

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 REQUIRING THE
BUREAU TO SUBMIT
ADDITIONAL INFORMATION

Hon. Parlen L. McKenna

On February 2, 2016, the Consumer Financial Protection Bureau (“Bureau”) filed a request for the issuance of a subpoena requiring production of documents. Specifically, the subpoena requested three types of documents/information:

- 1) an Excel file containing transaction-level data similar to a file product by Integrity Advance during the investigation but for a larger population of Integrity Advance’s consumers;
- 2) a data dictionary describing the data produced in the file; and
- 3) any prior statements, within the meaning of 12 C.F.R. § 1081.207, of any witnesses Respondents expect to call during the trial in this matter.

On February 3, 2016, Counsel for Integrity Advance, LLC and James R. Carnes (Integrity Advance or Respondents) sent an email to the Court giving notice that pursuant to 12 C.F.R. § 1081(d), it would be filing an objection to the Bureau’s request. On

February 5, 2016, Integrity Advance timely filed its objection asserting that the Bureau's subpoena request is inappropriate, unreasonable, excessive in scope, and unduly burdensome. Specifically, Integrity Advance states that the Bureau's request is overly broad and seeks extensive transactional data that goes back eight years; and that the Company is no longer operational and has not made a loan in more than three years.

The regulations do not specifically permit objections to subpoena *requests*; a person to whom a subpoena is directed may move to quash or modify the subpoena "prior to the time specified therein for compliance, but in no event more than ten days after the date of service." 12 C.F.R. § 1081.208(h). However, the hearing officer may make an independent determination of whether the request is "unreasonable, oppressive, excessive in scope, or unduly burdensome" when determining whether the subpoena should be issued. 12 C.F.R. § 1081.208(d). As time is of the essence here, I will use my authority to regulate the course of the proceeding under 12 C.F.R. 1081.104(b)(5) to waive the requirement that a subpoena be issued prior the motion to quash or modify. I will consider the parties' arguments about the proper scope of the subpoena and then determine whether the subpoena request should be granted in full, in part, or not at all.

In order to render an informed decision on the Bureau's subpoena request, I direct the Bureau to file answers to the following questions:

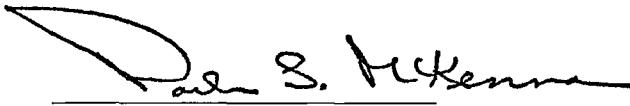
- 1) The Bureau has stated, "The CID [Civil Investigative Demand] required Integrity Advance to preserve documents relied on or used in its preparation of responses to the CID such as files containing transaction-level data for its consumers." Subpoena Request at p. 2. Did the CID

requiring the preservation of documents cover the information sought by this subpoena?

- 2) Are Respondents under a continuing obligation to preserve the documents/information sought by this subpoena?
- 3) Does the Bureau believe a data dictionary already exists in an acceptable format, or would this request necessitate the creation of an entirely new document?
- 4) Respondents argue that the Bureau had two-plus years to ask for additional information and failed to do so, and that Integrity Advance is no longer operational, no longer has ready access to the substantial transactional data requested, and no longer has any employees who could gather that data or furnish a data dictionary. Why should a finding not be made that the Bureau's request is untimely, excessive, and/or unduly burdensome?
- 5) Does the Bureau dispute Respondents' assertion that, at this point, it would be "near impossible for Respondents to comply with Request Nos. 1 and 2"?
- 6) Does the Bureau disagree with Respondents that the documents/information sought by the subpoena request is "not appropriate for the administrative litigation" the Bureau has filed?

The Bureau shall have until February 10, 2016 to file a pleading responding to the information requested by this Order. Respondents shall have until February 12, 2016 to file a Reply.¹

SO ORDERED.


HON. PARLEN L. MCKENNA
Administrative Law Judge

**Done and dated this 8th day of February 2016
at Alameda, California.**

¹ In Respondents' Reply, please indicate if any of the Integrity Advance loans are still extant, whether currently held by Respondents or another entity. If so, who services those extant loans? This information is relevant because, while Respondents have asserted that Integrity Advance has not *made* a loan in more than three years, it is unclear whether any loans made prior to that date continue to exist.

CERTIFICATE OF SERVICE

I hereby certify that I have served the forgoing *Order Requiring the Bureau to Submit Additional Information* (2015-CFPB-0029) upon the following parties and entities in this proceeding as indicated in the manner described below:

(Via Fax and email: D05-PF-ALJBALT-ALJDocket)

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Done and dated: February 8, 2016
Alameda, California.



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