

**UNITED STATES OF AMERICA  
Before the  
CONSUMER FINANCIAL PROTECTION BUREAU**

**ADMINISTRATIVE PROCEEDING  
File No. 2015-CFPB-0029**

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**In the Matter of:**

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) **BUREAU’S REQUEST FOR  
ISSUANCE OF SUBPOENA  
REQUIRING PRODUCTION  
OF DOCUMENTS**  
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**INTEGRITY ADVANCE, LLC and  
JAMES R. CARNES,**

**Respondents.**  
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**BUREAU’S REQUEST FOR ISSUANCE OF  
SUBPOENA REQUIRING PRODUCTION OF DOCUMENTS**

Pursuant to 12 C.F.R. § 1081.208, the Consumer Financial Protection Bureau’s (Bureau) Enforcement Counsel respectfully requests the issuance of the attached subpoena to the Respondents seeking production of a limited number of documents (attached hereto as Exhibit A).<sup>1</sup> In support of this request for issuance of a subpoena requiring production of documents and in accordance with 12 C.F.R. § 1081.208(b), below is a brief statement showing the general relevance and reasonableness of the scope of the documents sought.

The subpoena requests three types of documents: an Excel file containing transaction-level data similar to a file produced by Integrity Advance during the investigation but for a larger population of Integrity Advance’s consumers; a data

<sup>1</sup> See *PHH Corp., et al.*, 2014-CFPB-0002, Order Granting in Part Request for Issuance of Subpoena Requiring Production of Documents at 1 (May 15, 2014).

dictionary describing the data produced in the file; and 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.

During the investigation, Integrity Advance produced a similar set of consumer transaction data in response to Enforcement Counsel's Civil Investigative Demand (CID) for the consumers in collections during the month of January 2012.<sup>2</sup> That file contained approximately 86,000 rows of data representing the transaction histories of approximately 3,500 consumers. Integrity Advance did not raise any claims of burden regarding the production of that data, and based on the volume, it appears that the data was simply exported from Integrity Advance's systems into an Excel file. The CID 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. This request seeks the same fields that Integrity Advance already produced but for all consumers who originated loans with Integrity Advance, plus two additional fields, and a data dictionary describing those fields.

The requested data will provide a complete picture of all the transactions that occurred and will identify which consumers were harmed by Respondents' unlawful practices. It will additionally show how much individual consumers paid in finance charges or total payments above the amounts represented in TILA disclosures. Furthermore, despite evidence to the contrary,<sup>3</sup> in their Answer Respondents denied

<sup>2</sup> The consumer transaction data (CFPB003126) was produced by Integrity Advance in response to Enforcement Counsel's January 7, 2013 request for documents No. 16 (CFPB000092).

<sup>3</sup> Mr. Carnes previously testified that Integrity Advance relied on demand drafts in instances where consumers revoked ACH authorization (Carnes Tr. 219 (¶¶ 7-13))

that Integrity Advance employed demand drafts against consumers who withdrew their consent to ACH withdrawals in an attempt to contest the company's rights to funds above the stated amount in the TILA disclosure (Answer ¶ 48). Thus, the requested transaction data, including in particular the two new fields, is relevant as it should capture instances in which Integrity Advance withdrew consumer funds by demand draft after a consumer had revoked ACH authorization during the relevant time period.

For the reasons discussed above, the requests for transaction data and a data dictionary are reasonable, clearly delineated, and limited in scope.

In addition, Enforcement Counsel seeks the statements of any individual whom Respondents expect to call as a witness that pertain, or are expected to pertain, to his or her direct testimony in this proceeding. This request is reasonable, as it seeks specific materials that are limited in scope and subject, and is not unduly burdensome. Respondents offered loans for years using the contracts in question and should already know which witnesses they expect to call to explain how Integrity Advance operated. Identifying any statements akin to those statements required by Rule 207 for these individuals should be relatively straightforward, and likely there will not be a significant volume of prior statements. Further, the Bureau already has been ordered to produce similar material for its witnesses in this matter. Requiring Respondents to do so as well would allow all parties to prepare equally for the proceeding and would allow the proceeding to move forward in the most efficient manner.

For the foregoing reasons, the documents sought by Enforcement Counsel are relevant and reasonable in scope.

(CFPB036094)). In addition, Integrity Advance's interrogatory response indicates that the Company accepted demand drafts when consumers revoked ACH authorization (Nov. 25, 2013 Interrogatory Response at 5 (CFPB035839)).

Counsel for the parties held a telephonic conference on February 2, 2016, and on that date, Enforcement Counsel informed Respondents' counsel that the Bureau was planning to file this request.

Given that the deadline for producing documents in response to subpoenas is March 31, 2016, Enforcement Counsel respectfully requests expedited consideration of this request.

