

**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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ENFORCEMENT COUNSEL'S
MOTION TO COMPEL
PRODUCTION OF
SUBPOENAED DATA

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On February 19, 2016, the Administrative Law Judge issued an Order Granting the Bureau's Request for Issuance of a Subpoena requiring Respondents to produce data, including the following consumer transaction data for all consumers who originated a loan with Integrity Advance:

- 1(a) The date on which the consumer revoked his or her ACH authorization (null if the consumer did not revoke his or her ACH authorization); and

1(b) Whether Integrity Advance used a demand draft to collect funds from the consumer.

Order at 7. Prior to producing the subpoenaed data, Respondents indicated that the data fields “LoanStatus,” “Payment_Status,” and “Return Date,” would capture ACH revocations and the use of demand drafts, *i.e.* the information requested in 1(a) and 1(b) of the subpoena. Chum Decl. ¶ 4. In response to the

subpoena, Respondents produced a data set on April 1, 2016. Chum Decl. ¶ 5. However, the data set included no data in the “LoanStatus” field, and it is not apparent how the data in the “LoanStatus,” “Payment_Status,” and “Return Date,” fields are responsive to subpoena request 1(b). Thus, it is not apparent that “all of the documentary material required by the subpoena and in the possession, custody, or control of [Respondents] … has been produced and made available[.]” 12 C.F.R. § 1081.208.

In the last two-and-a-half weeks, Enforcement Counsel has made three requests—on April 14, April 20, and April 28—for an explanation of why the “LoanStatus” field contains no data and an explanation of how to determine from these data fields of consumer transaction-level data whether demand drafts were used to collect funds from the consumers. Chum Decl. ¶¶ 6-13. Respondents initially represented, in an email on April 14, 2016, that they would provide Enforcement Counsel with responses to Enforcement Counsel’s requests by April 15, 2016 or early the following week. Chum Decl. ¶ 7. The following week, having received no response from Respondents, Enforcement Counsel again requested the information. Chum Decl. ¶¶ 8-9. In response, Respondents represented for the first time that the key person with knowledge about the data was dealing with an illness in the family. Chum Decl. ¶ 8.

Given this representation, and Respondents’ repeated assurances that the information was forthcoming imminently, Enforcement Counsel believed the

information would be provided.¹ The information pertaining to demand drafts has still not been provided and the delay is prejudicing Enforcement Counsel. Chum Decl. ¶ 21.²

Because the subpoenaed consumer transaction-level data is integral to count VII of Enforcement Counsel's claims and the Motion for Summary Disposition is due on May 10, 2016, Enforcement Counsel requests that the Administrative Law Judge, pursuant to his authority under 12 C.F.R. §§ 1081.104 and 1081.208, compel full compliance with request 1(b) of the subpoena by 6 p.m. on Thursday, May 5, 2016 by requiring Respondents to 1) produce any outstanding consumer transaction-level data responsive to request 1(b) for all consumers who originated a loan with Integrity Advance, and 2) explain how the consumer transaction-level data provided can be used to determine the information requested in 1(b), *i.e.* whether Integrity Advance used demand drafts to collect funds from consumers. Should Respondents fail to fully comply by 6 p.m. on Thursday, May 5, 2016, Enforcement Counsel further requests that Respondents be barred from contesting Enforcement Counsel's proof offered at summary disposition in support of the use and frequency of demand drafts

¹ Earlier today, Respondents indicated that the "LoanStatus" column is "pro forma but ... has no value or relationship to any of the information ... requested." Chum Decl. ¶ 18.

² While Respondents, earlier today, provided a spreadsheet containing aggregated monthly amounts debited from consumers by Integrity Advance using demand drafts, Respondents failed to provide the consumer transaction-level data requested in the subpoena issued February 19, 2016 and an explanation of how to determine from the consumer transaction-level data whether demand drafts were used to collect funds from consumers. Consumer transaction-level demand draft data is necessary to determine the extent to which Integrity Advance used demand drafts on consumers after a consumer revoked his or her ACH authorization.

following consumer revocation or blocking of ACH debits and that Enforcement Counsel be permitted to supplement its motion for summary disposition as to damages flowing from count VII after Respondents have fully complied with request 1(b) of the subpoena.

Given that the deadline for the Motion for Summary Disposition is May 10, 2016, Enforcement Counsel respectfully requests expedited consideration of this request.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of May 2016, I caused a copy of the foregoing Enforcement Counsel's Motion to Compel Production of Subpoenaed Data to be filed by electronic transmission (e-mail) with the Office of Administrative Adjudication (CFPB_electronic_filings@cfpb.gov), the U.S. Coast Guard Hearing Docket Clerk (aljdocketcenter@uscg.mil), Administrative Law Judge Parlen L._McKenna (cindy.j.melendres@uscg.mil), Heather L. MacClintock (Heather.L. MacClintock@uscg.mil), and served by email on the Respondents' counsel at the following addresses:

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