

EXHIBIT A

1 UNITED STATES OF AMERICA

2 Before the

3 CONSUMER FINANCIAL PROTECTION BUREAU

4

5 In the Matter of :

6 : Administrative Proceeding

7 INTEGRITY ADVANCE, LLC : File No. 2015-CFPB-0029

8 and JAMES R. CARNES, :

9 Respondent. :

10

11 REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS
12 HEARING (Volume I of III)

13 Washington, D.C.
14 Tuesday, July 19, 2016

15

16 BEFORE:

17 HONORABLE PARLEN L. MCKENNA, ADMINISTRATIVE LAW JUDGE

18

19

20

21

22

23

24

25

1 **APPEARANCES:**

2 **For the Agency:**

3 Alusheyi J. Wheeler, Esquire
4 Wendy J. Weinberg, Esquire
5 Vivian W. Chum, Esquire
6 Craig A. Cowie, Esquire

7 **For the Respondent:**

8 Allyson B. Baker, Esquire
9 Peter S. Frechette, Esquire
10 Danielle R. Foley, Esquire
11 Andrew T. Hernacki, Esquire
12 Hillary S. Profita, Esquire
13 Venable, LLP, Washington, D.C. 20004

14 **On Behalf of Mr. Edward Foster**

15 Gerald S. Sachs, Esquire

16 **ALSO PRESENT:**

17 For the Administrative Law Judge:
18 Heather MacClintock, Esquire
19 Lauren S. Staiti, Esquire
20 Sally Gessner, Official Court Reporter

21
22
23 Jeannie A. Milio, RPR
24 Official Court Reporter
25 ALJ Office, Baltimore, Maryland 21202-4022

T A B L E O F C O N T E N T S

		Page
2	OPENING STATEMENTS	
3	By Mr. Wheeler	I-9
4	By Ms. Baker	I-17
5	ENFORCEMENT COUNSEL WITNESSES:	
6		DIRECT CROSS REDIRECT
7	Timothy Madsen	I-27 I-66 --
	Bruce Andonian	I-70 I-82 I-89
	James R. Carnes	I-93 -- --
8	ENFORCEMENT COUNSEL'S EXHIBITS: ADMITTED INTO EVIDENCE	
9	Exhibit No. 15	I-195
10	Exhibit No. 16	I-198
11	Exhibit Nos. 17-38	I-208
12	Exhibit Nos. 39-40	I-208
13	Exhibit No. 41	I-197
14	Exhibit No. 42	I-183
15	Exhibit No. 43	I-190
16	Exhibit No. 44	I-192
17	Exhibit No. 45	I-160
18	Exhibit No. 53	I-124
19	Exhibit No. 54	I-128
20	Exhibit No. 55	I-142
21	Exhibit No. 85	I-133
22	Exhibit No. 87	I-177
23	Exhibit No. 88	I-179
24	Exhibit No. 91	T-172

1 THE WITNESS: Sure.

2 JUDGE MCKENNA: That's good.

3 BY MR. WHEELER:

4 Q. Would it be fair to call this an
5 organizational chart of people who provided services to
6 Integrity Advance?

7 A. Yes.

8 Q. And this appears accurate to you?

9 A. Yes.

10 Q. And this lists you as the president, correct?

11 A. It does.

12 Q. And it lists Mr. Edward Foster as executive
13 vice president, COO, and general counsel?

14 A. That's correct.

15 Q. Did you hire Mr. Foster?

16 A. I did.

17 Q. When did you hire Mr. Foster?

18 A. I can't remember the month, but it was
19 sometime in the middle part of 2006.

20 Q. Could you describe that process.

21 A. The process of hiring him?

22 Q. Yes.

23 A. I knew Mr. Foster for -- previously, and was
24 looking for somebody who had his background and
25 expertise. I had worked with Mr. Foster before at an

1 for Bruce to report to Hassan. Hassan also had a thick
2 language barrier, in terms of his accent and he --
3 Bruce didn't understand him very well.

4 JUDGE MCKENNA: All right. Thank you. You
5 ready?

6 MR. WHEELER: Yes.

7 JUDGE MCKENNA: All right.

8 **DIRECT EXAMINATION (cont.)**

9 BY MR. WHEELER:

10 Q. Mr. Carnes, were all of the people who
11 appeared on this exhibit allowed to come talk to you?

12 A. Yes.

13 Q. This shows Mr. Foster as executive vice
14 president, chief operating officer, and general
15 counsel, right?

16 A. Correct.

17 Q. What did he do in that role?

18 A. The role was those three things. Executive
19 vice president was somebody who, the role of that was
20 to be a signer on an accounts, you could sign
21 documents, could use, you know he was a number two
22 person in the company.

