

UNITED STATES OF AMERICA
Before the
BUREAU OF CONSUMER FINANCIAL PROTECTION

ADMINISTRATIVE PROCEEDING
File No. 2015-CFPB-0029

In the Matter of:

INTEGRITY ADVANCE, LLC, and
JAMES R. CARNES,

Respondents.

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)
) **ENFORCEMENT COUNSEL’S**
) **STATEMENT OF MATERIAL FACTS**
) **IN SUPPORT OF ITS MOTION FOR**
) **SUMMARY DISPOSITION**

Pursuant to 12 C.F.R. § 1081.212(d)(2), Enforcement Counsel hereby submits the following Statement of Material Facts in Support of Its Motion for Summary Disposition. As illustrated by the documentary evidence cited below,¹ there is no genuine issue as to any of the following facts.

1. Integrity Advance is a Delaware limited liability company that originated and serviced short term loans to consumers. Parties' Joint Stipulations of Fact (March 23, 2016) [Dkt. 56] ("JSF") ¶¶ 2, 8.

2. Integrity Advance started originating loans to consumers in May 2008. It ceased offering loans in December 2012. Its final loan transaction occurred on July 9, 2013. Tr. II 92:8-9, 132:23-133:18; *see also* Decl. of Robert J. Hughes in Supp. of EC's May 2016 Mot. for Summ. Dispos. [Dkt. 87D] ("Hughes MSD Decl."); EC-EX-101.

3. Integrity Advance offered loans ranging in value from \$100 to \$1000. JSF ¶ 11.

4. Consumer loans were the sole source of Integrity Advance's revenues and operating profits. Tr. I 94:14-95:8.

¹ All evidentiary support for Enforcement Counsel's Statement of Material Facts is already part of the existing record in this proceeding. *See* Scheduling Conference Order (July 24, 2019) [Dkt. 227] (defining status of the record). Rather than attaching duplicative documentary evidence to this Statement of Material Facts, Enforcement Counsel has instead included citations to the Docket and Hearing Record as applicable. Documents that Enforcement Counsel previously submitted as evidence in support of Enforcement Counsel's Statement of Material Facts in Support of its Motion for Summary Disposition as to Liability (May 10, 2016) [Dkt. 88] are denoted using the exhibit number from that filing (e.g., Exh. 1). Documentary evidence from the hearing is denoted as Enforcement Counsel's hearing exhibit (e.g., EC-EX-067). Certain exhibits initially provided in support of Enforcement Counsel's previous Motion for Summary Disposition were later provided as documentary exhibits for the hearing. Enforcement Counsel has provided a table at the end of this Statement of Material Facts with appropriate cross-references. All citations to the transcript in this Statement of Material Facts (i.e., "Tr.") are to the final, sealed versions of the official transcripts of the Adjudication Proceeding Hearing held on July 19, 20, and 21, 2016.

5. Integrity Advance did not offer any products other than consumer loans. Tr. I 94:19-22.

6. Hayfield Investment Partners was the sole owner of Integrity Advance. EC-EX-067; Tr. II 6:12-16.

7. Willowbrook Marketing LLC owned a majority share of Hayfield Investment Partners. EC-EX-067; Tr. I 102:8-10.

8. EZ Corp., Inc. purchased some of the assets of Integrity Advance in December 2012. Tr. II 70:22-23.

James Carnes's Authority, Control, and Participation in Integrity Advance's Business

9. Respondent James Carnes ("Carnes") founded Integrity Advance. EC-EX-068 at 7:12-13; Tr. I 94:3-4.

10. Carnes was the sole owner of Willowbrook Marketing LLC. EC-EX-067; Tr. I 102:4-6.

11. Carnes was the CEO of Hayfield Investment Partners, the parent company of Integrity Advance, and the chief executive of Integrity Advance. Tr. I 93:22-94:12; EC-EX-068 at 31:1-3.

12. Carnes was the president and chief executive of Integrity Advance throughout the entire time that it offered short term, or "payday," loans to consumers. EC-EX-065; EC-EX-068 at 31:1-3.

13. Carnes was a director and officer of Integrity Advance charged with managerial responsibility for the company. EC-EX-068 at 32:15-17; Tr. I 209:9-11.

14. Carnes was the primary decision maker at Integrity Advance. Tr. I 51:4-7; Tr. I 82:2-4.

15. Carnes directly or indirectly supervised all Integrity Advance employees. EC-EX-065; EC-EX-068 at 32:4-9; EC-EX-069 at 21:23-22:1-5.

16. Carnes made the final decision to hire all Integrity Advance employees. EC-EX-068 at 40:24-25; EC-EX-069 at 22:17-18.

