



1700 G Street NW, Washington, D.C. 20552

RE: FOIA Request #CFPB-2019-0458-F

July 14, 2021

Mr. Austin Evers
American Oversight
1030 15th Street NW, Suite B255
Washington, DC 20005

Via email: foia@americanoversight.org

Dear Mr. Evers:

This letter is in final response to your Freedom of Information Act (FOIA) request dated August 23, 2019. Your request sought

All decision memoranda, directives, policy interpretations or guidance, or any other documents identifying recommendations or action items that contain Acting Director Mulvaney's signature. This request includes any document establishing, modifying, clarifying, or rescinding any CFPB policy, legal or policy interpretation, or practice, whether presented as a memorandum, letter, guidance document, or in any other form.

Please provide all responsive records from November 25, 2017, through December 10, 2018.

On a May 18, 2020 email, you agreed to limit the scope of your request to any responsive document that contain any handwritten notes.

On September 15, 2020, you agreed to waive all outside equities.

A search of our Office of the Director for documents responsive to your request produced a total of 565 pages. Of those pages, I have determined that 219 pages of the records are granted in full and 318 pages are granted in part pursuant to Title 5 U.S.C. § 552 (b)(5), (b)(6) and (b)(7)(E).

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that portions of the responsive documents qualify for protection under the:

consumerfinance.gov

- **Deliberative Process Privilege**
The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.
- **Attorney Work-Product Privilege**
The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation.
- **Attorney-Client Privilege**
The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The types of documents and/or information that we have withheld may consist of mobile phone numbers. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I determined that disclosure of techniques and procedures for law enforcement investigations could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

You may appeal any of the responses or decisions set forth above. If you choose to file an appeal, you must do so within 90 calendar days from the date of this letter. Your appeal must be in writing, signed by you or your representative, and should contain the rationale for the appeal. You may send your appeal via the mail (address below) or email (foia@consumerfinance.gov).

Your appeal should be addressed to:

Consumer Financial Protection Bureau

consumerfinance.gov

Chief FOIA Officer
Freedom of Information Appeal
1700 G Street, NW
Washington, DC 20552

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, we have waived all fees related to the processing of your request. Therefore, your fee waiver is moot.

For inquiries concerning your request, please reference your FOIA request number above and contact our FOIA Public Liaison via email at FOIA@consumerfinance.gov or by phone at 1-855-444-FOIA (3642).

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, MD 20740; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Danielle Duvall Adams
FOIA Manager
Office of the Chief Data Officer

consumerfinance.gov



1700 G Street NW, Washington, DC 20552

December 14, 2017

Decision Memorandum from the Acting Director

FROM	Mick Mulvaney
TO	Associate Director Gail Hillebrand
SUBJECT	Approval of procurement actions for Financial Coaching Program and authorization to proceed

I authorize you to proceed with the two contracting actions slated for December related to the Financial Coaching for Transitioning Veterans and Economically Vulnerable Consumers program. Specifically, I authorize the Procurement Office and the Office of the CFO to proceed with the exercise of Option Period Three in the amount of \$3,581,104.39 (Buy Request #1746) and the contract modification in the amount of \$1,096,313.53 for additional program elements, of which \$546,061.42 is authorized for processing in December (Buy Request #1739).*



Mick Mulvaney
Acting Director
Consumer Financial Protection Bureau

12-14-17

Date

* funds to come from
CEE existing budget,
not CPF

consumerfinance.gov



Decision Memorandum from the Acting Director

FROM Mick Mulvaney

TO Kate Fulton

SUBJECT BCFP Flag

I approve the creation and use of the BCFP flag.

Flag Option 1 _____

Flag Option 2 _____

Flag Option 3 ☒ _____

*with
"gold"
not "pale
yellow"*

A handwritten signature in black ink, appearing to read "Mick Mulvaney".

Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection

6-29-19

Date



Decision Memorandum from the Acting Director

FROM Mick Mulvaney

TO Kate Fulton, Acting Chief Operating Officer

SUBJECT Use of logo in implementation of the name correction

I approve the use of a two-mark solution to identify the Bureau: a corrected logo and a seal. The corrected logo will be used in select Bureau materials and on consumerfinance.gov. The seal will be used on official correspondence, legal actions, and reports.

A handwritten signature in black ink, appearing to be "M. Mulvaney", written over a horizontal line.

Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection

6-19-18

Date

(b)(5)



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

Decision Memorandum from the Acting Director

FROM Mick Mulvaney

TO Dana James, Acting Chief Financial Officer

SUBJECT Anticipated Contract Actions for December and January

Please proceed with executing the anticipated contract actions for December and January.

[Signature]
CFPB

Mick Mulvaney
Acting Director
Consumer Financial Protection Bureau

Date

12-14-17

Approved as to all except

(b)(5)

[Redacted area]

*Please see Sheikh for more info
on these 3.*

TX.

