

UNITED STATES OF AMERICA
Before the
CONSUMER FINANCIAL PROTECTION BUREAU

ADMINISTRATIVE PROCEEDING
File No. 2015-CFPB-0029

In the Matter of:

**INTEGRITY ADVANCE, LLC and
JAMES R. CARNES**

Respondents

**ORDER DENYING
RESPONDENTS' MOTION
FOR LEAVE TO AMEND
CONTROVERTED ISSUES OF
FACT**

Hon. Parlen L. McKenna

**ORDER DENYING RESPONDENTS' MOTION FOR LEAVE TO AMEND
RESPONDENTS' CONTROVERTED ISSUES OF FACT**

On March 23, 2016, Respondents filed a pleading entitled "Respondents' List of Controverted Issues of Fact." The following day, Respondents filed a motion for leave to amend the Controverted Issues of Fact, stating that certain information contained within it should remain under seal pursuant to the December 23, 2015 Protective Order. On March 31, 2016, I ordered Respondents' pleading to be temporarily sealed pending my final ruling on this issue. On April 8, 2016 Enforcement Counsel opposed Respondents' motion contending that the information did not concern Mr. Carnes' personal financial information, and was not personally identifiable information as contemplated by the Protective Order or the regulations.¹ The undersigned agrees.

¹ Respondents also filed a Reply on April 14, 2016 supporting their motion for leave to amend the list of controverted facts. In the Reply, Respondents essentially argue that because the parties continue to have the ability to negotiate an amendment to the Protective Order concerning personal financial information disclosures the proposed stipulations at issue should remain under seal. Respondents' argument has no

Respondents' motion states “[t]he Bureau's proposed statements of fact contain such information that either discloses or could potentially lead to the disclosure of personal financial information” which is in conflict with the December 23, 2015 Protective Order.² The Protective Order defines “protected material” as “any Discovery Material and any transcript of depositions or other pretrial or trial proceedings containing Personally Identifiable Information.” The Protective Order further defines “personally identifiable information” in part as:

any information, other than name, which can be used to distinguish or trace the identity of a natural person who is a Party, such as an individual's address where no business is conducted, an email address used solely for personal communications, or other contact information related solely to non-business activities, driver's license number, Social Security number, taxpayer identification number, biometric records, financial account number, credit card or debit card number, State-issued identification number, passport number, place of birth, date of birth (other than year), and any sensitive health information identifiable by individual, such as an individual's medical records.

See Stipulated Protective Order at (1)(j)(2).

This definition coincides with the regulatory definition of “sensitive personal information” at 12 C.F.R. § 1081.112(e).

It must be noted that “personal financial information” is not separately defined or expressly included in either the regulations or Protective Order. Further, the relevant portions of Respondents' List of Controverted Issues of Fact do not contain “personally identifiable information” as set forth in the Protective Order. Monetary amounts related to income, distributions and similar transactions are not the same as taxpayer identification numbers, financial account numbers, and credit card numbers.

impact on the analysis of the instant Order. Should the parties negotiate such an amendment to the Scheduling Order, the undersigned would certainly reconsider placing the stipulations under seal after an appropriate motion at that time.

² The Stipulated Protective Order is contained in the record as Attachment A to the December 29, 2015 Order Granting Joint Stipulated Motion for a Protective Order.

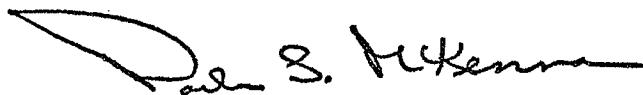
Additionally, as argued in Enforcement Counsel's opposition, none of the information Respondents seek to redact concerns Mr. Carnes' personal financial information. Moreover, Respondents provide no explanation as to how the information contained in the List of Controverted Issues of Fact either contain or could lead to the disclosure of Mr. Carnes' personal financial information. Respondents' bare claim without any further support or explanation is patently insufficient.

Because the relevant portions of Respondents' List of Controverted Issues of Fact do not contain personally identifiable information, they are not subject to the protective order. The undersigned finds no reason the information at issue in this motion should not be part of the public record. Respondents' motion is therefore **DENIED**.

ORDER

Respondents' Motion for Leave to Amend Respondents' Controverted Issues of Fact is **DENIED**. The Office of Administrative Adjudication shall, therefore, restore the original attachment containing Respondents' List of Controverted Issues of Fact filed on March 23, 2016.

IT IS SO ORDERED.



Hon. Parlen L. McKenna
Administrative Law Judge
United States Coast Guard

Done and dated on this 22nd day of April 2016 at
Alameda, California.

CERTIFICATE OF SERVICE

I hereby certify that I have served the forgoing *Order Denying Respondents' Motion For Leave To Amend Controverted Issues of Fact* (2015-CFPB-0029) upon the following parties and entities in this proceeding as indicated in the matter described below:

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Done and dated this 22nd day of April, 2016
Alameda, California



**Cindy J. Melendres, Paralegal Specialist
to the Hon. Parlen L. McKenna**