students do interesting work. Miller provided a "massive" amount of data about payday borrowers, she said. "It allowed them to develop skills related to data cleansing."

The $30,000 grant went toward covering those students' expenses and the university's overhead costs — not to her, she said.

In soliciting Priestley for the work, Miller said in an email that he wanted to produce two "academic quality, peer-reviewable" papers. But from the beginning, emails suggest he was very involved, sending Priestley dozens of edits and helping craft the report's language.

Miller, for example, in a March 2014 email, he asked Priestley not to use the term "cycle of debt," a phrase employed by consumer advocates to describe borrowers who repeatedly take out new loans to cover the old ones.

"In general, we do not accept the notion that a 'cycle of debt' even exists, and I would appreciate it if you would delete all references to this term, unless you are rebutting its existence," Miller told her in an email.

Priestley did use the term in her report, but only to describe the views of opponents of payday lenders. She also included a footnote saying that the term was selectively applied to short-term loans and not other forms of debt such as credit cards or mortgages. That is an argument often made by payday lenders.

Miller also offered Priestley guidance in anticipating potential critiques of the research. Opponents of payday lenders argue that loan defaults are harmful to borrowers, Miller said in a February 2014 email. “At least one possible counterfactual is that defaults are actually welfare-enhancing because the borrower gets to keep the loan principal and collection efforts are largely ineffective,” the email said.

Miller also wrote her: “As a reminder, we are not interested in predicting defaults [on loans], or in who defaults,” he said in a June 2014 email. “Rather, we are investigating whether the fact of having defaulted makes a difference in a consumer’s welfare after the default. We are making this because the CFPB has asserted that defaults are harmful to consumers.”

Priestley also repeatedly sought Miller’s input and approval, according to the emails. Referring to data on whether the length of a loan can predict whether a borrower would default, Priestley said in a January 2014 email: “If you think that this is a relevant finding, I can include this information in the results section.”

In an interview, Priestley said that she relied on Miller’s industry expertise. She had spent more than a decade at various financial companies, including Visa and MasterCard, before becoming an academic, but did not have a background in payday lending, Priestley said. While working on the paper with Miller, she was also researching homelessness and how to help doctors better use robots for hysterectomies, she said.

“If you had asked me what a payday loan was, I am not sure I could have explained it, but I do know a lot about math,” Priestley said.

Without a background in the subject, she said, Miller became an important sounding board. “There were outcomes and analytical results that I didn’t understand,” she said. In those cases, she sought Miller’s help in interpreting the data.

But the report was the result of broad research that extended beyond Miller and the results were not manipulated to serve any perspective, Priestley said. “The math is what is important here,” she said. “Mathematically, I was pretty proud of the work.”

While she started the research agnostic on the issue, Priestley said, by the end she had formed an opinion. “There is a role for payday loans because you have got people who literally can’t put their hands on $10,” she said.

As the publication of the study neared, Miller congratulated Priestley on her work. Priestley’s study found that payday-loan customers who repeatedly borrow money over a long period “have better financial outcomes” than those who borrow for a shorter time. These borrowers also benefited from living in states where payday lending wasn’t heavily restricted, the report found.

"This is a terrific paper," he said in an April 2014 email. "When it is done, you are going to be famous and your phone will ring off the hook." The group was developing a strategy for releasing the report, he said. "We want them to believe that the results are honest, verifiable and, most importantly, correct."

Priestley said she offered to list Miller as an author on the report and did not find it unusual when he declined. Because Miller is an attorney, not a PhD, the credit probably would not have meant much to him, she said. "I didn't think anything of it," she said.

The study, hand-delivered to a top CFPB official, according to Miller's emails, was quoted by several industry supporters in opinion articles critical of the bureau's rules. In a 2015 opinion article for the Detroit News titled "Rules threaten payday loans for low-income borrowers," Jeffrey H. Joseph, a George Washington University professor, cited the report. In an October 2016 report for the Competitive Enterprise Institute titled "Ending Payday Lending Would Harm Consumers," Miller repeatedly referred to Priestley's report without noting his connection to it.

As they wrapped up the project, Miller offered Priestley a little more advice. The findings would subject her to intense scrutiny from industry opponents, he said in a 2014 email exchange.

"Should I hire a bodyguard?" she responded.

"I think steps less than a bodyguard (such as, for example, a guard dog or barbed wire at your residence) may suffice," Miller said.

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