23 General counsel, I think speaks for itself what
24 he did, you know he did -- he was this charge all of
25 the legal affairs of the company, made sure all the

1 contracts got read by himself or Mr. Pickett,
2 interfacing with our counsel outside counsel. Those
3 sorts of things.

4 And then when he was promoted as chief
5 operating officer I gave him the responsibility of
6 having all of those people report to him. And he was,
7 as part of his job had meetings with each group.

8 And there were more people in the org chart
9 than this org chart shows, but at any rate, he was to
10 meet with each group and talk about what they were
11 doing, I think on a weekly basis and if there were
12 issues they would be brought to my attention.

13 Q. How often did you talk to Mr. Foster?

14 A. Daily.

15 Q. Did you talk to him daily about Integrity
16 Advance business?

17 A. No.

18 Q. How often would you say you talked about
19 Integrity Advance business?

20 A. Whenever it needed to be talked about.

21 JUDGE MCKENNA: Non-responsive.

22 THE WITNESS: How often did I talk to him?

23 BY MR. WHEELER:

24 Q. About Integrity Advance business.

25 A. Like times per week?

1 Q. Mr. Carnes, did you ever review Integrity
2 Advance's loan agreement?

3 A. Define review.

4 Q. Have you ever seen an Integrity Advance loan
5 agreement?

6 A. I have seen one.

7 Q. In what context?

8 A. Preparing for this trial.

9 Q. Did you ever see an Integrity Advance loan
10 agreement in 2008 when Integrity Advance was being
11 formed and started loaning?

12 A. Did I ever see one?

13 Q. Yes, did you see one?

14 A. Possibly.

15 Q. Did you ever see a template for an Integrity
16 Advance loan agreement back in 2008?

17 A. That is what -- that would have been all that
18 I would have seen, if I had saw something. I wouldn't
19 have actually seen a loan agreement.

20 Q. Do you know who would have created an
21 Integrity Advance loan template?

22 A. Our outside counsel company, in association --
23 working with Mr. Foster.

24 Q. Who was that?

25 A. Who was our outside counsel?

1 Q. Yes.

2 A. A woman named Claudia Calloway, and a woman
3 named Christina Gregorian, G-R-E-G-O-R-I-A-N, I
4 believe, who are now at Kattan Law Firm. I don't
5 believe I know where the -- or I can't remember the
6 name of the law firm they were at then.

7 Q. And it was your testimony that they -- they
8 wrote the loan agreement template?

9 A. Yes.

10 Q. Did you ever talk to them about the loan
11 agreement template?

12 A. I did not.

13 Q. And you testified that you believe you
14 reviewed the loan agreement template? Was that your
15 testimony?

16 MS. BAKER: Objection, it misstates prior
17 testimony, Your Honor.

18 JUDGE MCKENNA: Does it misstate your
19 testimony?

20 THE WITNESS: Explain -- I don't understand
21 that -- what you are saying. I may have flipped
22 through a loan agreement, your concept of review I'm
23 not sure what it means. I'm not lawyer, I may have
24 looked through a template that's -- that would be the
25 extent of my knowledge of a loan agreement.

1 JUDGE MCKENNA: So to that point.

2 MS. BAKER: That was my point. Thank you,
3 Your Honor.

4 JUDGE MCKENNA: All right.

5 BY MR. WHEELER:

6 Q. As CEO did you have to approve the loan
7 agreement template?

8 A. Again as CEO you are ultimately approving
9 everything and I -- that is something that I have had
10 and have no knowledge about, and relied on outside
11 counsel, as well as Mr. Foster to take care of that.

12 Q. But is it your testimony that you had to
13 approve the loan agreement template?

14 MS. BAKER: Objection, asked and answered.

15 JUDGE MCKENNA: Well, misstated too, misstated
16 his testimony.

17 MS. BAKER: Yes, Your Honor, it misstates his
18 testimony as well. Thank you.

19 JUDGE MCKENNA: All right. So you -- you got
20 to just backup a little bit all right. So, Mr. Carnes
21 testified that he was the CEO and as the CEO he is
22 responsible for everything. And that he reviewed the
23 template at the time that it was being prepared. Is
24 that correct, Mr. Carnes?