17. Carnes worked in the office with other Integrity Advance executives on a daily basis. EC-EX-068 at 32:2-3.

18. Carnes had an open-door policy and was accessible to any Integrity Advance employee who wanted to talk. EC-EX-068 at 37:11-13.

19. Edward Foster (“Foster”) worked for Integrity Advance as its executive vice president, general counsel, secretary, and assistant treasurer. Tr. II 8:10-12.

20. Carnes directly hired Foster. Tr. I 96:15-16.

21. Carnes set Foster’s salary. Tr. II 9:17-18.

22. Foster reported to Carnes. Tr. II 9:19-22.

23. Carnes spoke daily with Foster. EC-EX-069 at 22:19-24; EC-EX-068 at 35:15-17.

24. Carnes met with Foster “a few times a week” about Integrity Advance business. EC-EX-068 at 35:18-21.

25. Foster spoke to Carnes if there “was a significant problem” with Integrity Advance. Tr. I 215:5-18.

26. Timothy Madsen (“Madsen”), the Vice President of Marketing for Integrity Advance, worked at Integrity Advance from August 2008 until some of Integrity Advance’s assets were purchased by EZ Corp. Tr. I 28:4-6; Tr. I 29:6-12.

27. Carnes and Foster together hired Madsen. Tr. I 98:4-6.

28. After he was originally hired, Madsen reported directly to Carnes. Tr. I 39:3-7.

29. Carnes spoke with Madsen on a daily basis. Tr. I 35:8-10.

30. Carnes spoke to Madsen about “the behavior of the lead purchase systems that we had in place, how well they were performing, our different partners, and any adjustments that we need to make sure that it backed out for us what it needed to from a business perspective.” Tr. I 31:11-16.

31. The adjustments that Carnes spoke to Madsen about included how much Integrity Advance would pay for a lead and whether the company needed to change its underwriting model in order to purchase more leads. Tr. I 31:19-23.

32. Madsen and Carnes discussed “[l]ead volume conversion rates, long-term performance of any particular sources that we had[,]” as well as default rates. Tr. I 47:13-21.

33. Integrity Advance had a system, called the dashboard, that it used to monitor the performance of leads. Both Carnes and Madsen monitored and reported results from the dashboard. Tr. I 45:13-19; Tr. I 48:16-49:1; Tr. I 68:20-22.

34. Madsen had to consult with Carnes about changes in the credit scores Integrity Advance would accept from its customers if they departed by more than a couple of points from set parameters. Tr. I 33:15-21.

35. Carnes and Foster together hired Stephanie Schaller, Integrity Advance’s Vice President of Decision Science. Tr. I 98:17-20.

36. Carnes directly hired George Davis, the Delaware Office Manager. Tr. I 98:24-99:1.

37. Carnes directly hired Hassan Shahin, Integrity Advance’s Vice President of Technology. Tr. I 99:6-7.

38. Carnes and Foster together hired Mark Rondeau, Integrity Advance’s Director of IT Operations. Tr. I 99:15-18.

39. As chief executive, Carnes had the authority to make all decisions governing Integrity Advance's policies and procedures. EC-EX-068 at 32:15-17.

40. Carnes "had ultimate authority over [Integrity Advance] and making sure that it complied with the Delaware law." Tr. I 221:24-222:1.

41. "Most of the time" Carnes set the priorities for the tasks that were addressed at weekly IT meetings with Foster and Integrity Advance's Director of Software Development, Bruce Andonian ("Andonian"). Tr. I 70:10-13; Tr. I 75:16-76:13.

42. Carnes had final say over what appeared on the company's website. EC-EX-068 at 41:1-6; Tr. I 217:1-8.

43. Carnes directed Andonian to make changes in Integrity Advance's website to reflect adjustments in the credit score that the company would accept from its potential customers. Tr. I 77:19-78:5.

44. Carnes directed Andonian to remove states from Integrity Advance's website. Tr. I 77:1-3.

45. Carnes ultimately made the call on what Integrity Advance would pay for a lead. Tr. I 35:1-6; Tr. I 32:10-16.

46. Carnes was the main decision-maker regarding Integrity Advance's underwriting policies. EC-EX-069 at 22:17-18; Tr. I 59:18-25.

47. Carnes was the signatory on the contract with the vendor that provided debt collection services to Integrity Advance. EC-EX-085 at 5.

48. Carnes was the signatory on the lead purchase agreement between Integrity Advance and T3 Leads. EC-EX-053; Tr. I 122:22-123:14.

49. Carnes was the signatory on the lead purchase agreement between Integrity Advance and Partner Weekly. EC-EX-054; Tr. I 126:17-127:13.

