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**PETITION TO SET ASIDE CIVIL INVESTIGATIVE DEMAND DATED
NOVEMBER 14, 2019 OR IN THE ALTERNATIVE TO MODIFY SAME**

BY PETITIONER

LAW OFFICES OF CRYSTAL MORONEY, P.C.

December 5, 2019

Filed This Date Via E-mail

ExecSec@cfpb.gov
Enforcement@cfpb.gov

Attn: Executive Secretary
Consumer Financial Protection Bureau
1700 G. Street NW
Washington, DC 20552

PROCEDURAL INTRODUCTION

This petition is made pursuant to Section 1052(f) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”) and 12 C.F.R. 1080.6(e) within 20 days following service of the Civil Investigative Demand dated November 14, 2019 (received on November 18, 2019) hereinafter referred to as the “Second CID.”

Certification of Good Faith Pursuant to 12 C.F.R. §1080.6(e)(1).

The Petitioner respectfully challenges the enforceability of 12 C.F.R. §1080.6 for the reasons described below. Notwithstanding, and without waiving its challenge, the undersigned counsel certifies that he has made a good faith effort to resolve the issues identified herein with the CFPB’s enforcement attorney handling this CID, Vanessa Assae-Bille. No agreement was reached and the undersigned was specifically advised that the enforcement attorney did not have authority to set aside the CID notwithstanding any



Executive Secretary
Page 2 of 23

agreement. No matters contained in this petition were resolved by agreement. This petition is made in good faith based on case law which fairly bears upon the issues raised in this petition. The petition is not made for the purpose of delay or with contumacious intent.

Compliance Period Return Date Pursuant to 12 C.F.R. §1080.6(f).

Petitioner respectfully challenges the enforceability of 12 C.F.R. §1080.6 for the reasons described below. Notwithstanding, and without waiving its challenge, Petitioner expressly challenges the entirety of the CID. To the extent any portion of this petition is denied, Petitioner respectfully requests 21 days from the date of service of the order on Petitioner as the new return date for the CID.

Compliance with 12 C.F.R. §1080.6(c)(3).

Petitioner respectfully challenges the enforceability of 12 C.F.R. §1080.6 for the reasons described below. Notwithstanding, and without waiving its challenge, Petitioner addresses the requirement to have raised these issues at the meet and confer stage of the process.

12 C.F.R. §1080.6(c)(3) states:

(3) Petitions. The Bureau will not consider petitions to set aside or modify a civil investigative demand unless the recipient has meaningfully engaged in the meet and confer process described in this subsection and will consider only issues raised during the meet and confer process.

Petitioner meaningfully participated in the meet and confer process on December 2, 2019, via telephone and with the consent of the Enforcement Attorney. A representative of Petitioner, Crystal Moroney, participated in the call along with the undersigned and three representatives of the Bureau participated in the call which lasted approximately 71 minutes. During the call, Petitioner raised objections to numerous provisions of the CID and the parties thereafter engaged in meaningful and productive discussion of each. No agreement was reached on any subject, save and except the Bureau's commitment to review Petitioner's forthcoming request to modify the CID. Petitioner has complied with §1080.6(c)(3).



Executive Secretary
Page 3 of 23

FACTUAL INTRODUCTION

The Law Offices of Crystal Moroney, P.C. (“Petitioner” or “Law Firm”) is a law firm. Crystal Moroney, the firm’s majority shareholder, is an attorney licensed to practice law in New York and New Jersey. The law firm represents clients and provides legal advice on a myriad of topics, including compliance with consumer financial protection laws, evaluating legal claims against third parties (including consumers), bankruptcy process and procedure, and the collection of unpaid debt obligations.

This investigation began with the service of a Civil Investigative Demand on or about June 23, 2017 (the “First CID”). A copy of the First CID is attached hereto as Exhibit A. The parties conducted a meet and confer pursuant to 12 C.F.R. 1080.6(c) and reached agreement on certain objections to the First CID. Pursuant to that informal agreement, Petitioner formally requested modification of certain items in the First CID on July 14, 2017. On July 25, 2017, the Bureau responded to the modification request by extending certain deadlines, narrowing some CID requests, and rejecting certain other modification requests. Agreement was not reached on an important issue – the application of the New York and New Jersey Rules of Professional Conduct applicable to licensed attorneys, including Rule 1.6.

The Bureau extended certain deadlines to create a rolling production schedule over the following 10 weeks. By October 2, 2017, the Law Firm provided written responses, supplemental responses, and amended responses to the First CID and produced thousands of pages of documents and data. The Law Firm did not produce (and expressly withheld) documents and information protected by the attorney-client privilege, the attorney work-product privilege, and all documents and information protected by Rule 1.6 of the New York and New Jersey Rules of Professional Conduct applicable to attorneys. The Law Firm withheld complete responses to Interrogatory Number 12, Requests for Written Reports Nos. 1-5 and 7, Document Requests Nos. 2, 6, 12, and 14, and Requests for Tangible Things Nos. 1-4 contained in the First CID.

On January 9, 2018, the Bureau informed the Law Firm that “Enforcement staff has recommended enforcement of the CID.” The Bureau invited the Law Firm to reconsider its position on the application of privilege and Rule 1.6 else face legal action. Six days later, on January 15, 2018, the Law Firm advised the Bureau that its position on both issues had not changed and that, despite the Law Firm’s request, no client of the firm consented to releasing its protected information to the Bureau. As a result, the Law Firm reaffirmed its commitment



Executive Secretary
Page 4 of 23

to complying with the restraints surrounding disclosure of protected information and documents. Nothing happened in the following 13 month period.

On February 25, 2019, the Bureau filed a Petition to Enforce Civil Investigative Demand in the United States District Court for the Southern District of New York, Civil Action No.: 7:19-cv-01732-NSR (the “Petition”). The Bureau did not serve the Petition on the Law Firm. On September 10, 2019, the Honorable Nelson S. Román issued an Order To Show Cause setting a hearing on the Bureau’s petition for November 8, 2019 and ordering the Bureau to properly serve the Law Firm with the Petition. After 7 months of waiting, the Bureau served the Law Firm with the Petition 2 days later, on September 12, 2019.

On October 3, 2019, the Law Firm filed its brief in opposition to the Petition. The Law Firm’s primary challenge to the Petition asserted a constitutional defect in the Bureau’s structure, rendering the Bureau without legal authority. After granting the Bureau’s second request for an extension of time to respond to the Law Firm’s opposition, the Court ordered the Bureau to respond on or before November 4, 2019, just 4 days before oral argument on the Petition. On the evening of its deadline, November 4, 2019, and nearly 3 years after the commencement of the Bureau’s investigation, the Bureau unilaterally withdrew the First CID and filed a Suggest of Mootness asking the Court to dismiss its own Petition. Three days later, on November 7, 2019, the Court cancelled the oral argument hearing, denied the Petition as moot, and closed the case. The Bureau successfully avoided scrutiny of its behavior by the federal court.

Within hours of the Court’s order denying the Petition and closing the case, the Bureau announced its intention to serve another CID on the Law Firm. On November 14, 2019 the Bureau issued another CID (the “Second CID”) which was received by the Law Firm on November 18, 2019. The Second CID, attached hereto as Exhibit B, is virtually identical to the First CID. The requests contained in the Second CID mirror the requests in the First CID verbatim, save and except some non-substantive wording changes. This petition asks the Bureau to set aside the Second CID for the reasons that follow.



Executive Secretary
Page 5 of 23

ARGUMENT

I. THE BUREAU'S CONSTITUTIONAL DEFECT PROHIBITS ITS EXERCISE OF ENFORCEMENT AUTHORITY AND THE SECOND CID SHOULD BE SET ASIDE IN ITS ENTIRETY.

A. The CFPB's Structure Violates Article II Of The Constitution Which Vests Executive Power In The President Of The United States.

This matter concerns the extent and reach of the executive power under Article II of the Constitution. Under this primary law, all federal government power derives from the people. U.S. Const. pmbl. *See, McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 405, 4 L.Ed. 579 (1819). To prevent tyranny and protect individual liberty, the Framers of the Constitution separated the legislative, executive, and judicial powers of the new national government. The Framers insisted upon accountability for the exercise of executive power by conferring full responsibility for that power in a single person, the President of the United States, who is elected by and accountable to the people. The first 15 words of Article II speak with unmistakable clarity: "The executive Power shall be vested in a President of the United States of America." U.S. Const. art. II, § 1, cl. 1. Article II also assigns to the President the exclusive and plenary authority and responsibility to "take Care that the Laws be faithfully executed." *Id.* § 3.

The CFPB was created by Title X of Dodd-Frank as an "independent bureau" within the Federal Reserve System, 12 U.S.C. § 5491(a). Because the law establishing the CFPB insulates it from requisite checks and balances by the Executive and Legislative branches, the Bureau's structure cannot be reconciled with the Constitution's separation of powers principles. For this reason, and as explained in detail below, the Bureau should follow the ruling in *RD Legal* and grant this petition to set aside the Second CID. An unconstitutional federal agency, and the tainted rules and regulations it creates, cannot operate to exert executive power over the People, who did not confer such power on the legislature, but instead conferred it exclusively in the President.



Executive Secretary
Page 6 of 23

B. The Dodd-Frank Act Confers Overly Broad Executive Authority On The Director Of The Bureau.

1. The Dodd-Frank Act Impermissibly Shields The CFPB's Director From Presidential Oversight And Democratic Accountability.

The Framers “consciously decid[ed] to vest Executive authority in one person rather than several. They did so in order to focus, rather than spread, Executive responsibility thereby facilitating accountability.” *Clinton v. Jones*, 520 U.S. 681, 712 (1997) (Breyer, J., concurring). “[I]f any power whatsoever is in its nature Executive, it is the power of appointing, overseeing, and controlling those who execute the laws.” *Free Enter. Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 492 (2010), *quoting* 1 Annals of Cong. 463 (1789). “Since 1789, the Constitution has been understood to empower the President to keep these officers accountable – by removing them from office, if necessary.” *Id.* at 483.

Dodd-Frank violates these bedrock principles by vesting unfettered and wide ranging power in one person – the Director of the CFPB – whom the President may remove only “for inefficiency, neglect of duty, or malfeasance in office.” 12 U.S.C. § 5491(c)(3). Congress also erected impermissible structural features in Dodd-Frank to insulate the Director from the President's control, including: (1) limiting the President's ability to control the CFPB's legislative recommendations, testimony or comments on legislation submitted to Congress (12 U.S.C. § 5492(c)(4)); (2) precluding the President from overruling the Director's interpretation of a consumer protection statute where that law is administered by both the Bureau and another agency (12 U.S.C. § 5512(b)(4)); and (3) precluding the Executive branch from exercising any oversight with respect to the Bureau's financial operating plans and forecasts. 12 U.S.C. § 5497(a)(4)(E). Moreover, the Director exercises all this power over a five-year term, one year more than the term of an elected President, which term can be extended indefinitely if the Senate does not confirm a successor. 12 U.S.C. §§ 5491(c)(I) and (c)(2).

In *Free Enterprise Fund, supra.*, the Supreme Court reaffirmed the principle that Article II of the Constitution forbids Congress from limiting the President's discretionary authority to hold executive officers accountable through removal from office. There, the Supreme Court addressed the structure of the Public Company Accounting Oversight Board (“PCAOB”), a five- member board with “expansive powers to govern [the] entire” securities



Executive Secretary
Page 7 of 23

industry, whose members could be removed only by the Securities and Exchange Commission - not the President - and only for cause. *Free Enterprise Fund*, at 484-86. The Court observed that the PCAOB presented a “new situation,” *id.*, at 483, and that “[p]erhaps the most telling indication of the severe constitutional problem with the PCAOB is the lack of historical precedent for this entity.” *Id.* at 505 (internal quotation omitted). The Court held that this “novel” structure “subverts the President's ability to ensure that the laws are faithfully executed” and therefore is “incompatible with the Constitution’s separation of powers.” *Id.* at 496 and 498.

The CFPB presents an analogous “novel” structure that lacks historical precedent and that improperly limits the President’s discretionary authority to remove subordinate officers. Because the President cannot “take Care that” consumer protection laws “be faithfully executed if he cannot oversee the faithfulness of the officers who execute them,” *id.*, at 484 (internal quotation mark omitted), the CFPB’s structure is constitutionally flawed.

2. The CFPB Is Unlike Other Independent Agencies That Have Passed Constitutional Muster.

The Supreme Court has recognized only two limited exceptions to the general prohibition against restricting a President's removal power : (1) a multi-member “body of experts,” *Humphrey's Executor v. United States*, 295 U .S. 602, 624-26 (1935), and (2) certain inferior officers with “limited jurisdiction and tenure,” *Morrison v. Olson*, 487 U.S. 654, 691 (1988). Neither exception applies to the CFPB.

Exception One Does Not Apply. In *Humphrey's Executor, supra*, the Court addressed the “good cause” removal provision that applies to the members of the Federal Trade Commission, who hold seven-year terms and who cannot be removed by the President except for “inefficiency, neglect of duty, or malfeasance in office.” 295 U.S. at 620, *citing* 15 U .S.C. § 41. The Court upheld this removal provision on the grounds that the FTC is a “non[-]partisan,” multimember group acting in a “quasi[-]judicial and quasi[-]legislative” rather than “purely executive” capacity. *Id.* at 624, 627-29. The Court's conclusion rested not only on the FTC's functions, but also on its features as an “administrative body” comprised of multiple members “called upon to exercise the trained judgment of a bod y of experts.” *Id.* at 624 and 628.



Executive Secretary
Page 8 of 23

In contrast, the CFPB is headed not by a non-executive and non-partisan “body of experts” but by a single, autonomous, partisan Director empowered to enforce nineteen consumer protection laws. Unlike the FTC, the Director is not accountable to a multimember commission, which creates an institutional barrier to unilateral action. *See, Recent Legislation, Dodd-Frank Act Creates the Consumer Financial Protection Bureau*, 124 Harv. L. Rev. 2 123, 2 128 (20 11) (“presence of dissenters” in agency proceedings “provides new information and forces the proponent to articulate a coherent rationale, thus acting as a constraining force”). Little similarity exists between the structure of the CFPB and the structure of the FTC contemplated by the court in *Humphrey’s Executor*.

Structure protects Liberty. The cumulative *structural* protections built into the FTC comprising appropriations restrictions, a five member commission protected from partisan dominance, the collective expertise of commissioners (and dissenters), and protections against unilateral exercise of executive power gave the *Humphrey’s Executor* Court comfort that the legislature had not invaded the executive function and that the Liberty protected by the Constitution’s separation of powers remained preserved. These *structural* attributes serve as hallmarks for the protection of Liberty and distinguish the CFPB from the federal agency structure contemplated by *Humphrey’s Executor*. For these reasons, *Humphrey’s Executor* is distinguishable and does not provide a basis to uphold the provisions of the Dodd-Frank Act that created the Bureau.

Exception Two Does Not Apply. In *Morrison, supra*, the Court upheld a statute that permitted an independent counsel to be removed by the Attorney General only for “good cause” because the appointed counsel had “limited jurisdiction and tenure” and “lack[ed] policymaking or significant administrative authority.” 487 U.S. at 691. In contrast to this limited role, the Director wields wide-ranging and unchecked executive power to enforce nineteen consumer protection laws (12 U.S.C. § 5481(12)); serves a lengthy five-year term (12 U.S.C. § 5491(c)(1)); and, as this matter illustrates, has significant policymaking authority, including the decision to seek through subpoena power information subject to the “attorney-client privilege ...the oldest of the privileges for confidential communications known to the common law.” *Upjohn Co. v. US.*, 449 U.S. 383, 389 (1981).

The circumstances present in *Morrison* that justify limited restrictions on the President's removal power are not present here and this second exception does not save the structure of the CFPB from constitutional infirmity.



Executive Secretary
Page 9 of 23

C. The CFPB's Director Is Not Accountable To Congress Through Appropriations.

The CFPB exercises its regulatory and enforcement powers absent meaningful oversight or control from Congress. Dodd-Frank authorizes the Director to unilaterally requisition up to 12% of the Federal Reserve System's operating expenses - totaling almost half a billion dollars¹ – without congressional approval. 12 U.S.C. § 5497(a). Congress is also prohibited from reviewing the CFPB's use of these funds. 12 U.S.C. § 5497(a)(2)(C).

Dodd-Frank removed another critical democratic check on potential abuses of power by eliminating congressional appropriations oversight of the CFPB's financial resources. *See*, U.S. Const., art. I, § 9, cl. 7 (“No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.”). In the case of the CFPB, the “power of the purse” – Congress's “ultimate weapon of enforcement is unavailable.” *United States v. Richardson*, 418 U.S. 166, 178 n. 11 (1974). This power serves the “fundamental and comprehensive purpose” of assur[ing] that public funds will be spent according to the letter of the difficult judgments reached by Congress as to the common good and not according to the individual favor of Government agents.” *Office of Personnel Mgmt. v. Richmond*, 496 U.S. 414, 427-28 (1990).

