

# EXHIBIT A

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 ) AMENDED ANSWER AND AFFIRMATIVE  
JAMES R. CARNES ) DEFENSES TO NOTICE OF CHARGES  
 ) OF CHARGES SEEKING  
 ) RESTITUTION, DISGORGEMENT,  
 ) OTHER EQUITABLE RELIEF, AND  
 ) CIVIL MONEY PENALTIES  
)  
)

---

Respondents Integrity Advance LLC and James R. Carnes, by and through their undersigned counsel, for their amended answer and affirmative defenses to the Notice of Charges Seeking Restitution, Disgorgement, Other Equitable Relief, and Civil Money Penalties (the “Notice”) filed by the Consumer Financial Protection Bureau (“CFPB” or “Bureau”). Respondents further state that the Bureau does not have jurisdiction to proceed with this action as to Integrity Advance or Carnes and that their Answer to the Notice of Charges does not waive any right to contest the jurisdiction of the Bureau. Rather, Respondents answer as follows, in order to preserve any and all rights. *See e.g.*, 12 C.F.R. §1081.201. Subject to these reservations, Respondents answer as follows:

**JURISDICTION AND LEGAL AUTHORITY**

1. Paragraph 1 of the Notice states conclusions of law to which no response is required. To the extent that a response is required, Respondents deny the allegations contained in Paragraph 1 of the Notice.

2. Paragraph 2 of the Notice states conclusions of law to which no response is required. To the extent that a response is required, Respondents deny the allegations contained in Paragraph 2 of the Notice.

### **PARTIES**

3. Paragraph 3 of the Notice states conclusions of law to which no response is required.

4. Respondents admit that Integrity Advance is a limited liability company organized under the laws of Delaware that had its principal place of business at 300 Creek View Road, Newark, Delaware. Respondents deny the remaining part of Paragraph 4 of the Notice.

5. Respondents admit the allegations contained in Paragraph 5 of the Notice.

6. Respondents admit that James R. Carnes is a natural person residing in Kansas and did function as President and CEO of Integrity Advance. Respondents deny the remaining allegations contained in Paragraph 6 of the Notice.

7. Respondents admit that at some points in time, Carnes has owned 52% of Hayfield Investment Partners. Respondents deny the remaining allegations in Paragraph 7 of the Notice.

8. Respondents deny the allegations contained in Paragraph 8 of the Notice.

9. Respondents deny the allegations contained in Paragraph 9 of the Notice.

10. Paragraph 10 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 10 of the Notice.

11. Paragraph 11 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 11 of the Notice.

### **STATEMENT OF FACTS**

12. Respondents admit the allegations contained in Paragraph 12 of the Notice.

13. Respondents admit the allegations contained in Paragraph 13 of the Notice.

14. Respondents admit that Integrity Advance developed, revised and amended the policies and procedures governing its application process and forms, disclosures and underwriting from 2007 until December 2012. Respondents deny the remaining allegations contained in Paragraph 14 of the Notice.

15. Respondents deny the allegations contained in Paragraph 15 of the Notice.

16. Respondents admit that Integrity Advance developed, revised and amended the policies and procedures governing its application process and forms, disclosures and underwriting from 2007 until December 2012. Respondents deny the remaining allegations contained in Paragraph 16 of the Notice.

17. Respondents admit that some number of consumers applied for loans with Integrity Advance by entering their personal information into a lead generator website. Respondents deny the remaining allegations contained in Paragraph 17 of the Notice.

18. Respondents deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18. Subject to their response to Paragraph 19 of the Notice, Respondents further state that they had no reason to believe that consumers ever applied for loans without knowing the terms of the loans.

19. Respondents admit that due to loan underwriting processes consumers did not know the APR for a loan until after they had completed an online application. Respondents deny the remaining allegations contained in paragraph 19 of the Notice.

20. Respondents deny the allegations contained in paragraph 20 of the Notice.

21. Respondents admit that, subject to obtaining ACH authorization from consumers, Integrity Advance deposited funds into a consumer's account electronically in order to fund any loan and admit that Integrity Advance withdrew funds from a consumer's bank account electronically as one method of loan repayment. Respondents deny the remaining allegations contained in paragraph 21 of the Notice.

22. Respondents deny the allegations contained in paragraph 22 of the Notice.

23. Respondents admit that Integrity Advance's contract stated the cost of the loan "as scheduled." Respondents deny the remaining allegations contained in Paragraph 23 of the Notice.