50. Carnes was the signatory on the ACH origination agreement between MoneyGram and Integrity Advance. EC-EX-056.

51. Carnes was an authorized signatory for the bank account used by Integrity Advance. EC-EX-055; Tr. I 141:16-20.

52. Carnes had communications with the call centers used by Integrity Advance. Tr. I 64:3-6.

53. Carnes analyzed call logs from the call centers used by Integrity Advance. EC-EX-088; Tr. I 179:18-180:1.

54. Carnes was involved in the decision to move Integrity Advance's business from one call center to another. Tr. I 64:13-19.

55. Invoices from ClearVox, LLC, a call center used by Integrity Advance, were directed to Carnes's attention. EC-EX-057; EC-EX-058.

56. When a call center used by Integrity Advance had an employee who was allegedly committing fraud, Carnes directed the resolution of the problem. EC-EX-087; Tr. I 177:3-178:3.

57. As the chief executive, Carnes was ultimately responsible for approving everything related to Integrity Advance's business when Integrity Advance's loan agreement was created and first used in 2008. Tr. I 228:8-11.

Integrity Advance's Loan Agreement's Cost and Fee Disclosures

58. Integrity Advance generated all of its loan contracts with consumers using one of two loan agreement templates. *See* Exh. 1 (first loan agreement template); EC-EX-063 (second loan agreement template); EC-EX-070 at 5-6 (November 25, 2013 Integrity Advance response to request to produce “each version of all” disclosures and contract).

59. Integrity Advance's loan agreement did not change significantly between 2008 and 2013. Tr. II 38:20-39:1; EC-EX-061; EC-EX-063 at 2-8.

60. The fees that Integrity Advance charged its customers did not change over time. Tr. II 15:24-25; Tr. II 48:14-22.

61. During the time that Integrity Advance offered loans “the product never changed.” EC-EX-068 at 22:13.

62. Integrity Advance, either directly or through a third-party vendor, serviced the loans that it originated. EC-EX-068 at 15:1-8, 193:2-19, 197:2-198:21; EC-EX-069 at 151:17-22, 172:13-22, 175:5-13. *See also* EC-EX-057 (invoice from Clearvox to Integrity Advance).

63. Integrity Advance instructed its call center representatives not to disclose loan costs until after a consumer had applied for a loan. EC-EX-078 at 13 (procedures manual).

64. Each completed Integrity Advance loan agreement sent to consumers included a Truth in Lending disclosure in a box (the “TILA box”). Answer ¶ 25.

65. The TILA box stated the loan APR, finance charge, amount financed, and total of payments. Answer ¶ 25.

66. For each loan originated by Integrity Advance, the company calculated each part of the TILA box by assuming that the loan would be repaid in a single payment. Answer ¶ 26.

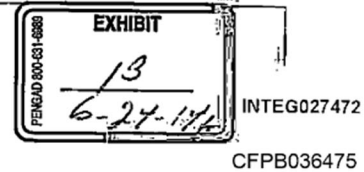
67. Some Integrity Advance loan contracts included a statement immediately below the TILA boxes stating that the payment schedule was “[o]ne (1) payment” of a sum equal to the loan amount plus a single finance charge. Exh. 1 at 3 (first loan agreement template). *See, e.g.*, EC-EX-005 at 3 (sample executed loan).

68. Some Integrity Advance loan contracts contained a statement below the TILA box that read “Itemization of Amount Financed.” EC-EX-063 at 2 (second loan agreement template). *See, e.g.*, EC-EX-014 at 2 (sample executed loan).

69. For a \$300 loan to a new consumer, the itemization of amount financed would include the following language: "Amount given to you directly: \$300. Amount paid on Loan# [xx] with us: \$390." See, e.g., EC-EX-014 at 1-2 (sample executed loan).

FEDERAL TRUTH IN LENDING DISCLOSURES

CONFIDENTIAL



SUBJECT TO PROTECTIVE ORDER IN 2015-CFPB-0029

EC-EX-014_001

CFPB036475

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments
The cost of your credit as a yearly rate. 1368.75%	The dollar amount the credit will cost you. \$90.00	The amount of credit provided to you or on your behalf. \$300.00	The amount you will have paid after you have made all payments as scheduled. \$390.00

Security: You are giving a security interest in the ACH Authorization.

Prepayment: If you pay off early, you will be entitled to a refund of the unearned portion of the finance charge.

See the terms of the Loan Agreement below for any additional information about nonpayment, default, and prepayment refunds.

Itemization of Amount Financed: Amount given to you directly: \$300.00. Amount paid on Loan#: \$4148642 with us: \$390.00.

