

**VETERANS CONSUMER PROTECTION:
PREVENTING FINANCIAL EXPLOITATION OF
VETERANS AND THEIR BENEFITS**

HEARING

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS

UNITED STATES SENATE

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

APRIL 19, 2023

Printed for the use of the Committee on Veterans' Affairs



Available via the World Wide Web: <http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

SENATE COMMITTEE ON VETERANS' AFFAIRS

JON TESTER, Montana, *Chairman*

PATTY MURRAY, Washington	JERRY MORAN, Kansas, <i>Ranking Member</i>
BERNARD SANDERS, Vermont	JOHN BOOZMAN, Arkansas
SHERROD BROWN, Ohio	BILL CASSIDY, Louisiana
RICHARD BLUMENTHAL, Connecticut	MIKE ROUNDS, South Dakota
MAZIE K. HIRONO, Hawaii	THOM TILLIS, North Carolina
JOE MANCHIN III, West Virginia	DAN SULLIVAN, Alaska
KYRSTEN SINEMA, Arizona	MARSHA BLACKBURN, Tennessee
MARGARET WOOD HASSAN, New Hampshire	KEVIN CRAMER, North Dakota
ANGUS S. KING, JR., Maine	TOMMY TUBERVILLE, Alabama

TONY MCCLAIN, *Staff Director*

DAVID SHEARMAN, *Republican Staff Director*

C O N T E N T S

APRIL 19, 2023

SENATORS

	Page
Hon. Jon Tester, Chairman, U.S. Senator from Montana	1
Hon. Jerry Moran, Ranking Member, U.S. Senator from Kansas	2
Hon. Marsha Blackburn, U.S. Senator from Tennessee	12
Hon. Margaret Wood Hassan, U.S. Senator from New Hampshire	14
Hon. John Boozman, U.S. Senator from Arkansas	15
Hon. Richard Blumenthal, U.S. Senator from Connecticut	17
Hon. Mazie K. Hirono, U.S. Senator from Hawaii	18
Hon. Angus S. King, Jr., U.S. Senator from Maine	22
Hon. Dan Sullivan, U.S. Senator from Alaska	22

WITNESSES

David Barrans, Chief Counsel, Benefits Law Group, Office of General Counsel, Department of Veterans Affairs; accompanied by John Boerstler, Chief Veterans Experience Officer, Veterans Experience Office	3
James Rice, Office of Servicemembers Affairs, Consumer Financial Protection Bureau	5
Monica Vaca, Deputy Director of the Bureau of Consumer Protection, Federal Trade Commission	6

APPENDIX

PREPARED STATEMENTS

David Barrans, Chief Counsel, Benefits Law Group, Office of General Counsel, Department of Veterans Affairs	31
James Rice, Office of Servicemembers Affairs, Consumer Financial Protection Bureau	39
Monica Vaca, Deputy Director of the Bureau of Consumer Protection, Federal Trade Commission	54

QUESTIONS FOR THE RECORD

Department of Veterans Affairs response to question asked during the hearing by: Hon. Dan Sullivan	73
Department of Veterans Affairs response to questions submitted by: Hon. Joe Manchin	74
Hon. Kyrsten Sinema	79
Consumer Financial Protection Bureau response to question submitted by: Hon. Tommy Tuberville	87

STATEMENTS FOR THE RECORD

Hon. Kyrsten Sinema	93
The Department of Justice (DOJ)	94

**VETERANS CONSUMER PROTECTION:
PREVENTING FINANCIAL EXPLOITATION OF
VETERANS AND THEIR BENEFITS**

WEDNESDAY, APRIL 19, 2023

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 3:46 p.m., in Room SR-418, Russell Senate Office Building, Hon. Jon Tester, Chairman of the Committee, presiding.

Present: Senators Tester, Brown, Blumenthal, Hirono, Sinema, Hassan, King, Moran, Boozman, Sullivan, and Blackburn.

OPENING STATEMENT OF CHAIRMAN JON TESTER

Chairman TESTER. Good afternoon. I want to call this hearing to order. Today we are going to discuss a critically important topic and that is protecting veterans' hard-earned benefits from frauds and scams.

Unfortunately, there are a lot of bad actors looking to prey on these benefits, and we need the right tools in place to hold them accountable. This topic is particularly important as the PACT Act is being implemented, which will ultimately provide a huge expansion of veterans' benefits in the decades to come. This landmark legislation added 20 new presumptive conditions for burn pits and toxic exposures, and two additional conditions for Agent Orange. As of March 26th, the VA received more than 422,000 PACT claims. It has completed more than 191,000 of those claims, 80 percent of which have been granted.

As a result, a historic number of veterans are receiving disability benefits, and unfortunately more and more bad actors and scammers are seeing these veterans as a payday. While veterans should never have to pay to get the benefits they have earned, we are faced with the reality that many veterans are choosing to pay for assistance. Time and time again we have heard truly awful stories about how bad actors have promised veterans assistance, only to have those veterans hounded by for-profit companies and third-party debt collectors about past-due bills incurred because a veteran paid for their so-called expertise.

One Montana veteran reached out to his local VSO for help after working with a claims consulting group. The consultant charged the veteran an upfront fee, sent him to a doctor who provided a nexus opinion for sleep apnea connected to his knee condition. He provided the veteran no tangible help in moving his claim forward.

We have also heard about consultants in Billings, Montana, charging elderly veterans and their spouses \$800 just to talk with them about possible pension claims. I am sure these are examples that go throughout the United States.

Now we have fought back against this behavior before. Back in 2019, I introduced a bill to go after pension poachers following a different case in Montana, a so-called veteran assistance company, who was stealing a widow's pension after she turned to them for assistance. There has got to be a certain place in hell for these people.

And we passed provisions under my Veterans Pension Protection Act of 2019 into law. However, it is clear that effort did not go far enough. I expect to hear from the VA today about its work to continue to educate enforce and ensure veterans are not being financially exploited when it comes to their benefits.

But financial exploitation is not limited to VA benefits claims. Identity theft, telemarketing scams, deceitful mortgage practices, and various cybercrimes all target veterans. And to the other folks on the panel I want to hear about any and all legislative fixes to hold bad actors accountable.

With that I will turn it over to my good friend and expert man of knowledge with veterans affairs, the Ranking Member, a guy that comes from the great State of Kansas, and a long line of great Kansas Senators, Senator Moran.

OPENING STATEMENT OF SENATOR JERRY MORAN

Senator MORAN. Good afternoon, everyone. I am pleased to be with you. Mr. Chairman, thank you. I thank our witnesses for being here today, and I am interested to hear the discussion of how we can work together to better protect our veterans and their hard-earned benefits.

Veterans, unfortunately, can be preyed upon by a multitude of scammers, including fraudulent educational institutions when veterans are using the GI Bill, misleading financial institutions when refinancing their homes, or those trying to exploit veterans during the disability claims process. No one should be taken advantage of when using government services, but particularly those men and women who served our Nation.

I want to protect veterans from bad actors, and doing so means your organizations need to have clear guidelines to distinguish from those actors who have legitimate organizations and purposes.

Veterans deserve to have choices in how to use their benefits that they have earned through their service. What works best for one veteran may not work best for another. I am committed to working with the Chairman, with Senator Boozman, and my other colleagues to find a path forward on holding bad actors accountable while also ensuring that we are striking a good balance in improving the system and still allowing veterans appropriate choices and options.

We must work to increase education and accountability so that veterans can advocate for themselves and make informed choices when seeking a home loan, a disability rating, or a degree. I look forward to hearing from all of you today. I am also pleased that the Veterans Experience Office is here, along with the VA Office of

General Counsel to discuss the work which the Administration is doing to better educate veterans and their families on how to access VA benefits and stay safe from scammers.

At the end of the day, every one of us want to help veterans protect themselves, their families, their benefits, and their livelihoods from making sure that they continue to have all the choices they are entitled to under the law.

Again, I thank you all for being here, and Mr. Chairman, I turn the table back over to you.

Chairman TESTER. Thank you, Senator Moran.

Today's hearing includes several agencies tasked with protecting veterans and enforcing penalties against those who play outside of the rules. From the VA we have David Barrans, Chief Counsel of the Benefits Law Group within the Office of General Counsel. He is accompanied by John Boerstler, the Chief Veterans Experience Officer. From the CFPB we have James Rice from the Office of Servicemembers and Veterans Affairs. From the FTC we have Monica Vaca, the Deputy Director of the Bureau of Consumer Protection. DOJ was unable to attend this hearing but they did submit written testimony.

[The Department of Justice (DOJ) testimony appears on page 94 of the Appendix.]

We will start with Mr. Barrans from the VA with his opening statement, and then we will go to Mr. Rice from the CFPB, and then Ms. Vaca from the FTC.

Mr. Barrans, you have the floor.

**STATEMENT OF DAVID BARRANS
ACCOMPANIED BY JOHN BOERSTLER**

Mr. BARRANS. Thank you. Good afternoon, Chairman Tester, Ranking Member Moran, and distinguished members of the Committee. Thank you for the opportunity to testify on VA's efforts to protect veterans from fraud, scams, and predatory practices. I am representing VA today along with John Boerstler, Chief Veterans Experience Officer, who leads the Veterans Experience Office, or VEO, as well as VA's Veteran Scam and Fraud Evasion Initiative, or VSAFE.

Our Nation's heroes are being financially exploited through predatory practices and fraudulent schemes. They are often viewed as an attractive target because of their potential eligibility for Federal benefits related to their service. These schemes are wide-ranging and continuously evolving. VA refuses to sit idle, and is working across the Department and with our external partners to better detect and disrupt financial exploitation.

In fiscal year 2022, the Veterans Benefits Administration developed and executed five public awareness campaigns on fraud prevention, reaching over 8.5 million veterans and dependents with information on identifying and avoiding fraud.

One prevalent predatory scheme targeting veterans is the redirection of a veteran's monthly benefits through identity theft. The Veterans Benefits Administration monitors and confirms all direct deposit changes, provides support when benefit payments are stolen, and reports suspected fraud to the Office of Inspector General.

Another scheme is pension poaching, which includes a variety of financial scams that target veterans and their families. The Veterans Benefits Administration has fraud coordinators at each of its Pension Management Centers to assist in identifying potential fraud, and VA has added clarifying language on application forms regarding the limitations on charging fees.

The Office of General Counsel's Accreditation, Discipline, and Fees Program, or ADF Program, plays a vital role in combatting predatory practices, particularly those executed through offers of claims assistance. Under current law, no one may lawfully assist claimants in the preparation, presentation, and prosecution of claims for a fee before VA without being recognized by VA to do so.

OGC's ADF program accredits and oversees representatives of veteran service organizations, or VSOs, as well as attorneys and claims agents for this purpose. There are currently 91 recognized VSOs, approximately 8,000 accredited VSO representatives, 5,500 attorneys, and 500 claims agents.

The functions of the ADF program include evaluating accreditation applications, monitoring conduct of VA-accredited individuals, investigating complaints, deciding fee disputes, and removing accreditation. OGC has established a disciplinary process to address complaints about VA-accredited individuals whereby VA may suspend or cancel accreditation for incompetence or misconduct.

Another accreditation safeguard is that claimants may request, or OGC may initiate, review of the reasonableness of a fee. VA is authorized by statute to reduce an unreasonable fee charged by an accredited individual, and in fiscal year 2022, OGC directed the return of nearly \$2.5 million in benefit payments that were initially withheld for the payment of fees.

In the case of non-accredited individuals or organizations that may be charging improper fees for claims assistance, OGC notifies them to cease their unlawful practices. Sometimes they comply, but most often they do not. Because there are no criminal penalties under Federal law specific to this practice, VA's recourse is to report the matter to Federal, state, or local agencies for consideration under their rules or laws.

VA has consistently proposed legislation that would reinstate the penalties for charging or receiving any fee or compensation with respect to the preparation, presentation, or prosecution of claims for VA benefits, except as provided by law. Over 40 percent of the complaints received by the ADF program are against unaccredited individuals and organizations. VA's proposal is largely reflected in the proposed bill S. 740, The GUARD Act.

The Veterans Experience Office led VA in establishing VSAFE, which is a Department-wide team developing long-term solutions to combat potential fraud through knowledge sharing and the implementation of best practices. VSAFE utilizes insights across the VA so that the Department speaks with one voice regarding fraud prevention and cultivates ongoing partnerships with Federal enforcement agencies.

Currently VSAFE is designing targeted communications to educate and warn the veteran community about fraud schemes and unsavory predatory practices that affect veterans' daily lives. These

include a one-page infographic that can easily be shared, a more robust booklet on how to identify and report potentially fraudulent schemes, and a centralized webpage that will make it easier for veterans to connect electronically with VA on this important issue.

This concludes VA's statement. We will be happy to answer any questions you may have.

[The prepared statement of Mr. Barrans appears on page 31 of the Appendix.]

Chairman TESTER. Thank you, Mr. Barrans.

Next up is Mr. Rice from the CFPB. You have the floor.

STATEMENT OF JAMES RICE

Mr. RICE. Chairman Tester, Ranking Member Moran, and distinguished members of the Committee, it is my pleasure to be with you here today to discuss the Consumer Financial Protection Bureau's ongoing work to protect servicemembers, veterans, and military families from scams, fraud, and harmful practices as they navigate the financial marketplace.

I proudly served in the U.S. Army, first on active duty as an enlisted medic, then for over 30 years as an officer in the Army Medical Service Corps. I served as the Director of the Army Wounded Warrior Program, and finally as the Chief of the Health Services Division on the Joint Staff. I know firsthand how financial problems can harm servicemembers during active duty and veterans later in life.

I am proud to lead the Office of Servicemember Affairs at the Consumer Financial Protection Bureau, as we work to educate and empower servicemembers, veterans, and military families, monitor the market, and coordinate efforts across the government to protect military consumers in the financial marketplace.

Veterans' financial concerns, in many regards, reflect the concerns of non-veterans, and veterans directly benefit from the CFPB's actions to address broad market problems. Over half of all complaints that we receive from veterans, military retirees, and their families, reference problems with credit reporting, the number one area of concern for non-veterans. This is followed by debt collection and mortgage issues, also top concerns for non-veterans.

The CFPB is acutely aware that understanding the veteran experience, disaggregated from active-duty servicemembers and the civilian population, must be part of our work to engage consumer populations and monitor markets.

Let me provide some examples. You have heard from my colleagues at the VA about ongoing concerns with unaccredited coaches or consultants charging thousands in fees and even sending bills to debt collectors. This is an area we are watching closely, particularly for any violations of the Fair Debt Collection Practices Act and other Federal consumer financial laws.

We have also initiated market monitoring efforts that will provide an unprecedented view into how the financial markets serve military consumers. Earlier this year, we issued a request for information on data broker practices that may be putting military consumers' privacy at risk.

We have also undertaken a similar effort for credit cards and auto loans. We use information from these efforts and other sources to develop insights into the servicemember and veteran financial experience. For example, our research recently found that only a small fraction of activated National Guard and Reserves used the Servicemembers Civil Relief Act interest rate reduction benefit on auto and personal loans.

Next, I would like to discuss what happens when we take action against entities that violate the laws we enforce. In many cases, we will partner with other Federal regulators or state agencies to investigate and coordinate a response.

Since opening our doors, the CFPB has secured \$175 million in monetary relief resulting from 39 public enforcement actions that involved harm to servicemembers and veterans. These included six public enforcement actions for violations of the Military Lending Act. In some cases, the companies in question were repeat offenders. In 2020, we also concluded a sweep of investigations of multiple mortgage companies that used deceptive mailers to advertise VA-guaranteed mortgages. The CFPB halted these harmful practices and obtained more than \$4.4 million in civil money penalties as a result of this sweep.

I would like to close by discussing how we work across government and with military stakeholders to carry out our work. We are working with the VSAFE interagency working group to create a one-stop comprehensive fraud prevention guide for veterans and those that support them.

The CFPB's Offices of Servicemember Affairs and Enforcement convene a quarterly working group that includes the Department of Justice, the Service Legal Assistance chiefs, legal assistance staff of various military installations, and Service JAG School representatives. Our purpose is to share information and develop coordinated responses to unlawful conduct targeted at military consumers.

And we work with other agencies and branches of government to address complaints from military consumers that are referred to us. Likewise, when we receive a complaint about an issue that falls under the jurisdiction of another agency, we make that referral so that that military consumers can get the help that they need.

I want to thank the Chairman, Ranking Member, and other members of the Committee for holding this important hearing and for the opportunity to appear before you on behalf of the Consumer Financial Protection Bureau. I look forward to answering your questions.

[The prepared statement of Mr. Rice appears on page 39 of the Appendix.]

Chairman TESTER. Thank you, Mr. Rice.
Next up we have Ms. Vaca from the FTC.

STATEMENT OF MONICA VACA

Ms. VACA. Chairman Tester, Ranking Member Moran, and distinguished members of the Committee, thank you for the chance to talk about the FTC's work on the critical issue of fraud and other unlawful schemes that affect veterans. I am Monica Vaca, Deputy

Director of the FTC's Bureau of Consumer Protection. As you know, my remarks are my own and do not reflect the views of the Commission or any individual commissioner.

Through our Consumer Sentinel Network, the FTC collects reports from people, including veterans and servicemembers, about frauds and other illegal practices that they encounter. Last year we received more than 190,000 reports from the military community, reporting fraud losses of more than \$414 million.

To address these problems we use a multifaceted approach that includes aggressive law enforcement, industry-wide rules, and complementary policy, education, and outreach efforts. We also leverage our relationships with our Federal and state partners to have the broadest possible impact.

In 2022, the top fraud reported to the FTC from military consumers was impersonation fraud. This includes callers claiming to be a government agency, like the IRS, or a bank, or a credit union. We have addressed imposters like these in a number of ways. For example, the FTC sued a business that allegedly posed as official military recruiters using websites like Army.com to attract potential recruits, and getting them to share contact information, which the company then sold to for-profit schools.

More broadly, the Commission has started a proposed rulemaking that could give our agency additional tools to address government and business impersonation schemes. And we have engaged in numerous outreach and educational efforts to alert military consumers about these scams.

The FTC has also brought actions against companies in a variety of industries that use illegal sales tactics to target veterans and servicemembers. For example, the FTC and a group of 18 states sued a national jewelry chain, alleging that it used illegal financing and sales practices to cheat military families, specifically by making deceptive claims that financing purchases through the company would raise servicemembers' credit scores and adding expensive protection plans onto purchases without consent.

We also have a long history of challenging deception in marketing big-ticket items. For example, we have brought actions alleging that a major lender marketed false mortgage rates to servicemembers, that a large for-profit school touted false job opportunities to veterans, and that a fast-food franchiser used bonus promises to target veterans. The FTC is currently engaged in a proposed rulemaking that would prohibit certain unfair and deceptive practices in motor vehicle sales, one of the biggest purchases people ever make.

Protecting consumers and ensuring the vigorous enforcement of the law is a group effort, and collaboration has long been a cornerstone of the FTC's agenda. We have regularly worked with trusted community partners, for example, Pine Tree Legal Services in Maine, which worked with us to create a video featuring one of their clients, a veteran who warned others about the debt-related scams he had faced. And since 2013, when the FTC launched MilitaryConsumer.gov, we have worked closely with my colleagues at the VA, the CFPB, the Department of Defense, and so many others to raise awareness of scams targeting the military community.

But there is still more to do. A critical part of the FTC's enforcement work has been clawing back money from scammers and returning it to consumers. As detailed in the written testimony, the Supreme Court's *AMG* decision dealt a massive blow to the FTC's ability to obtain that kind of relief. At a time when we are seeing veterans report more than a 50 percent increase in financial losses in 2022, the *AMG* ruling has hobbled our ability to fight fraud and get lost dollars back to military consumers.

We urge Congress to pass legislation restoring the FTC's ability to seek monetary relief for the good of all consumers.

Thank you for the opportunity to discuss the FTC's work. I would be happy to answer your questions.

[The prepared statement of Ms. Vaca appears on page 54 of the Appendix.]

Chairman TESTER. I thank all three of you for your testimony. As long as you brought it up, Monica, tell me what the *AMG* ruling did.

Ms. VACA. Absolutely. In 2021, the Supreme Court held that the FTC could no longer get monetary relief under the FTC Act for unfair or deceptive acts or practices. So what that means is that we are hobbled. We do have some tools left. They are more narrow.

Chairman TESTER. And what was their reasoning for that? Did they give you a reason?

Ms. VACA. They absolutely did. So the Supreme Court reasoned that Section 13(b) of the FTC Act, which provides for injunctive relief, did not include monetary equitable remedies.

Chairman TESTER. Okay. So it had to do with the law. And if—and I am not saying we are going to do this—but if we did decide to put forth a bill to deal with this issue then you could get monetary restitution back from the companies that are doing everybody harm, including our veterans.

Ms. VACA. We certainly could. In the five years before that ruling, we got \$10 billion back for consumers.

Chairman TESTER. Okay. I am just going to keep going and go basically off your testimony. What does a veteran do with a plan that they got without their consent? Do they have the rights just to tell them to take a hike, or what are the legal ramifications of that?

Ms. VACA. I think you are referring to the *Harris Jewelry* case.

Chairman TESTER. Yes.

Ms. VACA. Yes, if they have a so-called protection plan that they did not consent to, they might not even know that it exists. They might not even know how to exercise their rights.

Chairman TESTER. Yes. But they have the rights to say, "Forget it. We are not paying for it." Correct?

Ms. VACA. Well, they could face repercussions from the company, and that is why we brought the case against *Harris Jewelry*.

Chairman TESTER. Okay. And from an education standpoint, what is the FTC doing to help educate the services that you offer?

Ms. VACA. So we launched [MilitaryConsumer.gov](https://militaryconsumer.gov), which has a host of information, including about frauds and scams. We do consumer alerts for all kinds of—

Chairman TESTER. Are those also done on the internet.

Ms. VACA. Absolutely. They are.

Chairman TESTER. Okay. I mean, are they done anywhere else but the internet?

Ms. VACA. Well, MilitaryConsumer.gov is online.

Chairman TESTER. Right. But the statements that are sent out are on the internet, is what I am saying.

Ms. VACA. Correct.

Chairman TESTER. Okay. Anything else you are doing?

Ms. VACA. We do webinars. We do outreach events.

Chairman TESTER. Are you doing outreach to VSOs?

Ms. VACA. We are doing outreach to the military community to tell them about VSOs, to tell them how to access those services.

Chairman TESTER. There are—and I am not telling you what to do. You guys are going to do what you want to do, but I do believe you have the right thing in mind. But there are a bunch of VSOs out there that do a great job reaching out to their members. And if you able to educate them, they can do a lot of the footwork for you.

Mr. Rice, how many people are in your department at the CFPB, that deal strictly with veterans?

Mr. RICE. The Office of Servicemember Affairs currently consists of nine people.

Chairman TESTER. Nine people. And how much money have you recovered?

Mr. RICE. The figure that I used was, since we opened our doors, \$175 million.

Chairman TESTER. And this is just veteran centric.

Mr. RICE. That is just the veterans, sir.

Chairman TESTER. \$175 million that you have recovered that have been chiseled out of veterans.

Mr. RICE. That is right, Senator.

Chairman TESTER. How long have you been in business?

Mr. RICE. The Bureau—

Chairman TESTER. I know how long the Bureau has been in business. Were you there from its inception?

Mr. RICE. I was not. I have been on board for—

Chairman TESTER. No, but has this department been there from their inception?

Mr. RICE. Yes. In the Consumer Financial Protection Act, it specifies that there must be an Office of Servicemember Affairs, and Holly Petraeus was the original—

Chairman TESTER. Yes, yes, yes, who did a marvelous job too. So thank you.

Mr. Barrans, you talked about determined reasonableness of fees between accredited and non-accredited. Do you ever find that the fee is not reasonable with an accredited agency, which the VA accredits?

Mr. BARRANS. Yes. The reviews we conduct are with respect to accredited individuals. We do not generally have visibility over what non-accredited individuals are doing because they are not—

Chairman TESTER. So the reasonableness of fees applies to the accredited part of the folks who are out there doing business.

Mr. BARRANS. That is correct.

Chairman TESTER. The non-accredited folks are free, just doing whatever the heck they want.

Mr. BARRANS. They are operating without accountability, yes.

Chairman TESTER. And you take this information, you get it, and you pass it on to state and local law enforcement. Is that what I heard you say?

Mr. BARRANS. Generally, yes, we make referrals to state and local law enforcement.

Chairman TESTER. Do you have any idea on how often these referrals are taken up, or if they are declined?

Mr. BARRANS. I do not have statistics on how often. We have worked with different state attorneys general on a number of cases, but there have not been a large number of cases.