25 THE WITNESS: I probably didn't do -- when it

1 was being prepared it was more, you know. And I don't
2 even recall flipping through it, but I could have
3 flipped throughout at some point after it had been
4 prepared that it was going to be put into action.
5 Between attorneys doing -- preparing it and between it
6 going into action.

7 JUDGE MCKENNA: And did Mr. Foster explain to
8 you what the process was going to be?

9 MS. BAKER: Your Honor, if I could just --

10 JUDGE MCKENNA: You can object if you want.

11 MS. BAKER: -- interject. To the extent that
12 calls for the disclosure of privileged communications
13 that my client might have had with Mr. Foster who was
14 advising him in him in is in context as wearing his
15 general counsel hat I will instruct my client not
16 waive that privilege at this time, thank you.

17 JUDGE MCKENNA: Okay.

18 MS. BAKER: And let me just make sure my
19 client understands. To the extent he can answer that
20 question, without disclosing information that you
21 would have received or either because you asked for it
22 or because it was given to you, in the context of
23 Mr. Foster giving you legal counsel, if you answer,
24 that question you will potentially you could
25 potentially waive privilege.

1 MR. WHEELER: Your Honor, to the extent that
2 Mr. Carnes is relying on advice of counsel defense and
3 saying that counsel advised him of his loan agreement
4 he can't assert that and then claim attorney/client
5 privilege. I know he has, it's his counsel. But I
6 think the case law is pretty clear, Your Honor, that
7 an advice of counsel defense waives privilege.

8 So, if that's his testimony that he relied on
9 Mr. Foster then those communications aren't
10 privileged, or the privilege doesn't apply here.

11 MS. BAKER: Your Honor, I don't think that has
12 been his testimony I think his testimony has not been
13 I relied on counsel his testimony has been that is
14 what I hired lawyers to do, not that they told me to
15 do something that, as understand defense of counsel
16 reliance on counsel defense it's I did something
17 because my lawyers told me it was okay to do.

18 That's not what Mr. Carnes has testified to
19 here at all if Mr. Carnes wrote a loan agreement and
20 said my lawyers told me it was okay to write this loan
21 agreement that would be a reliance on counsel defense.
22 That is analytically distinct from what Mr. Carnes
23 testified to, he has not waived privilege nor has he
24 even put that at issue here.

25 JUDGE MCKENNA: All right. So at the time

1 that at the time that the template was being prepared
2 what position did positions did Mr. Foster hold?

3 THE WITNESS: That would have been in 2008,
4 and he would have been executive vice president and
5 general counsel.

6 JUDGE MCKENNA: Okay. And without going into
7 the specifics of advice that he might have given you,
8 since he was the executive vice president in addition
9 to being general counsel, would he have explained to
10 you the context of that template?

11 THE WITNESS: I don't recall him explaining
12 the content of the template to me.

13 JUDGE MCKENNA: In 2007?

14 THE WITNESS: Or eight.

15 JUDGE MCKENNA: All right. Go ahead.

16 BY MR. WHEELER:

17 Q. Mr. Carnes, could Mr. Foster have -- we were
18 are talking about loan agreement template and a loan
19 agreement template that Integrity Advance used to
20 generate loan agreements, could Mr. Foster have
21 approved the use of a loan agreement template without
22 your approval?

23 A. Again, it was -- we hired an outside counsel
24 to come up with the loan agreement. We trusted that
25 that was the best thing to do and we used it. I don't

1 know, you know there was no stamp, I wasn't stamping my
2 approval on it. I just assumed that they knew what
3 they were doing.

4 Q. Was it true --

5 A. As did Mr. Foster. Mr. Foster is not an
6 attorney that is a regulatory attorney either.

7 Q. But isn't it true that they had your approval
8 to implement this loan agreement?

9 MS. BAKER: Objection, asked and answered.

10 JUDGE MCKENNA: I will allow it.

11 THE WITNESS: Did they have my approval to use
12 the loan agreement? Yes.

13 BY MR. WHEELER:

14 Q. And do you recall specific conversations that
15 you had with people at Integrity Advance about the loan
16 agreement?