24. Respondents deny the allegations contained in Paragraph 24 of the Notice.
25. Respondents admit the allegations contained in paragraph 25 of the Notice.
26. Respondents admit that disclosures stated a calculation that reflected loan repayment in one payment and did not state calculations that reflected all possible loan repayment schedules. Respondents deny the remaining allegations contained in paragraph 26 of the Notice.
27. Respondents deny the allegations contained in Paragraph 27 of the Notice.
28. Respondents deny the allegations contained in paragraph 28 of the Notice.
29. Respondents admit that unless a consumer contacted Integrity Advance to change the terms of the loan – through one of several available means –Integrity Advance renewed the consumer’s loan. Respondents deny the allegations contained in paragraph 29 of the Notice.
30. Respondents admit that \$50 would be automatically applied to a consumer’s loan principal after four loan renewals, unless a consumer contacted Integrity Advance – through one of several available means – to change the terms of payment. Respondents deny the remaining allegations contained in paragraph 30 of the Notice.
31. Respondents admit that the loan repayment schedule described in paragraph 31 is one possible loan repayment schedule. Respondents deny the remaining allegations contained in paragraph 31 of the Notice.
32. Respondents deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of the Notice.

33. Respondents deny the allegations contained in paragraph 33 of the Notice.
34. Respondents admit that Integrity Advance's documents did not disclose the total amount of finance charges that every consumer would pay over the course of a loan in every conceivable circumstance. Respondents deny the remaining allegations contained in paragraph 34 of the Notice.
35. Respondents deny the allegations contained in paragraph 35 of the Notice.
36. Respondents deny the allegations contained in paragraph 36 of the Notice.
37. Respondents deny the allegations contained in paragraph 37 of the Notice.
38. Respondents admit that Integrity Advance's documents did not disclose the total sum of all loan payments that a consumer would pay over the course of a loan in every conceivable circumstance. Respondents deny the allegations contained in paragraph 38 of the Notice.
39. Respondents admit that consumers signed a form authorizing automatic electronic withdrawals from their accounts as one way of repaying a loan and further admit that Integrity Advance's documents notified consumers that they could revoke ACH authorization at any time. Respondents deny the remaining allegations in paragraph 39.
40. Respondents admit the allegations contained in paragraph 40 of the Notice.
41. Respondents admit the allegations contained in paragraph 41 of the Notice.
42. Respondents admit that consumers signed a form authorizing automatic electronic deposits to and withdrawals from their accounts in order to fund or repay a loan and that

Integrity Advance's documents notified consumers that they could revoke ACH authorization at any time. Respondents deny the remaining allegations contained in paragraph 42 of the Notice.

43. Respondents admit that the excerpted language from Integrity Advance documents in paragraph 43 is accurate. Respondents deny the allegations contained in paragraph 43 of the Notice.

44. Respondents deny the allegations contained in paragraph 44 of the Notice.

45. Respondents admit that the excerpted language from Integrity Advance documents in paragraph 45 is accurate. Respondents deny the remaining allegations contained in paragraph 45 of the Notice.

46. Respondents admit that the excerpted language from Integrity Advance documents in paragraph 46 is accurate. Respondents deny the remaining allegations contained in paragraph 46 of the Notice.

47. Respondents deny the allegations contained in paragraph 47 of the Notice.

48. Respondents deny the allegations contained in paragraph 48 of the Notice.

## **VIOLATIONS**

### **Count I (Against Integrity Advance)**

49. In response to this paragraph, Integrity Advance repeats and realleges Respondents' responses contained in all of the preceding paragraphs of this Answer.
50. Paragraph 50 of the Notice states conclusions of law to which no response is required.
51. Paragraph 51 of the Notice states conclusions of law to which no response is required.
52. Paragraph 52 of the Notice states conclusions of law to which no response is required.
53. Integrity Advance admits that disclosures stated a calculation that reflected loan repayment in one payment and did not include calculations that reflected all possible loan repayment schedules. Integrity Advance denies the remaining allegations contained in paragraph 53 of the Notice.
54. Integrity Advance admits that unless a consumer contacted Integrity Advance – through one of several available means –Integrity Advance renewed the consumer's loan. Integrity Advance denies the remaining allegations contained in paragraph 54 of the Notice.
55. Integrity Advance denies the allegations contained in paragraph 55 of the Notice.
56. Integrity Advance denies the allegations contained in paragraph 56 of the Notice.