Chairman TESTER. Do you know what the reason for that is? Is that a lack of manpower between the state and local officials, or is it just that the case is not that strong?

Mr. BARRANS. I do not know if there is a reason, or that there is a single reason. These tend to be small-dollar cases, so if that is a factor in prosecutorial decisions that may be a factor.

Chairman TESTER. I have got you. CFPB just said they got \$175 million. That is not small dollars.

Mr. BARRANS. Right.

Chairman TESTER. And that is kind of the same stuff you are dealing with?

Mr. BARRANS. Well, we certainly have seen some larger organizations who are operating on a large scale, and those are the cases generally where we have seen interest from states or from other entities.

Chairman TESTER. Senator Moran.

Senator MORAN. Chairman, thank you. Just a couple of questions designed to get me better educated. So how does a veteran or servicemember know whether they should contact the Consumer Financial Protection Bureau or the FTC? Do you have overlapping jurisdiction? And what precipitates someone filing a complaint with either one of you? How do they know how to do that, or that they should do that?

Mr. RICE. Senator, it is a great question. You know, how should they know?

Senator MORAN. I did not know whether your pause was like, it was a—

Mr. RICE. If the question is how should they know, our goal is to ensure that they do know that there is a process.

Senator MORAN. So is the Consumer Financial Protection Bureau, are you the one who is advertising, making known? It is your responsibility to get word to veterans?

Mr. RICE. I would say that we do not have a government-wide responsibility to do that. But within the Federal Consumer Protection Act we do have that responsibility for the areas that we are responsible for.

Senator MORAN. Monica, would you like to respond on the Federal Trade Commission and then I will follow up.

Ms. VACA. I will just note that we do encourage people to report to our site at ReportFraud.ftc.gov. And going to that site helps peo-

ple know what to do next, and it specifically will refer people to the CFPB, so that they do not have to figure it out themselves.

Senator MORAN. So how to veterans know to go to that site?

Ms. VACA. We do have outreach on MilitaryConsumer.gov, for instance. All of our outreach tells people how they can report their experiences to us.

Senator MORAN. Does the VA refer veterans or cases to either one of your agencies?

Ms. VACA. The VA certainly has reports that they provide into Consumer Sentinel Network, which is a large online database that collects reports from a number of Federal and state law enforcement agencies.

Senator MORAN. Well, you know, it has disappointed me, surprised me the number of times in which a veteran does not know what his or her resources are, even at the Department of Veterans Affairs, and I just am trying to figure out if that is true, how do they know there is somebody else out there who might be helpful to their cause. It sounds like people have found you. You have cases, you have filed cases, and you have indicated you have recovered—I mean, it is a significant number of dollars. I do not know how significant it is compared to all the fraud that is out there. But somebody is figuring out that you exist and might be of benefit to them, and I will explore that further as I figure out what the next step is to make sure that veterans in Kansas and across the country know there is an advocate for them.

Mr. RICE. Sir, if I may, before we leave the topic of who should report where. A great resource is at USA.gov. On their landing page there is a position for complaints. So with two clicks an individual will be taken to a screen that says, “What is it that you want to complain about? Do you want to complain about the government? Do you want to complain about a financial issue?” And it is a logical tree that takes someone who has an issue, it takes them to what we think is the right place, whether that is the CFPB, if it is within the parameters of our responsibility, or whether it is an FTC or VA or some other government agency requirement. It is a great place.

Senator MORAN. Thank you. There are veterans’ representatives in the audience and I will explore with them what role the VSOs play in directing veterans to particular places for help.

Mr. Barrans, how does a veteran know whether or not the person who is pitching them for providing a service or a benefit, how do they know whether that entity is accredited or not accredited?

Mr. BARRANS. Thank you, Senator. Our office, the ADF program, does provide fact sheets on the website which are linked from the main VA webpage to the Accredited Claims representation site of the VA page, which has a searchable database of accredited representatives. We also include fact sheets there on how to select a representative. And to the prior question, we also have fact sheets discussing how to file a complaint, to include filing complaints with VA, as well with the FTC Sentinel database.

Senator MORAN. And so the website would show who is accredited. It would not necessarily list, and you would not know, who is in the world doing things that is unaccredited. Is that right?

Mr. BARRANS. Correct, except that the database is searchable. So if you were approached by a representative, you could search for that representative.

Senator MORAN. You could see whether that entity that is calling on you, asking if they can be of help, is on your list.

Mr. BARRANS. Correct. Any individual can search that.

Senator MORAN. Okay. One of my concerns, and it may be my circumstance in life, at my age in life, it troubles me a bit that the solution of providing knowledge to people is through the internet. I do not know whether that is an effective tool for the vast majority of the veterans that I know, and veterans in Kansas. I am not sure that is the natural place that people would go. They would go to their Disabled American Veterans, to the VFW, to the American Legion, maybe. Maybe they would ask their cousin who has been through this as to what they should do and what do you know about this.

But I do not know whether that is the effective way that—again, I worry that we provide many services and benefits to veterans and so many of them still do not know, and that is dealing with the VA.

Mr. BARRANS. If I may, we recognize the challenge of ensuring we are reaching everyone. We have put information on some of our claims forms about fee restrictions. But part of the endeavor, particularly with the Veterans Experience Office and the VSAFE Initiative is to explore better ways to coordinate the messaging across the Department and reach veterans in the ways that will be most effective.

Senator MORAN. Thank you very much, all of you.

Chairman TESTER. Just to be clear, Senator Moran, we do not think you are really, really, really old.

Senator Blackburn.

SENATOR MARSHA BLACKBURN

Senator BLACKBURN. Thank you, Mr. Chairman, and thank you to each of you for being here.

In Tennessee, we hear a lot from our veterans about concerns over fraudulent activity, and we have got great VSOs, and they try to keep people informed.

Ms. Vaca, I do want to come to you. When you look at the *AMG* decision, and then I read your testimony. You had 200,000 complaints from military consumers, and it was \$400 million in damage. Now, that is double what it was the year prior. So if you are saying your hands are tied, which, in essence, is what I am hearing you say, then talk to me about a couple of things, the factors that account for the massive growth you have seen in claims that have been filed, but also what avenues are there for you to help veterans get the money back, and then what avenues are you going to be able to travel to work with others where you are not able to do that?

So that is kind of three or four questions rolled in one. So let's talk about the effect of the *AMG* closing off your opportunities. Let's talk about what has caused the number of complaints to increase. Is it awareness? Is it that more people are preying on veterans? What do you see on that?

Ms. VACA. Absolutely. So as I mentioned, the effect of the *AMG* decision is really significant on our agency. We did, in the five years prior to that decision, get more than \$10 billion back to consumers. That has been largely compromised.

With respect to your second question about the increase in the dollars lost, what we have seen over the last few years is a really big spike in online frauds, especially on social media, and we have also seen large dollar losses associated with people paying by cryptocurrency. Cryptocurrency is a huge red flag. If anybody asks or demands to be paid by cryptocurrency it is a scam, and we do need to get that message out, and we really are trying to get that message out. So that is a large part of what is driving the increase.

And your last question was about what other avenues do we have to get the money back and how can we engage with the veteran community. We do still have some tools to get money back, and we are working those as much as we can, and we have an incredibly creative and dedicated staff that is doing that and continues to bring law enforcement cases. But as much as we love to bring law enforcement cases, we wish that people do not lose money in the first instance, and for that reason we are doing a lot of outreach and education, and we are not just doing our own education on *MilitaryConsumer.gov*, we are also partnering with the people who provide direct services to veterans. So we are providing trainings, for instance, to personal financial managers so that they can help direct the people that they serve daily.

Senator BLACKBURN. Okay. And you all recently sent notices of penalty offenses to nearly 700 companies. This was an FTC action, and you did it for lack of ability to provide substantiation for what they were advertising. Some of these that were carrying out fraud against veterans, were they in those 700 companies? Was there any relationship between those two actions?

Ms. VACA. It is undoubtedly the case that many of those companies were reaching veterans and servicemembers with their false claims, and that is what we see. We bring large law enforcement actions because we do see that scammers and bad business practices affect the broad community, including servicemembers.

Senator BLACKBURN. Okay. Mr. Rice, I want to come to you. Ms. Vaca quantified the increase that they have seen in complaints that have filed and the dollar value, the dollar loss from those complaints. With your department what are you seeing in the rate of increase of those complaints and then the growth in the dollar value on those complaints?

Mr. RICE. At the CFPB, since inception and the regulation that established the Bureau, required us to have a complaint process in place. Earlier this year, we crossed the 5 million complaint threshold. The rate now is about 100,000 complaints a month that come into the Bureau, largely. Of that, between 5 and 6 percent, historically, about 5.5 percent in the last year have been servicemember or veteran complaints.

I will have to take back the second part of your question about a dollar value that is associated with that. I think that is going to be a little difficult to quantify, but I will certainly work with the folks back at the Bureau.

Senator BLACKBURN. I think it would be helpful to see that because the goal should be to prevent these actions. But my time has expired so I will carry that conversation forward with you when you get the info back to us. Thank you.

Chairman TESTER. Senator HASSAN.

SENATOR MARGARET WOOD HASSAN

Senator HASSAN. Thanks, Mr. Chair and Ranking Member Moran, and thanks to all of our witnesses for being here.

Mr. Boerstler, I want to start with you because this is a question really about government benefits that veterans may get that do not actually qualify as veterans benefits specifically. In New Hampshire and across the country, our veterans are aging so they are becoming eligible for Social Security and Medicare benefits. So while VA is understandably focused on preventing fraud and abuse among its beneficiaries, bad actors also target other government benefits that veterans receive.

So what is VA doing to coordinate with other agencies to collect data on all scams and financial crimes where veterans are victims?

Mr. BOERSTLER. Thank you very much for the question, Senator. The VSAFE Initiative, the Veteran Scam and Fraud Evasion Task Force that we have put together, not only within VA to share information and communicate and coordinate more effectively across the administrations and staff offices but across the Federal landscape, to include our CFPB and FTC partners, as well as the Social Security Administration, the Department of Justice, the Department of Defense, Department of State, Department of Education. So numerous benefits, as you mentioned, we are working actively to share information and trends on how veterans are getting scammed and fraud attempts coordinated toward them, and then more importantly, how they can report these different incidences to the right Federal jurisdiction.

So that is why we are wanting to consolidate a lot of this information. The Chairman and Ranking Member brought up this issue a minute ago. It is confusing for veterans to identify what type of fraud or scam is being targeted toward them, and more importantly, how to report that instance. We need to make it easier for them. So that is what we are designing with the VSAFE Initiative, and in the coming months we should have that reporting channel up and running.

Senator HASSAN. Okay. I will look forward to hearing more about that.

And to Mr. Barrans, through emerging artificial intelligence tools such as ChatGPT, bad actors are increasingly able to rapidly produce realistic scam emails that can target VA beneficiaries, along with lots of other people, but we are focused on VA here. What is VA doing to prepare for AI-enabled scams, and can Congress be doing more to assist you?

Mr. BARRANS. Thank you for that question. So I am not aware of specific things, certainly within my office that are targeting that specifically, but we are working, as Mr. Boerstler mentioned, across the government with our partners. And within VA that includes VBA, it includes the Office of Inspector General, and it includes VEO, to identify and address emerging scams such as that.

Senator HASSAN. Well, one of the things we are seeing, for instance, is AI-enabled scams through the IRS, or pretending to be the IRS. So you might want to reach out to them as they are trying to develop their own tools for staying ahead of the technology.

Thanks. That is all I had, Mr. Chair.

Chairman TESTER. Senator Boozman.

SENATOR JOHN BOOZMAN

Senator BOOZMAN. Thank you, Mr. Chairman, and again, thank you all for being here about this really important subject. With all that is online, and this and that, as you mentioned, there are solutions but there also are a lot of scams out there. And with the passage of the PACT Act there is lots of benefit action, this and that, that people are taking advantage of in a very unfair way.

Currently there are no criminal penalties in place to prosecute individuals and organizations who charge improper fees for the preparation, presentation, or prosecution of VA benefits claims. Our legislation, the GUARD Act, which we introduced this year along with Senator Blumenthal would address this problem and reinstate the criminal penalties.

Mr. Barrans, can you speak to the importance of having these penalties in place to ensure there is proper recourse for dealing with these individuals and organizations?

Mr. BARRANS. Yes. Thank you very much for that question. VA strongly supports the GUARD Act, and we have continued to push for this type of legislation over the years. It is critically important because we have seen a rise in individuals and organizations acting within this space to charge illegal fees, and they do it with somewhat seemingly assurance of impunity, meaning they recognize that VA's authority is somewhat limited in prosecuting them, that we need to coordinate through other Federal, state, and local entities, and that we are competing for prosecutorial and investigative time with a lot of other matters.

We believe that certainly one of the potential barriers is that other Federal, state, or local entities will need to find a way to make these actions fit within their statutes and regulations, which is certainly possible, but the laws vary from state to state. It may not be a perfect fit. We think it would make it much easier if there was a single Federal standard specific to these actions that would make it easier for prosecutors to bring actions.

Senator BOOZMAN. Very good. Thank you. Mr. Barrans, according to the VA website it currently takes a year, on average, to process the claims packet. Additionally, according to the VA, there are 211,276 claims in the backlog waiting to receive a rating decision. Can you tell us why it takes a year to get that done, to approve a claim agent application, and again, what can we do as a Committee to help you speed the process up?

Mr. BARRANS. Yes, thank you. So the claims agent applications tend to be the most labor intensive of the three categories of representatives that we accredit, and that is actually by a few orders of magnitude. And that is because, of those three, we do not have an external body that serves to certify the character and fitness of the representatives. With attorneys we rely on state bars to perform that function. With VSO representatives we rely on VSOs to

perform that function with their robust training and certification programs.

Lacking any similar resource for claims agents, VA has to do the work of conducting background checks, conducting reference checks, and then conducting knowledge checks through the administration of a written exam. So that takes more time, obviously, and more effort.

And we have seen a growth in the number of applications for claims agents. And apart from that, the Accreditation, Discipline, and Fees Office is a small office. We operate with four staff attorneys, between four and six paralegals, and one supervisory attorney. And we have a wide array of matters that we have to deal with, not just initial accreditations but oversight, complaints, fee decisions, and those sorts of things.

Senator BOOZMAN. Well, that's important and we do need to help. Maybe we can help think outside the box. There has got to be other entities that have the same problem, you know, certifying individuals, that have overcome it, so maybe we can help again in that regard, which really is key.

In meetings surrounding this topic of unaccredited individuals and organizations I often hear that VSOs do not have the capacity to assist veterans in their claims, causing extended wait times to receive a decision. These unaccredited individuals and organizations state that they exist to fill this void created by a lack of VSO capacity.

Mr. Barrans and Mr. Boerstler, in your opinion do you believe this statement is true that VSOs do not have the capacity to efficiently handle benefit claims?

Mr. BARRANS. Thank you, Senator. I cannot speak for our VSO partners, but in our experience with the VSOs, we have more than 8,000 VSO representatives currently accredited. We have seen the wonderful job that they do. We note that the system, the initial adjudication system, is designed to be weighted very heavily in favor of getting to yes on grants of benefits, so that even those claimants who do not have a representative, they succeed at a very high rate.

But to the question of VSOs, we believe that they do a great job and we are not aware of indications that they are slowing down the process or failing to provide services in any respect.

I do not know if Mr. Boerstler has anything to add to that.

Mr. BOERSTLER. I would just love to add, Senator, that you probably have heard that the Veterans Benefits Administration is processing claims at record rates at this current time, which is incredible, and that is a testament to our partnership and the training that we provide our veteran service organization partners and the attorneys and the claims agent. Obviously, in terms of reporting different scams and frauds, we want to make it as easy as possible and know that they can call the Office of Inspector General or the National Contact Center for the Veterans Benefits Administration.

Senator BOOZMAN. Thank you all very much. We appreciate you.

Chairman TESTER. Senator Blumenthal, it is good to have you here. Before we get to your questions I want to say that we all watched as UConn marched through March Madness and trashed everybody within the field and won the national championship. All I have got to say is that must have been one hell of a parade.

Senator BLUMENTHAL. It was a great parade and I hope I do not have to relive it.

[Laughter.]

SENATOR RICHARD BLUMENTHAL

Senator BLUMENTHAL. Life is a parade. Stuff happens. Glad to be with you, and I appreciate your support, Mr. Chairman and Ranking Member, and thank you so much for having this hearing. This is of such immense importance.

I want to thank the Chairman for joining Senator Boozman and I in the GUARD VA Benefits Act, which would restore the criminal penalties for unaccredited actors charging veterans fees for their claims, for other kinds of preparation and managing of the issues that they may present to the VA. I think it is vital that we have this leverage and tool so that we can effectively prosecute people who exploit our veterans.

But I do think that there are already measures that can be taken, and Ms. Vaca, I think you would agree with what Mr. Barrans just said, that state and local authorities and the FTC, under the present consumer protection statute, deceptive and misleading practices can be pursued, albeit mostly civilly but sometimes criminally. And what I would suggest is that we need a full court press among all of the agencies with consumer protection jurisdiction, to make sure we use existing statutes to protect veterans against the burgeoning threat to their rights and their pocketbooks from these kinds of bad actors. Would you agree?

Ms. VACA. Thank you, Senator. Yes, I would agree.

Senator BLUMENTHAL. And, you know, what I have found in consumer protection work that I did as state attorney general, that what is really vital is for the victims to come forward. You cannot make cases out of thin air. You need witnesses. You need documents. You need cases. And let us be very blunt. Sometimes victims feel embarrassed, ashamed that they have not been smarter. "Too good to be true," you know, if it looks too good to be true, it probably is. A lot of folks are simply reluctant to come forward.

So what I would like to know from the VA is, what are you doing to encourage our veterans to come forward, even if it is just confidentially? You need to have hotlines. You need to have ways for them to communicate in ways that they may feel secure and comfortable. Mr. Barrans, I am sorry.

Mr. BARRANS. Thank you, Senator. I would like to turn it over to Mr. Boerstler to address that from the VEO perspective.

Mr. BOERSTLER. And thank you, Senator. As I mentioned a second ago, the VSAFE Initiative, the Veteran Scam and Fraud Evasion Task Force, that is not just within VA but encompassing the entire Federal landscape and our partners here on the panel today, has really done a great job at bringing a lot of that information together and not only identifying the types of scam and fraud that are coming toward veterans but how to report them across the different jurisdictions and making it much simpler for our customers to understand, and to really amplify and elevate a lot of the great work that is already being done.

But once again, our kind of our mission here is to inform, so create one-pagers that are educating them about things they should

do or should not do. We want to educate them more thoroughly by providing a joint fraud prevention booklet that encompasses all the different fraud—

Senator BLUMENTHAL. Let me just interrupt—

Mr. BOERSTLER. Yes, sir.

Senator BLUMENTHAL [continuing]. Because my time is limited, and I apologize. A one-pager, a booklet, great. But how many veterans are you really going to reach with a booklet and a one-pager? I mean, you live in the real world, just like I do, and veterans do not necessarily pick up booklets and one-pagers. May I suggest that the same kind of mass communication that is right now being used by the lawyers seeking clients as a result of the Lejeune protections that we passed, that kind of massive outreach, should be the way to warn veterans about these kinds of scams and frauds and con artists, and you ought to run the alert up the flagpole.

Mr. BOERSTLER. I totally agree, Senator, and I think radio, especially for rural veterans and their families, is a great way to reach, as well as our veteran service organizations, state Departments of Veterans Affairs, county Veteran Services officers, and your offices within each of your states, I mean, are great force multipliers. We all have different channels and we need to exercise every single one.

Senator BLUMENTHAL. My time has expired. I thank you for your work on this. I look forward to working with you, and again, I want to thank the Chairman for his having this hearing, and I yield to Senator Hirono.

SENATOR MAZIE K. HIRONO

Senator HIRONO [presiding]. Thank you very much.

We know that there are certain groups of people in our communities that are targeted for scammers and for all kinds of bad acts, including identity theft, et cetera. Seniors are among that kind of group too, and we know that veterans are. So we often talk in this Committee about the need for better collaboration between DoD and VA when it comes to improving the well-being of veterans in the long term. And to what degree are efforts coordinated to ensure veterans have been made consistently aware? They cannot just be told once, "Well, you could be a target," but I think consistent messaging of their status as targets for predatory schemes throughout their service and after separation.

So hear from the VA, Mr. Barrans?

Mr. BARRANS. Yes. Thank you, Senator, for that question. We do value the collaboration with DoD, and I know that VA has been working in a very focused way, particularly over the last several years, to ensure communications throughout the lifecycle of every veteran. The Solid Start Initiative, which makes contact with veterans in the first year after their separation at three different touch points, is a great start, and that has been to serve as a check-in and information on benefits, and certainly that is an opportunity for us to bring in more information with respect to scams and fraud.

But I will turn to my colleague in case he has additional insights.

Mr. BOERSTLER. Well, in fact, to Mr. Barrans' point, Senator, I was in a Transition Assistance Program class last week, in Dayton,

Ohio, at Wright-Patterson Air Force Base, and there is new fraud and scam evasion techniques and tactics that is trained in the VA one-day course, as well as the Defense Department does a tremendous job at educating its active-duty servicemembers. So we are working jointly across that life journey, as he mentioned, to educate them.

Senator HIRONO. Can you give me an example of how a veteran would evade a scam artist?

Mr. BOERSTLER. Absolutely. We really encourage them to first identify and then report. And to Senator Blumenthal's comments about taking the shame out of it and making it much easier, so reporting to the Office of Inspector General or to the National Contact Center, the Veterans Benefits Administration line, or our Federal partners, and making sure that they are reporting that instance immediately.

Senator HIRONO. Well, it is one thing to report, but it is another for them to be able to shut it down on their own. So is there some concrete way that they know that somebody is trying to get their financial information or something so that they can just shut it down? That, to me, is a really important aspect of how to prevent things, because these scam artists, they will set up shop someplace else the minute you report it.

So give me an example of what you say—any of you can tell me—what is a veteran to do if somebody calls them up, or what are some major ways that they are accessed? Is it through social media? Through the phone? How?

Mr. BOERSTLER. Yes, and thank you, Senator, and before I defer to my colleagues, you know, in particular, in the identity theft portion that you mentioned, that is happening much more in the cyber and information technology space. We will send an alert to the veteran if somebody is trying to access their account, and make sure that it is them. And we are seeing more and more of that awareness and trying to educate them so that they are hardened against that type of scam.

And I will defer to my colleagues. I am sure they have much more to add.

Senator HIRONO. Anybody else?

Ms. VACA. So one thing we tell not just veterans and servicemembers but the general public is, you know, sometimes you do get those weird, scary calls or text messages or emails that sound like you are in trouble. Right?

Senator HIRONO. Yes.

Ms. VACA. It sounds like maybe your financial account has been compromised, the IRS is after you, something like that, and those are a little bit frightening for people, and so people tend to act quickly. What we tell people is, pause. Slow down a little bit. Talk to somebody else. Just the act of saying it out loud helps you recognize the red flags.

What are those red flags? Red flags are things like somebody is asking you for payment with a gift card. Somebody is asking you for payment via cryptocurrency, via money transfer. Those are all red flags that sometimes just saying it out loud helps you avoid it. Once you have avoided it, we ask that people please report it to the FTC at ReportFraud.ftc.gov.

Senator HIRONO. So once it is reported, though, is there any kind of prosecution that happens through the reporting?

Ms. VACA. Yes. So what happens when the reports happen is they go into our database, the Consumer Sentinel Network database, which has reports not just that the FTC collects but that the VA collects, that the CFPB collects, that a lot of our law enforcement partners collect, and others, you know, the Better Business Bureaus. It all goes into one database, that 3,000 law enforcement users across the country can access to find those targets and to find those witnesses.

So the importance of filing that report is really critical to the ability of all of these users to be able to assemble law enforcement cases.

Senator HIRONO. So let me be clear then. How successful are you at enabling the veterans to prevent themselves from being scammed in the first place? How successful are you at doing that, would you say?

Ms. VACA. So that is a hard question to answer because we do not have survey data about that, but I think that with outreach and with education we have a good chance. You know, again, it is a difficult thing to measure.

Senator HIRONO. Well, I also know that—excuse me.

[Pause.]

Senator HIRONO. I can keep talking. We know that seniors are also targeted for all kinds of scams, and I remember talking with my mother. People in Hawaii are very polite. They are nice. And so when somebody calls you just do not slam the phone down on them. I used to say to my mom, “When somebody calls you and you do not know that person, hang up the phone,” but she would say, “But I can’t just do that.” I said, “Well, just say, ‘no, thank you’ and then hang up the phone.”