[Signature]

Bureau of Consumer Financial Protection
1700 G Street NW
Washington, D.C. 20552



October 24, 2018

Recommendation memorandum for the Acting Director

FROM	Jeff Sumberg, Chief Human Capital Officer, x59720
THROUGH	Kate Fulton, Chief Operating Officer
SUBJECT	2017/2018 Director's Mission Achievement Award – Review Committee Recommendations

Recommendation(s)

A joint committee of representatives from NTEU and BCFP management is recommending the following individual submissions for the 2017/2018 Director's Mission Achievement Award:

- Christa Gibbs – Creation of standardized Stata template
- Denise Dickenson – Development of clearance tracker
- Hilary Gibson – Off-boarding and asset management policies
- Joe Calvarese – Cost savings and efficiency via data migration
- Kristin Switzer – Installation of Salesforce for managing RMR guidance inquiries
- Maria Coral – Cost and time savings for SEFL travel
- Steve Sayre – Creating efficiency via Platform-as-a-Service (PaaS) capability

We have provided a brief summary of each submission in the document Labor Management Review Committee Recommendation Excerpts (Tab 2). We have also

provided the full nomination packets (Tab 3). For context, we have provided the original Program Design Memo and Nomination Form (Tab 4). And, we have also provided a Recommended Bureau-Wide Communication from the Acting Director (Tab 5).

We recommend that the Acting Director authorize the expenditure associated with these award winners and issue the recommended bureau-wide communication, subject to his edits, no later than November 5, 2018. And, for administrative ease, we ask that the office of Human Capital receive advance notification of the bureau-wide communication so we are poised to answer any questions that may come forward.

Background

The Director's Mission Achievement Award is the Bureau's highest honor and recognizes outstanding individual contributions to the BCFP's mission, directly through consumer protection-related work, or indirectly through support functions and activities. The current program recognizes contributions made November 1, 2017 through August 31, 2018.

To be recognized for the Director's Mission Achievement Award, the contribution must:

- a) demonstrate outcomes that increase the efficiency of the Bureau (for example: taking actions or implementing policies that streamline processes, cut costs, eliminate redundancies, etc.); and
- b) represent exceptional accomplishment or effort; and
- c) exemplify the BCFP values and norms.

Nominations for the Director's Mission Achievement Award were solicited between July 16, 2018 and August 31, 2018. Four representatives from NTEU and four BCFP management representatives convened on September 18, 2018 to review 25 nominations. Here are the members of the award committee:

Labor Representatives	Management Representatives
Gail Wisely	Ren Essene
Thomas McCray-Worrall	Gary Pacheco
Craig Erdmann	Keo Chea
Richard Grant	Katherine Gillespie

Their work concluded on September 20, 2018 after 6 hours of consultation with a recommendation to award seven total recipients. The process of reviewing each nomination reinforced the pride each committee member takes in the work being done at the Bureau every day.

Attachments

Tab 1: Draft Decision Memorandum from the Acting Director.

Tab 2: DMAA Labor Management Review Committee Recommendation Excerpts.

Tab 3: DMAA Original Nominations Packet.

Tab 4: DMAA Program Design Memo and Nomination Form.

Tab 5: Recommended Bureau-Wide Announcement from the Acting Director.

Recommendation Memorandum for Decision Clearance Sheet

Subject/Document Title 2017/2018 Director's Mission Achievement Award – Review Committee Recommendations		
Name of Document Owner Jeff Sumberg	Office Office of Human Capital	Telephone Extension 59720
Approved by (name of Associate or Assistant Director) Kate Fulton		
Legal Division [Insert legal division]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]

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. DMAA Nominations – CFPB Confidential – Not for Distribution

Page 1 of 1

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DMAA Nominations – CFPB Confidential – Not for Distribution
Page 2 of 3

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2017-2018 Director's Mission Achievement Award (DMAA)



2017-2018 DMAA: Program Parameters



1700 G Street NW,
Washington, DC 20552



May 24, 2018

Recommendation Memorandum for the Acting Director

FROM	Jeff Sumberg, Chief Human Capital Officer, x59720
THROUGH	Kate Fulton, Chief Operating Officer, x59688
SUBJECT	Director's Mission Achievement Awards

Recommendation(s)

I recommend that you authorize the program parameters and associated budget recommended below for the 2017 Director's Mission Achievement Award.

Background

Collective Bargaining Context

Per the Collective Bargaining Agreement (CBA) article on Awards and Recognition, The Director's Mission Achievement Award (DMAA) is the Bureau's highest award and recognizes outstanding mission contributions. This is the only monetary award for which employees may submit nominations (not just supervisors) and which requires a joint labor-management award committee (4 labor and 4 management representatives) to receive and review all nominations. The Office of Human Capital facilitates the nomination review process and the award committee provides recommendations to the Director for proposed awardees. The Director makes the final decision on awards to be granted.

While the CBA indicates that each individual awardee may receive up to \$7,500, the Director exercises discretion to determine the monetary award values each year. The Director may also welcome nominations for individuals, teams, or both,

and may establish a particular focus area for mission achievement to reward. The Director makes the selection and informs OHC and the joint-labor management award committee of the final selections. The Director is required to publish the list of DMAA recipients to the total workforce.