57. Paragraph 57 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Integrity Advance denies the allegations contained in Paragraph 57 of the Notice.

**Count II (Against Integrity Advance)**

58. In response to this paragraph, Integrity Advance repeats and realleges their responses contained in all of the preceding paragraphs of this Answer.

59. Paragraph 59 of the Notice states conclusions of law to which no response is required.

60. Paragraph 60 of the Notice states conclusions of law to which no response is required.

61. Paragraph 61 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Integrity Advance denies the allegations contained in Paragraph 61 of the Notice.

**Count III (Against Integrity Advance and Carnes)**

62. In response to this paragraph, Respondents repeat and reallege their responses contained in all of the preceding paragraphs of this Answer.

63. Respondents admit that disclosures stated a calculation that reflected loan repayment in one payment and did not include calculations that reflected all possible loan repayment schedules. Respondents deny the remaining allegations contained in paragraph 63 of the Notice.

64. Respondents admit that unless a consumer contacted Integrity Advance – through one of several available means –Integrity Advance renewed the consumer’s loan. Respondents deny the remaining allegations contained in paragraph 64 of the Notice.

65. Respondents deny the allegations contained in paragraph 65 of the Notice.

66. Respondents deny the allegations contained in paragraph 66 of the Notice.

67. Respondents deny the allegations contained in paragraph 67 of the Notice.

68. Respondents deny the allegations contained in paragraph 68 of the Notice.

69. Paragraph 69 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 69 of the Notice.

70. Paragraph 70 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 70 of the Notice.

#### **Count IV (Against Integrity Advance and Carnes)**

71. In response to this paragraph, Respondents repeat and reallege their responses contained in all of the preceding paragraphs of this Answer.

72. Paragraph 72 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 72 of the Notice.

73. Paragraph 73 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 73 of the Notice.

74. Paragraph 74 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 74 of the Notice.

75. Paragraph 75 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 75 of the Notice.

76. Paragraph 76 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 76 of the Notice.

77. Paragraph 77 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 77 of the Notice.

**Count V (Against Integrity Advance)**

78. In response to this paragraph, Integrity Advance repeats and realleges its responses contained in all of the preceding paragraphs of this Answer.

79. Integrity Advance admits that consumers could only receive loan proceeds by way of electronic deposit which was authorized by the ACH authorization form. Integrity Advance denies the remaining allegations contained in paragraph 79 of the Notice.

80. Integrity Advance denies the allegations contained in paragraph 80 of the Notice.

81. Paragraph 81 of the Notice states conclusions of law to which no response is required.

82. Integrity Advance admits that consumers signed a form authorizing automatic electronic deposits to and withdrawals from their accounts in order to fund or repay a loan and that Integrity Advance's documents notified consumers that they could revoke ACH authorization at any time. Integrity Advance denies the remaining allegations contained in paragraph 82 of the Notice.

83. Paragraph 83 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Integrity Advance denies the allegations contained in Paragraph 83 of the Notice.

#### **Count VI (Against Integrity Advance)**

84. In response to this paragraph, Integrity Advance repeats and realleges its responses contained in all of the preceding paragraphs of this Answer.

85. Paragraph 85 of the Notice states conclusions of law to which no response is required.

86. Paragraph 86 of the Notice states conclusions of law to which no response is required.

87. Paragraph 87 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Integrity Advance denies the allegations contained in Paragraph 87 of the Notice.

**Count VII (Against Integrity Advance and Carnes)**

88. In response to this paragraph, Respondents repeat and reallege their responses contained in all of the preceding paragraphs of this Answer.

89. Respondents admit that Integrity Advance's contracts included a provision allowing the company to create remotely created checks in certain instances. Respondents deny the remaining allegations contained in paragraph 89 of the Notice.

90. Respondents deny the allegations contained in paragraph 90 of the Notice.

91. Paragraph 91 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 91 of the Notice.

92. Paragraph 92 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 92 of the Notice.

93. Paragraph 93 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 93 of the Notice.

94. Paragraph 94 of the Notice states conclusions of law to which no response is required. To the extent a response is required, Respondents deny the allegations contained in Paragraph 94 of the Notice.

