

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 FOLLOWING
SCHEDULING CONFERENCE

Hon. Parlen L. McKenna

On November 18, 2015, the Consumer Financial Protection Bureau (CFPB or Bureau) filed a Notice of Charges against Respondents seeking Restitution, Disgorgement, Civil Monetary Penalties and other Equitable Relief. After receiving an extension of time to respond to the Notice, Respondents timely filed an Answer and the required Disclosure Statement and Notification of Financial Interest. See 12 C.F.R. § 1081.201(e).

On December 14, 2015, I held the Scheduling Conference outlined in 12 C.F.R. § 1081.203 via telephonic conference call. Mr. Alusheyi Wheeler, Esq., Ms. Wendy Weinberg, Esq., and Ms. Vivian Chum, Esq., appeared for the Bureau and Ms. Allyson Baker, Esq. and Mr. Peter Frechette, Esq. appeared for Respondents. The Scheduling Conference was transcribed by a certified court reporter, and the transcript of this Conference will be included in the record. See 12 C.F.R. § 1081.203(c). This Order is

issued to memorialize the substance of that Scheduling Conference pursuant to 12 C.F.R. § 1081.203(d).

On the day of the Scheduling Conference, the parties submitted respective Motions for Proposed Scheduling Orders with different proposed deadlines for various prehearing matters.¹ Given the results of the Scheduling Conference outlined herein, neither Motion accurately captured the substance of the dates determined. Therefore, both Motions are **DISMISSED** as **MOOT**.

During the Scheduling Conference, I disclosed to the parties that my son works for the Federal Reserve Board in Bank Supervision and Regulation. I informed the parties that, pursuant to existing statute and regulations, no conflict of interest exists given the fact that: 1) my son is an adult; 2) he does not reside with me; and 3) no tangible benefit to the Bureau arises in this case due to this relationship. See, e.g., 18 U.S.C. § 208; 5 C.F.R. § 2635.502.

Counsel for the Bureau indicated that CFPB had no objections to my assignment to this case on this basis. Respondents' counsel stated that Respondents did not anticipate having any concerns as a result of this fact. However, I gave the parties until December 21, 2015 to file a motion for my recusal if a party deemed it necessary based on this disclosure. See 12 C.F.R. § 1081.105(c)(2).

I then asked the Bureau if it had complied with the document inspection and copying requirements under Section 1081.206. CFPB counsel responded by indicating the Bureau had produced the bulk of required documents (approximately 5,000 pages out

¹ I only received the CFPB's Proposed Scheduling Order shortly prior to the Scheduling Conference and did not receive Respondents' Proposed Scheduling Order until just before the Scheduling Conference began. As such, I did not have time to review these filings in detail prior to the Scheduling Conference but discussed all the relevant dates and areas of disagreement during that Conference.

of an estimated total production of about 7,500 documents). As to the remainder, CFPB counsel stated that it was awaiting the entry of a protective order before releasing the remaining documents, composed of consumer complaints and various third-party documents. After discussion of this issue, I gave CFPB two days from the date of the Scheduling Conference to transmit a proposed protective order to cover the production of the remaining documents to Respondents' counsel. Assuming this protective order is entered into with no delay, I anticipate CFPB to produce these remaining documents in short order. If the parties have any disputes concerning the terms of the proposed protective order, they should contact the Court for resolution.

Various other prehearing scheduling matters and issues were discussed, including 1) Respondents' intention to file a motion for production of the witness statements outlined in Section 1081.207; 2) Respondents' anticipated filing of a motion to dismiss; 3) a dispute concerning Respondents' apparently inadvertent production of privileged material and CFPB's retention/handling of the same (upon which I made no rulings and directed the parties to fully brief and argue through appropriate motion practice); 4) dates for the close of expert discovery and the exchange of prehearing submissions; and 5) date(s) and location of the hearing; etc. It was determined that the hearing would be held in Washington, D.C. at a location to be determined based upon courtroom availability. The parties felt that the hearing would likely last one week.

As a result of these discussions, the following schedule was established:²

² On December 17, 2015, the Court received an email from Respondents' counsel, Mr. Frechette, copied to the Bureau's counsel, indicating the parties had discussed the filing of Respondents' Motion to Dismiss. As a result, the parties agreed that dates related to that Motion would be adjusted accordingly. The schedule provided herein incorporates this change from the timing discussed during the Scheduling Conference. Respondents correctly noted that no deadline per se is necessary for the filing of a motion to dismiss, but the schedule here was agreed upon to facilitate the orderly disposition of this case.

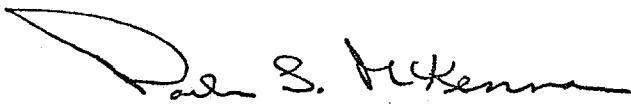
- Respondents' Motion to Dismiss – to be filed by **December 21, 2015**.
- Opposition to Respondents' Motion to Dismiss – to be filed no later than **January 14, 2016**.
- Respondents' Reply in support of Motion to Dismiss – to be filed no later than **January 25, 2016**.
- Expert reports to be exchanged no later than **February 11, 2016**.
- Initial expert depositions to be complete no later than **March 3, 2016**.
- Rebuttals of expert reports to be exchanged no later than **March 17, 2016**.
- Depositions of rebuttal experts to be complete no later than **March 31, 2016**.
- Completion of discovery, including any responses to subpoenas issued pursuant to 12 C.F.R. § 1081.208 by **March 31, 2016**.
- Motions for Summary Disposition to be filed by 5 PM (EST) on **April 8, 2016**.
- Oppositions to Summary Disposition Motion to be filed by 5 PM (EST) on **April 29, 2016**.
- Reply briefs to Motions for Summary Disposition to be filed by 5 PM (EST) on **May 6, 2016**.
- Exchange of prehearing statements, witness lists, exhibit lists, and pre-marked exhibits by **May 27, 2016**.
- Hearing to commence in Washington, D.C. at a courtroom to be determined on **June 21, 2016**.
- Post-hearing briefing to be conducted in accordance to the requirements of 12 C.F.R. § 1081.305.

ORDER

IT IS HEREBY ORDERED THAT the above-provided schedule is instituted for the orderly disposition of these proceedings. Modifications to this schedule will only be granted upon written motion with good cause shown.

IT IS HEREBY FURTHER ORDERED THAT prior to any motion to modify the above-provided schedule, the parties shall meet and confer with respect to such proposed modification and attempt to come to an agreement and present a joint motion for modification if possible.

SO ORDERED.



**HON. PARLEN L. MCKENNA
Administrative Law Judge**

CERTIFICATE OF SERVICE

I hereby certify that I have served the forgoing *Order Following Scheduling Conference* (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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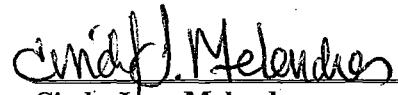
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Done and dated: December 18, 2015
Alameda, California.



Cindy June Melendres
Paralegal Specialist to the
Hon. Parlen L. McKenna