PAYMENT OPTIONS: You must select your payment option at least three (3) business days prior to your Payment Due Date by contacting us at (800) 505-6073. At that time, you may choose:

(a) **Payment in full:** You may pay the Total of Payments shown above, plus any accrued fees, to satisfy your loan in full. When you contact us and choose this option, we will debit Your Bank Account (defined below in the ACH Authorization) for the Total of Payments plus any accrued fees, in accordance with the ACH Authorization below; OR

(b) **Renewal:** You may renew your loan (that is, extend the Payment Due Date of your loan until your next Pay Date*) by authorizing us to debit Your Bank Account for the amount of the Finance Charge, plus any accrued fees. If you choose this option, your new Payment Due Date will be your next Pay Date, and the rest of the terms of the Loan Agreement will continue to apply.

* The term "Pay Date," as used in this Loan Agreement, refers to the next time following the Payment Due Date, that you receive regular wages or salary from your employer. Because Renewals are for at least fourteen (14) days, if you are paid weekly, your loan will not be Renewed until the next Pay Date that is at least fourteen days after the prior Payment Due Date.

AUTO-RENEWAL: If you fail to contact us to confirm your Payment Option at least three (3) business days prior to any Payment Due Date, or otherwise fail to pay the loan in full on any Pay Date, Lender may automatically renew your loan as described under (b) above, and debit Your Bank Account on the Payment Due Date or thereafter for the Finance Charge and any accrued fees. Your new Payment Due Date will be your next Pay Date, and the rest of the terms of the Loan Agreement will continue to apply. You must contact us at least three (3) business days prior to your new Payment Due Date to confirm your payment option for the Renewal. If you fail to contact us, or otherwise fail to pay the loan in full on your new Payment Due Date, we may automatically renew the loan until your next Pay Date. After your initial loan payment, you may obtain up to four (4) Renewals. All terms of the Loan Agreement continue to apply to Renewals. All Renewals are subject to Lender's approval. Under Delaware law, if you qualify, we may allow you to enter into up to four (4) Renewals, also known as a "refinancing" or a "rollover". The full outstanding balance shall be due upon completion of the term of all Renewals, unless you qualify for Auto-Workout, as described below.

AUTO-WORKOUT: Unless you contact us to confirm your option for Payment in Full prior to your Fourth Renewal Payment Due Date, your loan will automatically be placed into an Auto-Workout payment plan. Under the Auto-Workout payment plan, Your Bank Account will automatically be debited on your Pay Date for accrued finance charges plus a principal payment of \$50.00, until all amounts owed hereunder are paid in full. This does not limit any of Lender's other rights under the terms of the Loan Agreement. All Auto-Workout payment plans are subject to Lender's approval.

70. Unless a consumer contacted Integrity Advance to change the terms of her loan, Integrity Advance auto-renewed the consumer's loan. Answer ¶ 29; Exh. 1 at 4 (first loan agreement template); EC-EX-063 at 3 (second loan agreement template); Exh. 16 (consumer complaint); Exh. 17 (consumer complaint); Exh. 18 (consumer complaint); Exh. 20 (consumer complaint); Exh. 21 (consumer complaint); Exh. 22 (consumer complaint).

71. In order to prevent Integrity Advance from auto-renewing the loan, a consumer had to contact Integrity Advance three business days before the payment was due and change the payment option. EC-EX-070 at 9 (November 25, 2013 Interrogatory Response); Exh. 1 at 4 (first loan agreement template); EC-EX-063 at 3 (second loan agreement template); Exh. 16 (consumer complaint); Exh. 17 (consumer complaint); Exh. 18 (consumer complaint); Exh. 20 (consumer complaint); Exh. 21 (consumer complaint); Exh. 22 (consumer complaint).

72. If a consumer did not contact Integrity Advance three business days prior to a payment due date to change the payment option, Integrity Advance automatically renewed the loan four times. Answer ¶¶ 29-30.

73. The default payment option in all Integrity Advance loan contracts was the auto-renewal option. EC-EX-070 at 9 (November 25, 2013 Interrogatory Response); *see also* Exh. 1 at 4 (first loan agreement template); EC-EX-063 at 3 (second loan agreement template).

74. After four auto-renewals, the default payment option for all Integrity Advance loan contracts was the auto-workout option. EC-EX-070 at 9 (November 25, 2013 Interrogatory Response); *see also* Exh. 1 at 4 (first loan agreement template); EC-EX-063 at 3 (second loan agreement template).

75. In order to change the default terms of the contract to the pay-in-full payment option, a consumer had to contact Integrity Advance three business days prior to the payment due date and change the payment option. EC-EX-070 at 9 (November 25, 2013 Interrogatory Response).