Congress may not abdicate its most important constitutional check against executive power. *See*, *New York v. United States*, 505 U.S. 144, 182 (1992) (the separation of powers does not depend on “whether or not the encroached-upon branch approves the encroachment”). By insulating the CFPB from congressional appropriations oversight, Congress has impermissibly restrained its ability to hold the Executive branch accountable. This abdication provides an additional reason why the CFPB's structure violates the Constitution's separation of powers principle.

D. CFPB's Structure Is Unconstitutional, Rendering The Bureau Without Authority To Enforce The Second CID.

The constitutionality of the CFPB's structure must be examined as a whole, without viewing each particular feature in isolation. “[J]ust because two [or more] structural features

¹ The CFPB's funding was set at \$468.2 million for 2019. *See*, <https://www.consumerfinance.gov/about-us/budget-strategy/budget-and-performance/> (last accessed December 2, 2019).



Executive Secretary
Page 10 of 23

raise no constitutional concerns independently does not mean Congress may combine them in a single statute.” *Ass’n of Am. Railroads v. U.S. Dep’t of Transp.*, 721 F.3d 666, 673 (D.C. Cir. 2013), *vacated on other grounds by Dep’t of Transp. v. Ass’n of Am. R.R.*, __ US. __, 135 S. Ct. 1225 (2015). Although the Supreme Court has “previously upheld limited restrictions” on particular checks and balances, the combined elements of the CFPB’s “novel structure” – a single Director who may only be removed for cause, who serves a lengthy five-year term, and who establishes his or her own annual budget of almost half a billion dollars without congressional oversight – “does not merely add to the [CFPB’s] independence, but transforms it.” *Free Enterprise Fund*, 561 U.S. at 495-496.

The Director exercises “[a]ll consumer financial protection functions” previously exercised by seven agencies (12 U.S.C. § 5581 (b)), which includes the power to: enforce federal consumer protection laws, pursue actions in federal court, pursue administrative actions (12 U.S.C. §§ 5562-5564), seek a wide range of legal and equitable relief, and exercise rulemaking authority to create law. 12 U.S.C. § 5565(a)(2). The public must be able to “ensure that those who wield[]” power are “accountable to political force and the will of the people.” *Freytag v. Comm’r of Internal Revenue*, 501 U.S. 868, 884 (1991). The CFPB’s unprecedented insulation from presidential *and* congressional oversight goes too far in undermining constitutionally required democratic accountability.

Congress intended to create an agency that was “completely independent, with an independently appointed director, an independent budget, and an autonomous rulemaking authority.” 156 Cong. Rec. H5239 (2010) (Rep. Maloney). The purpose of Title X was to “create a consumer bureau . . . that is independent,” 156 Cong. Rec. S5871 (2010) (Sen. Cardin), in order to “improv[e] regulatory independence,” S. Rep. No. 111-176, at 24 (2010). The statutory text further reflects Congress’s intention of creating “an independent bureau.” 12 U.S.C. § 5491 (a). This absolute and unchecked independence runs contrary to the Constitution’s vesting of the Executive Power in a single President as provided for in Article II of the Constitution. Congress cannot achieve indirectly through a federal agency what it cannot itself achieve directly - the dilution of executive Power through legislation which impedes the President’s exclusive constitutional authority to “take Care that the Laws be faithfully executed.”

The CFPB is unconstitutionally structured. The inquiry ends and the Second CID should be set aside.



Executive Secretary
Page 11 of 23

E. Mere Severance Of Dodd-Frank's Offending Language Does Not Remedy 10 Years Of Unconstitutional Metastasis Throughout The CFPB.

The legal foundation of the CFPB rests upon a malignant constitutional defect which permeates every facet of the agency. The rules it makes, the policies it promotes, the enforcement and investigation activities it undertakes, and the quasi-judicial power it exercises are all shaped (and tainted) by the unchecked and absolute power of an unconstitutional and unaccountable Director. The Bureau's self-preserving argument that the "for cause" removal provision of the Dodd-Frank Act can be severed from the remainder of the statute and that the Bureau can proceed without any adverse consequences is simply wrong. This "no harm, no foul" approach would leave intact the products of an unconstitutional legal juggernaut. The CFPB proposes to change the blueprints without actually altering building. Liberty faces grave danger if Congress be allowed to create unconstitutional federal agencies to run roughshod over the People until the judiciary, 10 years later, declares it unconstitutional but does not require Congress to start over. Such an approach would leave intact the offspring of an unconstitutional statute which produced the largest, most powerful federal regulatory agency to regulate the financial services industry this nation has ever seen. Unlike the agencies contemplated in *Humphrey's Executor* and *FreeEnterprise Fund*, the CFPB bears no checks, no controls, no hallmarks of the protections of Liberty designed by the separation of powers. The Bureau's decade of unchecked growth and legal production has been significantly influenced by – even *dictated by* - the Bureau's constitutional defect. But-for the Bureau's structural infirmity, the agency and all of its processes, rules, and structure would look very different today.

Congress may not push the Constitutional envelope without consequence. Congress pushed too far when it passed Dodd-Frank and overstepped the boundaries established by the separation of powers. The consequence must be the treatment of Dodd-Frank as a legal nullity. The Second CID should be set aside in toto.

1. Congress Would Not Have Enacted Dodd-Frank Without The CFPB's Unconditional Autonomy And Independence.

In determining whether an unconstitutional provision should be severed from a statute "the Court must ask whether the statute minus any invalid provision" will function in a manner consistent with the intent of Congress and "is legislation that Congress would . . . have enacted." *Alaska Airlines*, 480 U.S., 768, 685 (1987). A Court should not use the severability



Executive Secretary
Page 12 of 23

doctrine to rewrite “an unconstitutional statute” because that also “circumvent(s) the intent of the legislature.” *Ayotte v. Planned Parenthood of Northern New Eng.*, 546 U.S. 320, 329-30 (2006). If the answer to either question is no, i.e., whether the statute minus the invalid provision will function in a manner consistent with the intent of Congress and is legislation that Congress would have enacted, then the invalid provision cannot be severed. *See, Alaska Airlines. Id.*

Dodd-Frank’s severability clause is merely probative of a legislative intent and is by no means dispositive. *See, Dorchy v. Kansas*, 264 U.S. 286, 290 (1924). For this reason, the Supreme Court has declined to sever an invalid provision despite the existence of a severability clause. Thus, the Supreme Court sometimes declines to sever an invalid provision despite a severability clause. *See, e.g., City of Akron v. Akron Ctr. For Reprod. Health, Inc.*, 462 U.S. 416, 425 n.8, 445-46 n.37 (1983), *overruled on other grounds by Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833 (1992); *Planned Parenthood of Cent. Mo. v. Danforth*, 428 U.S. 52, 83-84 (1976); *Sloan v. Lemon*, 413 U.S. 825, 833-35 (1973); *Hill v. Wallace*, 259 U.S. 44, 70-71 (1922). Congress expressed its dedicated intention to establish the CFPB as an independent Bureau. *See*, 12 U.S.C. §5491(a). This clear and express Congressional expression leads to the inevitable conclusion that the “for cause” removal provision was consistent with the intent of Congress and that it would not have enacted the legislation had the Director been removable at will by the President. Accordingly, §5491(a) ties the Bureau’s very existence to its freedom from Presidential oversight as evidenced by the for-cause removal provision and the Director’s five year term. Other features of the enabling legislation provide additional support for this conclusion.

Congress transferred to the CFPB the authority to enforce and issue rules implementing 18 existing laws previously administered by seven (7) different Federal agencies. *See*, 12 U.S.C. §5481(12), 5512(d)(4) and 5581. Many of those agencies themselves are free from presidential control. *See, e.g., 12 U.S.C. §5581(a)(2)(A)* (including Federal and Board of Governors, Federal Deposit Insurance Corporation, Federal Trade Commission and National Credit Union Administration). This Court’s excision of the “for cause” removal provision would operate as a judicial transfer of power to the Executive branch of far reaching powers that prior to the enactment of Dodd-Frank were distributed by Congress to several non-executive agencies. Power to regulate this broad swath of the United States economy was decentralized throughout *independent* federal agencies. Dodd-Frank was designed to centralize the federal regulatory scheme over the financial services sector of the economy into a single *even more independent* federal agency. Congress *did not* enact Dodd-Frank to



Executive Secretary
Page 13 of 23

eliminate independent regulation of the financial services industry by centralizing the wide-reaching authority of 7 independent federal regulatory agencies into a single federal agency controlled by the pleasure of the President. The Bureau's severance remedy achieves precisely that outcome in derogation of Congresses clear and express intention. Congress so valued the CFPB's *independence* that it forfeited its own oversight by exempting the agency from congressional appropriations review.

Excising the "for cause" removal provision would result in a metamorphosis of the CFPB from an independent agency to an unprecedented regulator not accountable to Congress through appropriation oversight. This result would dramatically alter the balance of power between the legislative and executive branches and subvert the express intentions of Congress in enacting Dodd-Frank. Congress would *not* have been willing to make such a sweeping delegation of power to the President "without a strong oversight mechanism." *Alaska Airlines*, 480 U.S. at 685 (considering severability of legislative). This Court should not rewrite the statute by excising the "for cause" language and forcing an unprecedented (and unintended) shift in federal regulatory power from 7 independent agencies to the President.

The presumption of severability is rebutted. A severability clause "does not give the Court power to amend" a statute. *Hill v. Wallace*, 259 U.S. 44, 71 (1925). Further, a severability clause is not a license to cut out the "heart" of the statute. *Cf. Alaska Airlines*, 480 U.S. at 691. Because the independence of the CFPB's Director is at the heart of Title X of Dodd-Frank, this Bureau should not merely sever the "for cause" language of Dodd-Frank, but instead acknowledge the existential threat to Liberty posed by the Bureau's constitutional defect and decline any further exercise of purported executive power until Congress remedies Dodd-Frank's constitutional ailment. The Bureau should grant this petition and set aside the Second CID in toto.



II. IF THE BUREAU DOES NOT SET ASIDE THE SECOND CID, THEN THE LAW FIRM ALTERNATIVELY ARGUES THAT THE SECOND CID SHOULD BE MODIFIED.

A. The Bureau Should Modify The Return Date Of The Second CID To Follow The U.S. Supreme Court's Decision In *Seila Law, LLC v. Consumer Financial Protection Bureau*.

The Supreme Court's order granting *Seila Law, LLC*'s Petition for Certiorari explained that "in addition to the question presented by the Petition, the parties are directed to brief and argue the following question: If the Consumer Financial Protection Bureau was found unconstitutional on the basis of the separation of powers, can 12 U.S.C. §5491(c)(3) be severed from the Dodd-Frank Act?" The United States Supreme Court will likely provide definitive guidance as to the constitutional issues presented in this petition to set aside the Second CID.

The Bureau has the unconditional authority to modify the return date of the Second CID. Several factors weigh in favor of extending the Law Firm's deadline to respond to the Second CID until after the Supreme Court decides *Seila Law*.

1. Administrative Economy Is Served By An Extended Return Date.

The Constitutional issues presented in this petition are presently pending before the Supreme Court and will have a direct impact on the future course of this investigation, including the enforceability of the Second CID. The Supreme Court's ruling will bind the Bureau and the Law Firm. Absent an extended return date, the Bureau may be required to revisit, modify, withdraw, or even refile a new petition to enforce the Second CID depending on the outcome of *Seila Law*. This effort creates unnecessary burden on the Bureau and the Law Firm, which burden can be avoided by first obtaining guidance from the Supreme Court on the now-admitted Constitutional defect suffered by the Bureau. These circumstances weigh heavily in favor of extending the Law Firm's obligation to respond to the Second CID until after the Supreme Court has decided the dispositive constitutional issues raised in this petition.



Executive Secretary
Page 15 of 23

2. The Law Firm Would Suffer Tremendous Hardship And Prejudice If The Return Date Is Not Extended.

The Law Firm has withstood nearly 3 years of overwhelming federal government investigation and intrusion by an agency which now admits that its unchecked, unaccountable executive power violates Article II of the Constitution. That very unconstitutional power now bears down upon the Law Firm again in the form of a Second CID which was specifically designed to circumvent judicial review of the First CID. The Bureau abandoned its proverbial “day in court” by withdrawing the First CID and side-stepping judicial review which would have reached the merits of the Law Firm’s objections to the First CID. It would impose an extraordinary and unnecessary burden on the Law Firm if it was required to respond to the Second CID only to raise the very same Constitutional issues which lead to the Bureau’s Petition on the First CID only to later learn that the Supreme Court has declared 12 U.S.C. §5491 unconstitutional and has further determined that because of the unconstitutional delegation of power that Title X of the Dodd-Frank Act is invalid in toto.

3. The Bureau Is Not Prejudiced By An Extended Return Date.

The Law Firm respectfully suggests that there is no prejudice or consequence to be visited on the Bureau as the result of an extended return date. Since the entry of the order granting the Petition for Certiorari in *Seila Law, LLC*, at least one court has completely closed a CFPB Enforcement Action filed against a debt collection law firm, conferring upon the Bureau the right to seek to reopen the case when *Seila Law* is decided. *See*, Exhibit C. That Court determined that the Bureau suffered no prejudice sufficient to warrant a continuation of the action prior to the Supreme Court’s decision.

The Bureau’s own behavior belies any notion that it would suffer any prejudice by an extended return date. That the Bureau saw fit to withdraw the First CID before Judge Román issued a decision on the Bureau’s Petition to Enforce the First CID, preferring instead to begin the entire CID process anew with the issuance of an identical Second CID, evidences the Bureau’s own belief that an additional short delay in the return date does not prejudice the Bureau in the least. In an unrelated case, the CFPB even requested an adjournment of oral argument in the *RD Legal Funding* case pending the ruling in *Seila Law*, which request was granted by the Second Circuit Court of Appeals. This request further evidences the Bureau’s keen understanding of the significance *Seila Law* bears upon the Bureau’s ability to exercise



Executive Secretary
Page 16 of 23

executive power. These actions also evidence the Bureau's own belief that it suffers no prejudice by waiting for the Supreme Court to address the dispositive constitutional issue which is the focus of the Law Firm's petition to set aside the Second CID. The Bureau is not prejudiced by an extended return date. The Bureau should modify the Second CID to include a return date not less than 30 days from the date on which the Supreme Court issues its decision in the *Seila Law, LLC*.

B. The Basis For The Law Firm's Previous Modification Requests Relating To The First CID Apply Equally To The Identical Second CID.

On July 14, 2017 the Law Firm submitted a written request to modify certain portions of the First CID. *See*, Exhibit D. On July 25, 2017 the Bureau responded and modified the First CID. *See*, Exhibit E. The First CID and Second CID are virtually identical. The same basis upon which the Law Firm requested modification of the First CID apply equally to the same modification request of the Second CID. The Law Firm incorporates by reference its July 14, 2017 requests to modify the First CID to apply as its requests to modify the same items in the same ways in the Second CID. There is no good-faith basis to deny these modification requests now, when the Bureau granted them previously.

C. The Law Firm Responded To The First CID And The Bureau Should Accept Those Responses To The Identical Requests Contained In The Second CID.

In its July 25, 2017 correspondence, the Bureau extended certain deadlines to create a rolling production schedule over the following 10 week period. By October 2, 2017, the Law Firm provided written responses, supplemental responses, and amended responses to the First CID and produced thousands of pages of documents and data. The Law Firm did not produce (and expressly withheld) documents and information protected by the attorney-client privilege, the attorney work-product privilege, and all documents and information protected by Rule 1.6 of the New York and New Jersey Rules of Professional Conduct applicable to attorneys. The Law Firm withheld complete responses to Interrogatory Number 12, Requests for Written Reports Nos. 1-5 and 7, Document Requests Nos. 2, 6, 12, and 14, and Requests for Tangible Things Nos. 1-4 contained in the First CID.

Requiring the Law Firm to re-respond to written requests and re-produce thousands of pages of documents and data is unnecessary, duplicative, overly burdensome, and does not



Executive Secretary
Page 17 of 23

serve the Bureau's purpose of furthering its investigation of the Law Firm's business practices. The Law Firm requests that the Second CID be modified to limit the its requests "to the extent not already produced" or include a similar limiting instruction such that the Law Firm would not be required to re-respond to 77 unique Interrogatories (include subparts), 42 unique Requests for Written Reports (including subparts), 13 unique Requests for Documents, and 4 unique Requests for Tangible Things. Alternatively, the Law Firm requests that the Bureau accept an "affirmation" from the Law Firm that the previous responses to the First CID remain the current, accurate responses to the Second CID (save and except the items expressly withheld for the reasons identified above).

D. The Scope Of The Second CID Far Exceeds Any Statute Of Limitations Applicable To The Claims Identified In The Statement Of Purpose Section Of The Second CID, Which Should Be So Limited.

