

UNITED STATES OF AMERICA
Before the
CONSUMER FINANCIAL PROTECTION BUREAU

ADMINISTRATIVE PROCEEDING)	RESPONDENTS' MOTION TO
File No. 2015-CFPB-0029)	STRIKE ENFORCEMENT
)	COUNSEL'S RESPONSE TO
In the matter of)	RESPONDENTS' PROPOSED
)	FINDINGS OF FACT
INTEGRITY ADVANCE, LLC and)	
JAMES R. CARNES)	
)	

RESPONDENTS' MOTION TO STRIKE ENFORCEMENT COUNSEL'S RESPONSE
TO RESPONDENTS' PROPOSED FINDINGS OF FACT

Integrity Advance, LLC and James R. Carnes (together, “Respondents”), hereby move to strike Enforcement Counsel’s Response to Respondents’ Proposed Findings of Fact (“FOF Response”).

On September 13, 2016, Enforcement Counsel submitted not only a Post-Hearing Responsive Brief, but also a separate FOF Response. Enforcement Counsel’s FOF Response is plainly not contemplated by the CFPB’s Rules of Practice (Rule 305(b)) or the Court’s July 29, 2016 Order Scheduling Post-Hearing Submissions, Dkt. 149. Rule 305(b) and the Court’s Order clearly state that the parties were to submit “a responsive brief.” 12 C.F.R. § 1081.305(b); Dkt. 149 at 2. Neither Rule 305(b) nor the Court’s Order authorize filing responses to proposed findings of fact in addition to a responsive brief. Enforcement Counsel had every opportunity at trial to present rebuttal to Respondents’ evidence, and now, after failing to present sufficient evidence at trial to satisfy its burden, Enforcement Counsel’s FOF Response is nothing more than an improper attempt to take yet another bite at the apple. As reply briefs are expressly prohibited by the Court’s Order, Respondents are unquestionably prejudiced by Enforcement

Counsel's impermissible filing and will have no opportunity to respond. Accordingly, Enforcement Counsel's improper FOF Response should be stricken. Alternatively, Respondents request seven (7) days to file a reply to Enforcement Counsel's FOF Response.

Respectfully submitted,

Dated: September 14, 2016

By: /s/ Allyson B. Baker

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CERTIFICATION OF SERVICE

I hereby certify that on the 14th day of September, 2016, I caused a copy of the foregoing Motion to Strike Enforcement Counsel's Response to Respondents' Proposed Findings of Fact to be filed by electronic transmission (e-mail) with the 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:

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