

# Perdue Says the SEC ‘Totally Exonerated’ Him, a Thing the SEC Cannot Legally Do

NICE TRY

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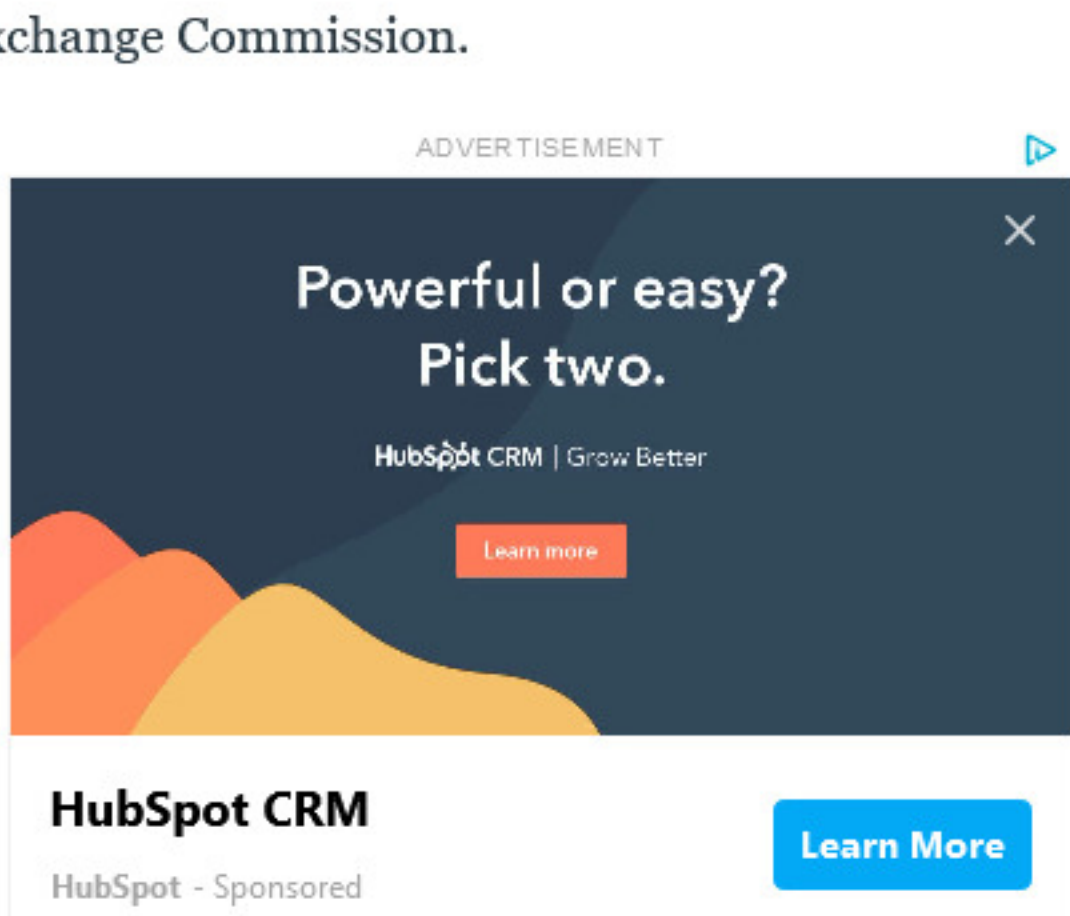
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via Youtube

ATLANTA—Faced with a steady drip of reporting on his conspicuously timed stock trades, [Sen. David Perdue \(R-GA\)](#) is defending himself with a line that his biggest ally, President Donald Trump, has practically made into a mantra.

“Totally exonerated,” declares a newly released television ad from Perdue, which claims he has been fully cleared by the Department of Justice and the federal Securities and Exchange Commission.



Except neither agency has that power.

Both agencies probed trades Perdue made at the onset of the coronavirus pandemic, and both have reportedly concluded those probes without filing criminal or civil charges. But contrary to Perdue’s claims, that conclusion does not amount to an exoneration—because these agencies explicitly do not issue them.

The Georgia Republican, currently in the middle of a grueling runoff campaign, has not provided any documentation to the public about the government probes into his [stock trading](#). That is possibly because any messages Perdue might have received from the feds would likely have painted a far more ambiguous picture about his activity, securities law experts told The Daily Beast.

Upon closing a file, the SEC may inform the entity being investigated that they “do not intend to recommend an enforcement action.” But the message also includes a clear caveat that the notice “must in no way be construed as indicating that the party has been exonerated or that no action may ultimately result from the staff’s investigation.” Much of the time, say defense lawyers who have worked these cases, neither agency issues a letter or notice of any kind that a file has been closed, leaving them to read the tea leaves as to what investigators are up to.

There is a meaningful difference between an exoneration and a decision not to charge, say experts. “It’s good news for him, but it doesn’t exonerate him,” said Chris Bruno, a former prosecutor at the DOJ, which can bring criminal charges for insider trading. “It just means that they have not been able to find relevant evidence that would substantiate a case, at this static point in time, beyond a reasonable doubt, and that’s different from exonerating someone. They’re not saying they found evidence showing innocence.”

