

## Appendix 5: The Undercover General Accountability Office Recruiting Investigation, Report and Corrections

On April 27, 2010, Chairman Harkin requested that the Forensic Audits and Special Investigations of the non-partisan Government Accountability Office (GAO) examine the recruiting practices at selected for-profit colleges in order to “determine whether fraudulent or deceptive practices are being employed in the recruiting or enrollment of students.”<sup>2978</sup> Between May and early-July 2011, staff of the Forensic Audits and Special Investigations (FSI) made 2 separate undercover visits to 15 for-profit college campuses selected by the GAO. Audio of the undercover recordings was subsequently produced to the committee and are publicly available on the committee Web site.<sup>2979</sup> Audio excerpts of several of the visits are referenced and transcribed in the accompanying final report.

Just prior to the completion of the undercover visits in July 2011, committee majority staff was briefed by FSI staff on the work to-date. Committee staff asked GAO if they could have a report on the findings prepared in time for an early August hearing. GAO staff indicated that they could. In late July 2011, in advance of the hearing, both majority and minority staff were briefed on the findings of the undercover work and had an opportunity to view the not yet final video.

On August 4, 2010 the committee held a hearing titled “For-Profit Schools: The Student Recruitment Experience.” The witnesses included Gregory Kutz, the managing director of the Office of Forensic Audits and Special Investigations. Mr. Kutz presented the findings of the GAO undercover investigation that documented, on audio and video recordings, deceptive and misleading conduct by recruiters at each of the 15 for-profit college campuses visited by GAO agents in May and June 2010.<sup>2980</sup> In addition to his written testimony—a GAO report that consisted of an 18-page summary and a 9-page appendix detailing the visits—Mr. Kutz also showed videotaped excerpts of some of the deceptive and misleading tactics documented by the agents.<sup>2981</sup> The undercover tapes that the testimony was based upon documented how widespread the use of misleading and deceptive recruiting tactics had become at for-profit colleges.

At the time of the hearing, the Chairman requested that GAO provide him with the work papers produced in the course of its investigation and preparation of the report, including the full video of each of the two visits by undercover GAO agents to the 15 for-profit campuses, so that he could make them available to the public.<sup>2982</sup> Committee staff also told representatives of the schools visited by the GAO that, in the interests of ensuring maximum transparency, the committee would make the tapes available to each school when they were received.

In late October 2010, after repeated inquiries from committee staff about when the audio and video recordings would be available, officials from GAO indicated to the committee that, in the process of preparing the tapes for distribution to the committee, discrepancies had been found between the tapes and the written report, and that the agency expected to issue an errata correcting these errors.<sup>2983</sup>

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<sup>2978</sup> April 27, 2010 letter to GAO Comptroller Gene Dodaro.

<sup>2979</sup> To review undercover audio tapes: <http://harkin.senate.gov/help/gao.cfm>.

<sup>2980</sup> Undercover Testing Finds Colleges Encouraged Fraud and Engaged in Deceptive and Questionable Marketing Practices, August 4, 2011, revised October 31, 2011 <http://www.gao.gov/products/GAO-12-150>.

<sup>2981</sup> <http://www.gao.gov/products/GAO-10-948T>.

<sup>2982</sup> Letter from Chairman Harkin to Gene Dodaro Aug 4, 2011.

<sup>2983</sup> In a subsequent internal GAO investigation it became clear that errors occurred in the report because the report had not been cross referenced against the original undercover tapes, but only against the agent’s written reports of the visits.

On November 30, 2010, the GAO issued the errata making corrections to the original report presented at the hearing.<sup>2984</sup> The errata, one of eight issued by GAO in fiscal year 2011, contained two small changes to the text of the report and approximately 30 additional changes to the appendix.<sup>2985</sup> While the majority of the changes were not particularly consequential, some of the changes helped to better illustrate the deceptive conduct uncovered by GAO in its investigation, additional changes added context that should have been included in the original presentation and report.<sup>2986</sup>

Because the undercover tapes and the GAO findings so clearly demonstrated serious improprieties at multiple for-profit colleges, representatives of various for-profit schools and related industry organizations seized upon the corrections in an attempt to discredit the underlying GAO investigation. In December 2011, as a result of inquiries by the staff of the House Committee on Oversight and Government Reform, GAO initiated an internal investigation into how the GAO's presentation at the August 4, 2010 HELP Committee hearing was prepared.<sup>2987</sup> According to GAO officials, the internal investigation specifically examined and concluded that no congressional pressure was brought regarding the contents or preparation of the report. Despite claims made in some online publications, committee staff played no role in either the undercover investigation or in the preparation of the GAO report.<sup>2988</sup>

In a further response to the concerns of the House Committee on Oversight and Government Reform, GAO has since taken steps to restructure the Forensic Audits and Special Investigations Unit, including management changes and the appointment of a new director. While considerable controversy was generated regarding the GAO report, the undercover recordings provide clear evidence of the misleading or deceptive tactics used by for-profit college recruiters at each of the 15 for-profit colleges visited.<sup>2989</sup>

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<sup>2984</sup> Undercover Testing Finds Colleges Encouraged Fraud and Engaged in Deceptive and Questionable Marketing Practices, August 4, 2011, revised October 31, 2011 <http://www.gao.gov/products/GAO-12-150>.

<sup>2985</sup> Undercover Testing Finds Colleges Encouraged Fraud and Engaged in Deceptive and Questionable Marketing Practices, Red-lined version, August 4, 2011, revised October 31, 2011.

<sup>2986</sup> Id.

<sup>2987</sup> February 7, 2011 Memorandum to General Counsel Lynn Gibson on Inspection of GAO's Investigation (on file with committee).

<sup>2988</sup> On May 17, 2011, a conservative online news outlet published an article citing a leaked internal GAO document that discussed how GAO's internal Quality and Continuous Improvement Unit had requested changes to the For-Profit Recruiting report including documenting whether the recruiters at each campus stated the accreditation and graduation rate, and that this late in the process request had apparently led to some of the errors. See HELP Committee Press Release "Daily Caller Shoots Self in Foot with 'Smoking Gun'", May 18, 2011.

<sup>2989</sup> Audio Recording: Undercover Recording of Visits by GAO Agents to For-Profit Schools, available at <http://harkin.senate.gov/help/gao.cfm> (accessed June 14, 2012).