I am just looking for ways where the servicemembers do not become the kind of targets that makes them just so vulnerable to being scammed. So do you go through role-playing kinds of examples where they can just shut it down? Because, to me, prevention is the key.

Mr. BOERSTLER. Senator, and that is one of the outcomes of the VSAFE work that we are putting together, one centralized hub where it cannot only help veterans and families identify the different types of fraud or scams that they may be experiencing but also which agency or agencies to report that, that has jurisdiction over that.

Senator HIRONO. If there are certain things, certain kinds of information that we, particularly as members of this Committee, because we are very committed to helping our veterans, if there is certain kinds of information that we should make available to our veteran population, and there are many of them in Hawaii, as you can imagine, I would really appreciate it, so I can be part of the messaging and the information that you are imparting to our veterans.

Senator King?

Senator KING. I am going to pass for a few moments.

Senator HIRONO. Okay. I will let you gather your thoughts. Okay. I need to gather my thoughts too.

Okay. I think you may have touched on this, to scare them, Ms.—is it Vaca? So a common practice among scammers and predatory creditors is to threaten to contact chain of command if a servicemember does not comply with their demand. So this is something that veterans are very familiar with, chain of command, not so much civilians. That is not a particularly useful threat for civilians, but for veterans, yes.

So worries about superiors learning of financial issues create or perpetuate a stigma around reaching out for help in these situations, something that could easily continue to impact these servicemembers as they become veterans.

What has been done to reduce the stigma around asking for help when it comes to dealing with predatory companies and scams, and how can we better normalize using the tools available for veterans in these situations?

I will ask the whole panel. Who wants to respond.

Ms. VACA. I will just begin by saying that we brought law enforcement cases against collectors who have done that, who do just that. They threaten the servicemember, to tell them that they are going to report them to their commanding officer.

Senator HIRONO. Yes.

Ms. VACA. So we have brought those types of cases. And I think that a big piece of this is making it clear that this is happening, that this is normal, so that people know about it.

So we publicize our cases as a way of educating consumers that this is happening. We also publicize, and to your earlier question about what your office can do to sort of alert people about scams, we publish our data. We publish what it is that servicemembers tell us are the top scams that they have encountered. And sometimes just knowing that this is a scam that primarily targets the military community helps people know, oh, this is something I should be on the lookout for.

Senator HIRONO. So the FTC has actually brought cases, have prosecuted some of these scammers?

Ms. VACA. Yes. We have brought a number of cases. We do not have criminal law enforcement authority—

Senator HIRONO. Yes, and I was going to say, what happens? Do they get fined, and if so, what level of fines are you able to impose on these people?

Ms. VACA. So thank you. Ideally what we are looking for is money back for the people who have been harmed, and an injunction to stop the illegal practices.

Senator HIRONO. Do you forward these kinds of claims to the Justice Department for criminal prosecution or to the state where these crimes occurred?

Ms. VACA. We do have—

Senator HIRONO. I will call it crimes.

Ms. VACA. Yes. We do have a criminal liaison unit so that we can appropriately refer matters where we have seen criminal conduct, yes.

Senator HIRONO. I think there needs to be criminal prosecution of these. Probably they just keep doing it because a fine, I do not think, is enough deterrence.

Senator King.

SENATOR ANGUS S. KING, JR.

Senator KING. Mr. Barrans, I have a simple question. Do you believe the GUARD VA Act is an important tool? Do you support the bill or do you have suggestions as to how we might improve it? I am sorry I was late. We had a briefing on the leak situation.

Mr. BARRANS. Right. Yes. But why I do appreciate your question, VA strongly supports the GUARD Act. It aligns with proposals we have made for several years, partly because we have seen somewhat of a proliferation of actors who are flouting the law by charging fees illegally for assistance on initial claims. VA has very limited authority to hold unaccredited individuals accountable, and we believe that the GUARD Act would be a significant tool as a deterrent and as a tool for DOJ and other law enforcement agencies.

Senator KING. Should not everyone that is working on these kinds of issues with veterans be accredited?

Mr. BARRANS. Yes, yes, absolutely. Accreditation serves to protect veterans, both by ensuring that any representative who is helping them possesses the character and the skills, and also by ensuring that those individuals are accountable in case something goes wrong or they do anything incorrect.

And accreditation, or something similar, is just the standard practice and best practice throughout the legal profession across our country. If you want to practice law in any state you need to be accredited by the bar before many, if not most, courts and administrative bodies. You need to be admitted.

Senator KING. Well, if you have suggestions about the GUARD Act as we are moving it through the process I hope you will share them, technical suggestions or proposed changes. And it seems to me that we are never going to get to the bottom of this problem without some serious penalties. There should be criminal penalties, in my view, for knowingly trying to take advantage of veterans, committing fraud against the VA or the veterans. Do you concur?

Mr. BARRANS. Yes, absolutely.

Senator KING. Because otherwise if there is no serious penalty then it's the cost of doing business. Fines are not necessarily going to do it.

Mr. BARRANS. Yes, and we understand that some of the organizations that are doing this are making quite a bit of money doing it, so there needs to be a significant deterrent and criminal penalties.

Senator KING. Any others want to chime in on this issue?

Mr. RICE. I would just say we are happy to work on the technical aspects of the legislation and provide any feedback that the Bureau can.

Senator KING. Thank you. Thank you all very much. Thank you for being here.

Senator HIRONO. Senator Sullivan.

SENATOR DAN SULLIVAN

Senator SULLIVAN. Thank you. Well, I am going to talk about the issue I have been talking about for quite some time, and you want to talk about a scam that is going on right now, it is in the Camp Lejeune bill that we passed with the PACT Act. Unfortunately, some of my Democratic colleagues will not help me on it, because

the trial lawyers love the current situation. I really hope you guys can help. I really hope you guys can help. It is kind of shameful.

You guys know what I am talking about. The Trial Lawyers of America, I think one of the hearings that we had several months ago said they have spent over \$1 billion—\$1 billion—doing ads on TV. We have all seen them. You think they are doing it for the goodness of their heart, to help those Marines and their families? Yes, I do not think so. The contingency fees have been reported up to 40, 50, 60 percent, so the sick Marine and his family get the crumbs after the trial lawyers get 60 percent. There is no cap on contingency fees in that legislation.

It is shameful. We all know it is shameful. The American Legion has come out saying their number one priority is my bill. The VFW has come out. I think the DOJ, I think the VA is supportive of my bill. Like this should be unanimous consent territory.

Senator KING. Does your bill set a cap?

Senator SULLIVAN. It does, and we have compromised with everybody. It is 17 percent contingency fee cap and 12 percent for the filing fee. It is incredibly reasonable. I have moved it up almost—well, almost 100 percent because I started at 10 percent. And remember, this bill—it is not like a big trial that the lawyers have to do. It is kind of the defenses of the government have been stripped.

So do you guys have a view on this, and are you warning, Mr. Barrans, are you guys warning veterans, the Camp Lejeune families? I know the VA has been really concerned about it.

By the way, the Biden administration Justice Department, when he was going through the markup, said, “This needs caps. This needs caps on attorneys’ fees.” And unfortunately some of my colleagues on the other side of the aisle made sure there were no caps. Trial lawyers are loving it, loving it. But my goodness, you want to talk about scamming. You want to talk about hurting families. I mean, you want to talk about a zero-sum game. Either the Marines and their families get a nice benefit, which is what they have earned because we have a lot of sick Marines from Camp Lejeune, or the trial lawyers get a bigger cut.

I have never dealt with an issue that is so black and white, that should be fixed, and I cannot get my colleagues to agree to it. The Justice Department of the Biden administration wanted it. What do you guys think?

Mr. BARRANS. Thank you, Senator. I do not know that VA has been asked for views on that bill.

Senator SULLIVAN. I think they have. I think you guys are supportive, but maybe you can come back to the Committee.

Mr. BARRANS. Yes—

Senator SULLIVAN. I know you want caps.

Mr. BARRANS [continuing]. We will come back.

Senator SULLIVAN. I know you want caps, contingency fee caps like you do for tort claims against the government. Federal law caps those.

Mr. BARRANS. Well, certainly on that bill I would defer to any views we have already provided, and I would be happy to circle back with you on that.

[VA response to Senator Sullivan appears on page 73 of the Appendix.]

Senator SULLIVAN. But are you not worried? Have you seen the ads?

Mr. BARRANS. Yes.

Senator SULLIVAN. You cannot help but see the ads.

Mr. BARRANS. We have all seen the ads, yes, and we are very concerned about those issues.

Senator SULLIVAN. Do you think those law firms are really doing it out of the goodness of their hearts to take care of the sick Marines and their families?

Mr. BARRANS. There certainly seems to be potential for predatory practices there.

Senator SULLIVAN. Yes, there is.

Mr. BARRANS. We are concerned about anything that will deplete veterans' enjoyment of the benefits that they have earned and similar things like that.

We would emphasize that the Camp Lejeune provisions in the PACT Act do not relate to VA benefits.

Senator SULLIVAN. I know, but they relate to veterans.

Mr. BARRANS. Right. We—

Senator SULLIVAN. I know this is a little bit off topic, but it is not really off topic. This is the Veterans Affairs Committee.

Senator KING. That never stopped you before.

Senator SULLIVAN. Well, I am very passionate about this topic, because I think it is just a straight-up right-wrong issue. And I know my colleagues, you know, the trial lawyers have a lot of influence with the Democratic Party, but a choice between trial lawyers, sick Marines and their families, it should be 100 to zero. And I cannot seem to move it—a little bit frustrating for me.

Any other thoughts on that, just that issue in general, from anyone?

Mr. BOERSTLER. And Senator—

Senator SULLIVAN. Not my bill but just like, come on, \$1 billion of ads on TV?

Mr. BOERSTLER. I know you and I spoke about it at the PACT Act hearing last fall, and that is right after we set up the FAQ documents and VA.gov/camplejeune is to address this very issue.

Senator SULLIVAN. Perfect.

Mr. BOERSTLER. And we know that that is not reaching everyone, so we are making sure we are doing print media, we are doing radio, we are doing TV, obviously not as much as has been invested by many of the other commercials.

Senator SULLIVAN. You are definitely outgunned.

Mr. BOERSTLER. But we are working toward that. And we can only get there with jointness across the Federal enterprise and with our VSO partners, our state partners, our local county partners, and your offices in your states, and we appreciate you all's help in that.

Senator SULLIVAN. Well, like I said, the American Legion and the VFW have made this their resolution that this is one of their top priorities. I think it is their top priority, because they are worried—and John, you guys are doing this because you are worried as well. Like you testified last fall. Correct?

Mr. BOERSTLER. Yes, sir, and we want to make sure that our veterans and their families know exactly where to go if they encounter different scam and fraud techniques related to Camp Lejeune or unrelated, and that is part of this broader awareness campaign that we are approaching from an all-government perspective.

Senator SULLIVAN. Okay. Well, I am just going to say to the Committee, I know the Chairman is not here, but to his staff and everything, this is a no-brainer. It is a no-brainer. And I have compromised to get the numbers up, because some of my Democratic colleagues wanted the contingency fees to be higher. Okay, I compromised. Seventeen percent is very generous. Dick Durbin's argument, "Oh, you will not get good lawyers unless it is 30 percent." No offense, that is BS. Seventeen percent is fine. Twelve percent for filing? My goodness, a monkey could file some of these fees. And we should just do that, compromise, and take care of these Marines and these families.

Time is a-wasting, right? I mean, how long do they have to file?

Senator SULLIVAN. I think it is two years.

And is that right? Do you guys know?

Mr. BARRANS. I am sorry. I do not know that.

Senator SULLIVAN. So anyways, but time is wasting, and I just think it is kind of a—this is about scams to veterans. This is a scam right in front of us. We could fix this tomorrow, and unfortunately I am getting roadblocks by some of my Senate colleagues, and that is just not right, in my view. It is not even close to being right. I have compromised. I think we need to move the bill.

But if the VA can come back and say, "Hey, 17 percent, 12 percent, we think that is fair," if you guys could officially mention—I think you have already been supportive—I think that would be really helpful. Could you guys do that, or just take a look? I am not telling to—

Mr. BARRANS. Yes, yes, absolutely. We would be happy to take a look. And again, if we have provided views before, we can circle back with you and confirm.

Senator SULLIVAN. Great. Okay. Thank you, Madam Chair.

Senator HIRONO. I think that does it for this hearing. And I have to say, trial lawyers may have influence but apparently not as much influence as the NRA around here.

Senator SULLIVAN. Senator Hirono never takes the chance to get the last word. So let me just try and get the last word. Would you support my bill, or are you trying to block it?

Senator HIRONO. I have not seen your bill, Senator.

Senator SULLIVAN. Why don't you take a look at it. It is really important.

Senator HIRONO. And these kinds of cases, lawyers have to show—

Senator SULLIVAN. It is really important.

Senator HIRONO [continuing]. Negligence, and you have to show damages.

Senator SULLIVAN. You do not have to show—no, read the bill. Understand the bill—

Senator HIRONO. And if you do not have—

Senator SULLIVAN [continuing]. Understand the legislation.

Senator HIRONO. See, this is what happens when two lawyers——

Senator SULLIVAN. This is such a no-brainer, and the only reason——

Senator HIRONO. Usually when something is a no-brainer——

Senator SULLIVAN [continuing]. The only reason it is not moving is because——

Senator HIRONO [continuing]. Is because there is more to it.

Senator SULLIVAN [continuing]. Of the support of the trial lawyers in your party.

Senator HIRONO. I wish I had a gavel. I am closing this hearing. Oh, here it is. Yay.

Okay. This hearing is closed, but I would like to thank the witnesses.

Calm down. Wow.

So with the information we have collected today I think we have a lot of work ahead of us to stay on top of the various scams and frauds targeting veterans, and we need to ensure we are doing everything in our power to make sure veterans are not losing their benefits, identity, life savings, or credit worthiness to the predators looking to take advantage of them.

I thank each of you for your service and your continued dedication to protecting our veterans as consumers. And we will keep the record open for two weeks.

This hearing is adjourned.

[Whereupon, at 5:03 p.m., the hearing was adjourned.]

A P P E N D I X

Prepared Statements

**STATEMENT OF DAVID BARRANS
CHIEF COUNSEL,
BENEFITS LAW GROUP,
OFFICE OF GENERAL COUNSEL,
DEPARTMENT OF VETERANS AFFAIRS**

**“VETERANS CONSUMER PROTECTION: PREVENTING FINANCIAL
EXPLOITATION OF VETERANS AND THEIR BENEFITS”
COMMITTEE ON VETERANS’ AFFAIRS
UNITED STATES SENATE**

WEDNESDAY, APRIL 19, 2023

Good afternoon, Chairman Tester, Ranking Member Moran, and distinguished Members of the Committee. Thank you for the opportunity to testify on the Department of Veterans Affairs’ (VA) efforts to protect Veterans from fraud, scams, and predatory practices. I am representing VA today along with John Boerstler, Chief Veterans Experience Officer, who leads VA’s Veterans Experience Office (VEO) and the Department’s Veteran Scam and Fraud Evasion (VSAFE) Initiative.

As you likely already know, too many of the Nation’s heroes are being financially exploited through predatory practices and fraudulent schemes. They are often viewed as attractive targets for criminals and unscrupulous actors because of their potential eligibility to receive Federal benefits related to their military service. According to the Federal Trade Commission (FTC), the military population reported a collective financial loss amounting to over \$267M in 2021 alone; and it logically stands that the actual amount is likely significantly higher given that suspected fraud often goes unreported due to shame, self-blame, and not knowing where to go to report or seek help. The predatory practices and the fraudulent schemes that are being used to target Veterans and their VA benefits are wide-ranging and continuously evolving. VA, however, refuses to sit idle and watch these injustices happen. Thus, VA is working across the Department and with external partners to better detect and disrupt what appear to be many different types of predatory practices and fraudulent schemes that are being used to target Veterans.

Veterans Benefits Administration’s (VBA) Efforts in Combatting Fraud

In fiscal year (FY) 2022, VBA successfully developed and executed five fraud prevention and protection communication campaigns focused on: Cyber Security, Elderly Veterans and Pension Poaching, LGBTQ+ Veterans, Predatory Companies, and the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act. Through these campaigns, VBA conducted 87 engagements (such as social media, news outlets, interviews, and presentations) and successfully reached over 8.5 million Veterans and dependents.

VBA is aware that one of the most prevalent predatory schemes targeting Veterans is the redirection of a Veteran's monthly VA disability compensation or pension benefits. Through identity theft, the scammers use the Veteran's compromised personal information and redirect their VA benefit payment into fraudulent accounts. To address this, VBA monitors all direct deposit changes against historical fraud data to watch for suspicious changes, emails Veterans within 24 hours of a change being made to their banking information, and provides information on what to do if they did not make the change. The sooner a Veteran can be alerted of an unauthorized change, the better the chances are of preventing the funds from being paid to an unauthorized account. VBA also provides one-on-one remediation support to Veterans if their benefit payments are stolen, places additional approval requirements for bank account changes within VA's systems to stop future unauthorized changes, and reports those responsible for perpetrating fraud to the VA Office of Inspector General's (OIG) Criminal Investigation Division.

Another prevalent predatory scheme that VBA has identified is pension poaching, which includes a variety of financial scams that target Veterans, survivors, and their families who are potentially eligible for VA pension benefits. In these scams, unethical advisors profit by artificially qualifying claimants for VA pension benefits. Another popular scam occurs when a prohibited fee for the preparation of an initial claim is charged to a claimant under the guise of a "pre-filing consultation" fee. To help address this, VA's Pension and Fiduciary Service has fraud coordinators at each Pension Management Center to help identify potentially fraudulent practices during claims processing. The fraud coordinators also refer complaints they receive from claimants, who believe that they have been financially exploited through offers to assist with their pension claims, to either the Office of the Inspector General (OIG) or to the Office of General Counsel (OGC). Moreover, to further help protect claimants from these pension poaching scams, VA has added language to the application forms for both pension and dependency and indemnity compensation benefits that clarifies that only an accredited attorney or claims agent may charge fees to claimants and at which stage of the adjudication process such fees may be charged.

VBA's Education Service uses several oversight tools for early identification of fraud risk activities. Compliance Surveys are statutorily mandated program reviews that ensure that schools with 20 or more GI Bill students comply with statutory and regulatory approval, record keeping and reporting requirements. VBA also conducts unannounced on-site compliance reviews triggered by research, data triangulation, complaints, legal actions, or information provided by trusted partners indicating serious violations of GI Bill requirements known as Target Risk Based Reviews. Finally, VBA employs risk-based surveys to review schools with a number of risk factors, such as rapid increase in GI Bill beneficiaries, rapid increase in average payments per beneficiary and/or actions by trusted Federal or State partners. These reviews help to ensure VBA properly monitors education programs that enroll student Veterans.

VBA's Loan Guaranty Service routinely conducts audits to ensure that lenders comply with relevant Federal statutes, regulations and VA policies, including those

relating to loan advertising materials. When VA learns of a lender who violates VA's advertising standards, VA can take action against such lender, e.g., withdraw the lender's ability to automatically close VA-guaranteed loans. VA can also refer the case to the Consumer Financial Protection Bureau (CFPB) or OIG for further investigation and potential prosecution.

VBA's Insurance Service uses several preventative measures and oversight tools for early identification of fraud activities. Insurance Service (INS) requires a written request if updating both an address and direct deposit information within 30 days. All policy loan requests must be in writing or online, and cannot use the online instant loan application if changing address or direct deposit concurrently. VBA takes administrative actions immediately if any risk activity is identified. These actions include contacting the Veteran to verify if they are making the requested changes, placing restrictive access to accounts identified with fraud activity, and alerting the Customer Call Center with identified scammer information. Insurance Service also uses a formal bank reclamation process through the US Department of Treasury to recover improper payments when fraud is confirmed. VBA's Insurance contract partner, Prudential Insurance Company of America, who administers the Servicemembers' Group Life Insurance programs, has an internal Corporate Investigation Division (CID) that investigates fraud activities within Office of Servicemembers' Group Life Insurance programs. They have additional controls in place to identify fraud. Prudential reports any suspected fraud activity to VBA for review of VBA systems of any other potential fraud.

Emphasizing the Role of OGC's Accreditation, Discipline, & Fees (ADF) Program

OGC's ADF program also plays a vital role in VA's efforts to combat predatory practices that target Veterans, particularly through offers of assistance in applying for VA benefit claims. Below, I will explain the purpose of the ADF program, identify some of the safeguards and protections that are built into the accreditation process, and clarify why it is of the utmost importance that VA claimants only select individuals and organizations that are recognized by VA to prepare, present, and prosecute their VA benefits claims.

Before going into how the ADF program works, I must stress that, under current law, no one may lawfully assist claimants in the preparation, presentation, and prosecution of claims before VA without being recognized by VA to do so. OGC's ADF program accredits, and oversees, representatives of VSOs, attorneys, and claims agents for this purpose. There are currently 91 VA-recognized VSOs and 8,142 accredited VSO representatives, 5,445 accredited attorneys and 482 accredited claims agents.

OGC's goal is to ensure that claimants for VA benefits have responsible, qualified representation in the preparation, presentation, and prosecution of their claims. The functions of the ADF program are somewhat similar to those of a state bar or licensing authority and include making determinations on initial accreditation

applications, monitoring conduct of VA-accredited individuals, investigating complaints, deciding fee dispute matters, and removing accreditation when necessary.

OGC has established by regulation a disciplinary process to address complaints about VA-accredited individuals. If VA determines that an accredited attorney, claims agent, or VSO representative has engaged in misconduct or demonstrated incompetence, VA may suspend or cancel the individual's accreditation. Under our procedures, when OGC receives information from any source indicating improper conduct or incompetence, OGC will open an informal inquiry to inform the accredited individual of the allegations and provide an opportunity to respond. If we are not satisfied with their response, we may subsequently initiate a formal inquiry and provide the individual with an opportunity for a hearing. A decision by the General Counsel suspending or cancelling accreditation is a final decision by VA and may be appealed to the Board of Veterans' Appeals.

Another important safeguard tied to accreditation is the opportunity for claimants to request, or for OGC to initiate, review of a fee agreement. Generally, this involves reviewing the agreement to determine whether the fee being charged in the particular case is reasonable. VA is statutorily authorized to order reduction of an unreasonable fee charged by an accredited individual. In fact, in FY22, OGC directed the return of nearly 2.5 million dollars in benefit payments that were initially withheld for the payment of fees.

In the case of non-accredited individuals or organizations that may be charging improper fees for the preparation, presentation, or prosecution of VA benefits claims, VA notifies them to cease their unlawful practices. Sometimes, a letter explaining how their practices are likely in violation of the law is sufficient to convince them to cease their unlawful conduct. But, more often than not, we receive no response to our letter, or a response indicating that they do not intend to cease their practices. Because there are no criminal penalties under Federal law specific to unlawfully charging a fee for assisting a claimant with an application for VA benefits, if an unaccredited actor fails to cease the unlawful practice, VA's recourse is to report the matter to Federal, state, or local agencies that enforce rules against unauthorized legal practice, unfair business practices, or consumer fraud laws. For the past several years, the ADF program has directed those complaints alleging pension poaching and misconduct of unaccredited persons and entities be submitted directly to FTC's Consumer Sentinel (Sentinel) database through a link on the OGC webpage. This is because complaints submitted into the Sentinel database are accessible not only by the ADF program but also by other Federal and State law enforcement authorities and thus are more likely to be included in their investigations and prosecutions.

In addition to make it easier for enforcement authorities to investigate and prosecute these matters, beginning in FY18, and every year thereafter, VA has proposed legislation that would reinstate the penalties for directly or indirectly charging, or receiving any fee or compensation with respect to the preparation, presentation, and prosecution of claims for VA benefits except as provided by law. Prior to 2006, section

5905 of title 38 authorized penalties for this range of conduct related to fees and compensation for representation on claims for VA benefits. However, current section 5905 only authorizes penalties for wrongfully withholding from a claimant or beneficiary any part of a benefit due to the claimant or beneficiary, a circumstance that rarely arises. From 2018 through 2022, over 40 percent of the complaints received by the ADF program were against unaccredited individuals and organizations. The existence of a Federal criminal prohibition would provide a significant and consistent deterrent against bad actors, providing another layer of protection to Veterans. VA's legislative proposal is largely reflected in proposed bill S. 740, the GUARD Act.

Moreover, to further bolster the services of the ADF program, VA has also proposed authority to defray costs incurred by OGC in carrying out the program. This authority would be funded in part from an increased assessment when VA pays a fee from a claimant's past due benefits. OGC resources have been unable to keep pace with the dramatic increase in activities related to claims assistance, and this authority would greatly assist VA in protecting the interests of Veterans.