Part III.C. of the Second CID stipulates that the applicable period for responsive materials begins from January 1, 2014 until the date of the CID. As to the request for information relating to purported violations of the Fair Debt Collection Practices Act, any action to enforce any liability under the FDCPA must be brought within one year from the date the violation occurs. *See*, 15 U.S.C. § 1692k(d). During oral argument before the DC Circuit Court of Appeals in the closely watched case between the Bureau and PHH, counsel for the Bureau admitted that the Bureau's enforcement authority is not unbounded by the statute of limitations. Similarly, the applicable statute of limitations under the Fair Credit Reporting Act to enforce "any liability created under" the Act is the earlier of

- (1) 2 years after the date of discovery by the plaintiff of the violation that is the basis for such liability, or
- (2) 5 years after the date on which the violation that is the basis for such liability occurs.

15 U.S.C. §1681p. The statement of purpose contained in the First CID, dated June 23, 2017, explains that the purpose of the Bureau's investigation is to determine whether "debt collectors, furnishers, or other persons in connection with the collection of debt and furnishing of information have engaged or are engaging in" violations of law. At the time the Bureau served the First CID it was purportedly aware of a violation of the FCRA, thus giving rise to the investigation in the first instance. At the very least, by October 2, 2017, when the Law



Executive Secretary
Page 18 of 23

Firm submitted its final document production and written responses to the First CID the Bureau became aware of the Law Firm's alleged violation of the FCRA. As a result, any such claims are now time barred as beyond the 2 year limitation period.

Because the CID requests information well beyond the period of time when the CFPB could seek enforcement of any purported FD CPA or FCRA violation, the Law Firm respectfully requests confirmation of its satisfactory compliance with the Second CID by responding using an Applicable Period of activities be limited to the period from November 14, 2017, through the date of the CID.

III. CONCLUSION

By its own admission, the Bureau is unconstitutionally structured. That constitutional defect permeates every facet of the Bureau's activity, shaping and directing the Bureau's behavior in ways which violate the separations of powers, trample due process, and threaten the very Liberty our system of government is designed to protect. The Law Firm requests that the Second CID be set aside in toto. Alternatively, the Law Firm requests that the Second CID be modified as described above.

Very truly yours,

John H. Bedard, Jr.

John H. Bedard, Jr.
Bedard Law Group, P.C.



Executive Secretary
Page 19 of 23

EXHIBIT

“A”



Consumer Financial
Protection Bureau

1700 G Street NW, Washington, DC 20552

June 23, 2017

Via USPS Certified Mail

Law Offices of Crystal Moroney, P.C.
17 Squadron Blvd.
Suite 303
New City, NY 10956

Re: Civil Investigative Demand served on the Law Offices of Crystal Moroney, P.C.
on June 23, 2017

Dear Ms. Moroney:

Attached is a civil investigative demand (CID) issued to the Law Offices of Crystal Moroney, P.C. by the Consumer Financial Protection Bureau (Bureau) under 12 C.F.R. § 1080.6 and section 1052(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5562.

Rule 1080.6(c) of the Bureau's Rules Relating to Investigations requires that you contact me as soon as possible to schedule a meeting (by telephone or in person) to be held within ten (10) calendar days of receipt of this CID in order to discuss and attempt to resolve all issues regarding timely compliance with this demand. 12 C.F.R. § 1080.6(c); see also Instruction B. The rule requires that you make available at this meeting personnel with the knowledge necessary to resolve any such issues. Please be prepared to discuss your planned compliance schedule, and whether it is possible to tier your production by providing portions of the response prior to the due date.

Please contact me immediately to schedule a meeting, which must be held within ten (10) days of the date of issue of this CID. My telephone number is **202-435-7688**. I look forward to your call.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Assae-Bille', is written over a horizontal line.

E. Vanessa Assae-Bille
Enforcement Attorney

Attachment



Consumer Financial
Protection Bureau

United States of America
Consumer Financial Protection Bureau

Civil Investigative Demand

To **Law Offices of Crystal Moroney, P.C.**
c/o Crystal Moroney
17 Squadron Blvd., Suite 303
New City, NY 10956

This demand is issued pursuant to Section 1052 of the Consumer Financial Protection Act of 2010 and 12 C.F.R. Part 1080 to determine whether there is or has been a violation of any laws enforced by the Bureau of Consumer Financial Protection.

Action Required (choose all that apply)

☐ **Appear and Provide Oral Testimony**

Location of Investigational Hearing	Date and Time of Investigational Hearing
	Bureau Investigators

☒ **Produce Documents and/or Tangible Things**, as set forth in the attached document, by the following date 07/21/2017

☒ **Provide Written Reports and/or Answers to Questions**, as set forth in the attached document, by the following date 07/21/2017

Notification of Purpose Pursuant to 12 C.F.R. § 1080.5

The purpose of this investigation is to determine whether debt collectors, furnishers, or other persons in connection with collection of debt and furnishing of information have engaged or are engaging in unfair, deceptive, or abusive acts or practices in violation of §§ 1031 and 1036 of the Consumer Financial Protection Act of 2010, 12 U.S.C. §§ 5531, 5536; or have violated the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq.; or the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. and its implementing regulation. The purpose of this investigation is also to determine whether Bureau action to obtain legal or equitable relief would be in the public interest.

Custodian / Deputy Custodian

Deborah Morris / Chelsea Peter
Consumer Financial Protection Bureau
1625 Eye St, NW
ATTN: Office of Enforcement
Washington, DC 20006

Bureau Counsel

E. Vanessa Assae-Bille / Jehan Patterson
Consumer Financial Protection Bureau
1625 Eye St, NW
ATTN: Office of Enforcement
Washington, DC 20006

Date Issued

06/23/2017

Signature

Deborah Morris

Digitally signed by Deborah
Morris
Date: 2017.06.23 11:52:29 -04'00'

Name / Title

Deborah Morris / Deputy Enforcement Director

Service

The delivery of this demand to you by any method prescribed by the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5562, is legal service. If you fail to comply with this demand, the Bureau may seek a court order requiring your compliance.

Travel Expenses

Request a travel voucher to claim compensation to which you are entitled as a witness before the Bureau pursuant to Section 1052 of the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5562.

Right to Regulatory Enforcement Fairness

The CFPB is committed to fair regulatory enforcement. If you are a small business under Small Business Administration standards, you have a right to contact the Small Business Administration's National Ombudsman at 1-888-RI:GFAIR (1-888-734-3247) or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.

Paperwork Reduction Act

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

**CIVIL INVESTIGATIVE DEMAND FOR
PRODUCTION OF DOCUMENTS, TANGIBLE THINGS, WRITTEN
REPORTS, AND ANSWERS TO INTERROGATORIES**

I. Requests.

Interrogatories

1. Identify all Persons who participated in responding to this CID, describe the specific tasks performed by each Person, and identify the response for which they performed each task.
2. Describe the Company's organizational structure, including:
 - a. the Company's legal name and principal place of business;
 - b. the date and jurisdiction in which it was incorporated or organized;
 - c. all names under which the Company has done business;
 - d. the Company's leadership including the principals, directors, owners;
 - e. each state in which the Company has done business; and
 - f. the time period during which it did business in each state.
3. Describe each of the Company's business activities (e.g., debt collection, court filings, etc.) and provide the Company's annual revenue for each of those business activities.
4. Describe the Company's business model, including:
 - a. the type(s) of Debt the Company obtains (e.g., medical, utilities, schoolbook rentals, etc.);
 - b. the age range of Debt the Company obtains;
 - c. the method(s) by which the Company obtains Debt accounts (e.g., assignment, or portfolio purchase);
 - d. whether the Company obtains Debt accounts after the accounts become delinquent or are in default;
 - e. whether the Company collects Debts owed or asserted to be owed to another party;
 - f. the type(s) of data and records the Company receives with each Debt account it obtains; and
 - g. the method(s) by which the Company removes Debt accounts from its portfolio (e.g., settlements, referrals to law firms, conveyance to the creditor or third-party, or sale to Debt buyer(s)).
5. Identify each alternative name(s) or alias(es) the Company has used to identify itself when contacting consumers in connection with its Debt Collection Activities. Provide the date range during which the Company used the alternative name(s) or alias(es).

6. Describe the Company's compensation structure for its employees and agents performing Debt Collection Activities, including but not limited to the Company's wage structure, the Company's bonus structure, criteria considered and formulas applied to determine the award of bonuses and other rewards.
7. Provide the total number of:
 - a. employees or agents engaged in Debt Collection activities (excluding attorneys identified in response to Interrogatory 7(b)) working for the Company; and
 - b. licensed attorneys working for the Company.
8. For each licensed attorney who formerly worked for the Company, state:
 - a. their full legal name;
 - b. their title(s) held at the Company;
 - c. the month and year they began and ceased working for the Company; and
 - d. whether they were engaged in Debt Collection Activities.
9. For each year during the Applicable Period, provide:
 - a. the total number of lawsuits the Company filed in connection with its Debt Collection Activities; and
 - b. the total number of court judgments the Company obtained against Debtors.
10. Identify any former employees and agents (excluding attorneys identified in response to Interrogatory 7(b)) who worked for the Company for a minimum of 90 calendar days. For each, provide:
 - a. the former employee's or agent's official title at the Company;
 - b. the former employee's or agent's department at the Company;
 - c. the month and year the former employee or agent began and ceased working at or for the Company; and
 - d. the reason the former employee or agent separated from the Company.
11. Identify each Person (including the dates of employment and any titles or positions held) responsible for:
 - a. creating or implementing the Company's training and guidance materials (including telephone scripts) relating to Debt Collection Activities;
 - b. creating or implementing the Company's policies and procedures for complying with laws relating to Debt Collection Activities, including the FDCPA, FCRA, state and federal laws prohibiting unfair, deceptive, or

- abusive acts and practices, and any other Federal consumer financial law;
and
 - c. creating or implementing the Company's policies and procedures for receiving, logging, investigating, and responding to complaints and disputes relating to Debt Collection Activities, including recording and responding to cease-and-desist requests.
12. Identify each creditor or third-party for which the Company has performed Debt Collection Activities. For each creditor or third-party, and for each year during the Applicable Period, specify:
- a. the Company's contact Person;
 - b. the period of the Company's services;
 - c. the services the Company provided;
 - d. the total number of Debt(s) the Company attempted to collect in any way;
 - e. the dollar amount of Debt the Company attempted to collect in any way;
and
 - f. the Company's total revenue from Debt Collection Activities.
13. For each year during the Applicable Period, provide:
- a. the total number of oral consumer disputes of Debt received by the Company;
 - b. the total number of written consumer disputes of Debt received by the Company;
 - c. the number of written verification right notices the Company provided to consumers;
 - d. the number of written requests for verification of debt the Company received;
 - e. the number of oral requests for verification of debt the Company received;
 - f. the number of written and oral notifications the Company received from consumers, informing the Company that the consumer's alleged Debt was incurred as a result of identification theft; and
 - g. the number of written cease-and-desist requests the Company received from consumers.
14. Describe how the Company generated the information produced in response to each subsection of Interrogatory 13.
15. Identify all systems the Company has used to conduct Debt Collection Activities (whether the system is in-house, hosted, or used by a vendor) and provide system diagrams for each system identified, including:
- a. a data flow diagram;
 - b. a systems architecture diagram; and
 - c. a network diagram.

16. For each system identified in response to Interrogatory 15, identify or provide:

- a. the operating system, hardware configuration;
- b. the users with administrative access, and categories of users with general access;
- c. the point of contact (e.g., the employee most knowledgeable about the system);
- d. the backup plan for the full system's data; and
- e. the software resident on the system (beyond standard software), including:
 - i. the name, vendor, and version; and
 - ii. if the software is custom, the language(s) used to build it and the source control methodology;
- f. the time period during which the system was or is in use.

17. Identify all databases the Company has used—whether in-house, hosted, or by used by a vendor on the Company's behalf—to conduct Debt Collection Activities. For each database, identify or provide the following information:

- a. the employee(s) most knowledgeable about the database;
- b. the database system name, commercial software name (if different from the system name), version, technology platform, and computing model (e.g., client, server, or multi-tier);
- c. the time period during which the database is or was in use;
- d. the names and descriptions of the data fields contained in the database;
- e. the data type (e.g., date, time, integer, or text) in each data field;
- f. the business purpose for which it is used;
- g. a description of the process by which or for which it is used;
- h. a description of each category of Persons with access to any part(s) of the database, the identity of the part(s) to which each category of Persons has access, and for what purpose;
- i. the timeframe for which information in each data field is stored or maintained;
- j. a description of how the database is populated with data or information and by whom;
- k. a description of how the database interacts with other Company systems, (e.g., file systems or other databases);
- l. a description of any processes used to assure the accuracy of data in each database, including any internal controls, internal audits, or quality assurance programs performed on the database;
- m. whether the database holds attachments (e.g., image, audio, or PDF files), and a description of those attachments;
- n. a description of the reporting capabilities of the database;
- o. a description of any regular or standard reports generated from the database, and the frequency with which such reports are generated;

- p. whether the data stored in the database can be exported to Microsoft Excel or other readily available spreadsheet or database programs; and
- q. a description of the frequency with which the database is archived or backed up, and the method by which it is archived or backed up.

18. For each database identified in response to Interrogatory 17, provide a data dictionary. For each data field, provide the following information:

Data Element Terms	Data Element Definitions
Field Name	Unique name
Definition	Description of the meaning of the data element
Data Type	Type of data (e.g., date, numeric, text, memo, floating point)
Data Size	Maximum field length that will be accepted
Data Format	Format of data (e.g., YYYYMMDD, MM/DD/YYYY)
Field Constraints: Data Element is a required field (Y/N)	Required fields (Y) must be populated
Enumeration (if applicable)	If a field can only take certain values or codes (e.g. A, B, or C), list those values and an explanation of their meaning
Special, Dummy, Test Values	Include a narrative description (e.g., for calls to 555-555-5555, describe that number as being used for internal testing, or for dates populated as 1/1/1900, specify what that value means)
Formula	If the field is calculated, provide the formula for the calculation.

19. For each Document the Company produces in response to Requests for Documents 1 through 11, provide the effective dates that each Document was in use, and a description of the purpose(s) for which it was used. Provide this information in the following table format:

Document Request No.	Bates No.	Title	Purpose	Start Effective Date	End Effective Date

20. If, for any Interrogatory that calls for identification of a Person, there is no identifiable Person for the Applicable Period, identify the most recent identifiable Person, including Persons no longer affiliated with or employed by the Company. For each, specify the dates of affiliation or employment and any titles or positions held.

21. If, for any request, there are Documents that would be responsive but that are now unavailable, identify each Document and its last known location or custodian, and explain why the Document cannot be produced.

Requests for Written Reports

Produce the following data in tab-delimited text files, using double-quote-escaped text fields when necessary. Where data derives from separate tables or dimensions, use a separate text file for data elements along each separate dimension. This should comply with at least the first normal form (1NF). Include both the unique identifiers and foreign keys (as well as indicators of their function) in each file expressing the relationship between these files. When data is available for some records and not others, leave the unavailable data items blank. Omissions due to unavailability should be described in narrative with the production. Individual records should never contain a varying number of fields. Where information exists at the record level requested but is not included in the individual Written Report Request, include this information in additional columns in your response to the Written Report Request. Additionally, provide any code used to generate and validate each Written Report.

1. For each type of Debt in the Company's portfolio, and for each year during the Applicable Period, provide:
 - a. the unique identifier of Debt type;
 - b. the total number of Debts the Company attempted to collect in any way;
 - c. the total dollar amount of the Debts the Company attempted to collect in any way; and
 - d. the Company's total revenue.
2. For each consumer complaint or credit report dispute the Company received directly from a Consumer Reporting Agency during the Applicable Period, provide:
 - a. the name of the Consumer Reporting Agency that submitted the complaint or dispute;
 - b. the unique identifier by which the Company identifies the Debt account subject of the complaint or dispute;
 - c. the date that the Company received the complaint or dispute;
 - d. a brief description of the nature of the complaint or dispute (e.g., debt resulting from identification theft, debt paid off, debtor's mistaken identity, etc.);
 - e. the response code;
 - f. the dispute code(s) (in separate fields);
 - g. any notes, codes, or history associated with the investigation of the complaint or dispute;
 - h. the date of resolution; and

- i. the Company's reason for closing the complaint or dispute.
- 3. For each complaint or credit report dispute the Company received from all Persons other than Consumer Reporting Agencies (excluding cease-and-desist requests, and actions or proceedings identified in response to Requests for Written Reports 4 and 5) during the Applicable Period, provide:
 - a. the name of the Person who submitted the complaint or dispute, and their:
 - i. street address;
 - ii. city;
 - iii. state;
 - iv. zip code;
 - v. telephone number; and
 - vi. email address;
 - b. the unique identifier by which the Company identifies the Debt account subject of the Person's complaint or dispute;
 - c. the date that the Company received the complaint or dispute;
 - d. a brief description of the nature of the complaint or dispute (e.g., debt resulting from identification theft, debt paid off, debtor's mistaken identity, etc.);
 - e. any notes, codes, or history associated with the investigation of the complaint or dispute;
 - f. the response code;
 - g. the dispute code(s) (in separate fields);
 - h. the date of resolution; and
 - i. an explanation of the resolution of complaints or disputes related to identification theft.
- 4. For each cease-and-desist request the Company received during the Applicable Period, provide:
 - a. the name of the Person who submitted the request, and their:
 - i. street address;
 - ii. city;
 - iii. state;
 - iv. zip code;
 - v. telephone number; and
 - vi. email address;
 - b. the unique identifier by which the Company identifies the Debt account subject of the Person's cease-and-desist request;
 - c. any notes, codes, or history associated with the investigation of the complaint or dispute;
 - d. the date that the Company received the cease-and-desist request; and
 - e. the date(s) of any contact initiated by the Company with the Person subsequent to the Company's receipt of the cease-and-desist request.