76. All auto-renewal and auto-workout payments made on Integrity Advance loans were pulled from consumers' accounts; they were not affirmatively directed by consumers. Exh. 1 at 4 (first loan agreement template); EC-EX-063 at 3 (second loan agreement template); Exh. 16 (consumer complaint); Exh. 17 (consumer complaint); Exh. 18 (consumer complaint); Exh. 21 (consumer complaint); Exh. 22 (consumer complaint).

77. When Integrity Advance auto-renewed a loan it would debit an amount equal to the first finance charge from the consumer's account. EC-EX-070 at 9 (November 25, 2013 Interrogatory Response); *see, e.g.*, Exh. 9 (consumer payment history); Exh. 10 (consumer payment history); Exh. 11 (consumer payment history); Exh. 12 (consumer payment history); Exh. 13 (consumer payment history); Exh. 14 (consumer payment history).

78. The payment of the finance charge by an auto-renewed consumer would not reduce the principal amount owed by the consumer. EC-EX-070 at 9 (November 25, 2013 Interrogatory Response); Exh. 1 at 4 (first loan agreement template); EC-EX-063 at 3 (second loan agreement template), *see, e.g.*, Exh. 9 (consumer payment history); Exh. 10 (consumer payment history); Exh. 11 (consumer payment history); Exh. 12 (consumer payment history); Exh. 13 (consumer payment history); Exh. 14 (consumer payment history).

79. After Integrity Advance auto-renewed a loan four times, if the consumer did not contact Integrity Advance three business days prior to the next payment date to change the payment option, the company would put the consumer into auto-workout status. EC-EX-070 at 9 (November 25, 2013 Interrogatory Response).

80. During auto-workout, Integrity Advance would debit the consumer an amount equal to a finance charge plus \$50 which would be applied to loan principal. EC-EX-070 at 9 (November 25, 2013 Interrogatory Response).

81. Unless a consumer changed the payment option, when a loan was in auto-workout, on each payment date Integrity Advance would debit the finance charge plus \$50, and apply the \$50 to the loan principal. EC-EX-070 at 9 (November 25, 2013 Interrogatory Response); Exh. 1 at 4 (first loan agreement template); EC-EX-063 at 3 (second loan agreement template), Exh. 9 (consumer payment history); Exh. 10 (consumer payment history); Exh. 11 (consumer payment history); Exh. 12 (consumer payment history); Exh. 13 (consumer payment history); Exh. 14 (consumer payment history).

82. During auto-workout, unless a consumer changed the payment option, Integrity Advance would continue to debit \$50 along with the new finance charge on each payment date until the loan principal was zero. EC-EX-070 at 9 (November 25, 2013 Interrogatory Response); Exh. 1 at 4 (first loan agreement template); EC-EX-063 at 3 (second loan agreement template), Exh. 11 (consumer payment history).

83. For a new Integrity Advance consumer taking a \$300 loan, Integrity Advance stated in the TILA box that the finance charge would be \$90. Answer ¶ 31; EC-EX-005 at 3 (sample executed loan); EC-EX-014 at 2 (sample executed loan).

84. For a new Integrity Advance consumer taking a \$300 loan, Integrity Advance stated in the TILA box that the Total of Payments would be \$390. Answer ¶ 31; EC-EX-005 at 3 (sample executed loan); EC-EX-014 at 2 (sample executed loan).

85. In order to pay only \$390, a new Integrity Advance consumer who took a \$300 loan would have to contact Integrity Advance three business days before the payment date to change the default payment option to the pay-in-full option. Answer ¶ 29; EC-EX 070 at 9 (November 25, 2013 Interrogatory Response).

86. If a new Integrity Advance consumer who took a \$300 loan did not affirmatively contact Integrity Advance and allowed the default repayment schedule to occur, she would make eleven payments totaling \$1065. Answer ¶ 31.

87. Integrity Advance consumers who had their loans renewed paid more in finance charges than the amount disclosed in the TILA box. Answer ¶¶ 26, 31.

88. Integrity Advance consumers who had their loans renewed paid more than what was disclosed in the “Total of Payments” in the TILA box. Answer ¶¶ 26, 31.

89. Integrity Advance’s loan contracts did not disclose to consumers their exact payment amounts under the auto-renewal and auto-workout process. Exh. 1 (first loan agreement template); EC-EX-063 (second loan agreement template).

90. Integrity Advance’s loan contracts did not state the total amount a consumer had to pay to satisfy the loan if the consumer did not contact Integrity Advance to change the default payment option in the contract. Exh. 1 (first loan agreement template); EC-EX-063 (second loan agreement template).