VEO Leads VA's VSAFE Initiatives

VEO is VA's engine to channel the insight from Veterans and their supporters into the Department's strategies and decisions. VEO captures and analyzes the voices of Veterans, their families, caregivers and survivors and turns that qualitative and quantitative data into action by designing and improving experiences based on customer needs. By translating Veteran insights into tangible action, VA seeks to earn and continue to build trust in the Department so that Veterans and their supporters know that they can turn to VA, and away from potentially predatory actors, for help with understanding, applying for, and maintaining the benefits and services administered through the Department.

VEO applies human-centered design methodology and conducts interviews with customers to understand unmet needs and identify opportunities to improve their experiences. This qualitative data also creates a consistent shared understanding about VA's customers and how they feel about their interactions with VA, thus bringing the voice of the Veteran to the forefront. VEO also provides quantitative information about Veterans' interactions with VA by capturing and analyzing customer input in real-time utilizing the Veterans Signals (VSignals) survey platform. VSignals was modeled after an industry best-in-class framework and a modern, web-based platform utilized by leading customer service companies in the private sector. This allows the Department to view VA's performance from the Veterans' perspective and holds VA accountable to Veterans, their families, caregivers and survivors.

It was, in part, through accumulating qualitative and quantitative data, as described above, that VEO was able to realize that there are many complexities involved in issues involving consumer protection and veteran fraud and, because of this, decided to take action and lead VA in initiating the VSAFE task force. In June 2022, the VSAFE taskforce began the process of mapping out fraud prevention efforts across the

Department. In July 2022, the VSAFE taskforce met with Veteran Service Organizations (VSOs) and other stakeholders to map out their interactions with VA on fraud reporting and prevention efforts. Then, in August 2022, the VSAFE taskforce held a listening session with multiple Federal agencies, to include the Department of Defense, Social Security Administration, Department of Education, FTC, Office of Management and Budget, Office of Overseas Citizens, Office of Visa Services, Office of Fraud Prevention Programs, and CFPB. The results of these mapping efforts helped VA identify that there is potential for VA to improve in areas involving consumer education and information sharing.

Armed with this background, the VSAFE taskforce utilized VA's governance process to stand up the VSAFE Integrated Project Team (IPT), which is a Department-wide team that aims to develop long-term solutions to combat potential fraud through knowledge-sharing and the implementation of best practices. The VSAFE IPT has identified five main objectives. First, the VSAFE IPT aims to utilize insights across VA so that the Department speaks with one voice regarding fraud prevention and the coordination of public awareness efforts. Second, the VSAFE IPT aims to catalog, streamline, and coordinate internal existing efforts to protect Veterans from potential fraud. Third, VSAFE IPT aims to review academic, legislative, and partner-created research to inform VA's decision-making process and help develop innovations. Fourth, the VSAFE IPT aims to cultivate and strengthen on-going sustainable Federal partnerships and develop mutually supportive endeavors. Last, the team aims to quickly bring together cyber-based fraud interventions and techniques as well as technology-based solutioning efforts to better protect Veterans.

Currently, the VSAFE IPT is focusing on designing targeted communications and campaigns to educate and warn the Veteran community about the fraud schemes and unsavory predatory practices that affect Veterans' lives daily. The VSAFE IPT is working towards publishing a one-page infographic that can easily be shared within the Veteran community, as well as publishing a more robust fraud prevention booklet, that will help inform the Veteran community how they can identify potentially fraudulent schemes, where such schemes can be reported, and how someone, who believes that they have been a victim of Veteran fraud, may access resources available through VA and other Federal partners that could help. VA is also creating a centralized webpage that will make it easy for the Veteran community to electronically connect with VA on this important issue. VA is proud of the direction that the VSAFE IPT is moving and we look forward to bolstering the administration's and program offices' own efforts through this initiative.

This concludes VA's statement. We will be happy to answer any questions you may have.

David J. Barrans

David J. Barrans is the Chief Counsel for Benefits Law in the Office of the General Counsel (OGC) of the United States Department of Veterans Affairs (VA), a position he has held since 2014. In that role, he supervises attorneys and legal staff in VA's Benefits Law Group responsible for legal matters pertaining to VA benefit programs, including disability compensation, dependency and indemnity compensation, pension, insurance, education benefits, vocational rehabilitation and employment benefits, fiduciary matters, burial benefits, and cemetery matters. Mr. Barrans also oversees VA's Accreditation, Discipline, and Fees Program, which is responsible for accreditation and oversight of representatives assisting claimants in preparing, presenting, and prosecuting claims for VA benefits and for reviewing the reasonableness of fees charged for such representation.

Mr. Barrans has served in various roles with OGC since 1993. He previously served as a judicial law clerk for Judge Jonathan R. Steinberg of the U.S. Court of Appeals for Veterans Claims (then known as the Court of Veterans Appeals).

Mr. Barrans is a graduate of the University of Southern California and Cornell Law School.

John Boerstler

John W. Boerstler was sworn-in on February 16, 2021, as the Chief Veterans Experience Officer at the Department of Veterans Affairs (VA). As Chief Veterans Experience Officer, John leads the Veterans Experience Office (VEO), the Secretary's customer experience (CX) insight engine supporting and enabling the Department in providing the highest quality experiences in the delivery of care, benefits and memorial services to Service members, Veterans, their families, caregivers and survivors. In this role he provides executive oversight of VEO's many innovative projects and programs, working collaboratively within VA's leadership to help achieve greater access, outcomes and experiences for all VA's customers.

Prior to his current position, he served as the Chief Executive Officer of Combined Arms, a collaborative backbone organization whose purpose was to unite collaborative methodology and technology in order to more effectively connect Veterans to thousands of government and non-profit services.

John has a distinguished career as a leader in the Veteran services field as a recipient of both the Eisenhower and Marshall Memorial Fellowships, having travelled to the United Kingdom, France, Denmark, Israel, Bosnia, Hungary and Ukraine to write comparative papers on their military transition systems. As the first Marshall Prize recipient, John recently completed a 3-year project in Ukraine to assist in the development of their Ministry of Veterans Affairs – the first of its kind in Europe. John was also honored to be selected in the inaugural cohort of Stand-To Scholars at the George W. Bush Institute's Veteran Leadership Program in 2018.

John is a native Texan who served honorably in the U.S. Marine Corps from 1999-2007 as a non-commissioned officer and infantry unit leader, including one combat tour in support of Operation Iraqi Freedom from 2004-2005 and Operation Natural Fire in the Republic of Kenya in 2006. John has also served as the Executive Director of NextOp, a program manager with Wounded Warrior Project, the Mayor of Houston's Office of Veterans Affairs, and as a policy and district staffer for a U.S. Representative. In 2009, John helped found the Lone Star Veterans Association which became the largest network of Post-9/11 Veterans in Texas and successfully merged with Combined Arms in March 2019.

**PREPARED STATEMENT OF
JAMES S. RICE
ASSISTANT DIRECTOR
OFFICE OF SERVICEMEMBER AFFAIRS
CONSUMER FINANCIAL PROTECTION BUREAU**

**BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE**

APRIL 19, 2023

Statement Required by 12 U.S.C. §5492

The views expressed herein are those of the witness and do not necessarily reflect the views of the Board of Governors of the Federal Reserve System or the President.

Chairman Tester, Ranking Member Moran, and distinguished Members of the Committee, it is my pleasure to appear before you today to discuss the important work of the Consumer Financial Protection Bureau (CFPB) Office of Servicemember Affairs (OSA) and the actions we have taken to protect servicemembers, veterans, and their families from fraud, scams, and harmful practices as they navigate the financial marketplace.

My name is Jim Rice, and I have been the Assistant Director of the Office of Servicemember Affairs at the CFPB for the past four years. I served over three decades in the U.S. Army, first as an enlisted medic, then as a Medical Evacuation Officer in the Army Medical Service Corps. I later served as the Director of the U.S. Army Wounded Warrior Program and finally as Chief of the Health Services Division on the Joint Staff. In each assignment, I saw firsthand how the financial well-being of servicemembers and their families affected their ability to focus on their mission and their careers. I also saw how many of the financial problems that began during active duty followed servicemembers after they left the military.

The CFPB is committed to our mission as laid out by Congress in the Dodd-Frank Wall Street Reform and Consumer Protection Act to educate and empower servicemembers, monitor their complaints, and coordinate efforts across the government to protect servicemembers and their families in the financial marketplace.¹

My testimony will address the unique challenges servicemembers, veterans, and their families face in the financial markets and how we work to understand the veteran experience distinct from other military consumers and non-veterans. I will also discuss how we monitor the market for emerging threats to military consumers, take action to enforce military financial protections when companies violate the law, and ensure military financial protections are functioning as intended. I will conclude with a discussion on how we coordinate this work with other federal and state agencies, solicit input from military stakeholders, and provide other resources that empower servicemembers to exercise their rights.

1. Servicemembers and veterans face unique challenges in the financial marketplace.

1.1. Servicemembers are prime targets for scams and expensive financial products and services.

It is an unfortunate fact that our men and women in uniform are prime targets for scams and bad actors in the financial marketplace. A *New York Times* article from last year titled “Where an Army Paycheck is an Easy Target” profiled the environment where servicemembers are targeted by unscrupulous actors in the financial services market.² Our younger servicemembers receive a steady paycheck, but often do not have experience managing their money. Taken together, these factors create an opportunity for providers of consumer financial products or services to target our military servicemembers for their hard-earned money.

¹ 12 U.S.C. § 5493(e)

² Ron Lieber, *Where an Army Paycheck Is an Easy Target*. N.Y. TIMES, (JUNE 30, 2022) available at www.nytimes.com/2022/06/30/your-money/fort-campbell-military-installations.html.

Servicemembers also face proximity risk, as many of these businesses operate just outside the gates of installations where they are stationed. For example, when driving outside of a military installation, one common business you see on both sides of the road are used car dealers. For many servicemembers who complete basic training, their first duty station is in an area where they need a car to get around or leave the installation. The CFPB's prior research has shown that young servicemembers tend to take out auto loans soon after joining the military and carry more auto debt than their civilian peers.³ When unscrupulous practices are allowed to flourish in the auto lending market, servicemembers are more likely to take on harmful debt.

Frequent relocation is part of military life, and permanent change of station orders often means a new home, new utility connections, and other situations where a servicemember or spouse needs to share personal information like Social Security numbers, credit card numbers, and bank account information to a wide range of actors, most legitimate, others less so. As this process repeats itself, we are concerned that servicemembers are subject to increased risk of identity theft, data breaches, and other scams. These risks often follow servicemembers into civilian life, causing continued hardship.

1.2. Harmful business practices can put a servicemember's career and mission capability at risk.

Today's hearing focuses on the critically important role that the CFPB and other agencies play in addressing fraud, scams, and harmful practices that target servicemembers and veterans, and I would like to take a moment to discuss how servicemembers are uniquely affected by harmful practices.

Over the course of the last decade, the CFPB has identified and worked on harmful practices that implicate nearly every corner of consumer finance, from mortgages⁴ to small-dollar lending,⁵ and auto lending⁶ to student loans.⁷ Servicemembers often face unique challenges when trying to resolve errors, disputes, or other concerns. For example, when they are stationed overseas, they are often unable to contact customer service representatives during regular business hours, or

³ *Financially Fit? Comparing the credit records of young servicemembers and civilians*, CONSUMER FIN. PROT. BUREAU (July 14, 2020) available at <https://www.consumerfinance.gov/data-research/research-reports/financially-fit-comparing-credit-records-young-servicemembers-civilians/>

⁴ See e.g. *Justice Department and CFPB Put Landlords and Mortgage Servicers on Notice About Servicemembers' and Veterans' Rights*, CONSUMER FIN. PROT. BUREAU (Dec. 20, 2021) available at www.consumerfinance.gov/about-us/newsroom/cfpb-and-doj-put-landlords-and-mortgage-servicers-on-notice-about-servicemembers-and-veterans-rights/.

⁵ See e.g. *The extension of high-cost credit to servicemembers and their families*, CONSUMER FIN. PROT. BUREAU (Dec. 2014) available at https://files.consumerfinance.gov/f/201412_cfpb_the-extension-of-high-cost-credit-to-servicemembers-and-their-families.pdf.

⁶ *CFPB Orders Auto Lenders to Refund Approximately \$6.5 Million to Servicemembers*, CONSUMER FIN. PROT. BUREAU (Jun. 27, 2013) available at www.consumerfinance.gov/about-us/newsroom/cfpb-orders-auto-lenders-to-refund-approximately-6-5-million-to-servicemembers/.

⁷ See e.g. *Seeing servicemembers as "dollar signs in uniform"* CONSUMER FIN. PROT. BUREAU (Sept 22, 2011) available at www.consumerfinance.gov/about-us/blog/seeing-servicemembers-as-dollar-signs-in-uniform/ and Rohit Chopra and Hollister Petraeus, *The Next Front? Student Loan Servicing and the Cost to our Men and Women in Uniform*, CONSUMER FIN. PROT. BUREAU (Oct. 18, 2012) available at https://files.consumerfinance.gov/f/201210_cfpb_servicemember-student-loan-servicing.pdf.

contact their financial institution through an app or website when internet services are unavailable.

Today's hearing focuses on the critically important role that the CFPB and other agencies play in addressing fraud, scams, and harmful practices that target servicemembers and veterans, and I would like to take a moment to discuss how servicemembers are uniquely affected by harmful practices.

High indebtedness and shoddy debt collection practices that negatively affect all consumers may have an outsized impact on those serving in uniform. Debt collection practices often create a unique risk to servicemembers. Many servicemembers, including all officers, are required to have security clearance checks that include detailed reviews of their credit history and their ability to meet financial obligations. If servicemembers are unable to keep up those obligations, a blemish on their credit report can lead to security clearance revocation or even potential discharge from service.⁸ We have seen that some debt collectors threaten, illegally, to report servicemembers to their chain of command to collect on a debt.⁹ Too often this occurs for debts that the servicemember may not even owe.¹⁰ We have also heard stories of servicemembers who pay off debt on accounts they do not owe just so it doesn't show up on their credit report.

1.3. Consumer complaints suggest that the top financial concerns for veterans are similar to those of non-veterans, but disaggregation is necessary to identify emerging issues.

Veterans' financial concerns, in many regards, reflect the concerns of non-veterans, and veterans directly benefit from the CFPB's actions to address broad market problems. Over half of all complaints that we receive from veterans, military retirees, and their families reference problems with credit reporting, which is also the number one area of concern for non-veterans. This is followed by debt collection and mortgage issues, also top concerns for non-veterans.

The CFPB is acutely aware that understanding the veteran experience, disaggregated from active-duty servicemembers and the civilian population, must be part of our work to engage consumer populations and monitor markets. To this end, we routinely review veteran complaint narratives and work closely with veteran service organizations to provide important context to our work and ensure that the actions we take reflect the financial protection issues veterans face in the market.

⁸ Anthony Camilli and Joshua Friedman, *WARNO: New security clearance guidelines make it more important than ever for servicemembers to monitor their credit*, CONSUMER FIN. PROT. BUREAU (August 20, 2018) available at www.consumerfinance.gov/about-us/blog/warno-new-security-clearance-guidelines-make-it-more-important-ever-servicemembers-monitor-their-credit.

⁹ In the matter of Security National Automotive Acceptance Company 2015-CFPB-0027 (2015) available at <https://www.consumerfinance.gov/enforcement/actions/security-national-automotive-acceptance-company/>.

¹⁰ See e.g. Courtney-Rose Dantus, *Servicemembers and debt collection: Sharing your stories*, CONSUMER FIN. PROT. BUREAU (Sept 22, 2017) available at <https://www.consumerfinance.gov/about-us/blog/servicemembers-and-debt-collection-sharing-your-stories/>.

2. The CFPB monitors the market to identify risks to servicemembers and veterans.

2.1. *We have issued market monitoring orders and collected public input to address auto lending data gaps, including gaps that affect servicemembers.*

The auto finance market, including the market used by servicemembers and veterans, has seen significant change over the past two years. Car prices have risen substantially, leading to larger loan amounts and higher monthly payments. These more expensive loans are beginning to impact consumer and household financial stability. Recent data show an increase in auto loan delinquencies, particularly for low-income consumers and those with subprime credit scores.¹¹ Some consumers may even be getting priced out of the current market. As part of our work monitoring the auto loan market for consumer risks, the CFPB is piloting a new collection of auto lending data.¹²

To carry out this work, we issued orders to nine large auto lenders to provide information about their auto lending portfolios as part of a pilot data collection. These nine lenders represent a cross-section of the auto finance market. The data collected from their responses will help us build a quality data set that provides insights into lending channels and loan performance, and will inform potential future data collection efforts. It will also fill critical information gaps, help the CFPB identify emerging risks and opportunities, and support a more fair and competitive market.

Since announcing our intention to build a new auto lending data set last November, we have held multiple discussions with stakeholders and gathered public input into the auto lending areas most in need of greater transparency.¹³ These comments and guidance have helped inform how we structured our pilot data collection.

2.2. *The CFPB issued a request for information on data broker practices that put the public's privacy at risk, including the privacy of servicemembers, veterans, and military families.*¹⁴

The CFPB recently launched an inquiry into data brokers that track and collect information on people's personal lives. We all see how these modern data surveillance practices have allowed companies to hover over our digital lives and monetize our most sensitive data. Our inquiry will give us greater insight into how the collection and sale of consumer data impacts vulnerable populations, such as servicemembers and veterans, who are often at a higher risk for financial exploitation.

¹¹ Andrew Haughwout, Donghoon Lee, Daniel Mangrum, Joelle Scally, and Wilbert van der Klaauw. *Historically Low Delinquency Rates Coming to an End*. Fed. Reserve Bank of N.Y. (Aug. 2, 2022) available at <https://libertystreeteconomics.newyorkfed.org/2022/08/historically-low-delinquency-rates-coming-to-an-end/>

¹² Chris Kukla, Richard Landau, and Ashwin Vasani, "Our auto finance data pilot." Consumer Fin. Prot. Bureau (Feb. 23, 2023) available at <https://www.consumerfinance.gov/about-us/blog/our-auto-finance-data-pilot/>.

¹³ Auto Lending Data Gaps (data collection), CFPB-2022-0075 (2022) available at <https://www.regulations.gov/docket/CFPB-2022-0075>.

¹⁴ Consumer Fin. Prot. Bureau. "CFPB Launches Inquiry into the Business Practices of Data Brokers" (Mar. 15, 2023) available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-launches-inquiry-into-the-business-practices-of-data-brokers/>.

Scammers and fraudsters can buy data from data brokers and then use that information to try and exploit servicemembers and veterans. For example, a data broker may sell a veteran's personal information to a company that targets them with misleading or fraudulent financial products, or a scammer may use a veteran's personal information to steal their identity, open lines of credit in their name, or even target their military pension or Department of Veterans Affairs (VA) benefits.

Our stakeholders tell us that some data brokers are advertising highly sensitive data on hundreds of millions of Americans, including their sensitive demographic information, political preferences and beliefs, and whereabouts of current and former members of the U.S. military.¹⁵ By examining how data brokers collect and use consumer data, the CFPB can better understand how to address these important privacy concerns and ensure that they are not violating laws within the CFPB's jurisdiction.

2.3. We have requested public input on credit card practices that affect servicemembers, veterans, and military families.

The Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009 requires the CFPB to conduct a review of the consumer credit card market, within the limits of its existing resources available for reporting purposes.¹⁶ In connection with conducting that review, the CFPB is soliciting information from the public about several aspects of the consumer credit card market.¹⁷ Specifically, the CFPB is requesting information about the practices of credit card issuers that may uniquely affect special populations such as servicemembers and their dependents, low- and moderate-income consumers, older Americans, and students. In addition, the CFPB seeks information on the effects of population-specific protections such as the Servicemembers Civil Relief Act (SCRA) and the Military Lending Act (MLA). Comments can be submitted until April 24, 2023.

2.4. We are watching for possible abuses related to VA claims, or violations of other consumer financial protection laws.

Congress recently passed the Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022 to extend VA health care and expand benefits eligibility to veterans who were exposed to burn pits and other toxic substances during their military service.¹⁸ The PACT Act added over 20 medical conditions which will now be presumed to be connected to military service dating back to the Vietnam Era, Gulf War, and Post 9/11. Unfortunately, an influx of

¹⁵ Justin Sherman, *Data Brokers and Sensitive Data on U.S. Individuals Threats to American Civil Rights, National Security, and Democracy*. Duke University Sanford School of Public Policy Cyber Policy Program (2021) available at <https://techpolicy.sanford.duke.edu/wp-content/uploads/sites/4/2021/08/Data-Brokers-and-Sensitive-Data-on-US-Individuals-Sherman-2021.pdf>.

¹⁶ Credit Card Accountability Responsibility and Disclosure Act of 2009, Public Law 111-24, 123 Stat. 1755 (2009) (15 U.S.C. § 1616).

¹⁷ Request for Information Regarding Consumer Credit Card Market, 88 Fed. Reg. 5313-5315.

¹⁸ Honoring our PACT Act of 2022, Pub. L. No. 117-168 (2022).

predatory advertisements purporting to help veterans submit their initial claims to the VA for a fee—often through the guise of “medical consulting” or “benefits coaching.” But unauthorized assistance in claim preparation is illegal: only VA-accredited representatives are permitted to assist veterans with their benefits claims, and VA-accredited representatives are not permitted to charge a fee for their assistance on a veteran’s initial benefits claim. We have heard reports that unscrupulous actors have misled some veterans into paying thousands of dollars in fees.¹⁹

There have also been advertisements and commercials aimed at veterans who were stationed at Camp Lejeune seeking to represent them in litigation related to section 804 of the PACT Act, which is referred to as the Camp Lejeune Justice Act (CLJA).²⁰ Although private litigation is not subject to the VA accreditation process (attorneys are subject to the rules governing attorneys in their respective states and courts), any attorney seeking benefits on behalf of a veteran directly from the VA under the CLJA must still be accredited by the VA.

Unfortunately, unaccredited individuals and organizations are aggressively soliciting veterans and attempting to coerce them to pay high fees—often requesting that veterans sign a contract for a percentage of their retroactive or future benefits in exchange for the preparation of their initial claims. Not only can these fees end up in the tens of thousands of dollars, but the payment terms can leave veterans with unaffordable bills for extended periods. These unscrupulous actors often insist that they are not bound by the laws governing practice before VA because they are merely “coaches” or “consultants.” We have even heard reports that these bills are being sent to third-party debt collectors if the veteran does not pay.

The Fair Debt Collection Practices Act (FDCPA) applies to the activities of third-party debt collectors and is subject to enforcement by the CFPB as well as other regulators and consumers themselves. We will continue to monitor developments in this area for possible violations of federal consumer financial laws.

3. The CFPB takes action to enforce military financial protections when companies violate the law.

Since opening our doors, the CFPB has prioritized addressing the heightened risks servicemembers face in financial markets and protecting them from the unique harms they incur when abusive practices go unaddressed. In total, we have secured \$175 million in monetary relief resulting from 39 public enforcement actions that involved harm to servicemembers and veterans, including six public enforcement actions for violations of the MLA. As we work to clean up the financial marketplace by enforcing military financial protections for servicemembers, the ripple effect is that we challenge practices that impact all consumers,

¹⁹ Joshua Friedman and Krystle Good, “WARNO: They call themselves “coaches” or “consultants” and advertise their ability to assist you with your VA benefits claim but may not be accredited to practice before the VA.” Consumer Fin. Prot. Bureau (Feb. 15, 2023) available at <https://www.consumerfinance.gov/about-us/blog/coaches-consultants-advertise-ability-to-assist-with-va-benefits-claim-but-may-not-be-accredited/>.

²⁰ Honoring our PACT Act of 2022, Pub. L. No. 117–168 Tit. VII, 136 Stat. 1802 (2022)

including veterans.²¹ Here are just a few other examples where the CFPB has taken legal action to ensure that financial institutions comply with existing military financial protections.

3.1. RMK Financial Corporation

In February 2023, the CFPB permanently banned RMK Financial Corporation, doing business as Majestic Home Loans, from the mortgage lending industry.²² In 2015, the CFPB issued an agency order against RMK for, among other things, sending advertisements to military families that led the recipients to believe the company was affiliated with the United States government. Despite the 2015 order's prohibition on these and other actions, the company engaged in a series of repeat offenses. In addition to the ban, RMK will pay a \$1 million penalty that will be deposited into the CFPB's Civil Penalty Fund.

