

**UNITED STATES OF AMERICA
Before the
CONSUMER FINANCIAL PROTECTION BUREAU**

ADMINISTRATIVE PROCEEDING)	
File No. 2015-CFPB-0029)	
In the matter of)	RESPONDENTS' REQUEST TO SUBMIT SUPPLEMENTAL BRIEFING
INTEGRITY ADVANCE, LLC and)	
JAMES R. CARNES)	
)	

RESPONDENTS' REQUEST TO SUBMIT SUPPLEMENTAL BRIEFING

Respondents respectfully request that the Director permit the parties to submit supplemental briefing in order to respond more fully to questions on the issue of statute of limitations posed by the Director during the January 11, 2017 oral argument.¹

Supplemental briefing will aid the Director by allowing the parties to further address, in writing, questions raised by the Director at the oral argument. During oral argument, the Director posed numerous questions concerning the relevant statutes of limitations under the Truth in Lending Act (“TILA”), the Electronic Fund Transfer Act (“EFTA”), and the Consumer Financial Protection Act (“CFPA”). In particular, the Director asked the parties to discuss their respective positions regarding the operative date(s) on which the CFPA’s statute of limitations would begin to run in this matter. In turn, the Director inquired as to how the phrase “date of discovery” should be

¹ Respondents’ counsel have conferred with Enforcement Counsel as to Respondents’ Request and Enforcement Counsel opposes the Request. Nonetheless, as discussed below, Respondents request that the Director permit Respondents and also Enforcement Counsel to concurrently submit supplemental briefs.

interpreted within 12 U.S.C. § 5564(g) and applied not only in this matter, but also more broadly as a matter of policy.

Interpretation of the “date of discovery” in § 5564(g) is an issue of first impression for the Bureau.² To that end, and given the importance of resolving the parties’ arguments concerning statutes of limitation as key threshold issues in this case, limited supplemental briefing is warranted. Specifically, Respondents’ supplemental brief would focus on the CFPB’s statute of limitations, while also addressing the related questions of TILA and EFTA statutes of limitation in light of the Director’s questions at oral argument.

Pursuant to the submission date and page limitations proposed below, Respondents and Enforcement Counsel would have equal and sufficient time to submit additional briefing, therefore there is no prejudice to Enforcement Counsel. Specifically, Respondents request that the Director allow Respondents and Enforcement Counsel to concurrently submit supplemental briefs, not to exceed fifteen (15) pages, by January 27, 2017. Respondents understand that the Director must render a final decision in this matter in accordance with the timeframe established by Rule 405(d) of the Bureau’s Rules of Practice for Adjudication Proceedings. By allowing for concurrently-submitted briefing by January 27, 2017, Respondents’ proposal will not unduly delay this matter or impede the Director’s ability to render a decision within the required timeframe.

² See Dkt. 186, EC’s Answering Br., at 18 (“No court has yet interpreted what constitutes ‘date of discovery’ of a violation under § 5564(g).”).

For the foregoing reasons, Respondents respectfully request that the Director permit the parties to submit supplemental briefing on the issue of statute of limitations by January 27, 2017.

Respectfully submitted,

Dated: January 13, 2017

By: /s/ Allyson B. Baker

Allyson B. Baker, Esq.
Danielle R. Foley, Esq.
Peter S. Frechette, Esq.
Andrew T. Hernacki, Esq.
Hillary S. Profita, Esq.
VENABLE LLP
575 7th St., N.W.
Washington, D.C. 20004
(202) 344-4000

*Attorneys for Respondents
Integrity Advance, LLC and James R. Carnes*

RULE 205(f) CERTIFICATION

Pursuant to Rule 205(f) of the Bureau's Rules of Practice for Adjudication Proceedings, 12 C.F.R. § 1081.205(f), counsel for Respondents certify that on January 12 and January 13, 2017, they conferred with Enforcement Counsel in a good faith effort to resolve the issues raised by Respondents' Request to Submit Supplemental Briefing and have been unable to resolve the matter by agreement.

/s/ Andrew T. Hernacki
Andrew T. Hernacki, Esq.

CERTIFICATION OF SERVICE

I hereby certify that on the 13th day of January, 2017, I caused a copy of the foregoing Respondents' Request to Submit Supplemental Briefing to be filed by electronic transmission (e-mail) with the CFPB's Office of Administrative Adjudication (CFPB_Electronic_Filings@cfpb.gov). A copy of this brief is provided by electronic mail to U.S. Coast Guard Hearing Docket Clerk (aljdocketcenter@uscg.mil), Heather L. MacClintock (Heather.L.MacClintock@uscg.mil), and Administrative Law Judge Parlen L. McKenna (cindy.j.melendres@uscg.mil), and served by electronic mail on the following parties who have consented to electronic service:

Kristin Bateman, Esq.
Kristin.Bateman@cfpb.gov

Deborah Morris, Esq.
Deborah.Morris@cfpb.gov

Craig A. Cowie, Esq.
Craig.Cowie@cfpb.gov

Alusheyi J. Wheeler, Esq.
Alusheyi.Wheeler@cfpb.gov

/s/ Andrew T. Hernacki
Andrew T. Hernacki, Esq.