91. Integrity Advance’s loan contracts did not state the total amount in finance charges a consumer would be charged if the consumer did not contact Integrity Advance to change the default payment option in the contract. Exh. 1 (first loan agreement template); EC-EX-063 (second loan agreement template).

92. Integrity Advance's loan contracts did not state the total APR that applied to a loan if the consumer did not contact Integrity Advance to change the default payment option in the contract. Exh. 1 (first loan agreement template); EC-EX-063 (second loan agreement template).

93. Some consumers did not understand how the default payment option of Integrity Advance's contract worked. *See, e.g.*, Exh. 15 (consumer complaint); Exh. 16 (consumer complaint); Exh. 17 (consumer complaint); Exh. 19 (consumer complaint).

94. Some consumers complained once Integrity Advance had debited their account for more than the total of payments reflected in the TILA disclosure. Exh. 16 (consumer complaint); Exh. 17 (consumer complaint); Exh. 18 (consumer complaint); Exh. 20 (consumer complaint).

Carnes's Knowledge of Integrity Advance's Loan Agreement's Cost and Fee Disclosures

95. Carnes understood how Integrity Advance's loans worked when he was CEO of Integrity Advance, testifying, "Sure it was our product." Tr. I 220:12.

96. Carnes knew that for a "fictional consumer . . . who had \$100 loan . . . their TILA disclosure would say \$130." Tr. II 50:21-51:3.

97. Carnes knew that if a consumer "didn't call or email, and it was their first payment . . . they would be renewed." Tr. I 219:13-20; EC-EX-068 at 227.

98. Carnes knew that if the consumer did nothing on the next payday, the loan would be renewed again. Tr. I 219:21-23.

99. Carnes knew that an Integrity Advance loan would rollover four times before it went to workout. Tr. I 219:24-220:3.

100. Carnes understood that about ninety percent of Integrity Advance's loans, the overwhelming majority of the such loan, experienced at least one rollover. Tr. I 222:17-20.

101. Carnes understood that most Integrity Advance consumers would experience at least one rollover. Tr. I 220:5-20; Tr. I 225:6-10.

102. Carnes understood that consumers who had the loans rolled over would pay more than what had been disclosed in their TILA disclosures. EC-EX-068 at 245:10-25.

103. Carnes understood that most Integrity Advance consumers would make higher repayments than what the company disclosed. EC-EX-068 at 245:4-25.

104. Carnes understood that consumers who did not contact the company would have their loans renewed repeatedly, which would result in much higher costs than what had been disclosed. Tr. I 219:13-220:3.

105. Carnes knew that some consumers had not understood that their first four auto-renewal payments would not reduce loan principal. EC-EX-068 at 243:1-12.

106. Carnes had the authority to change Integrity Advance's fee structure. Tr. II 49:15-18.

107. Carnes's attorneys had his approval to use the loan agreement. Tr. I 232:7-12.

Consumer Harm Relating to Integrity Advance's Cost and Fee Disclosures

108. From May 2008 through July 2013, on 207,426 loans, Integrity Advance obtained \$132,580,041.06 more from its customers than the amount disclosed in the "Total of Payments" boxes in their TILA disclosures, excluding all payments denoted as refunds or rebates. Decl. of Robert J. Hughes in Supp. of EC's Aug. 2016 Post-Hearing Br. ("Hughes PH Decl.") [Dkt. 163B] ¶ 8; *see also* EC-EX-101.

109. Loans where the first transaction occurred on or after August 13, 2011, originated on or after July 21, 2011. Tr. III 36:4-37:25; Tr. II 128:13-129:4.

110. On 55,661 loans originated on or after July 21, 2011, Integrity Advance obtained \$38,453,341.62 more from its consumers than the amount disclosed in the “Total of Payments” box in their TILA disclosures, excluding all payments denoted as refunds or rebates. Hughes PH Decl. ¶ 8a; *see also* EC-EX-101.

Integrity Advance’s ACH Agreement

111. Integrity Advance did not provide consumers with full unified versions of their loan agreement until after they had agreed to the loan. EC-EX-068 at 213:11-13.

112. As a part of the online application and approval process, Integrity Advance consumers were presented with an ACH agreement that authorized electronic ACH debits. Answer ¶ 39; Exh. 1 (first loan agreement template); EC-EX-063 (second loan agreement template); EC-EX-005 (sample executed loan); EC-EX-014 (sample executed loan).

113. Consumers could not receive initial approval of an online application without signing the ACH agreement. EC-EX-069 at 84:1-7.

114. Integrity Advance consumers could only receive loan proceeds by way of an electronic deposit that was authorized by the ACH authorization. Answer ¶ 40.