Prior Awards History

In the first implementation of the DMAA program, the Director requested team nominations only, asked nominators to apply the broad award criteria in the CBA, and limited the monetary award to \$500 per team member. 60 team nominations were received and 5 were brought forward as award recommendations by the award committee to the Director. The Director accepted this recommendation and 5 teams, totaling 74 recipients, received awards. Recipients were honored in an awards ceremony, attended by the Director and senior leaders, during the July annual meeting in Washington, DC. The awards were announced via email from the Director and an intranet (wiki) site viewable by all employees. The program expenditures were approximately \$45,000 (\$37,000 in monetary awards and \$8,000 in materials including certificates in folders, engraved commemorative items, coffee/soda and photography services at ceremony, and postage).

Proposed Award Description

Per the Acting Director's guidance, the 2017 DMAA will focus on enhancements to the Bureau's overall efficiency in any area of Bureau mission work or supporting operations. The current award cycle recognizes contributions from September 30, 2016 through May 31, 2018, the end of the awards program year.

To be recognized for the DMAA, the contribution must:

- a) Demonstrate outcomes that increase the efficiency of the Bureau (for example: taking actions or implementing policies that streamline processes, cut costs, eliminate redundancies, etc.), and
- b) Represent exceptional accomplishment or effort; and
- c) Exemplify the Bureau's values and norms.

Award Eligibility

Employees must be currently employed with the Bureau at the time of award to receive monetary and/or non-monetary recognition. Political appointees, interns, intermittent employees, employees who currently are on a Performance

Improvement Plan (PIP) or have received a reprimand or suspension for conduct reasons within the previous 6 months, detailees, and contractors are not eligible for the award.

Nomination, Review, and Selection Process

Per the Acting Director's guidance the awards will be granted to individuals (not teams) and will be limited to up to 7 awards of \$1,400 per individual. The Office of Human Capital (OHC) will create nomination forms and communicate the nomination review process to all employees. OHC will facilitate the activities of the joint labor-management award committee. Senior leaders will recommend the four (4) management team members to participate on the award committee.

Process Details

Other highlights of the nomination process under the CBA include the following:

- Nominations may be submitted by any Bureau employee. Employees may not nominate themselves.
- Nominations should only include individuals who have played substantial roles in the contribution being nominated.
- The nomination window will be July 15, 2018 – August 15, 2018.
- A joint labor-management committee supported by OHC will review all nominations and make award recommendations to the Acting Director. All nominations that have received either consensus or majority support from the committee will be recommended to the Acting Director.
- The Acting Director will make final award determinations. He may reach out to the review committee or others for additional information that would be helpful in making his determination.

Award Budget

Each recipient will be honored with a cash award of \$1,400 (less tax) and a certificate. Accordingly, the estimated budget for this award program will not exceed \$10,000.

Award Ceremony

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Attachments

Tab 1: Draft Decision Memorandum from the Acting Director.

Recommendation Memorandum for Decision Clearance Sheet

Subject/Document Title Director's Mission Achievement Awards		
Name of Document Owner Jeff Sumberg	Office CHCO, Office of Human Capital	Telephone Extension X59720
Approved by (name of Associate or Assistant Director) Kate Fulton, COO		
Legal Division	Name of Clearer Linda A. Ajawara	Date 05/21/2018
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date

1700 G Street NW,
Washington, DC 20552



Decision Memorandum from the Acting Director

FROM	Mick Mulvaney
TO	Kate Fulton, COO and Jeff Sumberg, CHCO
SUBJECT	Director's Mission Achievement Awards

I authorize the budget and allocation of funds to appropriate cost centers for the 2017/2018 Director's Mission Achievement Award program.

I authorize the Office of Human Capital to form a joint labor-management award committee, in accordance with our Collective Bargaining Agreement, to review all award nominations and forward those with majority member support to me for final award determination.

A handwritten signature in black ink, appearing to read "M. Mulvaney".

Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection

5-29-18

Date

2017-2018 DMAA: Article Considerations



EMPLOYEE AWARDS AND RECOGNITION PROGRAM

SECTION 5

All CFPB employees are eligible to be considered for monetary and time-off awards (unless otherwise indicated in the award definition) with the following exceptions:

- The Director of the Bureau;
- Detailees from other agencies;
- Volunteers;
- Interns hired with appointment terms of 90 days or less;
- Contractors;
- Employees who currently are on a Performance Improvement Plan (PIP) or have received a reprimand or suspension for conduct reasons within the previous 6 months;
- Employees who have separated, transferred, or retired from the Bureau.