17 A. No.

18 Q. You have testified that Integrity Advance only
19 had one product, right?

20 A. Yes.

21 Q. And that was a consumer loan?

22 A. Yes.

23 Q. And that consumer loan was implemented by a
24 loan agreement?

25 A. Yes.

1 Q. And you testified that Integrity Advance made
2 money?

3 A. Yes.

4 Q. And had profits?

5 A. Yes.

6 Q. And you were the CEO?

7 A. Yes.

8 Q. But you're saying you never had conversations
9 about the loan agreement?

10 JUDGE MCKENNA: He didn't say he never had
11 them. He said he doesn't recall any.

12 BY MR. WHEELER:

13 Q. Is that true, sir, you don't recall?

14 A. I don't recall having conversations about the
15 loan agreement itself.

16 Q. Were there any complaints that you received
17 about Integrity Advance's loan product?

18 A. Complaints never rose to my level, so I don't
19 know.

20 Q. So you were unaware personally of any
21 complaints?

22 A. I wasn't aware of complaints.

23 Q. Mr. Carnes, you are aware that the Consumer
24 Financial Protection Bureau sent a civil investigative
25 demand to Integrity Advance?

1 UNITED STATES OF AMERICA

2 Before the

3 CONSUMER FINANCIAL PROTECTION BUREAU

4
5 In the Matter of :
6 : Administrative Proceeding

7 INTEGRITY ADVANCE, LLC : File No. 2015-CFPB-0029

8 and JAMES R. CARNES, :
9 Respondent. :
10

11 REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS
12 HEARING (Volume II of III)

13 Washington, D.C.
14 Wednesday, July 20, 2016

15
16 BEFORE:
17 HONORABLE PARLEN L. MCKENNA, ADMINISTRATIVE LAW JUDGE
18
19
20
21
22
23
24
25

1 **APPEARANCES:**

2 **For the Agency:**

3 Alusheyi J. Wheeler, Esquire
4 Wendy J. Weinberg, Esquire
5 Vivian W. Chum, Esquire
6 Craig A. Cowie, Esquire

7 **For the Respondent:**

8 Allyson B. Baker, Esquire
9 Peter S. Frechette, Esquire
10 Danielle R. Foley, Esquire
11 Andrew T. Hernacki, Esquire
12 Hillary S. Profita, Esquire
13 Venable, LLP, Washington, D.C. 20004

14 **On Behalf of Mr. Edward Foster**

15 Gerald S. Sachs, Esquire

16 **ALSO PRESENT:**

17 For the Administrative Law Judge:
18 Heather MacClintock, Esquire
19 Lauren S. Staiti, Esquire

20
21
22 Jeannie A. Milio, RPR
23 Official Court Reporter
24 ALJ Office, Baltimore, Maryland 21202-4022

1 T A B L E O F C O N T E N T S
23 **ENFORCEMENT COUNSEL'S WITNESSES:**

	DIRECT	CROSS	REDIRECT	RECROSS
Edward Foster	II-5	II-46	--	--
James Carnes	II-48	II-62	II-86	II-99
Robert Hughes	II-110	--	--	--
Joseph Baressi	II-165	II-183	II-192	--

ENFORCEMENT COUNSEL	IDENTIFICATION	ADMITTED
Exhibit No. 81	--	II-122
Exhibit No. 102	II-156	II-162

1 consumer we're discussing, who had \$100 loan, do you
2 understand that their TILA disclosure would say \$130?

3 A. Yes.

4 JUDGE McKENNA: Mr. Wheeler?

5 MR. WHEELER: Yes.

6 JUDGE McKENNA: Could you string those words
7 together a little slower?

8 MR. WHEELER: I'll do my best, Your Honor.

9 JUDGE McKENNA: I mean, only if you want to
10 have a record.

11 MR. WHEELER: An actual record of this
12 proceeding?

13 JUDGE McKENNA: Yeah.

14 MR. WHEELER: I will try again.

15 BY MR. WHEELER:

16 Q. We were talking about a new consumer who took
17 a \$100 loan, that consumer, you testified would be --
18 receive a \$30 finance charge, correct?

19 A. Yes.

20 Q. And that TILA disclosure that consumers would
21 receive would say \$130, correct?

22 A. Correct.

23 Q. And you -- that's something you understood
24 when you were CEO of Integrity Advance?

25 A. Correct.

1 connection with the loans?

2 MR. WHEELER: Objection, Your Honor,
3 relevance.

4 JUDGE MCKENNA: Overruled.

5 THE WITNESS: I did not revise any scripts.

6 BY MS. BAKER:

7 Q. Did you ever edit any call center scripts that
8 call center representative used in connection with the
9 loans?

10 A. No, I never saw them.

11 Q. Mr. Carnes, were you involved in drafting any
12 part of any loan agreement that a consumer used in
13 connection with a loan in this matter?