3.2. TMX Finance

In February 2023, the CFPB took action against a web of corporate entities operating under TMX Finance, broadly known as TitleMax, for violating the financial rights of military families and other consumers in providing auto title loans.²³ The CFPB found that TitleMax violated the MLA by extending prohibited title loans to military families and, among other things by oftentimes, charging nearly three times over the MLA's 36 percent annual interest rate cap. The CFPB's order requires TitleMax to end its illegal activities and requires the company to pay more than \$5 million in consumer relief and a \$10 million civil money penalty.

3.3. MoneyLion Technologies

In September 2022, the CFPB filed a lawsuit against online lender MoneyLion Technologies and 38 of its subsidiaries for imposing illegal and excessive charges on servicemembers and their dependents.²⁴ The CFPB alleges that MoneyLion violated the MLA by charging more than the legally allowable 36 percent rate cap on loans to servicemembers and their dependents, through a combination of stated interest rates and monthly membership fees. The CFPB also alleges that MoneyLion violated the Consumer Financial Protection Act by refusing to allow customers to exit its membership programs and stop paying monthly fees. This case is still pending.

3.4. FirstCash, Inc. and Cash America West, Inc.

In November 2021, the CFPB filed a lawsuit against FirstCash, Inc. and Cash America West, Inc.²⁵ On June 21, 2022, the CFPB filed an amended complaint to add several defendants, which

²¹ *CFPB and States Take Action Against Freedom Stores for Illegal Debt Collection Practices Against Servicemembers*. CONSUMER FIN. PROT. BUREAU (DEC. 18, 2014) available at www.consumerfinance.gov/about-us/newsroom/cfpb-and-states-take-action-against-freedom-stores-for-illegal-debt-collection-practices-against-servicemembers/.

²² *RMK Financial Corp. d/b/a Majestic Home Loan or MHL*, File No. 2023-CFPB-0002 (2023) (consent order).

²³ *TMX Finance LLC*, File No. 2023-CFPB-0001 (2023) (consent order).

²⁴ *Consumer Fin. Prot. Bureau v. MoneyLion Technologies Inc. et al.*, No. 1:22-cv-8308 (S.D. N.Y., Sept. 9, 2022).

²⁵ *Consumer Fin. Prot. Bureau v. FirstCash, Inc., and Cash America West, Inc.*, No. 4:21-cv-01251-P (N. D. Tex. Nov. 12, 2021).

with Cash America West, Inc. are referred to below as the FirstCash Subsidiaries. The CFPB alleges that FirstCash and the FirstCash Subsidiaries made pawnshop loans to active-duty servicemembers and their dependents that violated the MLA. The CFPB alleges that between June 2017 and May 2021, FirstCash and the FirstCash Subsidiaries made thousands of pawn loans to more than 1,000 covered borrowers at rates that exceeded the MLA's 36% cap, as well as other violations. This case is still pending.

3.5. *We are working to establish a registry of repeat offenders, including repeat offenders of military financial protection laws.*

In December 2022, the CFPB proposed requiring certain nonbank financial firms to register with the CFPB when they become subject to certain local, state, or federal consumer financial protection agency or court orders.²⁶ The CFPB has further proposed to publish the orders and company information via an online registry. Larger companies subject to the CFPB's supervisory authority would be required to designate an individual to attest whether the firm is adhering to registered law enforcement orders. The CFPB's proposed rule would help the agency identify and mitigate risks to American households and ensure that supervised companies perform their obligations to consumers.

The registry would also help unify the efforts of consumer financial protection enforcers, as well as provide the increased transparency and coordination that are critical to ensuring accountability and fairness in the marketplace. The CFPB's proposal would enhance market monitoring and risk-based supervision efforts to ensure that the CFPB and its enforcement partners can identify previous lawbreakers and are positioned to take action to stop further large-scale harm or continued illegal efforts across the country.

4. The CFPB is ensuring military consumer financial protections work as intended.

4.1. *We're ensuring VA mortgage servicers meet their obligations to veteran borrowers.*

VA direct or VA-backed veteran home loans help ensure that veterans are able to buy or refinance a home when they are ready, in most cases with no down payment. The CFPB has taken a number of steps to ensure that VA loan servicers are complying with the law, including proactively reminding servicers of veterans' rights during the pandemic in an effort to keep them in their homes.

In October 2020, the CFPB took action against Low VA Rates LLC to address the CFPB's finding that Low VA Rates sent consumers mailers for VA-guaranteed mortgage loans that contained false, misleading, and inaccurate statements.²⁷ This was the ninth case stemming from a CFPB sweep of investigations of multiple mortgage companies that used deceptive mailers to

²⁶ Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders, 88 Fed. Reg. 6088 (Jan. 30, 2023).

²⁷ Low VA Rates, LLC, File No. 2020-BCFP-0018 (2020) (consent order)

advertise VA-guaranteed mortgages. The CFPB obtained more than \$4.4 million in civil money penalties as a result of this sweep.²⁸

The CFPB partnered with the Department of Justice’s Office of Civil Rights in late 2021 to remind mortgage servicing companies—especially those who service VA loans—of their legal obligations under the CARES Act.²⁹ During the COVID-19 pandemic, roughly 7.6 million homeowners entered forbearance. While the majority have resumed their regular mortgage payments, during that same period approximately 1.25 million borrowers—many of whom are military borrowers—remained in forbearance programs. We took steps to ensure that mortgage servicers understood that under the CARES Act: (1) Those in forbearance were reported as “current” on their mortgages to the credit reporting agencies if they were current when they entered the forbearance and (2) borrowers in a federally-backed loan generally cannot be required to repay their forbearance amount in a lump sum payment if they indicate that they cannot afford to do so when exiting forbearance.

4.2. We conducted research on the underutilization of SCRA benefits by members of the National Guard and Reserves.

In December 2022, the CFPB released a report entitled *Protecting those who protect us: Evidence of activated Guard and Reserve servicemembers’ usage of credit protections under the Servicemembers Civil Relief Act*.³⁰ The SCRA allows servicemembers to reduce the interest rate for preservice loans to 6 percent. The report found that only a small fraction of activated National Guard and Reserves (collectively reserve component servicemembers) likely utilized the SCRA interest rate reduction benefit on auto and personal loans.

The report examined the overall probability that an interest rate is reduced from above 6 percent to below 6 percent over an individual activation period, provided that the loan originated prior to the activation. While data showed that some borrowers were obtaining interest rate reductions consistent with the SCRA interest rate cap, the reductions occurred in only a small portion of eligible loans. Among eligible loans that started with an interest rate above 6 percent, 9.5 percent of auto loans and 5.9 percent of personal loans experienced a reduction to or below 6 percent interest in the CFPB’s consumer credit panel-reported data. Reserve component servicemembers were shown to be more likely to obtain a reduced interest rate during longer periods of activation. Even among the longest periods of activation (about a year or more), however, the likelihood of an interest rate reduction remains under 16 percent for auto and personal loans.

²⁸ Consumer Fin. Prot. Bureau, *Consumer Financial Protection Bureau Settles with Ninth Mortgage Company to Address Deceptive Loan Advertisements Sent to Servicemembers and Veterans* (Oct. 26, 2020) available at <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-settles-ninth-mortgage-company-address-deceptive-loan-advertisements-sent-servicemembers-and-veterans/>.

²⁹ Consumer Fin. Prot. Bureau and the U.S. Dept. of Justice, *CFPB and DOJ Put Landlords and Mortgage Servicers on Notice About Servicemembers’ and Veterans’ Rights*, (December 20, 2021) Available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-and-doj-put-landlords-and-mortgage-servicers-on-notice-about-servicemembers-and-veterans-rights/>.

³⁰ Charles Goldman and Yael Katz, *Protecting Those Who Protect Us Evidence of activated Guard and Reserve servicemembers’ usage of credit protections under the Servicemembers Civil Relief Act*. CONSUMER FIN. PROT. BUREAU (2022) available at https://files.consumerfinance.gov/f/documents/cfpb_servicemembers-usage-of-scra-credit-protections_2022.pdf.

Auto and personal loans that did not show evidence of SCRA interest rate reductions represented about \$100 million in foregone savings. Over the approximately 11-year period we studied, we estimate that auto loans with interest rates above 6 percent that are not reduced during activations represent about \$77.3 million in foregone interest savings. For personal loans, the corresponding estimate is \$23.9 million.

The report identified several approaches to increase servicemember access to SCRA protections. Creditors could consider ways to apply SCRA interest rate reductions for all accounts held at an institution if a servicemember invokes protections for a single account. Enterprise-wide invocation could reduce the duplication necessary to invoke the SCRA interest rate reduction for multiple accounts and address the complexity that may be hindering utilization. There is also a clear need to explore ways to automatically apply SCRA interest rate protections. When automatic interest rate reductions were applied to servicemembers' federal student loans, utilization increased dramatically. The low utilization rates identified in this report suggest that the automatic application of interest rate reduction benefits should be pursued where possible, and that public and private sector resources should be aligned to increase the adoption of an automatic application process. Finally, continued efforts to develop comprehensive and periodic indicators of SCRA benefit utilization could provide better and more frequent information on SCRA rate reduction utilization and help inform and evaluate future efforts to expand servicemembers' financial protections.

While none of these recommendations are without operational and technical challenges, we believe that they are worthy of consideration. We look to Congress to determine whether or not further changes to the SCRA are necessary to ensure that servicemembers can access protections and benefits that Congress intended.

4.3. We will continue to ensure the Military Lending Act functions as intended.

The MLA remains one of the most important financial protections available to servicemembers and their families. Among other protections, the law limits the annual percentage rate on certain loans to 36 percent and prohibits creditors from requiring a servicemember to submit to arbitration in the event of a dispute. The MLA authorizes the Department of Defense (DoD) to promulgate regulations implementing it, and Congress requires the DoD to consult with other regulators on its regulations, including the CFPB.³¹ The CFPB also supervises financial institutions subject to its jurisdiction for risks to active-duty servicemembers and their dependents from conduct that violates the MLA, and, when necessary, enforces the law. We believe the MLA and its implementing regulations have played a key role in addressing the negative effects of harmful lending practices directed at members of the military and their families.

The history of the MLA and its implementing regulations suggest, however, that those protections must be periodically reviewed to identify gaps in coverage and to prevent evasion. As we monitor the financial marketplace and engage with servicemembers and those who serve

³¹ 10 U.S.C. § 987(h)(3)

them, we have identified some areas where we think servicemembers and their families may be at risk.

For example, we have learned that it is possible to change a consumers' personally identifiable information to obtain MLA Database responses stating that the consumers were not covered borrowers when, in fact, they were—a practice we noted in a recent enforcement action.³² In addition, a federal district court recently held that the MLA's prohibition on mandatory arbitration did not apply in certain circumstances, a case that we believe was incorrectly decided.³³ For this reason, we joined the Federal Trade Commission (FTC) in an amicus brief urging the court to reverse the decision.³⁴ Military and veteran service organizations filed a similar brief.³⁵

I want to commend the DoD for its work in implementing the MLA and updating the regulations since it was passed in 2006. I also want to commend DoD's ongoing work to monitor MLA implementation. We will continue to work closely with DoD and other federal agencies to share information and provide technical assistance where appropriate.

5. The CFPB is coordinating with other agencies that protect servicemembers, veterans, and military families.

5.1. We are working with the VSAFE interagency working group to create a one-stop comprehensive fraud prevention guide for veterans, caregivers, and their families.

The CFPB is proud to be an active participant in the VSAFE (Veteran Fraud Prevention) interagency working group. The goal of this group is to develop new consumer education initiatives, consolidate fraud reporting processes, and improve responses to fraud attempts against veterans and military personnel.

As part of this effort, we are working to provide resources to veterans so they can easily find and report fraudulent activities, connect with the appropriate parties, and receive assistance in resolving the issues. This resource would be a one-stop-shop for fraud-related tools and materials, enabling veterans to access a range of resources in one convenient location. The project is led by the VA, and joined by the Department of Education, the FTC, the Social Security Administration, and the CFPB. Participants discuss best practices and work to

³² *TMX Finance LLC*, File No. 2023-CFPB-001, at 14 (2023) (consent order).

³³ A recent court found that a failure to disclose mandatory information under the MLA did not amount to any real harm. See *Louis v. Bluegreen Vacations Unlimited, Inc.*, No. 21-CV-61938-RAR, 2022 WL 1793058 (S.D. Fla. June 1, 2022).

³⁴ Brief of Consumer Fin. Prot. Bureau and Fed. Trade Comm'n as Amicus Curiae in Support of Plaintiff-Appellants and Reversal, *Louis v. Bluegreen Vacations Unlimited Inc.*, No. 22-12217 (11th Cir.).

³⁵ Brief of the Military Officers Ass'n, the Jewish War Veterans of the U.S., Blue Star Families, Jacksonville Legal Aid, the U.S. Army Warrant Officers Ass'n, the Nat. Military Family Ass'n, and the Five Star Veterans Ass'n as Amicus Curiae in support of the Appellant and in Support of Reversal, *Louis v. Bluegreen Vacations Unlimited, Inc.* No. 22-12217 (11th Cir.); see also Kevin Lilley, *MOAA Files Court Brief to Protect Servicemembers from Predatory Lenders*, Military Officers Association of America (Dec. 21, 2022), available at <https://www.moaa.org/content/publications-and-media/news-articles/2022-news-articles/moaa-files-court-brief-to-protect-servicemembers-from-predatory-lenders/>.

consolidate and streamline fraud reporting processes to ensure that veterans have access to all the resources they need in one location.

Efforts are underway to combat fraud in health care, employment, education, housing, and financial products. Additional efforts to address common veteran-targeted scams, ranging from online imposter scams to deceptive home loans, are also underway.

5.2. We are developing a coordinated response to unlawful conduct targeting servicemembers.

The CFPB organizes quarterly working group meetings with the Department of Justice (DOJ), the Military Chiefs for Legal Assistance that fall under the Judge Advocates General's Corps (JAGC), legal assistance attorneys at key military installations, and professors from each of the three military JAGC schools. The stated purpose of the working group is to achieve a coordinated response to unlawful conduct targeted at servicemembers and their families. This meeting also allows each agency to speak about its initiatives and priorities. Recent topics have included enforcement actions, joint visits to military installations, joint training, and emerging financial issues and products in the servicemember community such as allotment abuses, SCRA implementation, and military identity theft.

5.3. We are working with interagency partners to address complaints referred to us and making referrals as necessary.

The CFPB works closely with other agencies to share information about emerging issues, conduct outreach, and address problems as they arise. We regularly meet with the DoD Office of Financial Readiness and other offices and engage prudential regulators on military financial protection issues. We also share information and coordinate efforts in the states with the National Association of Attorneys General Veteran and Servicemember Working Group, and other state agencies. We actively participate in DoD's Financial Readiness Network, the FTC-led Military Consumer Month, and just last week joined Commissioner Kristin Johnson from the Commodity Futures Trading Commission and John Mose, Deputy Director of the Security and Exchange Commission's Office of Investor Education and Advocacy at Joint Base Anacostia-Bolling to discuss military financial readiness.

We also work to ensure that servicemembers can get their financial problems resolved by accepting complaints through several channels, including our website, over the phone, and through referrals from other agencies and branches of government. Since the CFPB began accepting complaints through its Office of Consumer Response and as of March 1st, 2023, around 390 veteran complaints have been referred to us by the FTC, around 960 were referred to us from members of Congress, around 220 were referred to us from state attorneys general, and around 440 were referred to us from the White House. In addition, we referred around 28,200 complaints to the FTC, the vast majority related to debt collection issues, credit reporting, and money transfers. We also receive and refer complaints from the banking regulators. We received around 760, 210, and 590 veteran complaints from the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Federal Reserve, respectively. We have referred around 2,600, 1,900 and 1,200 complaints to the OCC, the FDIC,

and the Federal Reserve, respectively. CFPB staff, where appropriate, can also access the FTC's Consumer Sentinel and view complaints related to financial and other issues.

6. How we listen to stakeholders to understand servicemember and veteran financial experiences.

We are in continuous contact with and host an annual roundtable discussion with military and veteran service organizations to understand policy priorities, review recent research, and better understand the servicemember financial lifecycle. In the past year, we have hosted CFPB-wide staff briefings from Blue Star Families and Military Family Advisory Network to discuss findings from their recent servicemember surveys and widely share applicable findings across all CFPB divisions. We also conduct extensive outreach to servicemember, veteran, and military family stakeholders through staff-level meetings, regular briefings on recent actions, conference participation, and presentations. We also seek to engage industry stakeholders through many of these same channels and have begun hosting dedicated industry briefings on relevant OSA activities, such as the release of our recent report on SCRA interest rate reduction utilization.

Taken together, we believe these approaches provide critical, on-the-ground intelligence on servicemember, veteran, and military family financial issues and allow us to be informed, responsive, and able to meet the growing threat of harmful financial practices targeting servicemembers, veterans, and their families.

7. Other resources we provide for servicemembers.

7.1. Submitting complaints helps inform our work.

When servicemembers, veterans, and their families are facing financial hardship or harmful practices, we encourage them to submit a complaint.³⁶ The CFPB also maintains a video on its website [consumerfinance.gov](https://www.consumerfinance.gov), which provides similar information. A TTY/TTD line is available, and complaints can be submitted by phone in more than 180 languages.

The CFPB forwards the complaints it receives directly to the company described in the complaint and works to get a response. If we determine that another government agency would be better able to assist, we will forward the complaint to them and let the servicemember, veteran, or other consumer know.

7.2. Ask CFPB provides military-specific resources to guard against scams and harmful practices.

At the CFPB, we believe that protecting servicemembers, veterans, and their families also means getting them the information they need when they need it. *Ask CFPB* is an interactive online tool on our website that can help servicemembers and consumers find clear, unbiased answers to their financial questions.³⁷ As soon as you start typing a question, the database's autocomplete feature begins to provide various search suggestions. You can also browse by product categories and

³⁶ See <https://www.consumerfinance.gov/complaint/>.

³⁷ See www.consumerfinance.gov/ask-cfpb/.

tags. We have extensive answers to important questions related to common forms of fraud, such as identity theft, money transfer fraud, and foreclosure relief scams. We also have military-specific information on some of the unique financial protections available to servicemembers.

7.3. CFPB produces and distributes a wide range of public education materials related to military financial protection issues.

The CFPB also analyzes and reviews ongoing and emerging financial issues that affect military consumers to develop educational factsheets, pamphlets, and other documents to provide relevant and timely information. Some of the key financial topics that the CFPB has highlighted over the past year in our educational materials include SCRA, MLA, financial well-being of veterans, VA mortgage lending, foreclosure protections, medical billing disputes, and credit reporting/monitoring for servicemembers and veterans. Our flagship educational tool is the *Misadventures in Money Management*, an interactive training course that immerses servicemembers in real-life financial choices and the potential consequences of those choices.³⁸ Servicemembers can also reach our office by emailing military@cfpb.gov.

8. Conclusion

The CFPB and its Office of Servicemember Affairs are proud to be strong advocates for the servicemember and veteran community. I want to thank the Chairman, the Ranking Member, and other Members of the Committee for holding this important hearing and for the opportunity to appear before you.

I look forward to answering your questions.

³⁸ *Misadventures in Money Management*. CONSUMER FIN. PROT. BUREAU, available at <https://www.consumerfinance.gov/consumer-tools/educator-tools/servicemembers/mimm/>

**PREPARED STATEMENT OF THE FEDERAL TRADE COMMISSION
VETERANS CONSUMER PROTECTION: PREVENTING FINANCIAL
EXPLOITATION OF VETERANS AND THEIR BENEFITS**

**Before the
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE**

WASHINGTON, D.C.

APRIL 19, 2023

I. INTRODUCTION

Chairman Tester, Ranking Member Moran, and distinguished members of the Committee, I am Monica Vaca, Deputy Director of the Bureau of Consumer Protection at the Federal Trade Commission (“Commission” or “FTC”).¹ I appreciate the opportunity to appear before you today to discuss fraud and other illegal practices that affect veterans and other members of the military community.

Combating scams and unlawful tactics aimed at the military community is an important part of the Commission’s law enforcement agenda. Every year the Commission brings dozens of cases against companies and individuals for violating consumer protection laws that the agency enforces. Many of these cases involve schemes perpetrated on the general public—such as imposter schemes, deceptive advertising, and false promises about jobs and earnings—that use tactics tailored to the military community as part of a broader fraudulent operation. Other cases address tactics, such as abusive debt collection and unscrupulous auto sales, that may have an outsized impact on military consumers. And some scams specifically target the military community, using false military affiliations or touting bogus offers for veterans in a cynical ploy to take advantage of servicemembers, veterans, and their families.

The Commission makes the most of the tools at its disposal in its efforts to curb such nefarious practices. This testimony gives a high-level overview of the FTC’s work to track and detect military fraud, of enforcement actions and rulemaking initiatives involving the military community, and of the FTC’s military-specific consumer education and outreach efforts. It also discusses our robust collaboration with our law enforcement partners, including the Department

¹ This written statement presents the view of the Federal Trade Commission. The oral statement and responses to questions reflect my own views and do not necessarily reflect the views of the Commission or any Commissioner.

of Defense, the Consumer Financial Protection Bureau, the Department of Veterans Affairs, and institutions within the Armed Forces.

The Commission will continue to aggressively deploy the resources it has to stomp out unfair or deceptive practices, including those that prey on veterans, servicemembers, and their families. But our ability to get money back in the pockets of victims has been severely constrained as a result of the Supreme Court's *AMG* decision,² which has been a devastating blow for honest businesses and consumers, including military consumers. The Commission continues to call for legislation to revive its ability to seek meaningful monetary relief under Section 13(b) of the FTC Act for consumers harmed by illegal conduct.

II. TRACKING AND DETECTING FRAUD THREATS

The FTC's enforcement and outreach work often flow from the Commission's active monitoring of the marketplace, which allows us to understand, identify, and combat threats to both military consumers and the public at large.

One of our most powerful tools in obtaining information about fraud is the FTC's Consumer Sentinel Complaint Network, a secure online database of consumer reports. Sentinel includes complaints reported directly to the FTC as well as to dozens of state law enforcement organizations, other federal agencies, and non-governmental organizations.³ Servicemembers and military civilians can provide service and installation details, giving vital information to government agencies, including Department of Defense law enforcers and policymakers.⁴

² *AMG Capital Mgmt., LLC v. Fed. Trade Comm'n*, 141 S. Ct. 810, 593 U.S. __ (2021).

³ Contributors include the AARP Fraud Watch Network; the Better Business Bureau; the Consumer Financial Protection Bureau; the FBI's Internet Crime Complaint Center; the U.S. Departments of Defense, Education, Justice, and Veterans Affairs; and the U.S. Social Security Administration. A full list of the data contributors is available at <https://www.ftc.gov/enforcement/consumer-sentinel-network/data-contributors>.

⁴ For example, out of the total reports from military consumers in 2022, 92% included military branch information and 78% included information about rank.

The Commission monitors and analyzes Sentinel data with respect to both military-specific and other trends. This work informs the Commission's consumer protection work, assists our law enforcement partners, and provides public transparency about high-level complaint patterns. In 2020, the Commission launched a new tool that explores Sentinel data about problems military consumers are experiencing in the marketplace, including reported financial losses.⁵

In 2022, Sentinel received over 195,000 complaints from military consumers, including over 150,000 reports from veterans and military retirees.⁶ The military community reported monetary harm of over \$414 million from fraud, an increase of more than 50% from the previous year.⁷ The top complaint categories for military consumers were: imposter scams; identity theft; credit reporting; online shopping and negative online reviews; banks and lenders; debt collection; bogus investment schemes; scams involving prizes, sweepstakes and lotteries; credit cards; and auto-related problems.⁸

We review these complaints to find potential law enforcement targets and witnesses and to coordinate with federal, state, and local law enforcement partners.

III. ENFORCEMENT WORK

FTC law enforcement actions illustrate some of the ways deceptive or unfair business practices harm veterans and the broader military community. Our actions have gone after individuals and companies that have targeted military consumers with false promises of earning

⁵ See <https://public.tableau.com/app/profile/federal.trade.commission/viz/MilitaryReports/Infographic>.

⁶ Consumer Sentinel Data Book, 2022, at 17, https://www.ftc.gov/system/files/ftc_gov/pdf/CSN-Data-Book-2022.pdf. Overall, the FTC received over 5.1 million complaints, with people reporting losses of nearly \$8.8 billion to fraud. *Id.* at 4.

⁷ This increase occurred even though the FTC received slightly more complaints from military consumers in 2021, reflecting a substantial increase in the average amount of reported monetary loss. Compare Consumer Sentinel Data Book, 2022, *supra* n.6, at 17 with Consumer Sentinel Data Book, 2021, at 17, <https://www.ftc.gov/reports/consumer-sentinel-network-data-book-2021>.