115. The ACH authorization form authorized Integrity Advance to withdraw auto-renewal and auto-workout payments. Exh. 1 (first loan agreement template); EC-EX-063 (second loan agreement template); EC-EX-005 (sample executed loan); EC-EX-014 (sample executed loan).

116. The ACH authorization form gave Integrity Advance the ability to execute repeated electronic withdrawals from a consumer's bank account pursuant to the default repayment plan that anticipated multiple rollovers: "You also authorize us to initiate an ACH debit entry to Your Bank Account: . . . (b) for the Finance Charge plus any accrued fees on the Payment Due Date, or on any subsequent Renewal Payment Due Date, if you contact us at least three (3) business days prior to such date and select Payment Option (b) in the Loan Agreement (RENEWAL), or if you fail to contact us to confirm your payment option; (c) for the accrued finance charges and fees, plus \$50.00 on each Pay Date after the fourth (4th) Renewal Payment Due Date, until all amounts owed under the Loan Agreement are paid in full." Exh. 1 (first loan agreement template); EC-EX-063 (second loan agreement template); EC-EX-005 (sample executed loan); EC-EX-014 (sample executed loan).

117. The electronic ACH withdrawals initiated by Integrity Advance during auto-renewal and auto-workout occurred at regular intervals tied to a consumer's paydays. *See* EC-EX-068 at 160:2-4, 160:23-24, 225:1-3, 228:15-17; Exh. 1 (first loan agreement template); EC-EX-063 (second loan agreement template); EC-EX-005 (sample executed loan); EC-EX-014 (sample executed loan).

118. To repay in a manner other than ACH transfer, a consumer had to prove to Integrity Advance that he or she could pay by another means. EC-EX-068 at 217:13-17; EC-EX-069 at 85:4-13.

119. Integrity Advance's loan documents did not contain any indication that consumers could receive a loan from the company without signing the ACH authorization form. Exh. 1 (first loan agreement template); EC-EX-063 (second loan agreement template); EC-EX-005 (sample executed loan); EC-EX-014 (sample executed loan).

120. The ACH authorization contains the language stating that it “remain[s] in full force and effect” until a consumer’s indebtedness to Integrity Advance is repaid. Answer ¶ 45.

121. When consumers signed the ACH authorization, they authorized Integrity Advance to debit any payments pursuant to the auto-renewal provisions in the loan contracts. Exh. 1 at 4 (first loan agreement template); EC-EX-063 at 3 (second loan agreement template); EC-EX-005 at 4 (sample executed loan); EC-EX-014 at 2 (sample executed loan).

122. When consumers signed the ACH authorization, they authorized Integrity Advance to debit any payments pursuant to the auto-workout provisions in the loan contracts. Exh. 1 at 4 (first loan agreement template); EC-EX-063 at 3 (second loan agreement template); EC-EX-005 at 4 (sample executed loan); EC-EX-014 at 2 (sample executed loan).

Integrity Advance’s Use of Remotely Created Checks

123. Integrity Advance’s ACH agreement contained a provision that allowed the company to execute remotely created checks (“RCCs”), also known as demand drafts or check drafts, on consumers’ accounts. Exh. 1 at 10 (first loan agreement template); EC-EX-063 at 9 (second loan agreement template); EC-EX-005 at 10-11 (sample executed loan); EC-EX-014 at 5 (sample executed loan).

124. The ACH agreement stated, “[i]f you revoke your authorization, you agree to provide us with another form of payment acceptable to us and you authorize us to prepare and submit one or more checks drawn on Your Bank Account so long as amounts are owed to us under the Loan Agreement.” EC-EX-001 through -014; EC-EX-063.

125. Integrity Advance’s Loan Management System Operations Manual states that scheduling an RCC is “valuable when a customer revokes ACH authorization.” EC-EX-079 (Loan Management System Operations Manual).

126. The remotely created check provision appeared only once in the loan agreement on approximately page 9, at the end of a paragraph, in the middle of the ACH authorization section. EC-EX-001 through -014; EC-EX-063.

127. The remotely created check provision was not emphasized by any bolded, underlined, capitalized, or enlarged font. EC-EX-001 through -014; EC-EX-063.

128. Integrity Advance did not require consumers to sign or initial the remotely created check provision separately. EC-EX-001 through -014; EC-EX-063.

129. The remotely created check provision made no explicit mention of remotely created checks and did not state that the checks to be drawn on a consumer's bank account did not have to be signed by the consumer. EC-EX-001 through -014; EC-EX-063.

130. The remotely created check provision did not state that the checks to be drawn on a consumer's bank account could be submitted without prior warning to the consumer. EC-EX-001 through -014; EC-EX-063.