#### **BUREAU'S PRAYER FOR RELIEF**

Respondents deny that the CFPB is entitled to any of the relief it seeks in the unnumbered “Prayer for Relief” paragraph on page 14 of the Notice, including subparagraphs A through G. Respondents deny each and every allegation of the Notice not heretofore specifically admitted.

#### **AFFIRMATIVE DEFENSES**

1. The Notice fails to state a claim upon which relief may be granted, and Respondents are entitled to dismissal as a matter of law.
2. The claims alleged in the Notice are barred by the three year statute of limitations for actions arising under the CFPA, 12 U.S.C. § 5564(g)(1).
3. The claims alleged in the Notice are barred by the one year statute of limitations that applies to actions arising under the Truth in Lending Act (“TILA”), 15 U.S.C. §§ 1601–1667f and the Electronic Fund Transfer Act (“EFTA”), 15 U.S.C. §§ 1693–1693r.
4. The claims alleged in the Notice are barred to the extent they seek to impose liability on Respondents for acts or omissions of third parties.

5. The claims alleged in the Notice are barred, in whole or in part, by 15 U.S.C. § 1640(f) because Respondents' actions or omissions were in good faith and in conformity with the rules, regulations, and interpretations of the TILA by the CFPB or by an official or employee of the Federal Reserve System.

6. The claims alleged in the Notice are barred, in whole or in part, by 15 U.S.C. § 1693m(d) because Respondents' actions or omissions were in good faith and in conformity with the rules, regulations, and interpretations of the EFTA by the CFPB or by an official or employee of the Federal Reserve System.

7. The Office of Administrative Adjudication lacks jurisdiction over Respondents because the CFPB had no authority over nonbanks until a director was lawfully appointed.

8. The relief sought in the Notice violates Respondents' rights to substantive and procedural due process as provided in the United States Constitution.

9. The claims alleged in the Notice are barred, in whole or in part, by Respondents' good faith reliance on advice of counsel.

10. The CFPB has not provided fair notice to Respondents of the prohibited conduct underlying its CFPA claims for "unfairness" and "deception" in the Notice.

11. Respondents hereby give notice that they will rely upon such other and further defenses as may become apparent during the course of this action.

**PRAYER FOR RELIEF**

WHEREFORE, Respondents respectfully request that this proceeding be dismissed, that the relief requested by the CFPB be denied, and that Respondents recover their costs incurred in connection with this proceeding and any and all other legal or equitable relief to which they are entitled.

Respectfully submitted,

/s/ Richard J. Zack  
Richard J. Zack, Esq.  
[zackr@pepperlaw.com](mailto:zackr@pepperlaw.com)  
215.981.4726

Michael A. Schwartz, Esq.  
215.981.4494  
[schwarma@pepperlaw.com](mailto:schwarma@pepperlaw.com)

Christen M. Tuttle, Esq.  
[tuttlec@pepperlaw.com](mailto:tuttlec@pepperlaw.com)  
215.981.4285

Saverio S. Romeo, Esq.  
[romeos@pepperlaw.com](mailto:romeos@pepperlaw.com)  
215.981.4440

PEPPER HAMILTON LLP  
3000 Two Logan Square  
Eighteenth & Arch Streets  
Philadelphia, PA 19103-2799  
*Counsel for Respondents Integrity Advance  
LLC and James R. Carnes*

Dated: March 26, 2020

**CERTIFICATE OF SERVICE**

I hereby certify that on the 26th day of March 2020, I caused a copy of the foregoing Respondents' Motion to Amend Answer to be filed by electronic transmission (email) with the Office of Administrative Adjudication (CFPB\_electronic\_filings@cfpb.gov), and served by email on opposing counsel at the following addresses:

Stephen Jacques, Esq.  
[Stephen.Jacques@cfpb.gov](mailto:Stephen.Jacques@cfpb.gov)

Benjamin Clark, Esq.  
[Benjamin.Clark@cfpb.gov](mailto:Benjamin.Clark@cfpb.gov)

Alusheyi Wheeler, Esq.  
[Alusheyi.Wheeler@cfpb.gov](mailto:Alusheyi.Wheeler@cfpb.gov)

Deborah Morris, Esq.  
[Debora.Morris@cfpb.gov](mailto:Debora.Morris@cfpb.gov)

/s/ Saverio S. Romeo  
Saverio S. Romeo, Esq.