5. For each legal action or administrative proceeding filed against the Company or its principals relating to the Company's Debt collection or Information Furnishing activities during the Applicable Period, provide:
 - a. the plaintiff(s) bringing the action or proceeding;
 - b. the defendant(s) in the action or proceeding;
 - c. the case number;
 - d. the name and location of the court or administrative body;
 - e. the date the action or proceeding was filed;
 - f. the date of disposition;
 - g. the final outcome of the action or proceeding; and
 - h. one copy of each unique complaint filed against the Company.
6. Identify each telephone number the Company has used to contact consumers in connection with its Debt Collection Activities. Provide the date range during which the Company used the phone number, and whether the telephone number is associated with a fixed landline, a cellular telephone, or switched/digital or other telephone type.
7. Identify all Debt Collection telephone calls during the Applicable Period, including all associated elements as stored in your or your providers' databases (e.g., Customer Relations Management systems and call recording systems) at a call level, including:
 - a. account number associated with the call;
 - b. unique identifier for the call;
 - c. file reference for call recording, .wav file or similar;
 - d. date and time of call;
 - e. telephone number called;
 - f. duration of call;
 - g. unique operator ID associated with call;
 - h. any call-type codes, disposition codes, resolution codes, product codes, or similar associated with the call (use separate columns);
 - i. notes or comments associated with the call; and
 - j. any other data unique to the call.

Requests for Documents

1. One copy of each unique version of all your policies and procedures related to Debt Collection Activities, including but not limited to Debt Collection notices and calls, skip tracing, investigation, use of telephone line(s) or service(s) not controlled by the Company, the decision to file a lawsuit, and logging of complaints or disputes concerning identity theft submitted by consumers and Consumer Reporting Agencies.
2. One copy of each unique version of all your telephone scripts that the Company has used when attempting to collect a Debt.

3. One copy of each unique version of all your policies and procedures related to Information Furnishing Activities, including but not limited to providing an address for consumers to submit disputes, correcting and updating consumer information to be furnished, and logging of complaints or disputes concerning identity theft submitted by consumers and Consumer Reporting Agencies.
4. One copy of each unique version of all your policies and procedures for receiving, logging, investigating, and responding to consumers' complaints or disputes.
5. One copy of each unique version of all your policies and procedures for complying with laws relating to Debt Collection Activities and credit Information Furnishing Activities, including the FDCPA, FCRA, state and federal laws prohibiting unfair, deceptive, or abusive acts and practices, and any other Federal consumer financial law.
6. One copy of each unique version of all your technical and employee manuals, handbooks, guidance, and training materials relating to Debt Collection Activities.
7. One copy of each unique version of all your technical and employee manuals, handbooks, guidance, and training materials relating to credit Information Furnishing Activities.
8. One copy of each unique version of all templates, models, or form Documents that the Company has used to provide consumers notice of their Debt verification rights.
9. One copy of each unique version of all templates, models, or form Documents that the Company has used to respond to consumers' oral or written Debt validation requests.
10. One copy of each unique version of all templates, models, or form Documents that the Company has used to respond to consumer complaints or disputes, including cease-and desist requests.
11. One copy of each unique version of all other templates, models, or form Documents or letters that the Company has used in Debt Collection.
12. One copy of each unique version of all service contracts, agreements, or retainers signed by the Company and Parties identified in response to Interrogatory 12.
13. One copy of each unique version of all documents indicating the outcome of all investigations of alleged or potential violations of the FDCPA, FCRA, state and federal laws prohibiting unfair, deceptive, or abusive acts and practices, or any other Federal consumer financial law, including but not limited to reports from

internal or external auditors, meeting minutes, presentations, and whistleblower complaints.

14. All audits relating to the Company's Debt Collection Activities, including but not limited to quality-assurance and compliance reviews of the Company's compliance with the Company's policies and procedures, the FDCPA, FCRA, state and federal laws prohibiting unfair, deceptive, or abusive acts and practices, or any other Federal consumer financial law.
15. Audited financial statements, including the corresponding footnote disclosures, balance sheets, income statements, statements of cash flows, and statements of changes in owners' equity for the Applicable Period through the latest month available for 2017. If no audited financial statements exist, unaudited financial statements along with the corresponding footnote disclosures.

Requests for Tangible Things

1. Metadata from call systems and related systems, including call notes, for all telephone calls relating to the collection of a Debt.
2. Recordings of all telephone calls relating to the collection of a Debt between the Company and any Consumer.
3. Recordings of all telephone calls relating to the collection of a Debt between the Company and any third-party.
4. For each account for which the Company made a call responsive to Requests for Tangible Things 2 and 3, identify all phone numbers authorized for or associated with the account. Provide each phone number as a separate observation, with fields for the original account number associated with the phone number and any notes regarding the type of number (e.g., home, work, cell, or spouse work).

II. Definitions.

- A. **"And"** and **"or"** must be construed both conjunctively and disjunctively.
- B. **"Any"** includes **"all,"** and **"all"** includes **"any."**
- C. **"CID"** means the Civil Investigative Demand, including the Requests, Topics for Hearing, Definitions, and Instructions.
- D. **"CFPB"** or **"Bureau"** means the Bureau of Consumer Financial Protection.
- E. **"Company"** or **"you"** or **"your"** means the Law Offices of Crystal Moroney, P.C., and any successor in interest.

F. **“Consumer”** or **“Debtor”** means any natural person obligated or allegedly obligated to pay any Debt as defined in the Fair Debt Collection Practices Act, 15 U.S.C. § 1692a(3).

G. **“Consumer Reporting Agency”** means “consumer reporting agency” as defined in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f).

H. **“Debt”** means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment as defined in the Fair Debt Collection Practices Act, 15 U.S.C. § 1692a(5).

I. **“Debt Collection Activities”** means all activities related to efforts to collect a Debt, either directly or indirectly.

J. **“Demand Letter”** means any document sent to a Consumer in an effort to collect a Debt.

K. **“Deputy Enforcement Director”** refers to a Deputy Assistant Director of the Office of Enforcement.

L. **“Document”** means any written matter of every type and description, including electronically stored information. “Document” includes any non-identical copy (such as a draft or annotated copy) of another document.

M. **“Each”** includes **“every,”** and **“every”** includes **“each.”**

N. **“Electronically Stored Information,”** or **“ESI,”** means the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise) of any electronically created or stored information, including but not limited to e-mail, instant messaging, videoconferencing, SMS, MMS, or other text messaging, and other electronic correspondence (whether active, archived, unsent, or in a sent or deleted-items folder), word-processing files, spreadsheets, databases, unorganized data, document metadata, presentation files, and sound recordings, regardless of how or where the information is stored, including if it is on a mobile device.

O. **“Enforcement Director”** refers to the Assistant Director of the Office of Enforcement.

P. **“Fair Credit Reporting Act”** or **“FCRA”** means the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*

Q. **“Fair Debt Collection Practices Act”** or **“FDCPA”** means the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*

R. **“Identify”** means to provide: (a) for natural persons, their name, title or position, present business affiliation, present business address, e-mail address, and telephone number, or if a present business affiliation or present business address is not known, the last known business address, home address, e-mail address, and telephone number; (b) for businesses or other organizations, the name, address, identities of officers, directors, or managers of the business or organization, and contact persons with e-mail addresses and telephone numbers, where applicable; and (c) for documents, the title, date, authors, recipients, Bates numbers, if applicable, type of document or some other means of identifying the document, and the present or last known location or custodian.

S. **“Information Furnishing Activities”** means all activities related to efforts to furnish consumer information to a Consumer Reporting Agency, either directly or indirectly.

T. **“Person”** means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

III. Instructions.

A. **Sharing of Information:** This CID relates to a nonpublic, law-enforcement investigation being conducted by the Bureau. The Bureau may make its files available to other civil and criminal federal, state, or local law-enforcement agencies under 12 C.F.R. §§ 1070.43(b)(1) and 1070.45(a)(5). Information you provide may be used in any civil or criminal proceeding by the Bureau or other agencies. As stated in 12 C.F.R. § 1080.14, information you provide in response to this CID is subject to the requirements and procedures relating to the disclosure of records and information set forth in 12 C.F.R. pt. 1070.

B. **Meet and Confer:** As stated in 12 C.F.R. § 1080.6(c), you must contact Enforcement Attorney **E. Vanessa Assae-Bille** at **(202) 435-7688** as soon as possible to schedule a meeting (telephonic or in person) to discuss your response to the CID. The meeting must be held within **10** calendar days after you receive this CID or before the deadline for filing a petition to modify or set aside the CID, whichever is earlier.

C. **Applicable Period for Responsive Materials:** Unless otherwise directed, the applicable period for the request is from **January 1, 2014, until the date of this CID (“Applicable Period”)**.

D. **Privilege Claims:** If any material responsive to this CID is withheld on the grounds of privilege, you must make the privilege claim no later than the date set for the production of the material. As stated in 12 C.F.R. § 1080.8(a), any such claim must include a schedule of the documents, information, or tangible things withheld that

states, for each:

1. its type, specific subject matter, and date;
2. the names, addresses, positions, and organizations of all authors and direct or indirect recipients;
3. the specific grounds for claiming the privilege;
4. the request to which the privileged document, information, or thing is responsive; and
5. its Bates number or range.

In addition, the person who submits the schedule and the attorney stating the grounds for the privilege must sign it. A person withholding material solely based on a claim of privilege must comply with the requirements of 12 C.F.R. § 1080.8 rather than file a petition for an order modifying or setting aside a demand under 12 C.F.R. § 1080.6(e). Please follow the enclosed Document Submission Standards for further instructions about producing redacted privileged documents.

E. Document Retention: Until you are notified otherwise, you are required to retain all documents and other tangible things that you used or relied on in responding to this CID. In addition, you must retain, and suspend any procedures that may result in the destruction of, documents, information, or tangible things that are in any way relevant to the investigation, as described in the CID's Notification of Purpose. You are required to prevent the destruction of relevant material irrespective of whether you believe such material is protected from future disclosure or discovery by privilege or otherwise. *See* 18 U.S.C. §§ 1505, 1519.

F. Modification Requests: If you believe that the scope of the search or response required by this CID can be narrowed consistent with the Bureau's need for documents or information, you are encouraged to discuss such possible modifications, including modifications of the requirements of these instructions, with Enforcement Attorney **E. Vanessa Assae-Bille** at **(202) 435-7688**. Modifications must be agreed to in writing by the Enforcement Director or a Deputy Enforcement Director. 12 C.F.R. § 1080.6(d).

G. Petition for Order Modifying or Setting Aside Demand: Under 12 U.S.C. § 5562(f) and 12 C.F.R. § 1080.6(e), you may petition the Bureau for an order modifying or setting aside this CID. To file a petition, you must send it by e-mail to the Bureau's Executive Secretary at ExecSec@cfpb.gov, copying the Enforcement Director at Enforcement@cfpb.gov, within **20** calendar days of service of the CID or, if the return date is less than 20 calendar days after service, before the return date. The subject line of the e-mail must say "Petition to Modify or Set Aside Civil Investigative Demand." If a request for confidential treatment is filed, you must file a redacted public petition in addition to the unredacted petition. All requests for confidential treatment must be

supported by a showing of good cause in light of applicable statutes, rules, Bureau orders, court orders, or other relevant authority.

H. **Certification:** The person to whom the CID is directed or, if it is directed to an entity, any person having knowledge of the facts and circumstances relating to the production, must certify that the response to this CID is true and complete. This certification must be made on the form declaration included with this CID.

I. **Scope of Search and Investigational Hearing:** This CID covers materials and information in your possession, custody, or control, including but not limited to documents in the possession, custody, or control of your attorneys, accountants, other agents or consultants, directors, officers, and employees.

J. **Procedures Governing Hearing:** This CID is issued under section 1052 of the Consumer Financial Protection Act, 12 U.S.C. § 5562. The taking of oral testimony pursuant to this CID will be conducted in conformity with that section and 12 C.F.R. §§ 1080.6(a)(4), 1080.7, and 1080.9.

K. **Designation of a Witness:** This CID requires oral testimony from an entity. Under 12 C.F.R. § 1080.6(a)(4)(ii), you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf. The individuals designated must testify about information known or reasonably available to you, and their testimony is binding on you. Your failure to designate a witness competent to testify about the topics described will be considered a failure to comply with this CID.

L. **Document Production:** The Bureau encourages the electronic production of all material responsive to this CID; please follow the enclosed Document Submission Standards.

All productions sent by U.S. Postal Service should be addressed to:

Consumer Financial Protection Bureau
1700 G Street, NW
ATTN: Chelsea Peter, SEFL, Office of Enforcement, Seat 4059A
Washington, DC 20552

All productions sent by FedEx, UPS, or other courier should be addressed to:

Consumer Financial Protection Bureau
1625 Eye Street NW
ATTN: Chelsea Peter, SEFL, Office of Enforcement, Seat 4059A
Washington, DC 20006

Please provide your intended method of production and any tracking numbers by e-mail or telephone to Enforcement Attorney **E. Vanessa Assae-Bille** at **Elisabeth.Assae-**

Bille@cfpb.gov and (202) 435-7688.

M. Document Identification: Documents that may be responsive to more than one request of this CID need not be submitted more than once. All documents responsive to this CID must be accompanied by an index that identifies: (i) the name of each custodian of each responsive document; (ii) the corresponding Bates number or range used to identify that person's documents; and (iii) the request or requests to which each document responds.

N. Sensitive Personally Identifiable Information: If any material called for by these requests contains sensitive personally identifiable information, or sensitive health information of any individual, please contact Enforcement Attorney **E. Vanessa Assae-Bille** at **(202) 435-7688** before sending those materials to discuss ways to protect the information during production. You must encrypt electronic copies of such materials with encryption software acceptable to the Bureau. When submitting encrypted material, you must provide the encryption key, certificate, or passcode in a separate communication.

For purposes of this CID, sensitive personally identifiable information includes an individual's Social Security number alone or an individual's name, address, or phone number *in combination with* one or more of the following: date of birth, Social Security number, driver's-license number or other state-identification number, or a foreign country equivalent, passport number, financial-account number, credit-card number, or debit-card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

O. Information Identification: Each request for a written report or interrogatory in this CID must be answered separately and fully in writing under oath. All information submitted must clearly and precisely identify the request or requests to which it is responsive.

P. Declaration Certifying Records of Regularly Conducted Business Activity: Attached is a Declaration Certifying Records of Regularly Conducted Business Activity, which may limit the need to subpoena you to testify at future proceedings to establish the admissibility of documents produced in response to this CID. Please execute this Declaration and provide it with your response.

Q. All references to "**year**" or "**annual**" refer to the calendar year. Where information is requested "for each year," provide it separately for each year; where yearly data is not available, provide responsive information for the calendar year to date, unless otherwise instructed.

R. Duty to Estimate: If you are unable to answer any interrogatory fully, supply

such information as is available. Explain why such answer is incomplete, the efforts you made to obtain the information, and the source from which the complete answer may be obtained. If books and records that provide accurate answers are not available, enter best estimates and describe how the estimates were derived, including the sources or bases of such estimates. Estimated data should be followed by the notation "est." If there is no reasonable way to make an estimate, provide an explanation.

CERTIFICATE OF COMPLIANCE WITH RFPA

The Right to Financial Privacy Act of 1978 (RFPA) does not apply to the disclosure of financial records or information to the Consumer Financial Protection Bureau (CFPB) "in the exercise of its authority with respect to a financial institution." 12 U.S.C. § 3413(r). This civil investigative demand is also issued in connection with an investigation within the meaning of section 3413(h)(1)(A) of the RFPA. Therefore, in accordance with section 3403(b) of the RFPA, the undersigned certifies that, to the extent applicable, the provisions of the RFPA have been complied with as to the Civil Investigative Demand issued to the Law Offices of Crystal Moroney, P.C., to which this Certificate is attached.

The information obtained will be used to determine whether the persons named or referred to in the attached Civil Investigative Demand are in compliance with laws administered by the Consumer Financial Protection Bureau. The information may be transferred to another department or agency consistent with the RFPA.

Under the RFPA, good faith reliance on this certificate relieves the recipient and its employees and agents of any liability to customers in connection with the requested disclosures of financial records of these customers. *See* 12 U.S.C. § 3417(c).

