

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

**ADMINISTRATIVE PROCEEDING**  
**File No. 2015-CFPB-0029**

**In the Matter of:** )  
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**INTEGRITY ADVANCE, LLC and** )  
**JAMES R. CARNES,** )  
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**Respondents.** )  
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**DECLARATION OF**  
**ALUSHEYI J. WHEELER**

## **DECLARATION OF ALUSHEYI J. WHEELER**

## **District of Columbia:**

1. I am counsel for the Consumer Financial Protection Bureau in the above-captioned matter.
  2. Enforcement Counsel served the subpoena on Respondents on February 19, 2016.
  3. Allyson Baker, counsel for Respondents, told Enforcement Counsel for the first time on March 11, 2016, in a conversation with me, that Respondents could not meet the March 21, 2016 deadline for producing material in response to the subpoena.
  4. Despite repeated discussions between counsel, Ms. Baker has failed to provide any specific explanation of why Respondents cannot replicate the data fields used in the prior Excel file from the preserved data.

5. Ms. Baker has not stated which fields from the Excel file in the Order dated February 19, 2016 Respondents can produce from the data.
6. Ms. Baker represented on both March 18 and 21 that Respondents had loaded the data onto a server and that the data could be queried in SAS.
7. Ms. Baker has not explained why Respondents cannot produce the same data from the Excel file using SAS queries.
8. Instead, Ms. Baker has said generally that Respondents would run any SAS query that Enforcement Counsel wanted, but she has failed to provide Enforcement Counsel with any details about what data Respondents have or how that data is different from the data contained in the prior Excel file produced in response to the CID.
9. In response to Ms. Baker's request for queries, I stated that any queries written by us likely would be based on the Excel file described in the Order dated February 19, 2016.
10. I have repeatedly stated to Ms. Baker that Enforcement Counsel would not oppose Respondents' motion for a reasonable extension as long as Ms. Baker would provide Enforcement Counsel with a draft of the motion so that we could review the language.
11. In each of the calls with Ms. Baker regarding compliance with the subpoena, Ms. Baker never provided details regarding the steps Respondents had taken to meet the production deadline, aside from saying that they had hired someone and loaded the data onto a server.
12. On March 15, 2016, I emailed Ms. Baker to tell her that Enforcement Counsel would not oppose a motion by Respondents to extend the time for production to April 4, pending our review of a draft motion. Ex. C.

13. In at least the March 18 and March 21 calls with Ms. Baker, I stated specifically—and again depending on the precise language of Respondents' proposed motion for an extension—that Enforcement Counsel would not oppose a motion that extended the time to respond to April 4, 2016.

14. Ms. Baker never provided Enforcement Counsel with any draft of the motion filed on behalf of Respondents on March 21, 2016.

15. On March 21, 2016, I asked Ms. Baker if Respondents would be willing to produce the entire data set it uploaded to the server in SAS format to Enforcement Counsel in lieu of running the queries.

16. On March 21, 2016, Ms. Baker stated without further explanation that Respondents would not produce the data set to Enforcement Counsel.

17. On February 17, 2016, Ms. Profita requested to take Enforcement Counsel's expert's deposition after the deadline for expert depositions set in the scheduling order dated December 18, 2015. Ex. A.

18. I called Respondents' counsel and stated that Enforcement Counsel would be willing to hold the expert deposition after the deadline, on March 7.

19. Ms. Baker and I agreed that she would hold the deposition on March 11; she would produce a rebuttal expert report, if any, by March 25; and we would conduct any deposition of a rebuttal expert by April 11. Ex. B.

20. The following Exhibits are true and correct copies of the documents in question:

- a. Email from H. Profita to D. Morris and others, dated February 17, 2016, seeking an extension of time for the deposition of Enforcement Counsel's expert;

- b. Email from A. Baker to A. Wheeler and others, dated March 4, 2016, agreeing to move the deposition of Enforcement Counsel's expert to March 11, the deadline for rebuttal reports to March 25, and the deadline for rebuttal depositions to April 11; and
- c. Email from A. Wheeler to A. Baker, dated Mar. 15, 2016, agreeing not to oppose Respondents' motion to extend the time to comply with the subpoena, pending review of a draft motion.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on March 22, 2016

/s/Alusheyi J. Wheeler  
Alusheyi J. Wheeler