SECTION 10 - Director's Mission Achievement Award

- A. The Director's Mission Achievement Award is given once a year to employee(s) who have had the greatest impact on the Bureau's ability to fulfill its mission critical objectives while adhering to the CFPB core values to Serve, Lead, and Innovate.
- B. The Director's Mission Achievement Award is a lump sum cash award (not grossed up), the value of which is determined by the Director of the Bureau each year, not to exceed \$7,500. In addition to the cash award, employees will receive an award certificate and recognition in a Bureau-wide forum.
- C. Unless otherwise noted in the eligibility section of this Article, all CFPB employees are eligible to receive the Director's Mission Achievement Award.
- D. OHC will specify the timelines, forms, and procedures to facilitate employee nominations for the Director's Mission Achievement Awards, and for the operation of a joint labor-management award committee to review these nominations. The committee will provide a recommendation to the Director including the recommended recipients, award amounts and rationale for awards. In any given year, the Director has the authority to select the number of employees that will receive the award. When considering employees for nomination, each supervisor should review each employee's overall contributions and performance during the previous program year and the overall impact that the employee has had on the Bureau and consider nominations to bring forward. Non-supervisory personnel should consider the high impact work of others that they are aware of, and consider nominations to bring forward. As this is the Bureau's highest award, the contributions of employees who are nominated for this award must warrant such distinction and recognition.

- E. Nominees of the Director's Mission Achievement Award should not be made aware of their nomination.
- F. OHC and NTEU chapter leadership will collaborate to establish the operating procedures for the joint labor-management award committee. OHC will collaborate with Associate Directors to select management representatives for the committee and NTEU chapter leadership will select labor representatives. There will be an equal number of management and labor representatives.
- G. The Director may meet individually with each Associate Director to discuss each Division's nominations or with the joint labor-management award committee.
- H. The Director selects recipients and will inform OHC and the joint-labor management award committee of all final selections.
- I. OHC contacts each Associate Director with the final award decision for his/her Division.
- J. During the next available Bureau-wide forum, or via Bureau-wide email, the Director announces award recipients.
- K. Nomination forms and processing instructions will be determined by OHC. The employees receive the awards via an electronic funds deposits during the next available pay period after final Director approval and announcement.

2017-2018 DMAA: Nomination Form



Director's Mission Achievement Award Nomination Form

Nomination Date:

Nominator Name:

Division:

Person Nominated:

The Director's Mission Achievement Award is the highest award presented by the Bureau of Consumer Financial Protection (BCFP). Up to 7 individual award recipients will receive a monetary award of \$1,400 (less taxes) and a certificate of award. The current program recognizes contributions made from October 1, 2016 through May 31, 2018, and has a special emphasis on individual contributions which enhance the Bureau's overall efficiency in any area of Bureau mission work or supporting operations.

To be recognized for the Director's Mission Achievement Award, the contribution must:

- a) Demonstrate outcomes that increase the efficiency of the BCFP (for example: taking actions or implementing policies that streamline processes, cut costs, eliminate redundancies, etc.); and
- b) Represent exceptional accomplishment or effort; and
- c) Exemplify the BCFP values and norms.

Nominations may be submitted by any Bureau employee, including supervisors and non-supervisors, regardless of bargaining unit status. Nominations must be for individual contributions, rather than teams. Nominations should recognize the individual who played a substantial role in the contribution being nominated. Employees may not nominate themselves.

Nominations will be accepted July 16, 2018 through August 17, 2018. Complete and submit nomination form via button below or email directly to: CFPB_AwardsAndRecognition@cfpb.gov.

All BCFP employees are eligible for this award. Employees must be currently employed with BCFP at the time of award to receive monetary and non-monetary recognition. Political appointees, contractors, interns, intermittent employees, external detailees, and employees on a Performance Improvement Plan (PIP) or who have received a reprimand or suspension for conduct reasons in the previous 6 months, are not eligible for this award.

SUBMIT

Nominating Party Digital Signature



Person Nominated

Name:

Division:

Contribution:

When was the contribution made?

Nominations may be submitted by any BCFP employee, including supervisors and non-supervisors, regardless of bargaining unit status. Nominations must be for individual contributions, rather than teams. Nominations should recognize the individual who played a substantial role in the contribution being nominated. Employees may not nominate themselves.

Describe below how the contribution of the nominated person meets each of the award criteria. A response is required in all three sections below.

(b)(5)

Recommended Bureau-Wide Communication from the Acting Director

To be sent no later than November 5, 2018

To all employees:

I am pleased to announced the 2017/2018 recipients of the Director's Mission Achievement Award.

As you know, I asked nominators to focus on recognizing individual accomplishments that improved the Bureau's efficiency and effectiveness.

The seven employees below each made substantial contributions to save time, reduce costs, improve outcomes, or minimize risks. They accomplished this by streamlining policies and processes, creating reusable templates and trackers, deploying technology to improve process efficiency, and going the extra mile to deliver great results.