Deborah Morris

Digitally signed by Deborah
Morris
Date: 2017.06.23 11:51:19 -04'00'

Deborah Morris
Consumer Financial Protection Bureau
Deputy Director, Office of Enforcement

DECLARATION CERTIFYING RECORDS OF
REGULARLY CONDUCTED BUSINESS ACTIVITY
Pursuant to 28 U.S.C. § 1746

I, _____, pursuant to 28 U.S.C. § 1746, declare that:

1. I am employed by _____ as _____
and by reason of my position am authorized and qualified to certify the authenticity of the records produced by the Law Offices of Crystal Moroney, P.C. and submitted with this Declaration.
2. The documents produced and submitted with this Declaration by the Law Offices of Crystal Moroney, P.C. are true copies of records of regularly conducted activity that were:
 - a. made at or near the time of the occurrence of the matters set forth, by, or from information transmitted by, a person with knowledge of those matters;
 - b. kept in the course of the regularly conducted business activity; and
 - c. made by the regularly conducted business activity as a regular practice.

I certify under penalty of perjury that the foregoing is true and correct. Executed on _____, 2017.

Signature

CERTIFICATE OF COMPLIANCE – DOCUMENTS

I, _____, pursuant to 28 U.S.C. § 1746,

declare that:

1. I have confirmed that a diligent inquiry has been made of all persons who likely have possession of responsive documents and information, and I have confirmed that a diligent search has been made of all of the locations and files that likely contained responsive documents and information in the possession, custody, or control of the Law Offices of Crystal Moroney, P.C.
2. All of the documents and information identified through the search described in paragraph 1 above required by the Civil Investigative Demand dated June 23, 2017 that are within the possession, custody, or control of the Law Offices of Crystal Moroney, P.C. have been submitted to the Bureau custodian or deputy custodian identified in this Civil Investigative Demand.
3. If a document or tangible thing responsive to this Civil Investigative Demand has not been submitted, a claim of privilege in compliance with 12 C.F.R. § 1080.8 has been submitted.

I certify under penalty of perjury that the foregoing is true and correct. Executed on

_____.

Signature

**CERTIFICATE OF COMPLIANCE – INTERROGATORY ANSWERS AND
REPORTS**

I, _____, pursuant to 28 U.S.C. § 1746,
declare that:

1. I have confirmed that, in preparation of all answers and reports in response to the enclosed Civil Investigative Demand, a diligent inquiry has been made of all persons who likely have possession of responsive documents and information, and I have confirmed that a diligent search has been made of all of the locations and files that likely contained responsive documents and information within the possession, custody, control, or knowledge of the Law Offices of Crystal Moroney, P.C.
2. Based on the information identified through the search described in paragraph 1 above, all answers and reports prepared in response to the enclosed required by the Civil Investigative Demand dated June 23, 2017 are true, correct, and complete.
3. If an interrogatory or a portion of an interrogatory has not been fully answered or a report or a portion of a report has not been completed, a claim of privilege in compliance with 12 C.F.R. § 1080.8 has been submitted.

I certify under penalty of perjury that the foregoing is true and correct. Executed on

_____.

Signature

CONSUMER FINANCIAL PROTECTION BUREAU
Washington, D.C. 20552

Notice to Persons Supplying Information

You have been asked to supply information or speak voluntarily, or directed to provide sworn testimony, documents, or answers to questions in response to a civil investigative demand (CID) from the Consumer Financial Protection Bureau (Bureau). This notice discusses certain legal rights and responsibilities. Unless stated otherwise, the information below applies whether you are providing information voluntarily or in response to a CID.

A. False Statements; Perjury

False Statements. Section 1001 of Title 18 of the United States Code provides as follows:

[W]hoever, in any matter within the jurisdiction of the executive ... branch of the Government of the United States, knowingly and willfully-- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title ...[or] imprisoned not more than 5 years ..., or both.

Perjury. Section 1621 of Title 18 of the United States Code provides as follows:

Whoever ... having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly or that any written testimony, declaration, deposition, or certificate by him subscribed, is true willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true ... is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

B. The Fifth Amendment; Your Right to Counsel

Fifth Amendment. Information you provide may be used against you in any federal, state, local or foreign administrative, civil or criminal proceeding brought by the Bureau or any other agency. If you are an individual, you may refuse, in accordance with the rights guaranteed to you by the Fifth Amendment to the Constitution of the United States, to give any information that may tend to incriminate you or subject you to criminal liability, including fine, penalty or forfeiture.

Counsel. You have the right to be accompanied, represented and advised by counsel of your choice. For further information, you should consult Bureau regulations at 12 C.F.R. § 1080.9(b).

C. Effect of Not Supplying Information

Persons Directed to Supply Information Pursuant to CID. If you fail to comply with the CID, the Bureau may seek a court order requiring you to do so. If such an order is obtained and you still fail to supply the information, you may be subject to civil and criminal sanctions for contempt of court.

Persons Requested to Supply Information Voluntarily. There are no sanctions for failing to provide all or any part of the requested information. If you do not provide the requested information, the Bureau may choose to send you a CID or subpoena.

D. Privacy Act Statement

The information you provide will assist the Bureau in its determinations regarding violations of Federal consumer financial laws. The information will be used by and disclosed to Bureau personnel and contractors or other agents who need the information to assist in activities related to enforcement of Federal consumer financial laws. The information may also be disclosed for statutory or regulatory purposes, or pursuant to the Bureau's published Privacy Act system of records notice, to:

- a court, magistrate, administrative tribunal, or a party in litigation;
- another federal or state agency or regulatory authority;
- a member of Congress; and
- others as authorized by the Bureau to receive this information.

This collection of information is authorized by 12 U.S.C. §§ 5511, 5562.



Executive Secretary
Page 20 of 23

EXHIBIT

“B”

1700 G Street, NW
Washington, DC 20552



November 14, 2019

Via U.S. Mail and Email


Law Offices of Crystal Moroney, P.C.
17 Squadron Blvd.
Suite 303
New City, NY 10956

Re: Civil Investigative Demand served on the Law Offices of Crystal Moroney, P.C.
on November 14, 2019

Dear Ms. Moroney:

Attached is a civil investigative demand (CID) issued to you by the Bureau of Consumer Financial Protection (Bureau) under 12 C.F.R. § 1080.6 and § 1052(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5562. The Bureau is currently seeking information for a non-public investigation, the purpose of which is explained on the attached CID cover sheet. Please note:

1. **Contact Bureau counsel, E. Vanessa Assae-Bille, as soon as possible to schedule an initial meeting that is required to be held within 10 calendar days of receipt of this CID.** During this meeting, you must discuss and attempt to resolve all issues regarding the CID, including timely compliance. The rules require that you make available at this meeting personnel with the knowledge necessary to resolve issues; such individuals may include, for example, information-technology professionals. Please be prepared to discuss your planned compliance schedule, including any proposed changes that might reduce your cost or burden while still giving the Bureau the information it needs.
2. **You must retain and suspend any procedures that may result in the destruction of, documents, information, or tangible things that are in any way relevant to the investigation, as described in the CID's Notification of Purpose.** You are required to prevent the destruction of relevant material irrespective of whether you believe such material is protected from future disclosure or discovery by privilege or otherwise. See 18 U.S.C. §§ 1505, 1519.



Please contact Bureau counsel as soon as possible to set up an initial meeting, which must be held within **10** calendar days of receipt of this CID. We appreciate your cooperation.

Sincerely,

/s/E. Vanessa Assae-Bille
Enforcement Attorney

Attachment



United States of America
Bureau of Consumer Financial Protection

Civil Investigative Demand

To **Law Offices of Crystal Moroney, P.C.**
17 Squadron Blvd.
Suite 303
New City, NY 10956

This demand is issued pursuant to Section 1052 of the Consumer Financial Protection Act of 2010 and 12 C.F.R. Part 1080 to determine whether there is or has been a violation of any laws enforced by the Bureau of Consumer Financial Protection.

Action Required (choose all that apply)

☐ Appear and Provide Oral Testimony

Location of Investigational Hearing	Date and Time of Investigational Hearing
	Bureau Investigators

☒ Produce Documents and/or Tangible Things, as set forth in the attached document, by the following date **12/16/2019**

☒ Provide Written Reports and/or Answers to Questions, as set forth in the attached document, by the following date **12/16/2019**

Notification of Purpose Pursuant to 12 C.F.R. § 1080.5

The purpose of this investigation is to determine whether debt collectors, furnishers, or associated persons, in connection with regularly collecting or attempting to collect consumer debt and furnishing consumer information to consumer-reporting agencies, have: (1) disregarded warnings that debts were the result of identity theft or otherwise disputed by consumers, in a manner that was unfair, deceptive, or abusive, in violation of §§ 1031 and 1036 of the Consumer Financial Protection Act of 2010, 12 U.S.C. §§ 5531, 5536; (2) ignored cease-and-desist requests and engaged in other prohibited communications with consumers or third parties, or failed to provide required notices, or made false or misleading representations in a manner that violated the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692b, 1692c, 1692e, 1692g; or (3) failed to correct and update furnished information, or failed to maintain reasonable policies and procedures in a manner that violated the Fair Credit Reporting Act, 15 U.S.C. § 1681s-2, or Regulation V, 12 C.F.R. § 1022.42. The purpose of this investigation is also to determine whether Bureau action to obtain legal or equitable relief would be in the public interest.

Custodian / Deputy Custodian

Deborah Morris/Annais Ramirez
The Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

Bureau Counsel

E. Vanessa Assae-Bille
The Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

Date Issued

11/14/2019

Signature

Deborah
Morris

Digitally signed by
Deborah Morris
Date: 2019.11.14
11:07:44 -05'00'

Name / Title

Deborah Morris, Deputy Enforcement Director

Service

The delivery of this demand to you by any method prescribed by the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5562, is legal service. If you fail to comply with this demand, the Bureau may seek a court order requiring your compliance.

Travel Expenses

Request a travel voucher to claim compensation to which you are entitled as a witness before the Bureau pursuant to Section 1052 of the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5562.

Right to Regulatory Enforcement Fairness

The Bureau is committed to fair regulatory enforcement. If you are a small business under Small Business Administration standards, you have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR (1-888-734-3247) or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.

Paperwork Reduction Act

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

**CIVIL INVESTIGATIVE DEMAND FOR
PRODUCTION OF DOCUMENTS, TANGIBLE THINGS, WRITTEN
REPORTS, AND ANSWERS TO INTERROGATORIES**

I. Requests.

Interrogatories

1. Identify all Persons who participated in responding to this CID, describe the specific tasks performed by each Person, and identify the response for which they performed each task.
2. Describe the Company's organizational structure, including:
 - a. the Company's legal name and principal place of business;
 - b. the date and jurisdiction in which it was incorporated or organized;
 - c. all names under which the Company has done business;
 - d. the Company's leadership including the principals, directors, and owners;
 - e. each state in which the Company has done business; and
 - f. the time period during which it did business in each state.
3. Describe each of the Company's business activities (e.g., debt collection, furnishing information to Consumer Reporting Agencies, litigation, etc.). For each of those business activities, provide the Company's annual revenue.
4. Describe:
 - a. the type(s) of Debt the Company collects (e.g., medical, utilities, schoolbook rentals, etc.);
 - b. the age range of Debt the Company collects;
 - c. the method(s) by which the Company obtains Debt accounts (e.g., assignment, or portfolio purchase);
 - d. whether the Company obtains Debt accounts after the accounts become delinquent or are in default;
 - e. whether the Company collects Debts owed or asserted to be owed to another party;
 - f. the type(s) of data and records the Company receives with each Debt account it obtains; and
 - g. the method(s) by which the Company removes Debt accounts from its portfolio (e.g., settlements, referrals to law firms, conveyance to the creditor or third-party, or sale to Debt buyer(s)).
5. Identify each alternative name(s) or alias(es) the Company has used to identify itself when contacting consumers in connection with its Debt Collection Activities. Provide the date range during which the Company used the alternative name(s) or alias(es).

6. Describe the Company's compensation structure for its employees and agents performing Debt Collection Activities, including but not limited to the Company's wage structure, the Company's bonus structure, and the criteria considered and formulas applied to determine the award of bonuses and other rewards.
7. For each year during the Applicable Period, provide the highest total number of:
 - a. employees or agents engaged in Debt Collection activities (excluding attorneys identified in response to Interrogatory 7(b)) working for the Company; and
 - b. licensed attorneys working for the Company.
8. Identify each licensed attorney who formerly worked for the Company, including:
 - a. their full legal name;
 - b. their title(s) held at the Company;
 - c. the month and year they began and ceased working for the Company; and
 - d. whether they were engaged in Debt Collection Activities.
9. For each year during the Applicable Period, provide the total number of:
 - a. lawsuits the Company filed in connection with its Debt Collection Activities; and
 - b. court judgments the Company obtained against debtors.
10. Identify any former employees and agents (excluding attorneys identified in response to Interrogatory 7(b)) who have worked for the Company for a minimum of 90 calendar days. For each, include:
 - a. the former employee's or agent's official title at the Company;
 - b. the former employee's or agent's department at the Company;
 - c. the month and year the former employee or agent began and ceased working at or for the Company;
 - d. the reason the former employee or agent separated from the Company;
 - e. the former employee's current or last known home address;
 - f. the former employee's current or last known e-mail address; and
 - g. the former employee's current or last known telephone number.
11. Identify each Person (including the dates of employment and any titles or positions held) who has been responsible for:
 - a. creating or implementing the Company's training and guidance materials (including telephone scripts) relating to Debt Collection Activities;
 - b. creating or implementing the Company's policies and procedures for complying with laws relating to Debt Collection Activities, including the

- FDCPA, FCRA, and state and federal laws prohibiting unfair, deceptive, or abusive acts and practices; and
- c. creating or implementing the Company's policies and procedures for receiving, logging, investigating, and responding to complaints and disputes relating to Debt Collection Activities, including recording and responding to cease-and-desist requests.
12. Identify each creditor or third-party for which the Law Offices of Crystal Moroney, P.C. performed Debt Collection Activities. For each creditor or third-party, and for each year during the Applicable Period, specify:
- a. the contact Person at Law Offices of Crystal Moroney, P.C.;
 - b. type of Debt in the portfolio of Law Offices of Crystal Moroney, P.C.;
 - c. the start date and end of date of the services that Law Offices of Crystal Moroney, P.C. provided;
 - d. a description of each service Law Offices of Crystal Moroney, P.C. provided;
13. For each year during the Applicable Period, provide the number of:
- a. oral consumer disputes of Debt the Company received;
 - b. written consumer disputes of Debt the Company received;
 - c. written verification right notices the Company provided to consumers;
 - d. written requests for verification of debt the Company received;
 - e. oral requests for verification of debt that the Company received;
 - f. written and oral notifications the Company received from consumers stating that their alleged Debt was incurred as a result of identity theft; and
 - g. written cease-and-desist requests the Company received from consumers.
14. Describe how the Company generated the information produced in response to each subsection of Interrogatory 13.
15. Identify each telephone number the Company has used to contact consumers in connection with its Debt Collection Activities. Provide the date range during which the Company used the phone number, and whether the telephone number is associated with a fixed landline, a cellular telephone, or switched/digital or other telephone type.
16. Identify all databases the Company has used—whether in-house, hosted, or used by a vendor on the Company's behalf—to conduct Debt Collection Activities. For each database, identify or provide the following information:
- a. the employee(s) most knowledgeable about the database;

- b. the database system name, commercial software name (if different from the system name), version, technology platform, and computing model (e.g., client, server, or multi-tier);
 - c. the time period during which the database is or was in use;
 - d. the names and descriptions of the data fields contained in the database;
 - e. the data type (e.g., date, time, integer, or text) in each data field;
 - f. any purposes beyond debt collection for which it is used;
 - g. a description of each category of Persons with access to any part(s) of the database, the identity of the part(s) to which each category of Persons has access, and for what purpose;
 - h. the timeframe for which information in each data field is stored or maintained;
 - i. a description of how the database is populated with data or information and by whom;
 - j. a description of how the database interacts with other Company systems, (e.g., file systems or other databases);
 - k. a description of any processes used to assure the accuracy of data in each database, including any internal controls, internal audits, or quality assurance programs performed on the database;
 - l. whether the database holds attachments (e.g., image, audio, or PDF files), and a description of those attachments;
 - m. a description of the reporting capabilities of the database;
 - n. a description of any regular or standard reports generated from the database, and the frequency with which such reports are generated;
 - o. whether the data stored in the database can be exported to Microsoft Excel or other readily available spreadsheet or database programs; and
 - p. a description of the frequency with which the database is archived or backed up, and the method by which it is archived or backed up.
17. For each database identified in response to Interrogatory 17, provide a data dictionary. For each data field, provide the following information:

Data Element Terms	Data Element Definitions
Field Name	Unique name
Definition	Description of the meaning of the data element
Data Type	Type of data (e.g., date, numeric, text, memo, floating point)
Data Size	Maximum field length that will be accepted
Data Format	Format of data (e.g., YYYYMMDD, MM/DD/YYYY)
Field Constraints: Data Element is a required field (Y/N)	Required fields (Y) must be populated
Enumeration (if applicable)	If a field can only take certain values or codes (e.g. A, B, or C), list those values and an explanation of their meaning
Special, Dummy, Test Values	Include a narrative description (e.g., for calls

	to 555-555-5555, describe that number as being used for internal testing, or for dates populated as 1/1/1900, specify what that value means)
Formula	If the field is calculated, provide the formula for the calculation.