⁸ Consumer Sentinel Data Book, 2022, *supra* n.6, at 18.

or investment opportunities, that have deployed deceptive claims and recruiting tactics regarding for-profit schools, that have engaged in illegal practices related to automobile purchases and credit products, and that set up sham charities to exploit the public's desire to help those who have served. And we have achieved strong relief, shutting down frauds and obtaining substantial monetary judgments against firms that use illegal tactics.

While the FTC remains vigilant in combatting fraud and other unlawful business practices, we face difficult challenges ahead. Returning money to defrauded consumers has been a cornerstone of the FTC's enforcement work. The Supreme Court's decision in *AMG*, which held that the FTC does not have the ability to obtain monetary relief pursuant to Section 13(b) of the FTC Act, dealt a massive blow to the Commission's ability to obtain meaningful monetary relief for consumers who lost money to lawbreakers. Although the Commission has worked tremendously hard to use our other legal tools and authorities, the *AMG* decision has crippled the agency's ability to move forward with claims seeking billions of dollars for affected consumers.

A. Deceptive earnings and investment claims.

Some companies target military consumers with military-specific discounts or offers to lure servicemembers and veterans into deceptive schemes. For instance, in February 2022, the FTC filed suit against fast-food chain BurgerIM, accusing the chain of targeting veterans with false promises while withholding information required by the Franchise Rule.⁹ According to the complaint, the company touted veteran-specific discount programs to lure people into paying tens of thousands of dollars to purchase franchises. The FTC alleged that the company pitched the franchise opportunity as "a business in a box" that required little to no business experience, downplaying the complexity of owning and operating a restaurant, and it offered unfounded

⁹ Complaint, *United States v. BurgerIM*, No. 2:22-cv-00825 (C.D. Cal.), https://www.ftc.gov/system/files/ftc_gov/pdf/2022.02.07_complaint_filed_002_0.pdf.

assurances that if a franchisee was unable to open a restaurant, the company would refund the franchise fee. Although BurgerIM pocketed tens of millions of dollars in such fees, the majority of the people who paid were never able to open restaurants.

In April 2022, the FTC sent out \$23 million in refunds arising out its action against MOBE Ltd. The Commission alleged that MOBE falsely claimed that its business education program would enable people to start their own online business and earn substantial income quickly and easily using a “proven” 21-step system.¹⁰ Defendants eventually revealed that their “proven system” required selling the same memberships to others in the hopes of earning commissions, with many victims experiencing crippling losses or mounting debts. As part of the scheme, the defendants created and promoted the “Patriot Funnel System,” targeting veterans and servicemembers with military-specific online ads and social media posts. The \$23 million in refunds would not have been available under Section 13(b) if the Commission had brought the case after *AMG*. Achieving similar results in future actions will be hindered by the Supreme Court’s decision.

The Commission is using the tools and authorities available to it to try to protect consumers injured by deceptive earnings claims. The Commission recently issued a Notice of Penalty Offenses concerning earnings claims,¹¹ which will permit the Commission to seek civil penalties for misleading earnings claims in some cases. This authority, however, does not provide a basis for the Commission to recover funds to return to injured consumers. In addition, Commission staff are continuing work on rulemaking efforts regarding earnings claims,

¹⁰ Complaint, *FTC v. MOBE Ltd.*, No. 6:180cv0862-ORL-37DCI (M.D. Fla.), https://www.ftc.gov/system/files/documents/cases/mobe_complaint.pdf.

¹¹ Penalty Offenses Concerning Multi-Making Opportunities (issued Oct. 2021), <https://www.ftc.gov/enforcement/penalty-offenses/money-making-opportunities>.

including reviewing comments received in response to Advance Notices of Proposed Rulemaking issued last year seeking comments on the Business Opportunities Rule and a possible rulemaking regarding deceptive or unfair earnings claims.¹²

B. Deceptive educational recruitment tactics.

The FTC has taken action against deceptive recruitment practices in the for-profit educational space. Higher education programs have historically sought to enroll veterans because of GI Bill educational benefits, including through predatory recruitment methods.¹³ In 2021, following a \$191 million judgment against the University of Phoenix (“UOP”) that resolved allegations that the school used deceptive recruitment pitches, the Commission sent payments totaling nearly \$50 million to more than 147,000 students. In addition to the \$50 million distributed as redress, the settlement with UOP required it to cancel \$141 million in debts owed to the school by students harmed by its allegedly deceptive advertising. The FTC alleged that UOP used misleading advertisements, including ads that falsely claimed that UOP’s corporate partnerships with companies like AT&T and Allied Barton offered hiring programs for UOP students who were veterans.¹⁴ As in *MOBE*, this relief would not have been available under Section 13(b) if the Commission had brought the case after *AMG*. In another recent action, the Commission sued Saint James School of Medicine, a for-profit medical school in the Caribbean

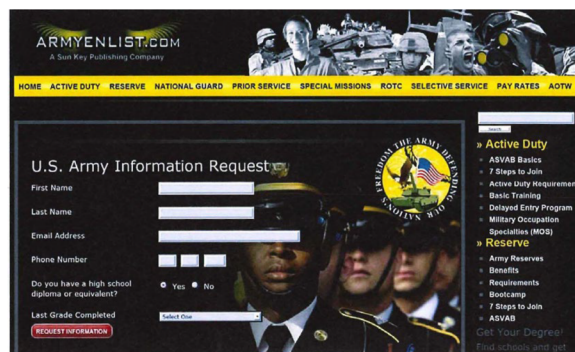
¹² Deceptive or Unfair Earnings Claims, 87 Fed. Reg. 13951 (Mar. 10, 2022); Business Opportunity Rule, 87 Fed. Reg. 72428 (Nov. 25, 2022).

¹³ Through the so-called 90/10 rule, Congress capped the percentage of revenue that for-profit schools can earn from U.S. Department of Education programs at 90 percent. Since GI Bill benefits originally were not included in that cap, schools had strong incentives to target veterans. Congress closed this loophole in 2021, with the change taking effect in the beginning of 2023. *See* 20 U.S.C. § 1094.

¹⁴ Complaint, *FTC v. University of Phoenix, Inc.*, No. 2:19-cv-05772-ESW (D. Ariz.), https://www.ftc.gov/system/files/documents/cases/university_of_phoenix_ftc_v_uop_complaint_signed.pdf.

that allegedly used false guarantees of student success to lure consumers—including veterans—into enrolling in its program.¹⁵

Often, illegal recruitment tactics start when their targets are still active duty servicemembers—and sometimes sooner. In *Sunkey Publishing*, for example, the FTC’s complaint charged the defendants with impersonating the military to lure consumers interested in serving our country to enroll in their schools. According to the complaint, the defendants ran online ads—such as “Army.com: Enlist, Reenlist, Benefits” and “Join the U.S. Air Force: Contact a U.S. Air Force Recruiter!”—and employed websites including *army.com*, *armyenlist.com*, and *navyenlist.com*, even though they had no affiliation with the military.¹⁶



Example of website used by Sunkey Publishing

Although the defendants promised to use consumers’ information only for military recruitment purposes, they sold this information to for-profit schools. The defendants’ sales representatives also bombarded consumers with calls and texts in which the representatives identified themselves as being from “Military Verification” and solicited interest in “military friendly

¹⁵ Complaint, *FTC v. Human Resource Development Services, Inc.*, No. 1:22-cv-1919 (N.D. Ill.), https://www.ftc.gov/system/files/ftc_gov/pdf/DE%201%20-%20Complaint%204142022.pdf.

¹⁶ Complaint, *United States v. Sunkey Publishers Inc.*, No. 3:18-cv-01444-HNJ (N.D. Ala.), https://www.ftc.gov/system/files/documents/cases/sunkey_filed_complaint.pdf.

colleges.” And the defendants used the email addresses they collected under the guise of military recruitment to advertise other products as well, including online dating, mortgages, credit services, and scholarships.¹⁷

The Commission followed up the *Sunkey* action by going after an operator of for-profit schools that bought leads from Sunkey: Career Education Corporation (currently operating as Perdoceo Education Corporation). In June 2021, the FTC sent nearly \$30 million in consumer redress pursuant to a settlement with the defendants that also required the school to reform its lead generation practices to ensure compliance with the law.¹⁸ This monetary relief, too, would not have been available under Section 13(b) had the Commission brought this case after *AMG*.

The agency also participates in an ongoing working group led by the Department of Veterans Affairs (VA) to inform veterans how to avoid scams, particularly those related to veterans benefits, and regularly works closely with agencies within the VA to reach veterans. This includes partnerships with the Veterans Benefit Administration and the VA Privacy Service to develop webinars, blog posts, and social media about avoiding identity theft, spotting scams, and raising awareness of frauds targeting veterans who are applying for benefits. The FTC also continues to engage in information-sharing and other coordination with the VA to ensure veterans are not targeted with unfair or deceptive practices by for-profit schools.

¹⁷ The FTC has aggressively pursued the perpetrators of government impersonation scams. This past September, the FTC announced a notice of proposed rulemaking that would prohibit the impersonation of government, businesses, or their officials. FTC Press Release, “FTC Proposes New Rule To Combat Government and Business Impersonation Scams” (Sept. 15, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/09/ftc-proposes-new-rule-combat-government-business-impersonation-scams>. An informal hearing on the proposed rule will take place on May 4, 2023. FTC Press Release, “FTC To Hold Informal Hearing on Proposed Impersonation Rule” (Mar. 22, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/03/ftc-hold-informal-hearing-proposed-impersonation-rule>.

¹⁸ FTC Press Release, “FTC Sends Nearly \$30 Million in Refunds to People Tricked into Enrolling by School Operator’s Lead Generators” (June 9, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/06/ftc-sends-nearly-30-million-refunds-people-tricked-enrolling-school-operators-lead-generators>.

C. Illegal auto-related and financing practices.

Unlawful sales and financing tactics can have an outsized impact on military personnel and their families, for example, with respect to motor vehicle sales and financing. Buying a car is one of the largest financial decisions a person will ever make. Young servicemembers are an attractive target for unscrupulous auto dealers: Servicemembers have a steady paycheck but often no or minimal credit history, and a vehicle purchase may be their first big, complex financial transaction. We have heard from military representatives that recruits may have a tough time temporarily “turning off boot camp training,” which may make it less likely that they will ask questions and closely scrutinize offers presented to them. And, given the cost and length of financing agreements, deceptive auto sales can have serious consequences that last well beyond a servicemember’s military career.

In two 2017 public events on military consumer protection, representatives from the Armed Forces repeatedly emphasized that unscrupulous auto sales practices are a major source of concern.¹⁹ Participants highlighted predatory practices including “payment packing” (slipping unwanted add-ons into a purchase agreement), bait-and-switch tactics, and extra fees.

Stopping these illegal tactics is a top priority for the FTC, and the agency has brought dozens of enforcement actions against dealers allegedly engaged in these types of practices.²⁰ In

¹⁹ See Military Consumer Financial Workshop, Panel 1: Military Consumers’ Experience in Auto Purchase, Financing, and Leasing (San Antonio, Tex., July 19, 2017), <https://www.ftc.gov/news-events/events/2017/07/military-consumer-workshop>; Protecting Military Consumers: A Common Ground Conference (Los Angeles, Cal., Sept. 7, 2017), <https://www.ftc.gov/news-events/events/2017/09/protecting-military-consumers-common-ground-conference>. See also The Road Ahead: Selling, Financing & Leasing Motor Vehicles, Panel 1: Military Consumers and the Auto Sales and Financing Process (San Antonio, Tex., Aug. 2, 2011), <https://www.ftc.gov/news-events/events/2011/08/road-ahead-selling-financing-leasing-motor-vehicles/>; FTC, *Staff Perspective: A Closer Look at the Military Consumer Workshop* at 2 (Feb. 2018) (relaying panelists’ descriptions of challenges faced by servicemembers in auto transactions and noting some cases FTC has brought to address alleged unlawfulness in these areas).

²⁰ See FTC, *Notice of Proposed Rulemaking: Motor Vehicle Dealers Trade Regulation Rule* (June 23, 2022), at 12-22 (discussing auto industry issues and enforcement actions by FTC, CFPB, and states), https://www.ftc.gov/system/files/ftc_gov/pdf/P204800%20Auto%20Rule%20NPRM.pdf.

summer 2022, the Commission issued a notice of proposed rulemaking regarding motor vehicle dealers, drawing extensively on the FTC’s military consumer protection work in the auto space.²¹ Among other things, the proposed rule would prohibit a number of misrepresentations that we understand are particular issues for servicemembers, such as whether vehicles can be moved across state lines or out of the country, whether and under what circumstances a vehicle may be repossessed, and whether the dealer or its products or services were endorsed by or associated with any government agency, including the Department of Defense or its military components.

The FTC is similarly committed to addressing other unfair or deceptive financing practices that affect servicemembers and veterans. Last summer, the Commission partnered with a group of 18 states to sue Harris Jewelry, a group of 19 retail stores and related entities, to stop the defendants from cheating military families with illegal financing and sales practices.²² According to the complaint, the defendants enticed servicemembers by claiming that the defendants’ in-store financing plan would significantly improve servicemembers’ credit scores and lower the costs they pay to borrow in the future. The defendants had no reasonable basis for this claim, which was made without regard to the servicemembers’ credit history or potential future borrowing or payment actions. The complaint additionally alleged that the defendants would often add a “Protection Plan” to the financing agreement without the customers’ express informed consent, misrepresent that their protection plans were not optional or were required, and fail to provide disclosures required by the Truth in Lending Act and the Military Lending

²¹ *See id.*

²² FTC Press Release, “FTC and 18 States Sue to Stop Harris Jewelry from Cheating Military Families with Illegal Financial and Sales Tactics” (July 20, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/07/ftc-18-states-sue-stop-harris-jewelry-cheating-military-families-illegal-financing-sales-tactics>.

Act, among other violations of federal and state law.²³ The Commission and multistate group obtained an order against the defendants prohibiting them from collecting millions in debt, requiring them to refund to consumers approximately \$10.9 million for purchased protection plans, to refund overpayments, and to complete their shutdown of operations and dissolution pursuant to applicable state laws, once they meet the obligations of the order.

Home purchases represent another major purchase for military personnel and civilians alike, and we have taken action to protect the military community in this area. For example, the FTC brought an action against one of the nation's largest refiners of veteran's home loans, alleging that it made misleading claims directed at current and former servicemembers, including falsely implying a government affiliation.²⁴ According to the complaint, the defendants misrepresented the costs and potential savings of their refinancing services; implied that the loans they offered would come from Veterans Affairs or another government source; and falsely represented that low interest, fixed-rate mortgages were available at no cost. To resolve these allegations, the company agreed to pay a \$7.5 million civil penalty.²⁵

Fraudulent schemes also target the end of the credit lifecycle, and the FTC has a long history of going after extortionist debt collectors. In our enforcement work, the Commission has brought actions that successfully shut down collectors that allegedly falsely threatened to take

²³ In November 2022, the Commission joined the CFPB in filing an amicus brief in *Louis v. Bluegreen Vacations Unlimited, Inc.*, No. 22-12217 (11th Cir.), arguing that a military consumer who alleged that he or she signed a contract that was void due to violations of the Military Lending Act has standing to sue in federal court.

²⁴ Complaint, *FTC v. Mortgage Investors Corporation of Ohio, Inc.*, No. 8:13-cv-1647 (M.D. Fla.), <https://www.ftc.gov/sites/default/files/documents/cases/2013/06/130627mortgageinvestorscmpt.pdf>.

²⁵ The Commission also works to ensure that renters, including military consumers, are protected from illegal practices. This February, the Commission and the CFPB issued a joint request for information on the use of algorithms and other background screening methods in tenant screening. The request for information specifically asked whether tenant screening practices have unique impacts on military servicemembers. *Joint FTC-CFPB Tenant Screening Request for Information* (Feb. 28, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/p235400_tenant_screening_rfi.pdf.

action under the Uniform Code of Justice against a servicemember who was the victim of identity theft, to disclose a purported debt to the consumer's commanding officer, and to ruin a consumer's military career.²⁶

D. Bogus military charities.

Finally, some bad actors exploit the goodwill people have toward the Armed Forces to take advantage of the general public. For instance, in 2018, the Commission and partners in every state worked together on Operation Donate with Honor, an enforcement sweep involving more than 100 actions against bogus charities with names like "Help the Vets" and "Veterans of America." The Commission has continued its vigorous enforcement in this area, obtaining orders in 2020 and 2021 in cases against sham charities using names such as "American Veterans Foundation" and "Saving Our Soldiers."²⁷

IV. EDUCATION AND OUTREACH

In addition to the Commission's law enforcement actions, education and outreach is a critical part of our consumer protection and fraud prevention work. The Commission's education and outreach program reaches tens of millions of people a year, including through agency websites and social media presence. Recent online consumer alerts, for example, have covered imposter scams targeting veterans, businesses that charge to assist consumers filing claims for military benefits (even though help is free through the VA and affiliated organizations), and how veteran entrepreneurs can spot common scams that target small businesses.²⁸

²⁶ Complaint, *FTC v. Bam Financial, LLC*, No. 15-cv-0672-JVS-DFM (C.D. Cal.), <https://www.ftc.gov/system/files/documents/cases/151104bamcmpt.pdf>; Complaint, *FTC v. Goldman Schwartz Inc.*, No. 4:13-cv-00106 (S.D. Tex.), <https://www.ftc.gov/sites/default/files/documents/cases/2013/01/130131goldmanschwartzcmpt.pdf>.

²⁷ Complaint, *FTC v. Outreach Calling, Inc.*, No. 1:20-cv-07505-MKV (S.D.N.Y.), https://www.ftc.gov/system/files/documents/cases/182_3058_outreach_calling_-_complaint.pdf.

²⁸ FTC Consumer Alert, "Imposter scams targeting veterans and servicemembers" (Nov. 16, 2022), <https://consumer.ftc.gov/consumer-alerts/2022/11/imposter-scams-targeting-veterans-and-servicemembers>; FTC

In 2013, the FTC created MilitaryConsumer.gov, a resource to inform servicemembers, veterans, their families, and the network of professionals that counsel them about fraud and other consumer issues affecting the Armed Forces. The same year, the FTC worked with the Department of Defense's Office of Financial Readiness (DoD FinRed) and the Consumer Financial Protection Bureau's Office of Servicemember Affairs to launch the first Military Consumer Protection Day—which was expanded in 2016 to a full month every year (July). For the past nine years, the FTC has coordinated with its partners on this initiative to create joint branding, coordinate messaging, and conduct virtual presentations, webinars, and Facebook Live events to reach the military and veterans communities. The Military Consumer network of partners includes federal and state agencies, military agencies, state attorneys general offices, military relief and support organizations, consumer advocacy groups, and military trade associations. FTC staff also participates in regular calls with DoD FinRed's partner network as well as the quarterly calls hosted by the Military Family Financial Readiness Coalition.

One area of particular educational and outreach focus is identity theft. An FTC analysis of five years of Consumer Sentinel data suggests that active duty servicemembers experience highly disproportionate instances of theft from their financial accounts compared to the general population.²⁹ Identity theft is often carried out by an individual that the victim knows, and military consumers were twice as likely to report that the perpetrator was a family member or

Consumer Alert, "Veterans: Filing for benefits is free" (Oct. 26, 2022), <https://consumer.ftc.gov/consumer-alerts/2022/10/veterans-filing-benefits-free>; FTC Consumer Alert, "Veteran entrepreneurs: Spot the scams" (Nov. 2, 2022), <https://consumer.ftc.gov/consumer-alerts/2022/11/veteran-entrepreneurs-spot-scams>.

²⁹ FTC Press Release, "Active Duty Servicemember are More likely to Report Identity Theft than Other Adults, New FTC Data Shows" (May 21, 2020), <https://www.ftc.gov/news-events/news/press-releases/2020/05/active-duty-servicemembers-are-more-likely-report-identity-theft-other-adults-new-ftc-data-shows>.

someone they knew.³⁰ It can also be the result of data breaches and lax data security policies.³¹ And identity theft feeds into many of the frauds discussed above, with active duty servicemembers reporting problems with credit bureaus at more than twice the rate of other adults, with reports indicating that many of these complaints emerged from underlying instances of identity theft.³²

Privacy and data security has long been a major area of enforcement in the FTC's Division of Identity Protection and Privacy, with dozens of cases brought over the past two years.³³ The FTC complements this enforcement work through coordinating closely with the VA and other partners to develop and disseminate information about avoiding scams and recovering from identity theft. For instance, the FTC participates in a valuable ongoing initiative organized by the Executive Office of the President and Department of Veterans Affairs. This effort convenes these three stakeholders — along with representatives from the CFPB, the Department of State, the Department of Education, and others — to collaborate on outreach resources and activities to alert veterans and their families to evolving scams. Over the years, the FTC has also given dozens of webinars and presentations to veterans, many hosted by the VA's identity protection program and its economic development initiatives. For instance, in January 2023, FTC staff spoke at the VA's virtual program, Protecting PACT Act Benefits from Identity Theft Scammers.

³⁰ Nearly 14% of the reports indicate that a family member or someone they knew stole their identity, compared to just 7% of other adults. Reports indicate that this often happens when people have access to important documents or financial records left behind during military reassignment.

³¹ See, e.g., FTC Press Release, "Security Beyond prevention: The Importance of Effective Breach Disclosures" (May 20, 2022), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2022/05/security-beyond-prevention-importance-effective-breach-disclosures>.

³² In 2022, military consumers filed 25,803 complaints about credit bureaus, information furnishers, and report users (out of a total of 691,142). Consumer Sentinel Data Book 2022, *supra* n. 6, at 18.

³³ See Cases, Privacy and Security Enforcement, <https://www.ftc.gov/news-events/topics/protecting-consumer-privacy-security/privacy-security-enforcement> (listing cases between 2020 and the present).

As part of a celebration of Veterans Day in November 2022, FTC staff participated in a VA program for new veterans and servicemembers transitioning into civilian life in Mississippi to speak about avoiding scams and identity theft.³⁴ FTC staff spoke at similar events hosted by VA for veterans in Northern California (part of Military Consumer Protection Month 2022) and in Baltimore (2021). In addition, beginning in fall 2022, the FTC has participated in an ongoing working group led by the VA to inform veterans how to avoid scams, particularly those related to veterans' benefits. To expand the FTC's reach to veterans, FTC staff has also worked with AARP and its Veterans & Military Families Initiative on programs for veterans about avoiding scams and identity theft.³⁵

The FTC also participates in the American Bar Association's Legal Assistance for Military Personnel program, in which FTC staff coordinates on legal protections and issues related to servicemembers, veterans, and their families. Over time this has included leading trainings and webinars on a diverse array of federal consumer laws and regulations, including the Military Lending Act,³⁶ Electronic Fund Transfer Act, Equal Credit Opportunity Act, Truth in Lending Act, Consumer Leasing Act, Fair Credit Reporting Act, the Holder Rule, the Credit Practices Rule, the Used Car Rule, the Military Credit Monitoring Rule, and many others. These meetings and trainings have been held on bases around the country, with more recent events held remotely, particularly during the COVID-19 pandemic.

³⁴ One resource that the FTC regularly highlights is free electronic credit monitoring services for active-duty members, required under the FTC's military credit monitoring rule. *Final Rule: Military Credit Monitoring* (July 1, 2019), <https://www.federalregister.gov/documents/2019/07/01/2019-13598/military-credit-monitoring>.

³⁵ Events included the following: the AARP Connecticut TeleTown Hall (May 2022), AARP Connecticut Virtual University (Nov. 2022), AARP Texas and FTC's Southwest Region webinar (Nov. 2022), AARP Facebook Live event to promote Identity Theft Awareness Week (Jan. 2023), and AARP Connecticut Virtual University (Feb. 2023). FTC staff also delivered a presentation about helping veterans avoid scams during the AARP-led panel at the annual conference of the International Association of Financial Crime Investigators (Sept. 2022).

³⁶ In addition to education and outreach efforts, the Commission regularly participates in the Department of Defense's interagency task force on the Military Lending Act, which brings together different federal agencies to address military lending topics.

V. CONCLUSION

The Commission will continue to take action to protect veterans and the broader military community from fraud and related threats. Combating these practices is an important part of the FTC's consumer protection mission, and we will use every tool at our disposal to do so. We look forward to continuing to work with the Committee and Congress on these urgent issues.