**Ossoff Goes for Perdue's Jugular in GA Senate Race**  
BULLISH  
Sam Brodey

The SEC, which can make civil charges for violations of financial rules, is “not in the exoneration business,” said James Cox, a professor of securities law at Duke University, who explained that the absence of charges against a person or company can reflect a number of calculations.



The agency prefers not to go to court without an overwhelming chance of success, said Cox. “Internally, they look at these things and say, is this a 60-40 case, or a 90-10 case... They tend to err on the 90 percent side.” Additionally, he said, the agency is highly unlikely to “make an example of a sitting senator.”

Perdue’s office did not respond to a request for comment on what correspondence he received from federal investigators and why he claimed he was fully exonerated. The SEC and DOJ did not return requests for comment.

But in playing up a purportedly “total exoneration,” Perdue rips a page from Trump’s playbook—and, in the process, may be aiming to strengthen his appeal to the president’s base of voters, who he and Sen. Kelly Loeffler (R-GA) will need to turn out in droves for them to win the Jan. 5 runoff elections.

Over the past four years, Trump has claimed “total exoneration” hundreds of times, in response to everything from the investigation into Russia’s ties to his 2016 campaign to his 2019 attempt to extract political favors from Ukraine that resulted in his impeachment.

Loeffler, who has faced similar scrutiny around her stock trades as Perdue, has used the phrase, and has been even more explicit in using it to tie herself to Trump. In May, she tweeted, “Just like [@realDonaldTrump](#), I’ve been completely and totally exonerated.” For a message catered to Trump’s supporters, the message was clear: the scrutiny on me was bogus, just like the scrutiny on him.

“The echo there is pretty unmistakable,” a GOP strategist told The Daily Beast, speaking anonymously to discuss the strategy candidly. “The kind of phrase you’d never use in that situation except as a subtle-ish callback”

During the runoff campaign, both GOP senators have felt compelled to put money behind ad campaigns claiming their stock trades crossed no legal or ethical lines. Both have been under scrutiny from the press and from federal investigators for months for their offloading of certain stocks, and acquisition of others, around private Senate briefings related to the spread of the coronavirus in January.

A recent report in the *New York Times* found that in January, Perdue personally called his independent stockbroker and directed him to sell off \$1 million in holdings in a financial company where he’d previously served on the board.

Perdue, a former corporate CEO who was the Senate’s most active stock trader by far, also engaged in conveniently well-timed trades in previous years. In 2018, for example, the senator acquired stock in a contractor for the U.S. Navy as he assumed control of a Senate panel with jurisdiction over the Navy, and then sold off the stock at a profit as he worked on a bill that steered new business to the contractor, *The Daily Beast* reported.

After that story published, [Rep. Raja Krishnamoorthi \(D-IL\)](#), the chair of the House Oversight Committee’s panel on finance, wrote to the SEC requesting they probe those trades. The SEC declined to comment on the letter. It’s unclear if their previous investigation into Perdue’s trades included his pre-coronavirus activity or not, though some experts say it’s likely that regulators would have looked back at his investment history to discern patterns.

“They’ll follow where the evidence goes,” said David Chase, a Florida defense lawyer and former SEC attorney, who said that the agency declining to bring charges indicates “they kicked the tires and are not going to pursue it.”

At the same time, he made clear, “you’re never going to get an exoneration.”

To Democrats, the fact that Perdue and Loeffler are devoting valuable campaign resources to defend themselves from these charges—and in turn, amplifying them to an extent—is indication they have damaged the duo, and that voters are responding. Perdue has decided to skip a scheduled Sunday debate with his Democratic opponent, Jon Ossoff, a move that will allow him to avoid any direct questions on his stock trading. And Perdue has stuck closely to friendly audiences since the runoff campaign began, denying national and local press the opportunity to ask about his trading and his explanation for it.

There are Republicans and Democrats who believe, however, that the political impact of the stories will be minimal. The conventional wisdom surrounding the runoff is that there are few voters in Georgia who are genuinely on the fence, and that victory for both sides depends on how many of their voters they can turn out.

“This is an enthusiasm and not a persuasion election,” said Brendan Buck, a former top aide to former Speaker Paul Ryan (R-WI) and a Georgia native. “We are past the time of defining oneself... this is purely shirts versus skins, who can bring out proven Republican voters.”

“We’re also in an era in which it’s been proven time and again that if you just plow through scandal, people move on pretty quickly,” continued Buck. “All [Perdue] needs to do is give his answer and get right to attacking the other side, because ultimately, that’s going to be the strategy... talking a lot more about his opponents, than talking about himself or ideas or solutions or anything like that.”

And if the Republicans can connect themselves even more deeply to Trump in the process, say some, all the better.

“It makes sense if you feel compelled to address it in your messaging that you’d draw a parallel to the President in a sort of coded way that may resonate with the people you need to ensure will turn out for you,” the GOP strategist told The Daily Beast. “Trump provided the playbook—never explain or apologize, always declare victory and plow forward.”