18. For each Document the Company produces in response to Requests for Documents 1 through 13, provide the effective dates that each Document was in use. Provide this information in the following table format:

Document Request No.	Bates No.	Title	Start Effective Date	End Effective Date

19. If, for any Interrogatory that calls for identification of a Person, there is no identifiable Person for the Applicable Period, identify the most recent identifiable Person, including Persons no longer affiliated with or employed by the Company. For each, specify the dates of affiliation or employment and any titles or positions held.
20. If, for any request, there are Documents that would be responsive but that are now unavailable, identify each Document and its last known location or custodian, and explain why the Document cannot be produced.

Requests for Written Reports

Produce the following data in tab-delimited text files, using double-quote-escaped text fields when necessary. Where data derives from separate tables or dimensions, use a separate text file for data elements along each separate dimension. This should comply with at least the first normal form (1NF). Include both the unique identifiers and foreign keys (as well as indicators of their function) in each file expressing the relationship between these files. When data is available for some records and not others, leave the unavailable data items blank. Omissions due to unavailability should be described in narrative with the production. Individual records should never contain a varying number of fields. Where information exists at the record level requested but is not included in the individual Written Report Request, include this information in additional columns in your response to the Written Report Request. Additionally, provide any code used to generate and validate each Written Report.

1. For each Creditor or third-party with Debt in the Company's portfolio, and for each year during the Applicable Period, provide:
 - a. the name of the Creditor or third-party;
 - b. the unique identifier of Debt type;

- c. the total number of Debts the Company attempted to collect in any way;
 - d. the total dollar amount of the Debts the Company attempted to collect in any way; and
 - e. the Company's total revenue.
2. For each year during the Applicable Period, provide a log of all consumer complaints or disputes that the Company has received, including:
- a. the date on which the Company received the complaint or dispute;
 - b. the name of the Person who submitted the request, and their:
 - i. street address;
 - ii. city;
 - iii. state;
 - iv. zip code;
 - v. telephone number; and
 - vi. email address;
 - c. the unique identifier by which the Company identifies the Debt account related to the Person's complaint or dispute;
 - d. a brief description of the complaint or dispute (e.g., cease-and-desist, Debt validation, information furnishing to Consumer Reporting Agencies, etc.);
 - e. whether the complaint or dispute was written or oral;
 - f. the date that the Company initiated contact with the Person who submitted the complaint or dispute; and
 - g. any notes, codes, or history associated with the investigation of the complaint or dispute; and
 - h. an explanation of the resolution.
3. For each consumer complaint or credit report dispute the Company received directly from a Consumer Reporting Agency during the Applicable Period, provide:
- a. the name of the Consumer Reporting Agency that submitted the complaint or dispute;
 - b. the unique identifier by which the Company identifies the Debt account related to the complaint or dispute;
 - c. the date that the Company received the complaint or dispute;
 - d. a brief description of the nature of the complaint or dispute (e.g., identification theft, debt paid off, debtor's mistaken identity, etc.);
 - e. the response code;
 - f. the dispute code(s) (in separate fields);
 - g. any notes, codes, or history associated with the investigation of the complaint or dispute;
 - h. the date of resolution; and
 - i. the Company's reason for closing the complaint or dispute.

4. Identify all telephone calls that the Company has made in attempt to collect a Debt on behalf of a Creditor or third-party, and provide all associated elements as stored in your or your providers' databases (e.g., Customer Relations Management systems and call recording systems) at a call level, including:
 - a. account number associated with the call;
 - b. unique identifier for the call;
 - c. file reference for call recording, .wav file or similar;
 - d. date and time of call;
 - e. telephone number called;
 - f. duration of call;
 - g. unique operator ID associated with call;
 - h. any call-type codes, disposition codes, resolution codes, product codes, or similar associated with the call (use separate columns);
 - i. notes or comments associated with the call; and
 - j. any other data unique to the call.

Requests for Documents

1. One copy of all unique policies and procedures related to Debt Collection Activities, including but not limited to Debt Collection notices and calls, skip tracing, investigations, use of telephone line(s) or service(s) not controlled by the Company, and logging of complaints or disputes concerning identity theft submitted by consumers and Consumer Reporting Agencies.
2. One copy of all unique telephone scripts the Company has used while attempting to collect a Debt.
3. To the extent not already provided, one copy of all unique technical and employee manuals, handbooks, guidance documents, and training materials relating to Debt Collection Activities.
4. One copy of all unique policies and procedures related to Information Furnishing Activities, including but not limited to providing an address for consumers to submit disputes, correcting and updating consumer information to be furnished, and logging of complaints or disputes concerning identity theft submitted by consumers and Consumer Reporting Agencies.
5. To the extent not already provided, one copy of each unique technical and employee manuals, handbooks, guidance, and training materials relating to credit Information Furnishing Activities.
6. To the extent not already provided, one copy of all other unique policies and procedures for addressing consumers' complaints or disputes.
7. One copy of each unique policies and procedures for complying with laws relating to Debt Collection Activities and credit Information Furnishing Activities,

including the FDCPA, FCRA, and state and federal laws prohibiting unfair, deceptive, or abusive acts and practices.

8. One copy of all unique templates, models, or form Documents the Company has used to notify consumers of their Debt verification rights.
9. One copy of all unique templates, models, or form Documents the Company has used to respond to consumers' oral or written Debt validation requests.
10. One copy of all unique templates, models, or form Documents that the Company has used to respond to consumer complaints or disputes, including cease-and-desist requests.
11. One copy of all other unique templates, models, or form Documents or letters that the Company has used in the attempt to collect a Debt from a consumer.
12. All audits relating to the Company's Debt Collection Activities, including but not limited to quality-assurance and compliance reviews of the Company's compliance with the Company's policies and procedures, the FDCPA, FCRA, and state and federal laws prohibiting unfair, deceptive, or abusive acts and practices.
13. Audited financial statements, including the corresponding footnote disclosures, balance sheets, income statements, statements of cash flows, and statements of changes in owners' equity for the Applicable Period through the latest month available for 2019. If no audited financial statements exist, unaudited financial statements along with the corresponding footnote disclosures.

Requests for Tangible Things

1. Metadata from call systems and related systems, including call notes, for all telephone calls made or received by the Company in an attempt to collect a Debt from a consumer.
2. Recordings of all telephone calls between the Company and any Consumer relating to the Company's attempt to collect on a consumer Debt in the Company's portfolio.
3. Recordings of all telephone calls between the Company and any third-party natural persons (excluding any Creditor or any third-party for which the Company is performing or had performed Debt Collection Activities) relating to the Company's attempt to collect on a consumer Debt in the Company's portfolio.
4. For each account for which the Company made a call responsive to Requests for Tangible Things 2 and 3, identify all phone numbers authorized associated with the account. Provide each phone number as a separate observation, with fields for

the original account number associated with the phone number and any notes regarding the type of number (e.g., home, work, cell, or spouse work).

II. Definitions.

- A. **“And”** and **“or”** must be construed both conjunctively and disjunctively.
- B. **“Any”** includes **“all,”** and **“all”** includes **“any.”**
- C. **“CID”** means the Civil Investigative Demand, including the Requests, Topics for Hearing, Definitions, and Instructions.
- D. **“Bureau”** means the Bureau of Consumer Financial Protection.
- E. **“Company”** or **“you”** or **“your”** means the Law Offices of Crystal Moroney, P.C., and any successor in interest.
- F. **“Consumer”** or **“Debtor”** means any natural person obligated or allegedly obligated to pay any Debt as defined in the Fair Debt Collection Practices Act, 15 U.S.C. § 1692a(3).
- G. **“Consumer Reporting Agency”** means “consumer reporting agency” as defined in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f).
- H. **“Debt”** means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment as defined in the Fair Debt Collection Practices Act, 15 U.S.C. § 1692a(5).
- I. **“Debt Collection Activities”** means all activities, including attempts, to collect a Debt either directly or indirectly (excluding the provision of legal services).
- J. **“Demand Letter”** means any document sent to a Consumer in an effort to collect a Debt.
- K. **“Deputy Enforcement Director”** refers to a Deputy Assistant Director of the Office of Enforcement.
- L. **“Document”** means any written matter of every type and description, including electronically stored information. “Document” includes any non-identical copy (such as a draft or annotated copy) of another document.
- M. **“Each”** includes **“every,”** and **“every”** includes **“each.”**
- N. **“Electronically Stored Information,”** or **“ESI,”** means the complete original

and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise) of any electronically created or stored information, including but not limited to e-mail, instant messaging, videoconferencing, SMS, MMS, or other text messaging, and other electronic correspondence (whether active, archived, unsent, or in a sent or deleted-items folder), word-processing files, spreadsheets, databases, unorganized data, document metadata, presentation files, and sound recordings, regardless of how or where the information is stored, including if it is on a mobile device.

O. **“Enforcement Director”** refers to the Assistant Director of the Office of Enforcement.

P. **“Fair Credit Reporting Act”** or **“FCRA”** means the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*

Q. **“Fair Debt Collection Practices Act”** or **“FDCPA”** means the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*

R. **“Identify”** means to provide: (a) for natural persons, their name, title or position, present business affiliation, present business address, e-mail address, and telephone number, or if a present business affiliation or present business address is not known, the last known business address, home address, e-mail address, and telephone number; (b) for businesses or other organizations, the name, address, identities of officers, directors, or managers of the business or organization, and contact persons with e-mail addresses and telephone numbers, where applicable; and (c) for documents, the title, date, authors, recipients, Bates numbers, if applicable, type of document or some other means of identifying the document, and the present or last known location or custodian.

S. **“Information Furnishing Activities”** means all activities related to efforts to furnish consumer information to a Consumer Reporting Agency, either directly or indirectly.

T. **“Person”** means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

III. Instructions.

A. **Sharing of Information:** This CID relates to a nonpublic, law-enforcement investigation being conducted by the Bureau. The Bureau may make its files available to other civil and criminal federal, state, or local law-enforcement agencies under 12 C.F.R. §§ 1070.43(b)(1) and 1070.45(a)(5). Information you provide may be used in any civil or criminal proceeding by the Bureau or other agencies. As stated in 12 C.F.R. § 1080.14, information you provide in response to this CID is subject to the requirements and procedures relating to the disclosure of records and information set forth in 12 C.F.R. pt.

1070.

B. **Meet and Confer:** As stated in 12 C.F.R. § 1080.6(c), you must contact Enforcement Attorney **E. Vanessa Assae-Bille** at **(202) 435-7688** as soon as possible to schedule a meeting (telephonic or in person) to discuss your response to the CID. The meeting must be held within **10** calendar days after you receive this CID or before the deadline for filing a petition to modify or set aside the CID, whichever is earlier.

C. **Applicable Period for Responsive Materials:** Unless otherwise directed, the applicable period for the request is from **January 1, 2014, until the date of this CID (“Applicable Period”)**.

D. **Privilege Claims:** If any material responsive to this CID is withheld on the grounds of privilege, you must make the privilege claim no later than the date set for the production of the material. As stated in 12 C.F.R. § 1080.8(a), any such claim must include a schedule of the documents, information, or tangible things withheld that states, for each:

1. its type, specific subject matter, and date;
2. the names, addresses, positions, and organizations of all authors and direct or indirect recipients;
3. the specific grounds for claiming the privilege;
4. the request to which the privileged document, information, or thing is responsive; and
5. its Bates number or range.

In addition, the person who submits the schedule and the attorney stating the grounds for the privilege must sign it. A person withholding material solely based on a claim of privilege must comply with the requirements of 12 C.F.R. § 1080.8 rather than file a petition for an order modifying or setting aside a demand under 12 C.F.R. § 1080.6(e). Please follow the enclosed Document Submission Standards for further instructions about producing redacted privileged documents.

E. **Document Retention:** Until you are notified otherwise, you are required to retain all documents and other tangible things that you used or relied on in responding to this CID. In addition, you must retain, and suspend any procedures that may result in the destruction of, documents, information, or tangible things that are in any way relevant to the investigation, as described in the CID’s Notification of Purpose. You are required to prevent the destruction of relevant material irrespective of whether you believe such material is protected from future disclosure or discovery by privilege or otherwise. See 18 U.S.C. §§ 1505, 1519.

F. **Modification Requests:** If you believe that the scope of the search or response required by this CID can be narrowed consistent with the Bureau's need for documents or information, you are encouraged to discuss such possible modifications, including modifications of the requirements of these instructions, with Enforcement Attorney E. Vanessa Assae-Bille at (202) 435-7688. Modifications must be agreed to in writing by the Enforcement Director or a Deputy Enforcement Director. 12 C.F.R. § 1080.6(d).

G. **Petition for Order Modifying or Setting Aside Demand:** Under 12 U.S.C. § 5562(f) and 12 C.F.R. § 1080.6(e), you may petition the Bureau for an order modifying or setting aside this CID. To file a petition, you must send it by e-mail to the Bureau's Executive Secretary at ExecSec@cfpb.gov, copying the Enforcement Director at Enforcement@cfpb.gov, within 20 calendar days of service of the CID or, if the return date is less than 20 calendar days after service, before the return date. The subject line of the e-mail must say "Petition to Modify or Set Aside Civil Investigative Demand." If a request for confidential treatment is filed, you must file a redacted public petition in addition to the unredacted petition. All requests for confidential treatment must be supported by a showing of good cause in light of applicable statutes, rules, Bureau orders, court orders, or other relevant authority.

H. **Certification:** The person to whom the CID is directed or, if it is directed to an entity, any person having knowledge of the facts and circumstances relating to the production, must certify that the response to this CID is true and complete. This certification must be made on the form declaration included with this CID.

I. **Scope of Search:** This CID covers materials and information in your possession, custody, or control, including but not limited to documents in the possession, custody, or control of your attorneys, accountants, other agents or consultants, directors, officers, and employees.

J. **Document Production:** The Bureau encourages the electronic production of all material responsive to this CID; please follow the enclosed Document Submission Standards.

All packages destined for Bureau offices should be addressed to:

Consumer Financial Protection Bureau
1700 G Street, NW
ATTN: Annais Ramírez-Velázquez, SEFL, Office of Enforcement, Seat 8125E.1
Washington, DC 20552

Please provide your intended method of production and any tracking numbers by e-mail or telephone to Enforcement Attorney E. Vanessa Assae-Bille at Elisabeth.Assae-Bille@cfpb.gov and (202) 435-7688.

K. **Document Identification:** Documents that may be responsive to more than

one request of this CID need not be submitted more than once. All documents responsive to this CID must be accompanied by an index that identifies: (i) the name of each custodian of each responsive document; (ii) the corresponding Bates number or range used to identify that person's documents; and (iii) the request or requests to which each document responds.

L. Sensitive Personally Identifiable Information: If any material called for by these requests contains sensitive personally identifiable information, or sensitive health information of any individual, please contact Enforcement Attorney **E. Vanessa Assae-Bille** at **(202) 435-7688** before sending those materials to discuss ways to protect the information during production. You must encrypt electronic copies of such materials with encryption software acceptable to the Bureau. When submitting encrypted material, you must provide the encryption key, certificate, or passcode in a separate communication.

For purposes of this CID, sensitive personally identifiable information includes an individual's Social Security number alone or an individual's name, address, or phone number *in combination with* one or more of the following: date of birth, Social Security number, driver's-license number or other state-identification number, or a foreign country equivalent, passport number, financial-account number, credit-card number, or debit-card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

M. Information Identification: Each request for a written report or interrogatory in this CID must be answered separately and fully in writing under oath. All information submitted must clearly and precisely identify the request or requests to which it is responsive.

N. Submission of Documents in lieu of Reports or Answers: Documents in existence before your receipt of this CID that contain the information requested in any interrogatory may be submitted as part of or in lieu of an answer to the interrogatory. If you submit documents as part of or in lieu of an answer, you must clearly indicate the specific request to which the documents are responsive, and you must clearly identify the specific portion of the documents that are responsive, including page, paragraph, and line numbers, as applicable.

O. Declaration Certifying Records of Regularly Conducted Business Activity: Attached is a Declaration Certifying Records of Regularly Conducted Business Activity, which may limit the need to subpoena you to testify at future proceedings to establish the admissibility of documents produced in response to this CID. Please execute this Declaration and provide it with your response.

P. All references to "**year**" or "**annual**" refer to the calendar year. Where

information is requested "for each year," provide it separately for each year; where yearly data is not available, provide responsive information for the calendar year to date, unless otherwise instructed.