- **Christa Gibbs** of RMR – Created code in complex statistical software to produce templates for charts and figures, saving researchers time and improving the quality and consistency of RMR reports
- **Denise Dickenson** of CEE – Developed, trained, and maintained a new SharePoint tracker for the internal CEE clearance process, improving process transparency, information sharing, and expediting the process
- **Hilary Gibson** of Operations – Led bureau-wide working groups and efforts to redesign off-boarding and asset management policies and procedures, resulting in reduced risk of asset loss, closure of many open audit findings, and improved accountability among the process owners
- **Joe Calvarese** of SEFL – Designed and led initiative to migrate externally hosted data to an in-house platform, migrating over 15 terabytes of data and saving the Bureau over \$1.65m in annual costs
- **Kristin Switzer** of RMR – Led the design and build of a Salesforce software solution to manage the Regulations Office issuance of regulatory guidance to

industry, providing easier stakeholder inquiries, greater consistency in response to inquiries, streamlined retrieval processes to enable learning based on inquiries, and improved access to historical information and reporting

- **Maria Coral** of SEFL – Provided exceptional internal customer service within a regional office to monitor, manage, and troubleshoot the travel process, resolving billing errors, providing rapid response, resulting in cost savings and removing administrative burden for Examiners
- **Steve Sayre** of Operations – Proposed, championed, and led efforts to bring Platform-as-a-Service (PaaS) capability to fruition, resulting in streamlined software implementation infrastructure and improved efficiency across multiple teams

Please join me in congratulating the award winners.

1700 G Street NW
Washington, DC 20552

(b)(5)



September 7, 2018

Recommendation Memorandum for the Acting Director

FROM Dave Uejio, Chief Strategy Officer, x57140

THROUGH Kate Fulton, Deputy Chief of Staff Kate Fulton

Digitally signed by Kate
Fulton
Date: 2018.09.14.08:40:29
+0400

SUBJECT 2019 Director's Financial Analysts Hiring

Recommendation

(b)(5)

Background

(b)(5)

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Recommendation Memorandum for Decision Clearance Sheet

Subject/Document Title [Insert subject/document title]		
Name of Document Owner [Insert document owner name]	Office [Insert office]	Telephone Extension [Insert telephone extension]
Approved by (name of Associate or Assistant Director) [Insert name]		
Legal Division [Insert legal division]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
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Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]

Bureau of Consumer Financial Protection
1700 G Street NW
Washington, D.C. 20552



October 19, 2018

Recommendation memorandum for the Acting Director

FROM Katherine Sickbert, Acting Chief Information Officer,
x57948

THROUGH Kate Fulton, Acting Chief Operations Officer Kate Fulton
Digitally signed by
Kate Fulton
Date: 2018.10.19
14:21:55 -0400

SUBJECT BCFP 2018 Annual FISMA Submission

Recommendation(s)

I recommend that you approve and sign the transmittal letters to the Office of Management and Budget (OMB) Director and the Secretary of Department of Homeland Security (DHS) for submission of BCFP's FY18 Annual FISMA report.

Background

The Federal Information Security Modernization Act of 2014 (FISMA) mandates the reporting of the information security posture of a federal agency. Agencies must report their security posture on a quarterly basis through the CyberScope web portal. Additionally, as required by OMB M-18-02 Fiscal Year 2017-2018

Guidance on Federal Information Security and Privacy Management

Requirements, a transmittal letter must be submitted to the OMB Director and DHS Secretary along with the annual report generated from CyberScope. This letter must provide "a detailed assessment of the adequacy and effectiveness of the agency's information security policies, procedures, and practices," and also include incident reporting metrics that are defined in the statute and refined by OMB memoranda. The deadline for FY18 Annual FISMA reporting is October 31, 2018.

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(b)(5)

Attachments

- Tab 1: Decision Memo for Acting Director.
- Tab 2: Transmittal Letter to OMB Director.
- Tab 3: Transmittal Letter to the DHS Secretary.
- Tab 4: BCFF 2018 Annual FISMA Report.
- Tab 5: Draft of OIG's 2018 FISMA Audit Report.
- Tab 6: Management Response to the OIG's 2018 FISMA Audit Report.

Recommendation Memorandum for Decision Clearance Sheet

Subject/Document Title BCFP 2018 Annual FISMA Submission		
Name of Document Owner Scott Braus	Office T&I	Telephone Extension x59828
Approved by (name of Associate or Assistant Director) Kate Fulton		
Legal Division	Name of Clearer David Snyder	Date 10/19/18
Office T&I	Name of Clearer Katherine Sickbert Janice Cornwell	Date 10/18/18
Office Operations	Name of Clearer Kate Fulton Nelly Ramdass Jean Chang	Date 10/19/18 10/18/18
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date

Bureau of Consumer Financial Protection
1700 G Street NW
Washington, D.C. 20552

October 31, 2018

The Honorable Mick Mulvaney, Director
Office of Management and Budget
725 17th Street NW
Washington, DC 20503



Dear Director Mulvaney: *ME*

The Bureau of Consumer Financial Protection (BCFP or Bureau) is pleased to submit the attached Fiscal Year (FY) 2018 Annual Federal Information Security Modernization Act (FISMA) Report. Over the course of FY2018, the BCFP continued to refine and mature its risk-based information security program to support the operational needs of the Bureau. The information security program has well-established policies with defined processes and effective controls that are integrated with the Bureau's enterprise information technology management functions and aligned with our strategic objectives. The BCFP FY2018 Annual FISMA Report speaks to the continued work that the BCFP has accomplished towards the FISMA program.