Respectfully submitted,

Attorneys for Plaintiff  
Consumer Financial Protection Bureau

ANTHONY ALEXIS  
Enforcement Director

DEBORAH MORRIS  
Deputy Enforcement Director

CRAIG COWIE  
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/s/Alusheyi J. Wheeler

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*Enforcement Counsel*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2nd day of February 2016, I caused a copy of the foregoing Request for Issuance of Subpoena Requiring Production of Documents, along with Exhibit A and Attachment A to the Request and a proposed order, 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), Curtis E. Renoe (Curtis.E.Reno@uscg.mil), and served by email on the Respondents' counsel at the following addresses:

Allyson B. Baker, Esq.  
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/s/ Vivian W. Chum  
Vivian W. Chum

# **EXHIBIT A**

**SUBPOENA FOR DOCUMENTS**

**Provided by the Consumer Financial Protection Bureau, and  
Issued Pursuant to Rule 208(a), 12 C.F.R. § 1081.208(a)**

<p>1. TO</p> <p>Integrity Advance, LLC and James R. Carnes Counsel: Allyson B. Baker, Esq., Venable LLP 575 7th St. NW Washington, DC 20004 abaker@venable.com</p>	<p>2. FROM</p> <p>UNITED STATES OF AMERICA CONSUMER FINANCIAL PROTECTION BUREAU</p>
<p>This subpoena requires you to produce documents described in Attachment A for a hearing, at the date and time specified in Item 5, and at the request of Counsel listed in Item 8, in the proceeding described in Item 6.</p>	
<p>3. PLACE OF HEARING</p> <p>TBD Washington, DC</p>	<p>4. YOUR APPEARANCE WILL BE BEFORE</p> <p>Administrative Law Judge Parlen L. McKenna</p> <hr/> <p>5. DATE AND TIME OF HEARING</p> <p>June 21, 2016, TBD</p>
<p>6. TITLE OF THE MATTER AND CASE NUMBER</p>	

In the Matter of Integrity Advance, LLC and James R. Carnes, File No. 2015-CFPB-0029

<p>7. HEARING OFFICER</p> <p>Honorable Parlen L. McKenna Administrative Law Judge</p> <p>Consumer Financial Protection Bureau Washington, D.C.</p>	<p>8. COUNSEL AND PARTY REQUESTING ISSUANCE OF SUBPOENA</p> <p>Alusheyi J. Wheeler, Wendy J. Weinberg, Vivian W. Chum Enforcement Counsel Consumer Financial Protection Bureau 1700 G Street, NW Washington, DC 20552</p>
<p>DATE SIGNED</p>	<p>SIGNATURE OF HEARING OFFICER ISSUING SUBPOENA</p>

**GENERAL INSTRUCTIONS****APPEARANCE**

The delivery of this subpoena to you by any method prescribed by the CFPB's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

**MOTION TO LIMIT OR QUASH**

The CFPB's Rules of Practice require that any motion to limit or quash this subpoena must comply with Rule 208 (g), 12 C.F.R. § 1081.208(g), and in particular must be filed prior to the time specified for compliance, but in no event more than 10 days after the date of service of the subpoena. Such motion must be filed and served on all parties pursuant to Rules 100 through 121, 12 C.F.R. §§ 1081.100 - 1081.121.

**TRAVEL EXPENSES**

The CFPB's Rules of Practice require that party issuing the subpoena, as identified in Item 8, shall pay to witnesses subpoenaed for testimony or depositions on their behalf the same fees for attendance and mileage as are paid in the United States district courts in proceedings in which the United States is a party. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

### RETURN OF SERVICE

*I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)*

- in person.*
- by first class, registered, or certified mail.*
- by leaving copy at the person's office, leaving it in a conspicuous place in the person's office, or the person's dwelling or usual place of abode, at:*

*on the person named herein on:*

\_\_\_\_\_  
(Month, day, and year)

\_\_\_\_\_  
(Name of person making service)

\_\_\_\_\_  
(Official title)

- by commercial courier service or express delivery service.*
- by electronic transmission where the person so served has consented to service by electronic transmission.*

### **Attachment A**

1. A Microsoft Excel file, with the data columns set forth in the document entitled “Document Request 16\_Transactions\_01.01.12-01.31.12.xlsx” (CFPB003126) that Integrity Advance, LLC produced in response to Request for Documents 16 of the Civil Investigative Demand served on Integrity Advance, LLC on January 7, 2013 and the additional data columns described below, that includes all consumer transaction data<sup>1</sup> for all consumers who originated a loan with Integrity Advance.

In addition to the data columns set forth in CFPB003126, include columns that capture:

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

(Should the production file exceed Microsoft Excel’s capabilities, produce the file in a tab-delimited text file compatible with MS Access.)

2. A data dictionary that defines all column headings used in the file produced in response to Request 1.
3. All statements of any individual that Respondents expect they may call as a witness that pertain, or are expected to pertain, to his or her direct testimony *In the Matter of Integrity Advance, LLC and James R. Carnes*, File No. 2015-CFPB-0029.

<sup>1</sup> For the purpose of this Data Request “consumer transaction data” shall mean all transactions between Consumers and Integrity Advance including, but not limited to, loan origination and all subsequent payments, rollovers, ACH authorizations, and demand drafts.