Q. **Duty to Estimate:** If you are unable to answer any interrogatory fully, supply such information as is available. Explain why such answer is incomplete, the efforts you made to obtain the information, and the source from which the complete answer may be obtained. If books and records that provide accurate answers are not available, enter best estimates and describe how the estimates were derived, including the sources or bases of such estimates. Estimated data should be followed by the notation "est." If there is no reasonable way to make an estimate, provide an explanation.

CERTIFICATE OF COMPLIANCE WITH RFPA

The Right to Financial Privacy Act of 1978 (RFPA) does not apply to the disclosure of financial records or information to the Bureau of Consumer Financial Protection "in the exercise of its authority with respect to a financial institution." 12 U.S.C. § 3413(r). This civil investigative demand is also issued in connection with an investigation within the meaning of section 3413(h)(1)(A) of the RFPA. Therefore, in accordance with section 3403(b) of the RFPA, the undersigned certifies that, to the extent applicable, the provisions of the RFPA have been complied with as to the Civil Investigative Demand issued to Law Offices of Crystal Moroney, P.C., to which this Certificate is attached.

The information obtained will be used to determine whether the persons named or referred to in the attached Civil Investigative Demand are in compliance with laws administered by the Bureau of Consumer Financial Protection. The information may be transferred to another department or agency consistent with the RFPA.

Under the RFPA, good faith reliance on this certificate relieves the recipient and its employees and agents of any liability to customers in connection with the requested disclosures of financial records of these customers. See 12 U.S.C. § 3417(c).

Deborah
Morris

Digitally signed by Deborah
Morris
Date: 2019.11.14 11:10:04
-05'00'

Deborah Morris
Bureau of Consumer Financial Protection
Deputy Director, Office of Enforcement

DECLARATION CERTIFYING RECORDS OF
REGULARLY CONDUCTED BUSINESS ACTIVITY
Pursuant to 28 U.S.C. § 1746

I, _____, pursuant to 28 U.S.C. § 1746, declare that:

1. I am employed by _____ as _____
and by reason of my position am authorized and qualified to certify the authenticity of the records produced by Law Offices of Crystal Moroney, P.C. and submitted with this Declaration.
2. The documents produced and submitted with this Declaration by Law Offices of Crystal Moroney, P.C. are true copies of records of regularly conducted activity that were:
 - a. made at or near the time of the occurrence of the matters set forth, by, or from information transmitted by, a person with knowledge of those matters;
 - b. kept in the course of the regularly conducted business activity; and
 - c. made by the regularly conducted business activity as a regular practice.

I certify under penalty of perjury that the foregoing is true and correct. Executed on

_____.

Signature

CERTIFICATE OF COMPLIANCE

I, _____, pursuant to 28 U.S.C. § 1746, declare that:

1. I have confirmed that a diligent search has been made for all responsive documents and information in the possession, custody, or control of Law Offices of Crystal Moroney, P.C..
2. All of the documents and information identified through the search described in paragraph 1 above required by the Civil Investigative Demand dated November 14th, 2019 that are within the possession, custody, or control of Law Offices of Crystal Moroney, P.C. have been submitted to the Bureau custodian or deputy custodian identified in this Civil Investigative Demand.
3. If a document or tangible thing responsive to this Civil Investigative Demand has not been submitted, an interrogatory or a portion of an interrogatory has not been fully answered, or a report or a portion of a report has not been completed, a claim of privilege in compliance with 12 C.F.R. § 1080.8 has been submitted.
4. Law Offices of Crystal Moroney, P.C. has reviewed all responsive answers, reports, other documents and tangible things (collectively "Responses"), and has designated as confidential all those Responses, and only those Responses, the disclosure of which would cause substantial harm to the competitive position of Law Offices of Crystal Moroney, P.C., as that term is used for purposes of the Freedom of Information Act.

I certify under penalty of perjury that the foregoing is true and correct. Executed on

_____.

Signature



Executive Secretary
Page 21 of 23

EXHIBIT

“C”

CIVIL CAUSE FOR INITIAL CONFERENCE

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ OCT 15 2019 ★

LONG ISLAND OFFICE

BEFORE: JUDGE FEUERSTEIN

DATE: October 15, 2019 TIME: 30 minutes

CASE NUMBER: 2:19-cv-02928-SJF-ARL

CASE TITLE: Bureau of Consumer Financial Protection v. Forster & Garbus,
LLP

PLTFFS ATTY: Alana Karbis, Kristen Batemen and Hai-Bink NGyen
 X present not present

DEFTS ATTY: Joan Needleman
 X present not present

COURT REPORTER: COURTROOM DEPUTY: BMM

OTHER: _____

X CASE CALLED.

____ DECISION: ORDER(S) SIGNED / ENTERED ON THE RECORD / RESERVED.

OTHER: Case is closed with leave to restore on ten (10) days notice in no event later than

4/22/2020.



Executive Secretary
Page 22 of 23

EXHIBIT

“D”

The Law Offices of Ronald S. Canter, LLC
200A Monroe Street, Suite 104
Rockville, Maryland 20850
Telephone (301) 424-7490
Facsimile (301) 424-7470
www.roncanterllc.com

July 14, 2017

VIA E-MAIL

E. Vanessa Assae-Billie
Enforcement Attorney
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552
Elizabeth.Assae-Billie@cfpb.gov

Re: *Civil Investigative Demand of Law Offices of Crystal Moroney, P.C.*
Our File Number: 17-2070

Dear Ms. Assae-Billie:

This letter serves to confirm the meeting held at the CFPB office located at 1625 I Street on July 5, 2017 attended in person by me and my client, Crystal Moroney. The following persons attended by telephone and assisted Ms. Moroney during the meeting: Theresa Farias, IT Manager for Law Offices of Crystal Moroney, P.C, Jim Rossignol, General Manager of Comtronic Systems, Jeff Dantlzer of Comtronic Systems, Rick Delaney of Delany Computer Services, Inc. and Gabriel Quiroz of Delaney Computer Services. The CFPB was also represented by Naoka Clyburn, Paralegal (by telephone) Mingwei Hsu, Data Scientist (by telephone), Jackson Hughes, Data Science Lead, Doug Lohr, e-Law Litigation Support Specialist and Jehan Patterson, Enforcement Attorney.

In accordance with 12 C.F.R. § 1080.6(d) and Part III.(c) of the Civil Investigative Demand (CID) dated June 23, 2017, the Law Offices of Crystal Moroney ("LOCM" or "Firm") requests confirmation that compliance with the following terms constitutes satisfactory compliance with the CID.

I. Deadline For Certain Responsive Materials

A. Background

Crystal Moroney is an attorney licensed to practice law by the State of New York. The Law Offices of Crystal Moroney, P.C. is a professional corporation operating as a law firm authorized and existing under the laws of the State of New York. Ms. Moroney and the attorney employed in her office bear special responsibilities to clients including those described in the New York State Rules of Professional Conduct, including Rule 1.6. Rule 1.6 requires Ms.

Moroney and any attorney employed by her firm to keep confidential any information “gained during or relating to the representation of a client, whatever its source” when such information is “(a) protected by the attorney-client privilege, (b) likely to be embarrassing or detrimental to the client if disclosed, or (c) information that the client has requested be kept confidential.” The June 23, 2017 CID commands the Firm to provide to the Bureau documents and information which fall into one or more of these three categories (“Confidential Information”).

B. The Directives of Rule 1.6

Paragraph [13] of the commentary to Rule 1.6 contemplates circumstances in which a “government entity” claims authority to compel an attorney to produce Confidential Information. The rule instructs attorneys to assert non-frivolous arguments that the command is not authorized by law, demands Confidential Information protected by privilege, or that the command is otherwise invalid. Ms. Moroney and the Law Firm of Crystal Moroney, P.C. thus assert their objection to the CID on the basis that it commands them to produce Confidential Information which is privileged and that the CID is not authorized by law to the extent it requests Confidential Information.

The CID commands Ms. Moroney and the Firm to produce documents and information protected by the attorney-client privilege and the attorney work product privilege. After consultation with Ms. Moroney we have learned that the following requests include documents and information protected by privilege:

- Interrogatory 12
- Written Report Request 3(e)
- Written Report Request 4 (c)
- Written Report Request 7
- Document Request 12
- Document Request 14
- Request for Tangible Things 1
- Request for Tangible Things 2
- Request for Tangible Things 3
- Request for Tangible Things 4

Each of the requests above ask Ms. Moroney and the firm to produce Confidential Information as defined by the New York State Rules of Professional Conduct.

C. Current Action Taken By Ms. Moroney And The Firm

The conflict between Rule 1.6 and the Bureau's authority to demand Confidential Information is a matter of grave concern to Ms. Moroney and the Firm. Ms. Moroney is duty bound to comply with Rule 1.6. She has also expressed her sincere intention to comply with the CID. Without the benefit of expert ethics counsel, which relationship is currently begin consummated, Ms. Moroney and the Firm have preliminarily concluded that Rule 1.6 prohibits them from producing the Confidential Information demanded. At this time and for the reasons set out below, the conflict appears irreconcilable.

In their genuine effort to comply with both Rule 1.6 and the CID, Ms. Moroney and the Firm have sought the expert legal advice of counsel experienced in the area of legal ethics and professional responsibility. Ms. Moroney remains hopeful that ethics counsel can provide advice and even a potential solution to what appears to be a conflict between the Rules and the CID. Ms. Moroney has been advised by counsel that such assistance cannot be provided on or before the current return date of the CID, July 21, 2017. For this reason, Ms. Moroney respectfully requests an extension of time to respond to the above referenced items through and including September 15, 2017. The purpose of this extension is to (1) confer with competent legal ethics counsel and seek guidance on how to proceed, (2) gather and provide said counsel with enough sample Confidential Information sufficient allow counsel to evaluate and advise the Firm on the Rules and compliance with the CID, and (3) to allow the undersigned regulatory counsel to prepare the Firm's response to the Bureau in light of the expert's ethics advice.

D. The CID's Instructions On Privilege

Ms. Moroney and the Firm understand the CID contemplates assertions of privilege. Specifically, the CID and the governing regulation (§1080.8) command Ms. Moroney and the Firm (1) assert the privilege (which we have done herein), and (2) itemize the documents being withheld on the basis of privilege. Considering the extremely small size and low level of complexity of the Firm's operations, the Firm is simply unable to complete this itemization task.

The Firm possesses hundreds of thousands of records responsive to the CID. For example, Requests for Tangible Things 1 and 3 ask for telephone call data and the actual calls themselves, even when those calls are between the Firm's attorneys and its clients (i.e. "any third-party"). Requests for Written Reports 2(g), 3(e), 4(c), request "any notes, codes, or history associated with the investigation of the complaint. . ." even when those notes memorialize the attorney's communication with its client or when the attorney has formulated a legal opinion which is memorialized in those notes. Request for Written Reports 7(i) requests all "notes or comments associated with the call," referring to *every call* made by the Firm, including those with its clients. Identifying this material poses unique problems for the Firm because of how data is gathered and stored.

The Firm's data is not stored in a structured manner which allows it to be queried in ways which distinguish privileged data from non-privileged data. For example, the electronic notes field in the Firm's software platform is a natural language free-form text field. This is the field into which notes on a file are memorialized. The field bears no attributes which can be reliably queried to distinguish calls with consumers from calls with clients. Although the Firm is consulting with IT experts to address this issue, they are currently unaware of any reliable method of querying the unstructured data contained in this notes field that would allow for the itemization of privileged information and to distinguish that information from non-privileged information.

The volume of data is so large that human review would require thousands of hours of labor. For example, the amount of time and anticipated costs of such an endeavor would involve an individual review of approximately 500,000 recorded telephone calls over the past 18 months, the Firm's existing time frame for retention of calls. Ms. Moroney estimates that the average call lasts approximately 2.7 minutes. Based on this data, it would take 22,500 hours just to listen to the calls. Even if the listener could determine whether the calls was a privileged call or a consumer call in the first 10% of the call, it would still require 2,250 hours of labor for a human to make the privilege determination. This time period does not take into account any effort that would be needed to document calls protected by attorney client privilege.

Proposed Solution

At this time, the Firm does not have a solution. However, the Firm is consulting with IT experts, including its telephony vendor and its software provider, to explore solutions. At this time, the Firm proposes extending its deadline through September 15, 2017 to allow it to determine the best way to provide the Bureau the requested privilege log in a manner that it can physically accomplish. Again, the Firm repeats its genuine desire to cooperate with the Bureau's investigation and to provide all the information it is allowed to provide.

II. Applicable Period For Responsive Materials

Part III(c) of the CID stipulates that the applicable period for responsive materials begins from January 1, 2014 until the date of the CID. As to the request for information relating to purported violations of the Fair Debt Collection Practices Act, any action to enforce a liability under the FDCPA must be brought within one year from the date of the violation occurs. *See*, 15 U.S.C. § 1692k(d). Recently, during oral argument before the DC Circuit Court of Appeals in the closely watched case between the Bureau and PHH, counsel for the Bureau *admitted* that the Bureau's enforcement authority is not unbounded by the statute of limitations. Because the CID requests information well beyond the period of time when the CFPB could seek enforcement of any purported FDCPA violation, the Firm respectfully request confirmation of its satisfactory compliance with CID by responding using an Applicable Period of activities be limited to the period from June 23, 2016 to the date of the CID.

III. Request For Modification Of Interrogatories

A. Interrogatory Number 1

LOCM requests an extension to respond to Interrogatory Number 1 until September 15, 2017. This request is made based on further requests set out herein and is due to the fact that a full response cannot be provided until all other information has been furnished in response to the CID.

B. Interrogatory Number 12

Identifying the start and end date of client representation is a difficult task. The question does not specify the meaning of "Company's services." Although a client may no longer hire LOCM to collect accounts (because all accounts were recalled by a client or the client no longer places accounts for collection), consumers may nonetheless send payment to LOCM, which LOCM then forwards to the client or former client. LOCM does not track data by client necessary to identify a beginning date and an ending date for its "services" to a client. We therefore request that the question be modified to identify the date on which collection activity first commenced for each client and the date of last activity on any account for the same client.

C. Interrogatory Number 13

LOCM requests a modification to eliminate Interrogatory Number 13(e) on the basis that it does not track the number of oral verification requests by status code or in any other manner which can be queried by a computer with any degree of reliability. LOCM cannot furnish the information as requested.

LOCM further requests a modification to eliminate Interrogatory 13(c) because it simply does not track the number verifications provided to consumers or the number of demands received in a matter which can be queried.

Further, for the reasons set out in Crystal Moroney's Affidavit, LOCM requests an extension until September 15, 2017 to furnish the remaining information requested in Interrogatory Number 13, to the extent that it can respond thereto.

D. Interrogatory Number 15

LOCM requests an extension until September 15, 2017 to respond to this Interrogatory because it needs to obtain information from its IT vendors and will need to make arrangements to pay for its vendors services.

E. Interrogatory Number 16

See response to number 15.

F. Interrogatory Number 17

See response to number 15.

G. Interrogatory Number 18

See response to number 15.

H. Interrogatory Number 19

LOCM requests a modification to eliminate Interrogatory Number 19 on the basis that it does not keep an archive database as to changes made to the documents identified in Requests for Production of Documents 1 through 11 and cannot provide the information requested. LOCM simply does not possess the requested information.

III. MODIFICATIONS AS TO REQUESTS FOR WRITTEN REPORTS

LOCM requests a modification to the Requests for Written Reports as follows:

A. Request Number 2

LOCM is unable to respond to the Request for Written Report Number 2 because it does not maintain, in any searchable form, information pertaining to consumer reporting disputes. LOCM can provide a report, produced from E-Oscar, which contained data for the 120 day period immediately preceding the date on which the query is performed on the E-Oscar system. This data is furnished by Equifax. This report includes information identifying the consumer, the date of the dispute, the date that LOCM responded to the dispute, the dispute code and the response code along with other relevant data. LOCM requests confirmation that providing only the data available through E-Oscar satisfies this Request Number 2.

B. Request Number 3

LOCM requests a modification to eliminate Request for Written Report Number 3 because it does not have a searchable database available to respond to this request. LOCM can provide in .pdf format copies of stored documents relating to consumer disputes.

C. Request Number 4

LOCM requests a modification to Request for Written Report Number 4 to include only a list of accounts identified in the Debt Master database with a "cease and desist" status code. The reason is because LOCM does not separately collect the data identified in requests 4(a) through (e) in a manner which can be queried. LOCM requests confirmation that it can provide a list of all accounts in the Debt Master database that have a "cease and desist" status code associated

with it. . LOCM can also provide in pdf format copies of stored documents relating to consumer cease and desists.

IV. MODIFICATIONS AS TO REQUESTS FOR DOCUMENTS

As to Requests for Documents Numbers 1 through 11 and 13, LOCM asks for an extension to respond until September 15, 2017 which will afford sufficient time to collect the documents requested, to collate and produce the documents. If modified as requested, LOCM expects the CID to require production of many thousands of documents and many tens of thousands of records of data. The reasons for this request are more particularly explained in the Affidavit of Crystal Moroney which explains the burdensome and disruptive time requirements that have been imposed by the CID.