In FY2018, the Bureau's Office of Inspector General (OIG) rated the BCFP FISMA program as being consistently implemented across six of the eight FISMA domains with higher marks in the Information Security Continuous Monitoring and Incident Response domains. The OIG reported that the Bureau has remained above the government average at level three maturity across three of the five Cybersecurity Framework functions with level four maturity for detect and respond functions. This year, our added focus around Incident Response resulted in the improved maturity rating from "Level Three: Consistently Implemented" in FY2017 to the Federal target of "Level Four: Managed and Measurable" in FY2018.

In support of the Cybersecurity Cross-Agency Priorities (CAPs) and in accordance with the Government Performance and Results Act of 2010, the BCFP continues to move forward with its efforts in: Information Security Continuous Monitoring (ISCM); Identity, Credential, and Access Management (ICAM); and Advanced Network & Data Protections (ANDP). We will continue with these efforts throughout FY2019.

In the ISCM CAP domain, the BCFP has completed its fifth year of collection, analysis, and reporting through ISCM. We have continued to tailor and refine security control selection, implementation, and program methodology based on the results obtained thus far. The BCFP has also streamlined assessments by identifying common controls that can be evaluated across multiple systems simultaneously. We have adapted our technology and processes in order to address the FISMA metrics, instructions from OMB memoranda, and feedback from auditors. We have been working closely with the DHS Continuous Diagnostics and Mitigation (CDM) program to identify areas of efficiency by automating ongoing authorization activities to increase the accuracy and limit the subjectivity in our security assessments. As CDM integrates into our ISCM platforms, we will have additional information that will help improve our asset

consumerfinance.gov

management and configuration management processes and automation. We will continue to participate in the agency onboarding preparations with the DHS CDM integration team.

As part of our ISCM program in FY2018, the Bureau conducted a complete review of endpoints and servers for possible indicators of compromise through a comprehensive Compromise Assessment. The study consisted of an enterprise-wide deployment of scripts and endpoint software agents that search operating system internals for indications that malicious activity might be currently, or has previously been running on that host. The scanning performed as a part of the compromise assessment was more comprehensive than those run by traditional antivirus software and perimeter defenses. The assessment confirmed there are no compromised systems on Bureau networks, and identified areas where the Bureau can further enhance our defensive capability. We will continue to improve the ISCM program throughout FY2019 by actively engaging with the DHS TIC 3.0 working group to inform the Bureau's IT modernization efforts and by incorporating our lessons learned from stakeholders, new guidance, and regulations.

In the Advanced Network and Data Protections (ANDP) CAP domain, we continued efforts in FY2018 to deploy next generation antivirus, user behavioral analysis, and data loss prevention to our end user systems. This will result in a more proactive stance in remediating and managing phishing and malware threats. We implemented a new role-based training program and aligned it to components identified in the National Initiative for Cybersecurity Education (NICE) Cybersecurity Workforce Framework taxonomy. Additionally, we implemented a new comprehensive program to increase awareness of phishing and malware threats to augment our existing security education, training, and awareness programs, for both regular users and those that hold roles with significant security responsibilities.

In the Identity, Credential, and Access Management (ICAM) CAP domain, the BCFP continues to move towards a holistic Homeland Security Presidential Directive 12 solution that will support Identity Assurance Level (IAL) 3/Authenticator Assurance Level (AAL) 3 authentication methods for both physical and logical access. The Bureau has effectively implemented configuration/connection requirements for remote access management including specific controls that ensure end-user devices are appropriately configured prior to allowing remote access. The Bureau continues to meet milestones to implement automated tools used to help monitor ICAM activities. In FY2019, the Bureau will continue to focus on implementing a tiered approach for implementing multifactor authentication which will continue to increase compliance with ICAM-related CAP goals.

The Bureau is pleased to report that we had no major incidents as defined in OMB M-16-03 in FY2018. Per the direction in OMB M-18-02 *Fiscal Year 2017 – 2018 Guidance on Federal Information Security and Privacy Management Requirements*, we reported a total of 253 non-major cyber incidents to U.S. CERT in FY2018.

We are working continuously to improve our progress towards meeting FISMA metrics and CAP goals. The Bureau has increased the number of CAP goals met in 2018 to 5 of 10 with projects prioritized and currently underway to meet the remaining CAP goals. Currently, we have measured our organization's progress and are aligned with the metrics and goals as follows:

(b)(7)(E)

As is evident in the accompanying report and the results of our Inspector General FISMA audit for the year, the Bureau's information security and privacy controls are maturing as planned. While the Bureau has made significant progress in these areas, we realize the significance of a robust information security program and work continuously to refine processes and enhance capabilities to achieve the highest levels of confidence and assurance in the Bureau's information security management, operations and technical control capabilities.