131. Some Integrity Advance consumers attempted to withdraw the company's authorization to initiate ACH debits or otherwise stop Integrity Advance from using ACH to electronically debit funds from their bank accounts because the company had withdrawn more than consumers believed they owed. Exh. 23 (consumer complaint); Exh. 24 (consumer complaint); Exh. 25 (consumer complaint); Exh. 27 (consumer complaint); Exh. 29 (consumer complaint); Exh. 30 (consumer complaint).

132. Integrity Advance used remotely created checks to withdraw funds from consumers' bank accounts after consumers had revoked the company's authorization to electronically debit their accounts using the ACH network or stopped ACH withdrawals made by the company, and after those consumers had already paid more than the disclosed "Total of Payments." Tr. II 84:6-11; Tr. II 84:25-85:2; Tr. II 142:15-148:4; Tr. II 152:15-153:11; Tr. I 235:19-236:3; Hughes PH Decl. ¶¶ 9-11; EC-EX-097; *see also* EC-EX-095; EC-EX-101

133. Even if the consumer's bank account had insufficient funds, Integrity Advance continued to attempt to use remotely created checks on consumers who had revoked the company's ACH authorization or stopped ACH debits by Integrity Advance. Tr. II 142:15-148:4; EC-EX-097; EC-EX-100; *see also* EC-EX-095; EC-EX-101.

134. Integrity Advance used remotely created checks 602 times on or after July 21, 2011, on consumers who had revoked or stopped their authorization for Integrity Advance to withdraw funds from their accounts and who had already paid an amount equal to the "Total of Payments" in the TILA box in the consumers' loan agreements. Tr. II 151:6-11; EC-EX-097; *see also* EC-EX-095; EC-EX-101.

Carnes's Knowledge of Integrity Advance's Use of Remotely Created Checks

135. Carnes knew that Integrity Advance used remotely created checks to withdraw money from the accounts of some of the consumers who had withdrawn ACH authorization. EC-EX-068 at 219:7-18; Tr. II 84:6-85:11.

136. Carnes saw remotely created checks being printed using a printer in Integrity Advance's Kansas City office. Tr. I 236:10-11; Tr. I 236:20-22.

137. Carnes knew that Integrity Advance printed remotely created checks on a weekly basis and regularly used remotely created checks to collect consumer debt. Tr. I 235:24-236:15.

Consumer Harm Relating to Integrity Advance's Use of Remotely Created Checks

138. On or after July 21, 2011, Integrity Advance used remotely created checks to obtain \$115,024.50, excluding all payments denoted as refunds or rebates, from consumers who had revoked or stopped their authorization for Integrity Advance to withdraw funds from their accounts after having paid an amount equal to the "Total of Payments" in the TILA box in the consumers' loan agreements. Hughes PH Decl. ¶¶ 9, 9a; EC-EX-097; Tr. II 152:15-153:1; *see also* EC-EX-095; EC-EX-101.

Respondents' Financial Resources

139. Carnes received an annual salary of \$250,000 when he was the chief executive of Integrity Advance. Tr. I 167:11-17.

140. Integrity Advance was the most profitable company of all of the Hayfield subsidiaries. EC-EX-068 at 88:24-89:6.

141. Integrity Advance contributed more than 75% of Hayfield's profits in 2010. EC-EX-068 at 92:19-93:9; Tr. I 114:11-25.

142. Integrity Advance contributed more than 75% of Hayfield's profits in 2011. EC-EX-068 at 93:10-14; Tr. I 115:8-21.

143. Integrity Advance contributed more than 75% of Hayfield's profits in 2012. EC-EX-068 at 93:15-16; Tr. I 115:22-116:2.

144. Carnes received approximately twenty-five million dollars from the sale of Integrity Advance and other Hayfield entities to EZ Corp. Tr. I 239:4-8.

145. Hayfield paid over [REDACTED].
Tr. I 158:24-159:4.

146. Hayfield paid over [REDACTED].

Tr. I 174:16-175:6.

Enforcement Counsel's Exhibit from its Statement of Material Facts in Support of its Motion for Summary Disposition as to Liability (May 10, 2016) [Dkt. 88]	Enforcement Counsel's Exhibit from the July 2016 Hearing
Exh. 2	EC-EX-063
Exh. 3	EC-EX-068
Exh. 4	EC-EX-005
Exh. 5	EC-EX-014
Exh. 6	EC-EX-069
Exh. 7	EC-EX-070
Exh. 8	EC-EX-057
Exh. 31	EC-EX-078
Exh. 32	EC-EX-065
Exh. 33	EC-EX-085
Exh. 34	EC-EX-079