On behalf of The Law Offices of Crystal Moroney, P.C. please allow me to thank you for allowing a dialogue on these issues and for considering the above reference proposals. If you have any questions or wish to discuss these requests in further detail, please feel free to contact me directly. Also, please be advised that John H. Bedard, Jr., Esquire of Bedard Law Group will be acting as co-counsel with me in this matter from this time forward.

I thank you for considering this request for modification and look forward to your prompt response.

Very truly yours,

THE LAW OFFICES OF RONALD S. CANTER, LLC

By: /s/ Ronald S. Canter
Ronald S. Canter

RSC/mdl

VARSC-MDL\2017JULY\6\2017 07 06 LETTER TO E. VANESSA ASSAE-BILLIE.DOC

**AFFIDAVIT OF CRYSTAL MORONEY IN RESPONSE TO CIVIL INVESTIGATIVE
DEMAND OF JUNE 23, 2017**

1. I am the President and managing officer of the Law Offices of Crystal Moroney, P.C. ("LOCM").

2. LOCM was established in 2012.

3. LOCM engages in consumer debt collection.

4. I am an attorney licensed to practice law in the states of New York and New Jersey. I am also licensed to practice in the Federal Courts within each jurisdiction.

5. LOCM is a woman-owned small business with sixteen (16) employees, including myself, collectors, administrative staff, staff support and an in-house IT Manager.

6. LOCM's gross revenues in 2015 were \$1,712,871.00. LOCM's revenues declined by 18% in 2016. Based on projects through June, 2017, I anticipate that LOCM's gross revenues will decline from 2016 lower by another 16% in 2017.

7. The reduction in LOCM's revenue has put a significant financial strain on the business operations of LOCM. This strain was exacerbated by the untimely death of two LOCM's collectors in February and March, 2017.

8. Since I was served with the Civil Investigative Demand (CID) by the Consumer Financial Protection Bureau on June 27, 2017, I have spent approximately 7 hours of my normal work day, which usually lasts 9 to 10 hours, in reviewing the CID, conferring with my attorneys, conferring with my in-house IT Manager, conferring with outside IT consultants regarding what is needed to compile all the information requested in the CID and preparing LOCM's answers to Interrogatories as to information that does not require input of IT professionals.

9. I have also spent 3 hours each weekend day working on gathering information and data for LOCM's response to the CID.

10. The business operations of LOCM have been seriously disrupted because of the amount of time I am spending at the office and away from the office in responding to the CID.

11. The time I have spent addressing the CID and in attempting to begin to respond thereto has overwhelmed me. This has proven to be one of the most challenging tasks that I have had to confront in my professional life and I am left with a paramount concern that I cannot possibly meet the current deadline set out in the CID.

12. Since service of the CID and due to the time demands in addressing the CID, I have been unable to devote necessary time and attention to the business of LOCM including administrative functions (i.e., payroll, accounts receivable, accounts payable), client relations, supervision and oversight of collectors and staff and development of new business. I am almost solely responsible for acquiring new business for the office and operate "hands-on" in gathering documents needed to onboard a new client into the office's collection processes. I have also been unable to devote any time to client relations and securing new business since service of the CID.

13. LOCM cannot respond in full to the CID by the due date of July 21, 2017 because of the insurmountable burden that has disrupted its normal business operations that required me to devote most of my workday and time during the weekend to address the response to the CID. This precludes me from performing the tasks listed above as the owner of LOCM. LOCM, as explained in the accompanying letter from its counsel requests an extension of time to respond to certain parts of the CID.

14. The costs of responding to the request also imposes an undue financial burden on LOCM, which due to its precarious financial condition, cannot be met by July 21, 2017.

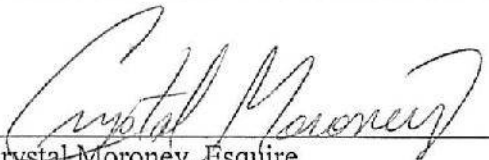
15. In addition, I will be required to consult with ethics counsel regarding this CID because production of some of the information requested in the CID involves communications

shielded by the attorney-client privilege doctrine. I will need to engage with ethics counsel and have that counsel review the CID, review the instructions relating to privilege claims, and provide me advices to how I can comply with the CID while at the same time preserving communications I have received with clients that are protected by the attorney-client privilege doctrine. I am unable to estimate how long this process will take, but reasonably believe, based upon the current extensive time I am spending in connection with the CID and the need to provide extensive briefing to ethics counsel as to the nature of the CID and the impact of the CID on request for privilege information that I will not able to provide a response to the CID that protects privileged communications without the extension of the deadline until September 15, 2017.

I declare under penalties of perjury that the contents of this Affidavit are true and correct.

Dated:

July 12, 2017



Crystal Moroney, Esquire
Law Offices of Crystal Moroney, P.C.



Executive Secretary
Page 23 of 23

EXHIBIT

“E”



1700 G Street NW, Washington, DC 20552

July 25, 2017

Via Email

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Re: Civil Investigative Demand served on the Law Offices of Crystal Moroney, P.C.,
on June 27, 2017

Dear Messrs. Canter and Bedard:

This letter modifies the terms for compliance with the civil investigative demand (CID) issued to the Law Offices of Crystal Moroney, P.C. (LOCM), by the Consumer Financial Protection Bureau (Bureau), as permitted by 12 C.F.R. § 1080.6(d). This letter sets forth the full extent of any modifications to the CID the Bureau has approved. The Bureau's willingness to approve these modifications is based, in part, on the Company's representations described or referred to below. The production of information and documents in accordance with the modifications described below constitutes compliance with the CID.

Modifications to Interrogatories

Interrogatory No. 12

Interrogatory No. 12 requests that LOCM identify creditors and third-party entities for which LOCM has performed Debt Collection Activities. Subparts (a) through (f) seek information about contact Persons for these creditors and third-parties, the duration and nature of LOCM's services, and the volume of LOCM's collections and revenue. In a letter to the Bureau, dated July 14, 2017 (July 14 Letter), LOCM expresses concerns that the CID conflicts with Crystal Moroney's obligations under the New York Rules of Professional Conduct (Ethics Rules). LOCM has "preliminarily concluded that Rule 1.6 prohibits ... producing the Confidential Information demanded, and is currently seeking legal advice from outside counsel with ethics expertise." On this basis, LOCM requests an extension until September 15, 2017. While LOCM has not provided

sufficient information to support the proposition that Interrogatory 12 and its subparts request confidential or privileged information, the Bureau is willing to grant a short extension of time to respond to this Interrogatory. The CID is modified to permit LOCM to respond to Interrogatory 12 by August 28, 2017.

Second, LOCM proposes modifying Interrogatory 12, Subpart (b), to define the period of LOCM's services as the first and last date on which LOCM performed Debt Collection Activities. Based on the representations LOCM has made, this Interrogatory is modified to request both the first and last date on which LOCM performed Debt Collection Activities.

Interrogatory No. 13

Interrogatory No. 13 seeks information related to different types of oral and written communications LOCM receives and issues in connection with its Debt Collection Activities. Subpart (c) requests the total number of written consumer disputes of Debt that LOCM has received. Subpart (e) requests the total number of oral consumer disputes of Debt that LOCM has received. LOCM represents that it does not track the information requested in Subpart (c) "in a manner that can be queried." LOCM also states that it does not track the information requested by Subpart (e) "by status code or in any other manner which can be queried by a computer with any degree of reliability," and that it cannot furnish this information. LOCM accordingly requests the elimination of Interrogatory No. 13, Subparts (c) and (e). LOCM has not provided sufficient information to support the elimination of Interrogatory No. 13. However, this CID is modified to permit LOCM to respond to Subparts (c) and (e) with copies of documents related to the written and oral consumer disputes LOCM has received, including any applicable log. Based on the representation in the July 14 Letter regarding the time and funding burdens of compliance with this Interrogatory, the CID is modified to permit LOCM to respond to Interrogatory No. 13 by September 15, 2017.

Interrogatories Nos. 15–18

Interrogatories Nos. 15 through 18 seek information regarding the systems and databases that LOCM has used to conduct Debt Collection Activities. LOCM requests an extension until September 15, 2017, to obtain responsive information from IT vendors. Based on the representations LOCM made in the July 14 Letter, the CID is modified to permit LOCM to produce responses to Interrogatories Nos. 15 through 18 by September 15, 2017.

Interrogatory 19

Interrogatory No. 19 requests the effective dates, title, and purpose of each document produced in response to Requests for Documents Nos. 1 through 11. LOCM represents that it does not keep an archive database that tracks effective dates and,

therefore, it cannot provide this information. LOCM requests the elimination of Interrogatory No. 19.

At the Meet-and-Confer meeting held on July 5, 2017 (Meet-and-Confer), LOCM's IT vendor suggested that it possesses the archival data requisite to ascertain the effective dates of the requested documents, and that LOCM's lack of access to this data is a function of the contract LOCM entered into with its IT vendor to construct and maintain the firm's intranet. The Bureau is willing to consider modifications to this Interrogatory based on further information provided by LOCM about the burden of obtaining the archival data from its vendors. You must provide any such additional information by August 28, 2017. Additionally, because Interrogatory No. 19 relates to Requests for Documents Nos. 1 through 11, the CID is modified to permit LOCM to respond to Interrogatory No. 19 by September 15, 2017.

Modifications to Written Reports

Request for Written Reports No. 2

Request for Written Reports No. 2 seeks information regarding complaints and disputes that LOCM received directly from Consumer Reporting Agencies. LOCM represents that "it does not maintain, in any searchable form, information pertaining to consumer reporting disputes." LOCM proposes to produce an E-Oscar report containing data for the 120-day period immediately preceding the date of the E-Oscar query. Request for Written Reports No. 2 is modified to seek all E-Oscar reports spanning the Applicable Period that LOCM possesses, and including the E-Oscar report for the immediately preceding 120-day period that LOCM proposes to produce. This Request is also modified to permit LOCM to respond by August 28, 2017.

Request for Written Reports No. 3

Request for Written Reports No. 3 seeks information regarding complaints and disputes that LOCM received directly from all Persons other than Consumer Reporting Agencies. The July 14 Letter contains conflicting information with respect to this Request. LOCM requests the elimination of Request for Written Reports 3 in its entirety. Earlier in the July 14 letter, however, LOCM also requests until September 15, 2017, to submit Written Report 3, Subpart (e). LOCM represents that this extension would allow it to consult outside ethics counsel regarding its purported obligations under the Ethics Rules. LOCM states that it does not have a searchable database to respond to this Request, but that it can provide in PDF format copies of documents related to consumer disputes. In light of these representations, this Request is modified to read as follows:

3. For each complaint or credit report dispute the Company received from all Persons other than Consumer Reporting Agencies (excluding cease-and-desist requests, and actions or proceedings identified in response to Requests for Written

Reports Nos. 4 and 5), provide one unique copy of all Documents sufficient to show, if applicable:

- a. the name of the Person who submitted the complaint or dispute, and their:
 - i. street address;
 - ii. city;
 - iii. state;
 - iv. zip code;
 - v. telephone number; and
 - vi. email address;
- b. the unique identifier by which the Company identifies the Debt account subject of the Person's complaint or dispute, if applicable;
- c. the date that the Company received the complaint or dispute;
- d. the date of resolution; and
- e. the Company's response to the complaint or dispute.

Request for Written Reports No. 3 is modified to permit LOCM to respond by August 28, 2017.

Request for Written Reports No. 4

Request for Written Reports No. 4 seeks information regarding cease-and-desist requests that LOCM received. Particularly, Subpart (c) asks for "any notes, codes, or history associated with the investigation of the complaint or dispute." To consult with ethics counsel regarding the Ethics Rules before responding to this Request, LOCM requests an extension until September 15, 2017. Second, LOCM proposes modifying this Request to include only "a list of accounts identified in the Debt Master database with a *cease and desist* status code." LOCM represents that it does not "separately collect the data ... in a manner that can be queried," and that it can provide in PDF format copies of documents related to consumer cease-and-desists. In light of these representations, the Request is modified to read as follows:

4. Provide one unique copy of all Documents relating to all cease-and-desist requests the Company received and, for each account associated with a "cease-and-desist" status code in the Company's Debt Master database, provide:
 - a. the name of the Person associated with the Debt;
 - b. the name and telephone number of the Person who submitted the complaint or dispute;

- c. the unique identifier by which the Company identifies the Debt account subject of the Person's complaint or dispute; and
- d. the date that the Company received the cease-and-desist request.

Request for Written Reports No. 4 is modified to permit LOCM to respond by August 28, 2017.

Modifications to Document Requests

Requests for Documents Nos. 1-11, 13

Requests for Documents Nos. 1 through 11 seek various LOCM policies, procedures, manuals, handbooks, guidance, training materials, templates, scripts, models, and form documents. Request for Documents No. 13 seeks all documents indicating the outcome of alleged or potential violations of the FDCPA, FCRA, and other state and Federal laws. Due to the large volume of documents requested, LOCM seeks an extension until September 15, 2017. Based on the representations LOCM made, Requests for Documents Nos. 1-11 and 13 are modified to permit LOCM to respond by September 15, 2017.

Request for Documents No. 12

Request for Documents No. 12 seeks all service contracts, agreements, or retainers signed by LOCM and Parties identified in response to Interrogatory No. 12. LOCM asserts that this Request implicates information protected by either the attorney-client privilege or the attorney work product doctrine. LOCM requests an extension until September 15, 2017, to consult with ethics counsel regarding its purported obligations under the Ethics Rules,. LOCM has not provided the Bureau information sufficient to support a modification. However, the Bureau is willing to grant a short extension of time. Accordingly, Request for Documents No. 12 is modified to permit LOCM to respond by August 4, 2017.

Request for Documents No. 14

Request for Documents No. 14 seeks all audits relating to LOCM's Debt Collection Activities. To consult with ethics counsel regarding its purported obligations under the Ethics Rules, LOCM requests an extension until September 15, 2017. Based on the representations LOCM made, Request for Documents No. 14 is modified to permit LOCM to respond by September 15, 2017.

Requests for Tangible Things Nos. 1–4

Requests for Tangible Things Nos. 1 through 4 seek metadata and telephone recordings between LOCM and consumers or third-parties, relating to the collection of a Debt. LOCM contends that Requests for Tangible Things Nos. 1 and 3 encompass calls between LOCM's attorneys and its clients relating to the collection of a Debt. LOCM represents that it has no way of identifying and excluding from production those calls without listening to each of the approximately 500,000 telephone calls retained over the last 18 months—a task that LOCM estimates would require approximately 22,500 hours to complete. LOCM asserts that it is consulting IT experts to determine whether there exists any automated way of isolating potentially privileged communications. LOCM states that it also needs to consult with ethics counsel regarding its purported obligations under the Ethics Rules. Accordingly, LOCM requests an extension until September 15, 2017. Based on these representations, Requests for Tangible Things Nos. 1 through 4 are modified to permit LOCM to respond by September 15, 2017.

Instruction C

Instruction C designates the Applicable Period for Responsive Materials as “January 1, 2014, until the date of this CID.” LOCM states that “the CID requests information well beyond the period of time when the CFPB could seek enforcement of any purported FDCPA violation.” LOCM asks the Bureau to modify the Applicable Period to “June 23, 2016, to the date of the CID.” This request for modification is denied.

Instruction D

Instruction D describes the procedures LOCM must follow to withhold any material responsive to the CID on the grounds of privilege. LOCM represents that several of the Bureau's Requests may include information that is privileged or deemed confidential under Rule 1.6 of the Ethics Rules, requiring an extensive privilege review. To consult with IT experts and “determine the best way to provide the Bureau the requested privilege log in a manner that it can physically accomplish,” LOCM requests an extension until September 15, 2017. In light of these representations, the CID is modified to permit LOCM to produce the complete privilege log for this CID by October 2, 2017. The privilege log must conform with the procedures set forth in Instruction D of the CID, and the Rules Relating to Investigations § 1080.8 (Withholding Requested Material). See 12 C.F.R. § 1080.8.

Timing of the Production

The CID as issued requires LOCM to comply fully by **July 21, 2017**. The Bureau agrees to extend the deadlines as follows:

August 4, 2017

- Request for Documents No. 12.

August 28, 2017

- Interrogatory No. 12;
- Any additional information regarding the burden of obtaining the archival data from LOCM's vendors (Interrogatory No. 19);
- Request for Written Reports Nos. 2–4.

September 15, 2017

- Interrogatories Nos. 13, 15-18, 19
- Requests for Documents Nos. 1–11, 14;
- Requests for Tangible Things Nos. 1–4.

October 2, 2017

- Privilege log.

Nature of the Modifications

To assist in construing any terms of this letter, the definitions set forth in the CID are incorporated by reference. This letter does not change LOCM's responsibilities described in the Document Retention instruction in the CID. Further, nothing in this letter precludes the Bureau from issuing additional CIDs to or seeking discovery from LOCM.

If you have any questions regarding the terms outlined above, contact Enforcement Attorney Vanessa Assae-Bille at 202-435-7688.

Sincerely,

Deborah Morris
Deputy Enforcement Director