Sincerely,



Mick Mulvaney
Acting Director, Bureau of Consumer Financial Protection

Bureau of Consumer Financial Protection
1700 G Street NW
Washington, D.C. 20552

October 31, 2018

The Honorable Kirstjen M. Nielsen
Secretary of Homeland Security
Washington, D.C. 20528

Dear Secretary Nielsen:



The Bureau of Consumer Financial Protection (BCFP or Bureau) is pleased to submit the attached Fiscal Year (FY) 2018 Annual Federal Information Security Modernization Act (FISMA) Report. Over the course of FY2018, the BCFP continued to refine and mature its risk-based information security program to support the operational needs of the Bureau. The information security program has well-established policies with defined processes and effective controls that are integrated with the Bureau's enterprise information technology management functions and aligned with our strategic objectives. The BCFP FY2018 Annual FISMA Report speaks to the continued work that the BCFP has accomplished towards the FISMA program.

In FY2018, the Bureau's Office of Inspector General (OIG) rated the BCFP FISMA program as being consistently implemented across six of the eight FISMA domains with higher marks in the Information Security Continuous Monitoring and Incident Response domains. The OIG reported that the Bureau has remained above the government average at level three maturity across three of the five Cybersecurity Framework functions with level four maturity for detect and respond functions. This year, our added focus around Incident Response resulted in the improved maturity rating from "Level Three: Consistently Implemented" in FY2017 to the Federal target of "Level Four: Managed and Measurable" in FY2018.

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(b)(7)(F)

(b)(7)(E)

As is evident in the accompanying report and the results of our Inspector General FISMA audit for the year, the Bureau's information security and privacy controls are maturing as planned. While the Bureau has made significant progress in these areas, we realize the significance of a robust information security program and work continuously to refine processes and enhance capabilities to achieve the highest levels of confidence and assurance in the Bureau's information security management, operations, and technical control capabilities.

Sincerely,



Mick Mulvaney
Acting Director, Bureau of Consumer Financial Protection

For Official Use Only

(b)(5)

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(b)(5)

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CIO Report - 2018 Quarter 4/Annual

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CIO Report - 2018 Quarter 4/Annual

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Page 18 of 21

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CIO Report - 2018 Quarter 4/Annual

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For Official Use Only

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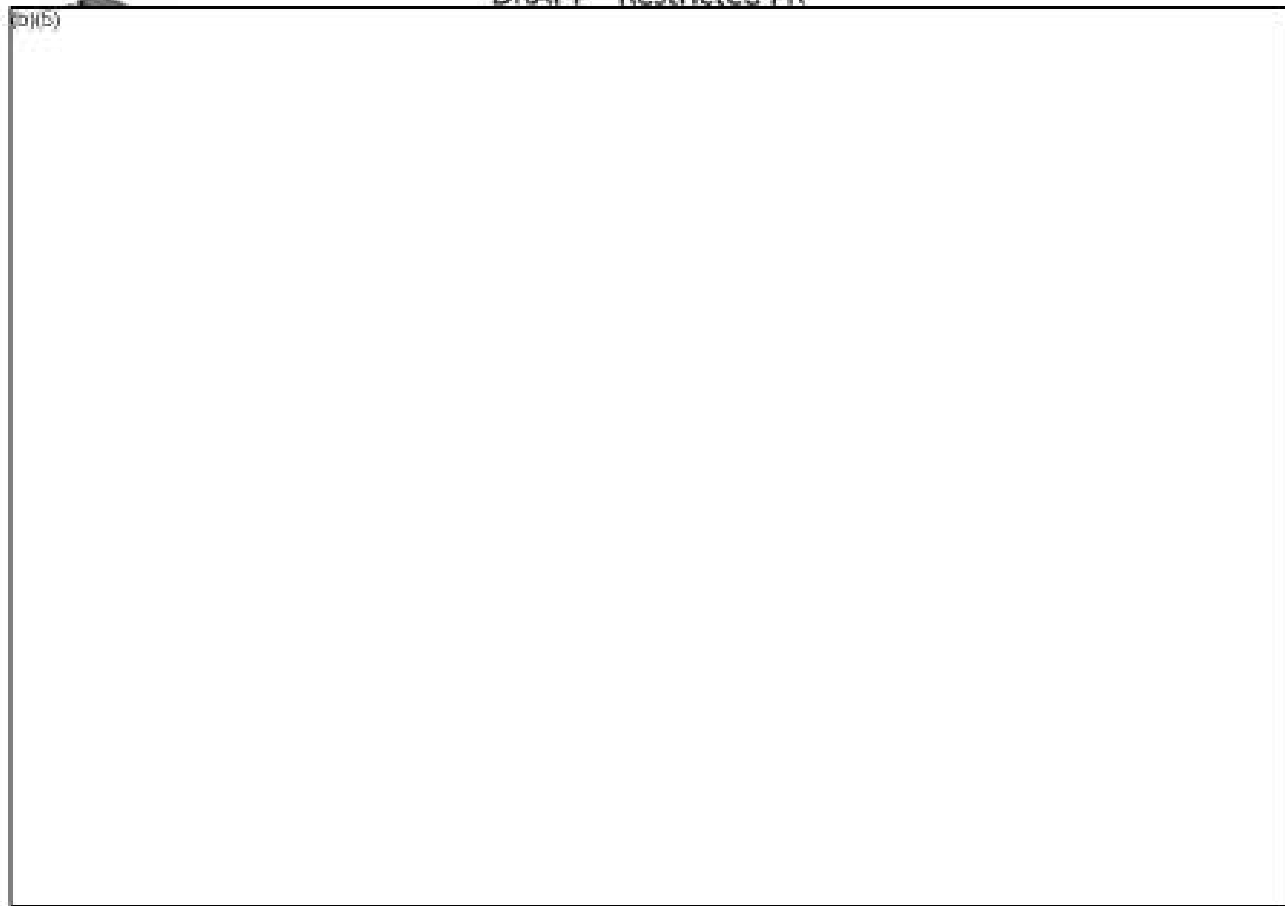
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CIO Report - 2018 Quarter 4/Annual