Questions for the Record

Department of Veterans Affairs (VA)**Senate Committee on Veterans' Affairs (SVAC) Hearing, "Veterans Consumer Protection: Preventing Financial Exploitation of Veterans and their Benefits" Due-out (Senator Sullivan)**

In the Committee's April 19, 2023, hearing, *Veterans Consumer Protection: Preventing Financial Exploitation of Veterans and their Benefits*, Senator Sullivan questioned whether VA had provided views on his proposed legislation to curb fees for trial lawyers in Camp Lejeune cases (S. 5130 in the 117th Congress and S. 378 in the 118th Congress). The Senator asked VA to confirm whether it had provided views and VA's lead witness, David Barrans, agreed to do so.

In response, VA confirms that it has not provided technical assistance or views on the subject legislation, either in the 117th or 118th Congress to date. Should the Senator's office or Committee request such assistance or input, please contact VA's Office of Congressional and Legislative Affairs, Legislative Team at oclalegislative@va.gov.

**Department of Veterans Affairs (VA) Answers to
Questions for the Record
Mr. David Barrans, Chief Counsel, Office of General Counsel and
Mr. John Boerstler, Chief Veteran Experience Officer, Veteran Experience Office**

**"Veterans Consumer Protection: Preventing Financial Exploitation
of Veterans and their Benefits"**

**Committee on Veterans' Affairs
United States Senate**

April 19, 2023

Questions from Senator Joe Manchin

QUESTION 1: Guidance to Targeted Veterans: Would participating in any of these lawsuits put a veterans current or future benefits at risk? How is VA providing this guidance to veterans?

VA Response: No. Filing a lawsuit under the Camp Lejeune Justice Act of 2022 (CLJA) won't affect a Veteran's eligibility for VA disability or health care benefits. If the court awards a Veteran relief under this law (or if a court awarded relief in the past), this will not affect the amount of VA disability payments or eligibility for VA health care. However, a Veteran's VA benefits may affect their award under the CLJA. If the court awards a Veteran relief as a result of a lawsuit filed under the CLJA and the Veteran already gets VA benefits or health care related to exposure to water at Camp Lejeune, the court must reduce (or "offset") the award by the amount of any related disability award, payment or benefit VA has provided to the Veteran. VA benefits that are not related to exposure to contaminated water at Camp Lejeune will not affect an award from a lawsuit under the CLJA. VA has provided this information to Veterans through various mediums, including on our Camp Lejeune Water Contamination webpage, at <https://www.va.gov/disability/eligibility/hazardous-materials-exposure/camp-lejeune-water-contamination/>; through brochures, such as the one available on the Outreach Materials website, at <https://www.va.gov/files/2022-12/Camp%20Lejeune%20FAQ%20V12.6.22%201030hrs.pdf>; and through videos, such as the one posted on VA's YouTube site, at <https://www.youtube.com/watch?v=1Ac1N-pxyU>.

More broadly, VA issued information warning of scams related to the Sergeant First Class Health Robinson Honoring our Promise to Address Comprehensive Toxics Act OF 2022 (PACT Act) and provide tips to avoid them. For example, see the Be Vigilant of PACT Act Scams flyer on the VA Insider website, at https://vaww.insider.va.gov/wp-content/uploads/2022/11/Fraud-PACT-Act_v7_508.pdf.

QUESTION 2: S.263 Restoring Benefits to Defrauded Veterans Act: Senator Tuberville and I are prepared to make whatever technical adjustments are necessary to get this bill passed. Can you commit to working with us to get this bill passed this Congress?

VA Response: The Department is committed to working with members of this committee, and others throughout Congress, to provide requested technical assistance and views on proposed legislation. We welcome opportunities to review and assess legislative proposals as we continuously look to increase access, improve outcomes and effectively deliver care and benefits for Veterans, families, Caregivers and Survivors.

QUESTION 3: GAO 2019 Recommendations: Do you believe these recommendations have been successful in preventing financial exploitation? Is there data or information out there that can speak to these recommendations' success in thwarting would be individuals or organizations attempting to exploit our veterans? Are there additional gaps you have noticed that you believe would be helpful to further prevent fraud or abuse of our veterans' benefits?

VA Response: With respect to the U.S. Government Accountability Office (GAO) recommendations in its report, *Veterans Benefits: Actions VA Could Take to Better Protect Veterans from Financial Exploitation* (GAO-20-109), VA believes that the recommendations from this report have resulted in increased awareness for Veterans and their survivors. Currently, the Veterans Benefits Administration (VBA) is tracking complaints regarding financial exploitation for payments prior to any referral to the Federal Trade Commission. Allegations of payee fraud that are sent to VA's Office of Inspector General are also shared with VBA's Office of Financial Management's Fraud Incident Team. Complaints of financial exploitation of pensioners are also forwarded to the Fraud Incident Team to assist with risk assessment and to coordinate relative risk responses across VBA. Additionally, complaints received by VBA's Pension and Fiduciary Service regarding an agent, representative or attorney are referred to VA's Office of General Counsel (OGC). VBA uses all information received regarding financial exploitation to analyze and improve policies and procedures where appropriate. VBA continues to educate claimants concerning potential financial exploitation.

Interest in providing representation to Veterans on their VA claims has been steadily rising, as reflected in the number of accredited claims agents and the number of complaints received by OGC regarding unaccredited individuals and organizations. As of December 31, 2006, there were only 7 accredited claims agents and 0 accredited attorneys. However, by December 31, 2022, there were 473 accredited claims agents and over 5,300 accredited attorneys. Furthermore, from 2018 through 2022, 40% of the complaints received by OGC were against unaccredited individuals and organizations (112 of these complaints as compared to 168 complaints against accredited individuals). The OGC disciplinary process is designed to address complaints about VA-accredited individuals. If VA determines that an accredited attorney, agent or Veterans Service Organization representative has engaged in misconduct, demonstrated

incompetence or improperly charged a fee for preparing, presenting or prosecuting a claim prior to the issuance of an initial VA decision, VA may suspend or cancel the individual's accreditation. Disciplinary proceedings to suspend or cancel an individual's accreditation follow the procedures set out in VA regulations. However, if a complaint involves someone who does not hold VA accreditation, then OGC's primary recourse is to refer the matters to State or Federal enforcement who may be better positioned to conduct investigations and prosecutions on these matters.

QUESTION 4: S. 740 The GUARD Act: Would you all agree that passing the GUARD Act would be helpful in closing this gap and preventing future attempts to defraud out veterans? Would this bill hinder veterans from filing or preparing a VA benefit claim with the many veteran service organizations who are trustworthy and genuinely want to assist veterans? I want to ensure there will be no unintended consequences.

VA Response: Passing the Governing Unaccredited Representatives Defrauding VA Benefits Act (GUARD Act) would help to address the gap that currently exists in the statutes governing the conduct of individuals who are providing assistance to Veterans on their claims for VA benefits. Beginning in Fiscal Year (FY) 2018, and every year thereafter, VA has proposed legislation that would reinstate the penalties for directly or indirectly charging, or receiving any fee or compensation with respect to the preparation, presentation, and prosecution of claims for VA benefits except as provided by law. Prior to 2006, section 5905 of title 38 authorized penalties for this range of conduct related to fees and compensation for representation on claims for VA benefits. However, current section 5905 only authorizes penalties for wrongfully withholding from a claimant or beneficiary any part of a benefit due to the claimant or beneficiary, a circumstance that rarely arises. From 2018 through 2022, over 40 percent of the complaints received by OGC's Accreditation, Discipline & Fees (ADF) program were against unaccredited individuals and organizations. The existence of a Federal criminal prohibition would provide a significant and consistent deterrent against bad actors, providing another layer of protection to Veterans. VA's legislative proposal is largely reflected in proposed bill S. 740, the GUARD Act.

This bill would not alter current law authorizing VA to recognize organizations and individuals to assist Veterans in the preparation, presentation and prosecution of a VA claim, and, therefore, would not hinder Veterans from filing or preparing a VA benefit claim with any accredited individual who is recognized by VA as a Veterans Service Organization representative, an attorney or a claims agent, and who has been vetted by VA with regard to fitness of character and competence. Rather, the GUARD Act provides an enforcement mechanism against those who have not been accredited by VA and are charging fees for claims preparation.

QUESTION 5: Collaboration between the VA, FTC, and CFPB Veteran Consumer Protection Departments: Is this information separate between your three organizations? Are there plans to, or do you already share information and

collaborate in a meaningful way to assist in preventing fraud, and holding those who do accountable?

VA Response: VA is working across the Department and with external partners to better detect and disrupt what appear to be many different types of predatory practices and fraudulent schemes that are being used to target Veterans. VA works with external partners in a multitude of ways; however, two major avenues for collaboration exist through the relationships that VA is building through its Veterans Scam and Fraud Evasion (VSAFE) Integrated Project Team (IPT) and through referrals for potential investigation or prosecution.

In August 2022, the VSAFE taskforce held a listening session with multiple Federal agencies, to include the Department of Defense (DoD), Social Security Administration (SSA), Department of Education (ED), Federal Trade Commission (FTC), Office of Management and Budget (OMB), Department of State (DoS) Offices of Overseas Citizens, Visa Services, and Fraud Prevention Programs, and the Consumer Financial Protection Bureau (CFPB). Subsequently the Department of Justice (DOJ) has joined the collaboration. The results of these mapping efforts helped VA identify that there is potential for VA to improve in areas involving consumer education and information sharing.

Armed with this background, the VSAFE taskforce utilized VA's governance process to stand up the VSAFE IPT which is a Department-wide team that aims to develop long-term solutions to combat potential fraud through knowledge-sharing and the implementation of best practices.

DoD, ED, FTC, OMB, SSA, DOJ, DoS Offices of Overseas Citizens, Visa Services, and Fraud Prevention Programs, and CFPB now meet monthly to highlight collaboration opportunities orchestrated by the VA VSAFE team. The OGC Accreditation, Discipline and Fees Program maintains a website, at <https://www.va.gov/ogc/accreditation.asp>, for information regarding VA accreditation, representation, and complaints. The website includes a link where the Veteran community may submit complaints that do not fall squarely within OGC's enforcement authority to the FTC Consumer Sentinel database. Complaints that are submitted into the FTC Consumer Sentinel database are accessible not only by OGC but also by other Federal and State enforcement authorities. These complaints are periodically reviewed by OGC.

VBA's Office of Financial Management meets monthly with the FTC and the CFPB to identify areas for collaboration. For example, in partnership with FTC and CFPB, VA recently provided content in the following resources:

- Protecting the Promise to Address Comprehensive Toxics (PACT) Act Benefits from Identity Theft Scammers, <https://www.oprm.va.gov/media.aspx>.
- Veterans: Filing for benefits is free | Consumer Advice (ftc.gov), <https://consumer.ftc.gov/consumer-alerts/2022/10/veterans-filing-benefits-free>.

- WARNO: They call themselves “coaches” or “consultants” and advertise their ability to assist you with your VA benefits claim but may not be accredited to practice before the VA | Consumer Financial Protection Bureau (consumerfinance.gov), <https://www.consumerfinance.gov/about-us/blog/coaches-consultants-advertise-ability-to-assist-with-va-benefits-claim-but-may-not-be-accredited/>.

In addition, VBA's Loan Guaranty Service (LGY) routinely partners with CFPB to address misleading loan advertising materials and deceptive or predatory lending practices directed towards Veterans. These collaborations include a November 2017 joint Warning Order advising Veterans of the dangers associated with misleading solicitations and provided information on what to consider when receiving advertisements from lenders, particularly on refinance loans, CFPB and VA WARNO: VA refinancing offers that sound too good to be true, <https://www.consumerfinance.gov/about-us/blog/cfpb-and-va-warno-va-refinancing-offers-sound-too-good-be-true/>, and a July 2021 consumer fraud alert to provide VA home loan borrowers tips for spotting and avoiding VA home loan scams Consumer Fraud Alert - Tips for avoiding VA home loan scams, <https://www.consumerfinance.gov/about-us/blog/consumer-fraud-alert-tips-avoiding-va-home-loan-scams/>.

When VA learns of lenders who violate VA's advertising standards, VA can refer the case to CFPB for further investigation and potential action. In February 2023, as a result of continued deceptive mortgage advertising practices and unauthorized use of VA seals and Federal Housing Administration (FHA) logos, in violation of a 2015 order, CFPB fined and banned a lender for continuing “to lie to military families by falsely implying Government endorsement of its home loans.” See CFPB Shuts Down Mortgage Loan Business of RMK Financial for Repeat Offenses Against Military Families; <https://www.consumerfinance.gov/about-us/newsroom/cfpb-shuts-down-mortgage-loan-business-of-rmk-financial-for-repeat-offenses-against-military-families/>.

Questions from Senator Kyrsten Sinema

QUESTION 1: In Arizona, the largest age group of veterans in the state consists of those 65 years of age and older, accounting for over 50 percent of the veteran population. I am concerned that this demographic of older veterans is especially susceptible to identity theft scams. Can you please discuss what efforts are being made to prevent these types of scams, and how the VA works with the DOJ to hold scammers accountable?

VA Response: VA works through its Office of General Counsel (OGC) and offices and programs under the Veterans Benefits Administration (VBA) to identify and address scams and help hold scammers accountable.

In FY 2022, OGC's ADF Program received a total of 41 new complaints, some of which are related to Veterans over 65 years of age and particularly those receiving VA pension. While some of these complaints were addressed simply by informing the subject of the complaint that their actions were contrary to law, others were more complicated and required extensive research and investigation to determine the exact nature of the individual's or organization's activities. The ADF Program has engaged VA's Office of Inspector General (OIG), where appropriate, to request and provide information regarding subjects of complaints that we received. Additionally, OGC has a factsheet on its website, at <https://www.va.gov/ogc/accreditation.asp>, that provides information on VA's Pension Program and representation, at https://www.va.gov/OGC/docs/Accred/PensionProgram_Representation.pdf.

Within VBA, we direct Veterans and beneficiaries to report suspected fraud and/or suspected predatory companies to VA's OIG and the Federal Trade Commission (FTC). To amplify this messaging and reach the widest possible Veteran population, VA communicates through social media, which includes Facebook, Twitter etc.; hard-copy letters, that are sent directly to Veterans; email messaging, via GovDelivery; television and radio public service announcements; and Veteran-focused organizations. The following are examples of targeted messaging used in these campaigns:

- Pension Poaching – What Is It? (YouTube Video), <https://www.youtube.com/watch?v=ZJxMJHlm60>.
- VBA Chief Financial Officer (CFO) Interview on Federal News Network, <https://federalnewsnetwork.com/veterans-affairs/2021/12/the-veterans-benefits-administration-takes-on-fraud-against-veterans/>.
- VBA CFO Interview on Fox 5, <https://www.fox5dc.com/video/1012635>.
- CFO Interview with Military Times, "Scams targeting veterans' pensions, benefits raise worry among VA officials" (April 14, 2022), <https://www.militarytimes.com/veterans/2022/04/14/scams-targeting-veterans-pensions-benefits-raise-worry-among-va-officials/>.

VBA's Office of Financial Management (OFM) works with the VA's OIG and the Department of Justice (DOJ) by providing case analysis and evidence to support the

prosecution of scammers targeting Veterans. The following cases are examples of VBA collaborating with OIG and DOJ's Service members and Veterans Initiative and the Transnational Elder Fraud Strike Force to help stop scammers:

- California Man Receives 10-Year Sentence Following Guilty Plea in South Carolina to Fraud Conspiracy (Department of Justice, Office of Public Affairs), <https://www.justice.gov/opa/pr/california-man-receives-10-year-sentence-following-guilty-plea-south-carolina-fraud>.
- South Carolina Woman Pleads Guilty to Fraud Conspiracy Targeting Retirees and Military Pension Holders (Department of Justice, Office of Public Affairs), <https://www.justice.gov/opa/pr/south-carolina-woman-pleads-guilty-fraud-conspiracy-targeting-retirees-and-military-pension>.
- Michigan Woman Pleads Guilty to Defrauding U.S. Department of Veterans Affairs Out of \$1.7 Million in Veterans Benefits (Department of Justice, U.S. Attorney's Office, District of Nevada), <https://www.justice.gov/usao-nv/pr/michigan-woman-pleads-guilty-defrauding-us-department-veterans-affairs-out-17-million>.
- Michigan Woman Sentenced For Defrauding U.S. Department Of Veterans Affairs Of Over \$1.7 Million In Benefits (Department of Justice, U.S. Attorney's Office, District of Nevada), <https://www.justice.gov/usao-nv/pr/michigan-woman-sentenced-defrauding-us-department-veterans-affairs-over-17-million>.

Furthermore, VBA's Insurance Service (INS) executes an authentication process to verify callers or online users when accessing account information to prevent inadvertent release of identifiable information. INS also limits the release of information to third-party requestors without explicit written approval from Veterans or their beneficiaries. When INS identifies fraudulent activity, it places restrictive access to accounts and reports fraudulent activity to VA's OIG for investigation and accountability.

More broadly, VA issued information warning of scams related to the Sergeant First Class Health Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022 (PACT Act) and provides tips to avoid them. For example, see, "Be Vigilant of PACT Act Scams," <https://www.oprm.va.gov/docs/PACT-Act-Scams-508.pdf>.

QUESTION 2: I am particularly interested in the FTC's Consumer Sentinel database. Given its ability to share information across departments and law enforcement agencies, it would seem that it is the ideal tool to address scams targeting veterans. It appears, however, that the database has not always been effectively used and lacks clear procedures for assigning cases to agencies. Can you elaborate on how the FTC is working with the VA, and other government agencies, to prevent fraud and increase cross-agency coordination?

VA Response: As mentioned previously, VA's OGC ADF Program maintains a website, <https://www.va.gov/ogc/accreditation.asp>, for information regarding VA accreditation, representation and complaints, which includes a link to submit a complaint to FTC's Consumer Sentinel database. When a complaint is submitted

through this link, the ADF Program may see these complaints separate from the others in the FTC system. The ADF Program periodically reviews incoming complaints submitted through the link. The ADF Program also has the capacity to search the entire FTC Sentinel database to see if there may be additional complaints about a particular individual or company.

Further, VBA's OFM meets monthly with FTC and the Consumer Financial Protection Bureau (CFPB) to identify areas for collaboration. For example, as noted previously, in collaboration with FTC and CFPB, VBA recently participated in developing the following resources:

- Protecting the Promise to Address Comprehensive Toxics (PACT) Act Benefits from Identity Theft Scammers, <https://www.oprm.va.gov/media.aspx>.
- Veterans: Filing for benefits is free | Consumer Advice (ftc.gov), <https://consumer.ftc.gov/consumer-alerts/2022/10/veterans-filing-benefits-free>.
- WARNO: They call themselves "coaches" or "consultants" and advertise their ability to assist you with your VA benefits claim but may not be accredited to practice before the VA | Consumer Financial Protection Bureau (consumerfinance.gov), <https://www.consumerfinance.gov/about-us/blog/coaches-consultants-advertise-ability-to-assist-with-va-benefits-claim-but-may-not-be-accredited/>.

Additionally, VBA's Education Service maintains the GI Bill® School Feedback Tool that allows individuals to provide comments about schools with programs approved for GI Bill benefits. Complaints are reviewed and submitted to the school for attempted resolution and, depending upon severity, may result in additional enforcement and oversight actions. These complaints are also fed into FTC's Consumer Sentinel database. In addition, Education Service staff have access to the Consumer Sentinel database for research purposes and hold regular and ad hoc meetings with FTC, and other Federal agencies, to exchange information.

VA is working across the Department and with external partners to better detect and disrupt what appear to be many different types of predatory practices and fraudulent schemes that are being used to target Veterans. In August 2022, the Veteran Scam and Fraud Evasion (VSAFE) taskforce held a listening session with multiple Federal agencies, to include the Department of Defense, Social Security Administration, Department of Education, FTC, Office of Management and Budget, Department of State Offices of Overseas Citizens, Visa Services, and Fraud Prevention Programs and CFPB. Subsequently, DOJ also joined the partnership. The results of these mapping efforts helped VA identify that there is potential for VA to improve in areas involving consumer education and information sharing. Armed with this background, the VSAFE taskforce utilized VA's governance process to stand up the VSAFE Integrated Project Team (IPT), which is a Department-wide team that aims to develop long-term solutions to combat potential fraud through knowledge-sharing and implementation of best practices. VA's VSAFE Team leads meet monthly with FTC partners to discuss emerging fraud trends and best practices and have partnered to develop outreach

material aimed at educating and protecting Veterans against Fraud attempts as well as providing streamlined reporting resources.

QUESTION 3: My office frequently hears from veterans in Arizona who have become victims to scams due to changes in benefits. I also hear from veterans who have been scammed by agencies who charged them for filing claims. How is the VA working to make veterans aware of the resources available to them and help them avoid scams?

VA Response: VA is dedicated to providing robust Veteran outreach and does so in several ways:

First, OGC's ADF Program website provides information to Veterans regarding their potential claims representation before VA, including a PowerPoint presentation on How to Select a Representative, at <https://www.va.gov/OGC/docs/Accred/SelectingaRepresentative.ppt> and Accreditation Frequently Asked Questions, at https://www.va.gov/ogc/accred_faqs.asp, which include information on when a fee may or may not be charged to a claimant for assistance on a VA claim.

In FY 2022, VBA successfully developed and executed 5 fraud prevention and protection communication campaigns focused on: Cyber Security; Elderly Veterans and Pension Poaching; LGBTQ+ Veterans; Predatory Companies; and the PACT Act. Through these campaigns, VBA conducted 87 engagements (such as social media, news outlets, interviews and presentations) and successfully reached over 8.5 million Veterans and dependents.

In FY 2023 to date, VBA successfully developed and executed 3 fraud prevention and protection communication campaigns focused on: Pension Poaching and Elderly Veteran Protection; Education (EDU) Benefit Fraud Prevention and GI Bill Protection; and the Promise to Address PACT Act Fraud Prevention. As part of these campaigns, VBA posted numerous communications in social media outlets as well as collaborated in publishing content to other media platforms, to include the following:

- YouTube video on how Veterans can prevent financial fraud and protect their benefits, <https://www.youtube.com/watch?v=hKFAAAjN9Yo>.
- Veterans: Filing for benefits is free | Consumer Advice (ftc.gov), <https://consumer.ftc.gov/consumer-alerts/2022/10/veterans-filing-benefits-free>.
- WARNO: They call themselves "coaches" or "consultants" and advertise their ability to assist you with your VA benefits claim but may not be accredited to practice before the VA | Consumer Financial Protection Bureau (consumerfinance.gov), <https://www.consumerfinance.gov/about-us/blog/coaches-consultants-advertise-ability-to-assist-with-va-benefits-claim-but-may-not-be-accredited/>.

- VA offers advice to help PACT Act benefits filers avoid scams (The American Legion), <https://www.legion.org/veteransbenefits/258076/va-offers-advice-help-pact-act-benefits-filers-avoid-scams>.
- Feds to vets: Beware of scammers charging you to file for benefits (Military Times), <https://www.militarytimes.com/news/your-military/2022/11/03/feds-to-vets-beware-of-scammers-charging-you-to-file-for-benefits/>.
- Veterans Corner Radio, <https://veteranscornerradio.com/>.
- VA Radio & Podcasts PSAs on Fraud, Scams, and Prevention Tips, <https://news.va.gov/outreach/radio/>.

In addition, VBA distributes its Pension Poaching Fact Sheet and fraud prevention materials during outreach events to help raise awareness of this scheme and provide prevention resources to Veterans.

Regarding home loans, VBA's Loan Guaranty Service (LGY) routinely conducts audits to ensure that lenders comply with relevant Federal statutes, VA regulations and VA policies, including those relating to loan advertising materials and deceptive or predatory lending practices. The LGY quality assurance team receives and reviews all potential inquiries received through VA's OIG, congressional offices, internal auditing and other external partners. When appropriate, VA and CFPB have issued Warning Orders advising Veterans of the dangers associated with misleading solicitations and provided information on what to consider when receiving advertisements from lenders, particularly on refinance loans.

Furthermore, the VSAFE IPT is focusing on designing targeted communications and campaigns to educate and warn the Veteran community about the fraud schemes and unsavory predatory practices that affect Veterans' lives daily. The VSAFE IPT is working towards publishing a one-page infographic that can easily be shared within the Veteran community, as well as publishing a more robust fraud prevention booklet, that will help inform the Veteran community about how they can identify potentially fraudulent schemes; where such schemes can be reported; and how someone who believes that they have been a victim of Veteran fraud may access resources available through VA and other Federal partners that could help. VA is also creating a centralized webpage that will make it easy for the Veteran community to electronically connect with VA on this important issue. The VSAFE IPT is moving in the right direction, and we look forward to bolstering the administrations' and program offices' own efforts through this initiative.

As mentioned previously, VA issued information warning of scams related to the PACT Act and provide tips to avoid them. For example, see: Be Vigilant of PACT Act Scams, at <https://www.oprm.va.gov/docs/PACT-Act-Scams-508.pdf>.

