

and bringing enforcement actions when appropriate.” <https://www.consumerfinance.gov/about-us/the-bureau/bureau-structure/supervision-enforcement-fair-lending/>.

Given the Legal Division’s role as advisor to the CFPB, allowing an attorney from that Division to participate in oral argument in an administrative proceeding before the CFPB Director would raise conflict of interest concerns due to its impact on the actual or perceived fairness of the proceedings. As the D.C. Circuit has recognized, “regulatory agencies have an obligation to keep [investigative and adjudicative] roles separate insofar as is possible, in order to insure the judicial fairness of adjudicative proceedings and also the unrestricted vigor of investigative proceedings.” *F.T.C. v. Atl. Richfield Co.*, 567 F.2d 96, 102 (D.C. Cir. 1977). Indeed, “such confidence as the public and the courts have in the integrity of the FTC and other agencies’ adjudicative processes may be said to rest in great part on their effort and success in keeping separate these two diverse functions.” *Id.* Allowing an attorney from the Legal Division to participate in oral argument would impermissibly blur the lines between those “diverse functions,” *id.*, regardless of whether that attorney “has been and will continue to be walled-off from providing any advice or counsel to the Director concerning this matter.” EC Mot. at 2 n.1.

For these reasons, Enforcement Counsel’s Motion to allow a Legal Division attorney to be the second attorney arguing in this matter should be denied.

Dated: November 18, 2020

Respectfully submitted,

/s/ Richard J. Zack
Richard J. Zack, Esq.
richard.zack@troutman.com
215.981.4726

Michael A. Schwartz, Esq.
michael.schwartz@troutman.com
215.981.4494

Christen M. Tuttle, Esq.
christen.tuttle@troutman.com
215.981.4285

Saverio S. Romeo, Esq.
saverio.romeo@troutman.com
215.981.4440

TROUTMAN PEPPER HAMILTON
SANDERS LLP
3000 Two Logan Square
Eighteenth & Arch Streets
Philadelphia, PA 19103-2799

*Counsel for Respondents Integrity Advance LLC
and James R. Carnes*

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of November 2020, I caused a copy of the foregoing Respondents' Opposition to Enforcement Counsel's Motion to Allow Two Attorneys to Argue 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

Benjamin Clark, Esq.
Benjamin.Clark@cfpb.gov

Alusheyi Wheeler, Esq.
Alusheyi.Wheeler@cfpb.gov

Deborah Morris, Esq.
Deborah.Morris@cfpb.gov

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