14 A. No.

15 Q. Were you involved in revising any part of any
16 loan agreement that a consumer would have had in
17 connection with a loan made by Integrity Advance?

18 A. No.

19 Q. Were you ever involved in revising any
20 language to any disclosure in that loan agreement?

21 A. No.

22 Q. Did you ever revise or edit any other language
23 in the loan agreement that was used in connection with
24 any loan that was made to a consumer by Integrity
25 Advance?

1 A. No.

2 Q. And you testified earlier, I believe, or you
3 heard testimony that there were versions of this loan
4 agreement?

5 A. Yes.

6 Q. Did you ever as to any version of any loan
7 agreement make edits or revisions to the language in
8 that loan agreement?

9 A. No.

10 Q. Did you ever as to any version of any loan
11 agreement make edits or revisions to any disclosure in
12 the loan agreement?

13 A. No.

14 MS. BAKER: Court's indulgence for a moment,
15 please.

16 JUDGE MCKENNA: Sure.

17 BY MS. BAKER:

18 Q. Mr. Carnes, if I could ask you please to turn
19 to, in Enforcement Counsel -- the binder in front of
20 you or maybe it's the other binder, what was previously
21 marked and entered into evidence as Exhibit 18.

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 customers to the company?

2 A. Coming to their website?

3 Q. Yes, coming through the website?

4 A. Again, it was small in 2008, I couldn't --

5 Q. If you know.

6 A. I don't know the number exactly. I just know
7 it was a smaller percentage knowing that 2009 it was
8 significantly higher and by the time we finished, it
9 was roughly, again, I don't remember off -- exactly
10 what it was, but call it 60/65 percent of the consumers
11 that we lent to by 2012 were coming back for a second
12 or more loan.

13 Q. I think you testified yesterday that you had
14 an understanding that Integrity Advance had a lending
15 license from the State of Delaware?

16 A. That's correct.

17 Q. Do you have any high level understanding of
18 what that entailed or what that meant?

19 A. I have a high level, I know that in the
20 beginning to obtain a lending license there is a
21 lending license application that gets filled out. I
22 know that I was asked to fill out some of that with
23 regard to myself. There were financials I think I had
24 to submit for myself. There were -- it was a, you
25 know, application. So you had all kinds of blanks to

1 fill in. Most of the application and its components
2 were orchestrated by Mr. Foster in conjunction with
3 outside counsel is who wrote the loan agreements that
4 were submitted to the State for their approval along
5 with all of the application information as well.

6 That's my understanding of it.

7 Q. And that's to obtain the license?

8 A. To obtain a lending license, yes.

9 Q. Do you have an understanding as to whether
10 that license was ever renewed?

11 A. I do. It was renewed -- it was granted in
12 2008, I believe. And then renewed in '9, '10, '11 and
13 '12.

14 Q. And do you have any understanding, and I
15 understand you are not a lawyer, but do you have any
16 understanding of what might have been involved in that
17 renewal process? Just at a high level.

18 MR. WHEELER: Objection, Your Honor. It calls
19 for speculation.

20 JUDGE MCKENNA: He will answer if he knows.

21 THE WITNESS: So in a renewal process, again,
22 it was a -- the State sent a checklist out of
23 documents that needed to be submitted. I think
24 yesterday I pointed out some of the financial
25 statements that were partial year, were submitted as

1 looked at something isn't privileged. What the lawyer
2 might have told him about the something the lawyer
3 looked at is.

4 And to the extent that Mr. Carnes or anyone
5 else sought counsel, the fact that he sought counsel
6 is not privilege. The contents of the request for
7 counsel are. Does that --

8 JUDGE McKENNA: Within those parameters, can
9 you enlighten us?

10 THE WITNESS: How about I say I will tell you
11 that with Integrity Advance specifically, we hired
12 outside counsel to create and give us loan documents
13 that conformed with the Delaware and federal law.
14 Once they gave us those documents, we took them and
15 through our IT department, implemented them into our
16 loan management system to use to lend to consumers.

17 JUDGE McKENNA: Were your subordinates in
18 Hayfield overseeing that process?

19 THE WITNESS: Yes.

20 JUDGE McKENNA: And did that process ever come
21 up to you through a briefing?

22 MS. BAKER: Same admonition. To the extent
23 you can answer that question without disclosing the
24 contents of that briefing or the fact that you had a
25 briefing with specific topic matters, you can answer