QUESTION 4: Every year the government spends billions of dollars funding the Department of Veterans' Affairs. Yet, I am concerned that our veterans are not aware of the many benefits that are available to them when they finish their service. How is VA ensuring that eligible veterans are made aware of the VA Home Loan product?

VA Response: VBA established a variety of resources to ensure eligible Veterans are aware of the VA Home Loan Program and to keep them informed of changes to such program. These include the following:

- VA's publicly available websites on VA home loans, at <https://www.benefits.va.gov/homeloans/index.asp>, and on housing assistance at <https://www.va.gov/housing-assistance/>, which provide practical and detailed information on the home loan benefit, including the VA Home Loan Guaranty Buyers Guide. Since May 2021 these websites received a combined total of over 7.6 million unique views, as of May 24, 2023 (the home loans website had more than 2.7 million unique views and the housing-assistance website had more than 4.9 million unique views).
- The VA Home Loan Guaranty Program Transition Assistance Program (TAP) module, at <https://tapevents.mil/Assets/ResourceContent/TAP/MLC-HLGP.pdf>, which introduces transitioning Service members to the VA home loan benefit; presents links to important websites; and provides Veterans with advice on avoiding predatory lending practices.
- VA blog posts, benefits booklet, newsletters, social media and press releases, which provide the most up-to-date information on the home loan benefit. Veterans can sign up on the VA blog webpage for information to be delivered directly to their email inbox.
- Direct contact with VA Loan Guaranty staff available at outreach events, including claims clinics, and by phone or email.
- Regular communication and education delivered to Veterans Service Organizations (VSO).

In FY 2023, the Loan Guaranty Program expanded its communications and training teams by adding manpower and reorganizing its structure to improve communications to Veterans, lenders, servicers, Realtors® and other stakeholders. VA continues to communicate with these stakeholders to disseminate and discuss information related to the VA home loan benefit. For example, VA partnered with the National Association of Realtors® (NAR®) in March 2022 to create a two-part video series, available at <https://www.nar.realtor/magazine/real-estate-news/nar-and-va-release-new-video-series-on-va-home-loans>, on the advantages and misconceptions of the VA Home Loan Program. VA regularly engages with industry media organizations and participates in interviews that allow for the widespread dissemination of information on the home loan benefit.

VA regularly shares VA Home Loan Guaranty information through the VetResources newsletter, <https://news.va.gov/vetresources/>, and has featured the

program twice since May 2022, resulting in 6.7 million opens from Veterans, their families, caregivers, survivors and supporters, as of April 10, 2023. The VA Welcome Kit is printed and distributed as part of VA's outreach programs across the country. In addition, please note the following:

- On April 5, 2023, VA sent an email bulletin, 100% Financing with VA Home Loans, <https://content.govdelivery.com/accounts/USVA/bulletins/3533f41>, to more than 12.9 million subscribers of VA's VetResources newsletter. It was opened over 3.7 million times by Veterans, their families, caregivers, survivors and supporters, as of April 10, 2023.
- On April 5, 2023, VA published a "theSITREP" video on YouTube titled VA Home Loans | Bankruptcy, Foreclosure & Bad Credit, https://www.youtube.com/watch?v=jHKgGhvM_8A, that has had 59,000 views, as of May 24, 2023.
- On June 8, 2022, VA sent an update, VA Home Loan Saves Money | Refinance to Reduce Mortgage Interest Rate, <https://content.govdelivery.com/accounts/USVA/bulletins/31b515f>, to over 11.3 million subscribers. It was opened 3 million times by Veterans, their families, caregivers, survivors, and supporters, as of June 27, 2022.
- On July 9, 2021, VA published a "theSITREP" video via YouTube titled VA Home Loans | Applying, Refinancing, Credit Scores, Cash Out, & More, https://www.youtube.com/watch?v=QwchuWczB_s&t=25s, that had 185,000 views, as of May 24, 2023.
- VA's Welcome Kit includes an in-depth walkthrough of the VA Home Loan Guaranty program, www.va.gov/welcome-kit/, and has received 358,000 visits since May 2022, as of June 8, 2023. In addition, the VA Welcome Kit is printed and distributed as part of VA's outreach programs across the country.

QUESTION 5: What can be done to ensure that veterans have information to make accurate and informed cost comparisons between a VA Loan, a conventional loan, and an FHA loan at the time of purchase?

VA Response: VA loans generally have the most competitive interest rates and fees; however, VA highly encourages Veterans to review all information to ensure the loan is in their best financial interest. VA-guaranteed home loans generally do not require a down payment, limited closing costs or monthly mortgage insurance premiums, which can provide a cost savings over time. VA also encourages Veterans to explore interest rates for a VA loan, a conventional loan and a Federal Housing Administration (FHA) loan using the CFPB Interest Rate Explorer, at <https://www.consumerfinance.gov/owning-a-home/explore-rates/>.

In terms of outreach, VA blog posts, benefits booklet, newsletters, social media and press releases provide the most up-to-date information on the home loan benefit. Veterans can sign up on the VA blog webpage for information to be delivered directly to their email inbox. Additionally, the VA Home Loan Guaranty Program Transition Assistance Program (TAP) module, available

at <https://tapevents.mil/Assets/ResourceContent/TAP/MLC-HLGP.pdf>, introduces transitioning Service members to the VA home loan benefit; presents links to important websites; and provides Veterans with advice on avoiding predatory lending practices.

Department of Veterans Affairs
June 2023

Senator Tuberville
Questions for the Record
Senate Veterans' Affairs Committee
Veterans Consumer Protection—Preventing Financial Exploitation of Veterans and their Benefits
April 19, 2023

Question for Jim Rice, Assistant Director for the Office of Servicemember Affairs, CFPB

1. Mr. Rice, I'm hearing a lot of concern from community banks and credit unions in Alabama about the Consumer Financial Protection Bureau's interpretation of Reg E. Electronic fund transfer fraud is at an all-time high, and it is costing small financial institutions so much that some are looking at pulling back on consumer banking. Community banks and credit unions do a great job serving veterans in Alabama, and without them, veterans would not have access to capital.

What is the CFPB doing to address rampant EFT fraud, and how can you improve your work with community banks and credit unions to ensure they are not being taken advantage of by bad actors trying to game the system?

Response: I appreciate this question and we agree that payments fraud is a growing issue that is harming consumers and servicemembers and we frequently hear about these concerns when we meet with state banker associations and credit union leagues. Faster, friction-less, and cheaper payment systems offer significant potential benefits to consumers, workers, their families, and small businesses in the United States. For example, families can send money to friends without delay, or to relatives overseas at lower costs. Faster payment systems can also help small businesses succeed with quicker transactions, lower costs, and more revenue conversion. And faster settlement can reduce the need for families and businesses to borrow. Consumers can generally not reverse payments, however, meaning that once they send money, even if the recipient turns out to be a fraudster, they are often unable to get their money back. This presents a wide range of challenges and requires a similarly wide range of responses, many of which require the close collaboration of payments providers and financial institutions, including community banks and credit unions.

We are monitoring the market and consumer complaints to better understand payments fraud.

In 2022, the Consumer Financial Protection Bureau (CFPB) received more than 16,000 complaints from consumers and more than 1,500 complaints from servicemembers that mention problems with payment services and money transfers. Out of these complaints, about 5,400 are related to issues of fraud or scams.

In addition, the CFPB issued a series of orders to collect information on the business practices of large technology companies operating payments systems in October 2021. The information we have received has helped the CFPB better understand how these firms use personal payments

data and manage data access to users. The CFPB has conducted a thorough examination of the data received and will be releasing a report shortly that examines the role big tech is playing in the payments market. Addressing consumer protection, preserving customer choice, and mitigating instances of fraud were part of this examination and further details will be outlined in that report.

The growing concerns around fraud and emerging new patterns of risk have been a core area of focus of our markets and special populations teams such as the Office of Servicemember Affairs. Given the growing complexities and sophistication of how fraudulent actors operate, consumers themselves cannot be the only line of defense against fraud and scams perpetrated through payments networks. Moreover, we know that servicemembers face unique risks and are increasingly the target of ever-more-sophisticated scams designed to prey on their need to move money quickly and secure resources like housing and childcare remotely.

We have issued guidance to address situations when a consumer is fraudulently induced by a third party to provide their account information.

In December 2021, the CFPB issued a compliance aid to offer guidance related to Regulation E compliance and person-to-person (P2P) payments to address situations when a consumer is fraudulently induced by a third party to provide their account information.¹ In April 2022, the CFPB staff provided a presentation and engaged in discussions with our Consumer Advisory Board related to the growing concerns around P2P payments and concerns related to fraud. Staff solicited feedback and insights from Consumer Advisory Board members to inform potential paths for CFPB action. In May 2022, CFPB staff met with the Independent Community Bankers of America to address additional follow-up from the CFPB's Regulation E compliance aid. In July 2022, CFPB staff also met with representatives of the Electronic Transactions Association to discuss the growing problems of P2P fraud and ensure that their members were aware of and following the guidance of the Regulation E compliance aid.

Additionally, in August 2022, CFPB staff engaged in meetings with the Credit Union National Association to discuss the application of Regulation E related to P2P fraud and the roles of credit unions. In September 2022, CFPB staff met with National Association of Federal Credit Unions outlining the specifics of Regulation E obligations on credit unions.

We have engaged industry stakeholders to understand the growing problem of P2P fraud.

In September 2022, the CFPB held a listening session with participation from a wide range of market stakeholders focused on the growing problems of P2P fraud. Participants included representatives of small community banks and credit unions who shared their concerns related

¹ <https://www.consumerfinance.gov/compliance/compliance-resources/deposit-accounts-resources/electronic-fund-transfers/electronic-fund-transfers-faqs/>

to the growing fraud across the payment's ecosystem and the work and investments they are making to protect their customers from ever-expanding and sophisticated methods of fraud.

In November 2022, CFPB staff presented to the Community Bank Advisory Committee and the Credit Union Advisory Committee to discuss the growing problems around P2P fraud and the impact for small community banks and credit unions. Also in November 2022, Director Chopra publicly addressed a fintech conference hosted by the Electronic Transactions Association where he noted the CFPB's interest, ongoing work, and concern about reports of fraud in the payments systems. At that event, he noted that the CFPB continues to work with partner agencies across the government to monitor developments in emerging technologies and industries to ensure that all consumers are appropriately protected.

In 2023, the work of the CFPB continued with further meetings and engagements across a variety of industry stakeholders. Earlier this spring, CFPB staff joined panels at the NACHA (formerly the National Automated Clearinghouse Association) payments conference and the Consumer Bankers Association annual conference to discuss recent developments in P2P fraud. In January 2023, we met with the American Bankers Association to discuss their recent initiatives to respond to problems tied to P2P fraud. In February 2023, we met with Visa and Mastercard to discuss each company's credit push product and how they are working to mitigate fraud. We continue to conduct outreach to a wide range of stakeholders to assess how market participants are responding to fraud and what mitigation efforts are deployed.

Payments fraud will continue to be a major component of our consumer protection work.

We want consumers to be aware and empowered to access their error resolution rights, and we caution against messaging that could have the opposite effect—delaying and discouraging.

We also recognize that payments fraud affects large and small institutions differently and are working closely with community banks and credit unions to understand these differences. For example, when consumers are defrauded by a criminal, it is often the community bank or credit union that bears the reputational harm, not the payments provider. When fraud occurs, we believe it is critical that the payments provider be responsive to consumers who have been harmed as well as the financial institutions that are likely the first call that consumers make after they realize they have been harmed.

We are watching what networks are doing and asking questions to see what efforts are being addressed considering notable increases in fraud across the market. The issues with fraud are particularly alarming as banks incorporate more and more real-time funds transfer capabilities into the consumer banking platform, sometimes without knowledge of the consumer that these capabilities are activated.

We will also be closely monitoring consumer protection issues related to wire transfers. While wires used to be a system rarely used by consumers and requiring an in-person branch visit, now

they are being incorporated into the consumer online banking platform, requiring consumers to access their consumer banking profile to issue a wire transfer, and at times not being able to turn off this capability – if consumers even know it is activated. Wire transfers can access even more funds than other mobile payment products, allowing fraudsters to leverage account takeovers to quickly drain consumer accounts. And, depending on where the consumer banks, the financial institution may not be offering any liability protection of those funds, even if the bank was at fault for letting the fraudster into the consumer's account. The CFPB is concerned about consumer trust in the banking system and how banks are protecting consumer funds and is monitoring whether this wire capability is being sufficiently protected.

We are committed to continuing the CFPB's ongoing work to protect servicemembers, veterans, and military families from scams, fraud, and harmful practices as they navigate the financial marketplace.

Statements for the Record

Sen. Sinema
Senate Veterans' Affairs Committee
Veterans Consumer Protection: Preventing Financial Exploitation of Veterans and their Benefits
04/19/23

Senator Sinema Statement for the Record

Thank you, Chairman Tester, for holding this hearing and thank you to our witnesses for being here today.

In Arizona, Veterans are an important part of our community. They make up almost 10 percent of the state's population, with almost half-a-million veterans. We are proud that so many veterans call our great state home.

Given the high number of veterans in Arizona, our state has become a frequent target for scammers and frauds who have attempted to take advantage of these veterans. Regional VA Health Care Centers in Arizona have been forced to put out notices through social media warning veterans of ongoing scams targeting veterans. In 2021, veterans in Arizona were targeted in a widespread call-back scam, from individuals claiming to be from veterans' services, attempting to elicit financial and other personal information.

It is our responsibility as lawmakers to ensure that our veterans receive the protection they deserve and that those who seek to defraud them are held accountable for their actions. We must do everything in our power to safeguard the financial and personal well-being of those who have served our nation with honor and distinction.



Department of Justice

STATEMENT FOR THE RECORD OF
THE DEPARTMENT OF JUSTICE

BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

FOR A HEARING ENTITLED
"VETERANS CONSUMER PROTECTION:
PREVENTING FINANCIAL EXPLOITATION OF VETERANS AND THEIR BENEFITS"

APRIL 19, 2023

**STATEMENT FOR THE RECORD OF
THE DEPARTMENT OF JUSTICE**

**BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE**

**FOR A HEARING ENTITLED
"VETERANS CONSUMER PROTECTION:
PREVENTING FINANCIAL EXPLOITATION OF VETERANS AND THEIR BENEFITS"**

APRIL 19, 2023

Chairman Tester, Ranking Member Moran, and distinguished Members of the Committee, thank you for the opportunity to provide a statement on behalf of the Department of Justice ("Department") for this important hearing. The Department is proud to serve our nation's brave men and women in uniform who make great personal sacrifices in service to our country.

The Department's Servicemembers and Veterans Initiative

In 2014, the Department established the Servicemembers and Veterans Initiative ("SVI" or "Initiative") to support its critical enforcement efforts and work with other federal agencies to better serve the military community by sharing information, identifying servicemember and veteran needs, and coordinating the distribution of resources.

The primary purpose of this Initiative is to make it easier to use all available resources and legal authorities to support the military and veteran community. The Initiative seeks to better understand and address the legal challenges faced by servicemembers while on active duty, by veterans when returning to civilian life, and by their families when their loved ones are deployed. And it is designed to ensure that servicemembers and veterans fully understand their rights and know what to do when those rights are threatened or violated.

SVI also solicits and reviews public complaints regarding the civil rights concerns of servicemembers and veterans. It works to provide helpful information about the relevant legal protections and how to obtain further assistance. And, when appropriate, SVI refers matters for further investigation by the Department. Based on SVI's referrals, the Department has initiated several investigations and cases.

Over the past three years, the Initiative has expanded its efforts to support vulnerable servicemembers and veterans thanks to actions by Congress and the Attorney General. In 2020, Congress enacted the Servicemembers and Veterans Initiative Act, which established the Initiative within the Department's Civil Rights Division and expanded its mission and responsibilities. The Act directed SVI to promote policies to support servicemembers and veterans, liaise with military contacts, promote civil legal aid to the military community, and support the enforcement of federal laws to protect servicemembers and veterans. Importantly, it

codified SVI's role within the Department and renewed its resolve to not just continue, but also to enhance the Department's efforts to protect the civil rights of the military community.

In 2021, Attorney General Merrick B. Garland issued a memorandum on Veterans Day that renewed the Department's commitment to protecting the civil rights of servicemembers, veterans, and their families. This memorandum directs SVI to increase targeted outreach to servicemembers and veterans regarding their civil rights and access to civil legal aid. It also required SVI to establish a Coordinating Committee in the Department to share information and resources about servicemembers, veterans, and their families. The Committee meets regularly and has members from across the Department, including the Civil Rights Division, the Civil Division's Consumer Protection Branch, the Executive Office for United States Attorneys, the Office of Justice Programs, and the Office for Access to Justice.

Servicemember and Veteran Consumer Protection Enforcement Efforts

Criminal Enforcement by the Civil Division

The Consumer Protection Branch of the Department's Civil Division is the primary criminal enforcement component under SVI that prosecutes fraud and other consumer protection abuses perpetrated against servicemembers and veterans. It works with law enforcement agencies, such as the Defense Criminal Investigative Service, the Federal Bureau of Investigation, the Department of Veterans Affairs Office of Inspector General, and the U.S. Postal Inspection Service ("USPIS"), among others, to investigate schemes that target the brave men and women who protect America. The prosecutors at the Consumer Protection Branch bring criminal enforcement actions against predatory fraudsters seeking to steal veterans' benefits, deceptively peddle financial products, or sell dangerous products. Such schemes can have significant impact on servicemembers and their families because whenever a military member loses money to a fraudster or is subjected to unnecessary risks, that member's dependents often suffer hardship as well.

The Consumer Protection Branch prosecutors have relied, with great success, on several criminal statutes that carry robust penalties in addressing theft of veterans benefits and schemes to defraud servicemembers. These statutes include mail or wire fraud,¹ theft of government funds,² aggravated identity theft,³ access device fraud,⁴ and computer fraud,⁵ among a host of others. The following three cases are examples of military consumer protection cases successfully handled by the Branch, in partnership with various U.S. Attorney's Offices.

¹18 U.S.C. §§ 1341, 1343.

²18 U.S.C. § 641.

³18 U.S.C. § 1029A.

⁴18 U.S.C. § 1029.

⁵18 U.S.C. § 1030.

First, the Consumer Protection Branch, along with the U.S. Attorney's Office for the District of South Carolina, recently prosecuted an individual for his role in a Ponzi scheme that exploited military veterans, some of whom had fallen on hard times financially. During the nearly 7-year long scheme, this fraudster and his co-conspirators caused more than \$310 million in losses to more than 25 hundred retirees and placed 13 thousand veterans into exploitative loans. In August 2022, the ringleader of this scheme was sentenced to 10 years in prison and ordered to forfeit \$297 million.

In another example, a group of thieves conspired to steal the personal identifying information of over 3,000 military members. This included the stealing of names, Social Security numbers, military identification numbers, dates of birth, and contact information, which resulted in \$1.5 million in losses. Victims included eight general officers, as well as numerous disabled veterans, who were targeted because of their receipt of greater service-related benefits. So far, two of the five indicted co-defendants in this scheme have been sentenced to 151 months and 46 months, respectively, and both were ordered to pay restitution totaling \$2.5 million. This case is being prosecuted by the Consumer Protection Branch and the U.S. Attorney's Office for the Western District of Texas.

In a final example, the Consumer Protection Branch worked with U.S. Attorney's Office for the District of Columbia, USPIS, and the Department of Homeland Security Investigations team to investigate and prosecute an individual who conspired to commit mail and wire fraud involving a Ponzi scheme and the fraudulent sale of purported N95 masks to the Department of Veterans Affairs during the height of the pandemic. The defendant obtained approximately \$7.4 million by falsely claiming to have the masks and offering to sell them to various medical companies, including a VA hospital. This individual was sentenced to 244 months in prison.

The Consumer Protection Branch also continues to diligently work with its law enforcement and United States Attorney's Office partners to investigate and develop a number of cases involving schemes targeting servicemembers and veterans to include misbranded supplements that harm Soldiers, MyPay account fraud, identity theft of military members, misused allotments, and AAFES fraud.

Civil Enforcement by the Civil Rights Division

The Department's Civil Rights Division is tasked with enforcing certain civil consumer rights for servicemembers and their dependents under the Servicemembers Civil Relief Act ("SCRA"). The SCRA's benefits and protections include: a six percent interest rate cap on financial obligations that were incurred prior to military service; the ability to postpone civil court proceedings; protections related to default judgments; protections related to residential and motor vehicle lease terminations; certain consumer contract terminations; and special requirements related to evictions, mortgage foreclosures, and repossessions.

Since 2011, the Civil Rights Division—often working with U.S. Attorney's Offices—has obtained over \$481 million in monetary relief for over 147,000 servicemembers through its

SCRA enforcement efforts. For example, in September 2022, the Civil Rights Division filed a lawsuit against GM Financial for violating the SCRA by illegally repossessing 71 servicemembers' vehicles and denying or mishandling over 1,000 vehicle lease termination requests from servicemembers. U.S. Army Chief Warrant Officer 3 ("CW3") Thomas Gorgeny was one of the affected servicemembers. He had leased a car from GM Financial while living in Austin, Texas. While there, he received deployment orders outside of the country and thus would not be able to use the vehicle. The SCRA allows servicemembers to terminate vehicle leases in these situations and prohibits lessors from charging fees related to those terminations.

CW3 Gorgeny followed all of SCRA's requirements to terminate his lease. However, while he was serving overseas, GM Financial sent him a bill for over \$15,000 for the remaining term of the lease. This caused CW3 Gorgeny significant stress during his deployment, when he needed to be focused on his military duties. Because of the Civil Rights Division's lawsuit, CW3 Gorgeny never had to pay that \$15,000 bill, and he received an additional payment of \$2,033 to cover his damages. Under the resolution, GM Financial also agreed to pay \$3.5 million to the other affected servicemembers, repair the servicemembers' credit, and provide SCRA training to its employees.

Servicemember and Veteran Consumer Protection Outreach Efforts

SVI, including the Civil Rights Division and the Civil Division's Consumer Protection Branch, routinely conducts outreach and training for military populations and the people who serve them, such as veterans' organizations, military training schools, military legal assistance offices, and law school clinics. It also provides extensive support and training to United States Attorney's Offices who are interested in developing a servicemembers and veterans practice in their own districts. The Assistant United States Attorneys who are trained by SVI are able to perform targeted outreach that is tailored to maximally benefit their local communities.

Much of this outreach is specifically focused on consumer protection and financial rights. Since the Initiative was established, it has provided over 100 of such outreach and training events specifically related to consumer protections and financial rights. This has included, for example: sessions at The Judge Advocate General's Legal Center and School's annual Legal Assistance Course; continuing legal education courses for the American Bar Association's Standing Committee on Legal Assistance for Military Personnel ("ABA-LAMP"); presentations at Yellow Ribbon events for military families; and trainings on military bases across the nation.

SVI is also engaged in robust collaboration efforts with federal, State, and non-governmental partners that work on strategies to better protect servicemembers, veterans, and their families. This work includes coordination with the Department of Defense, the Department of Veteran Affairs, the Consumer Financial Protection Bureau ("CFPB"), the Department of Labor, the Federal Trade Commission (FTC), the National Association of Attorneys General, and the ABA-LAMP Committee. The Initiative's engagement with these groups has greatly increased its visibility into broader issues facing the military community while having the mutual

benefit of giving non-enforcement entities direct access to the Department's criminal prosecution and civil enforcement resources.

For example, in 2021 and 2022, SVI released several joint letters with CFPB that were sent to 131 large landlords, mortgage servicers, and auto finance companies serving sizeable military bases that explained their obligations to comply with federal laws that protect servicemembers and veterans. It has also partnered with CFPB and FTC on events and outreach related to Military Consumer Month each July.

SVI is always looking for opportunities to expand its outreach to new partners and communities as part of the Initiative's ongoing efforts to serve the military and veteran populations. As part of these efforts, SVI will conduct its first training specifically for military financial professionals when it joins CFPB in giving a presentation on federal consumer protection rights and financial benefits for military families later this month. The Consumer Protection Branch is also planning to partner with the Department of Veterans Affairs Veteran Scam and Fraud Evasion integrated project team to address predatory practices targeting veterans and fraud against veterans.

The Department of Justice appreciates the opportunity to share information about its ongoing efforts to protect the rights of servicemembers, veterans, and their families. It welcomes any opportunity to work with the Committee to strengthen these protections and support servicemembers, veterans, and their families. The Department would also like to thank the Committee for their recent work on amendments to SCRA that support the financial stability of servicemembers and their families as they move around the country tirelessly defending our nation's freedoms.