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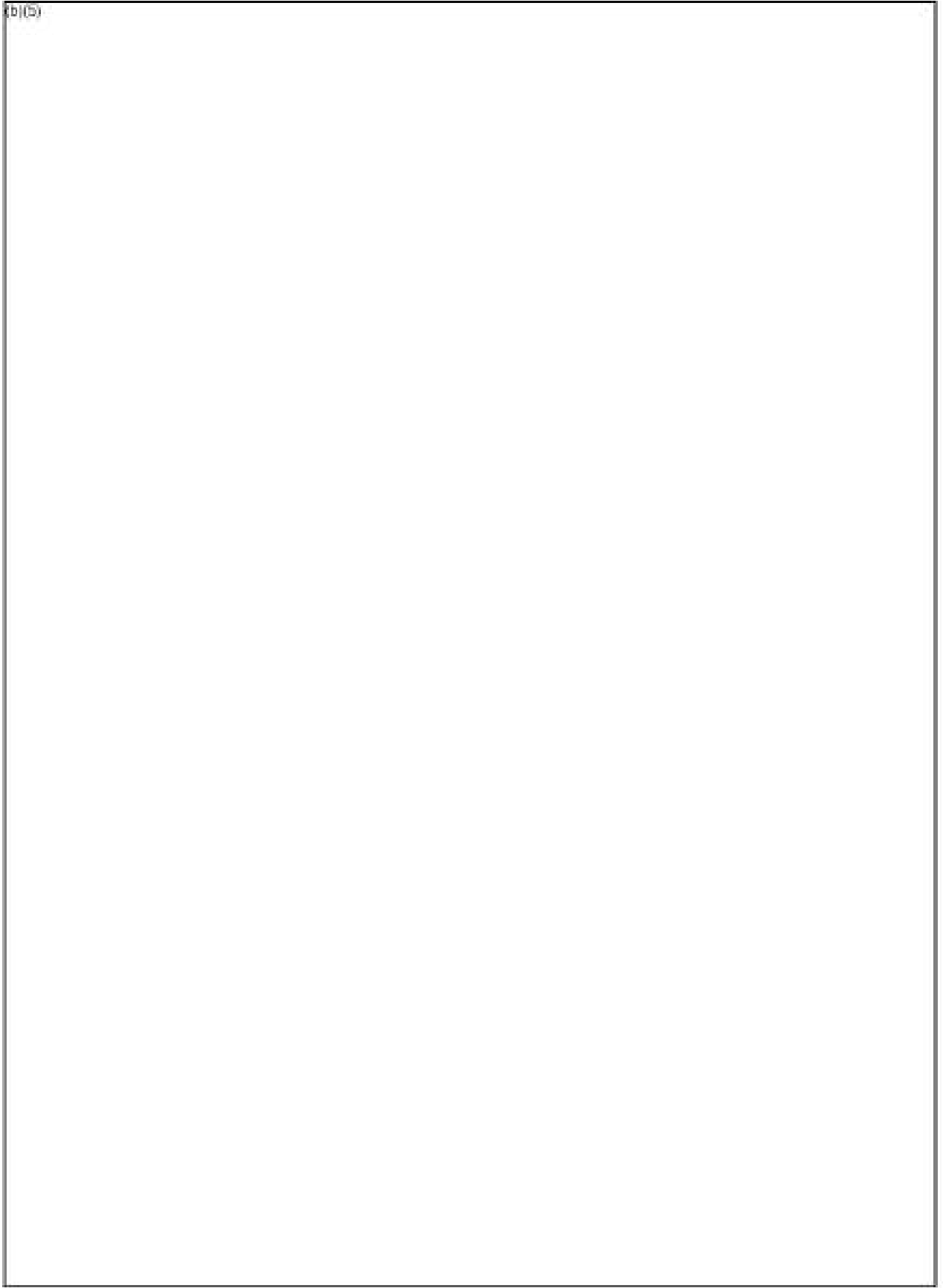
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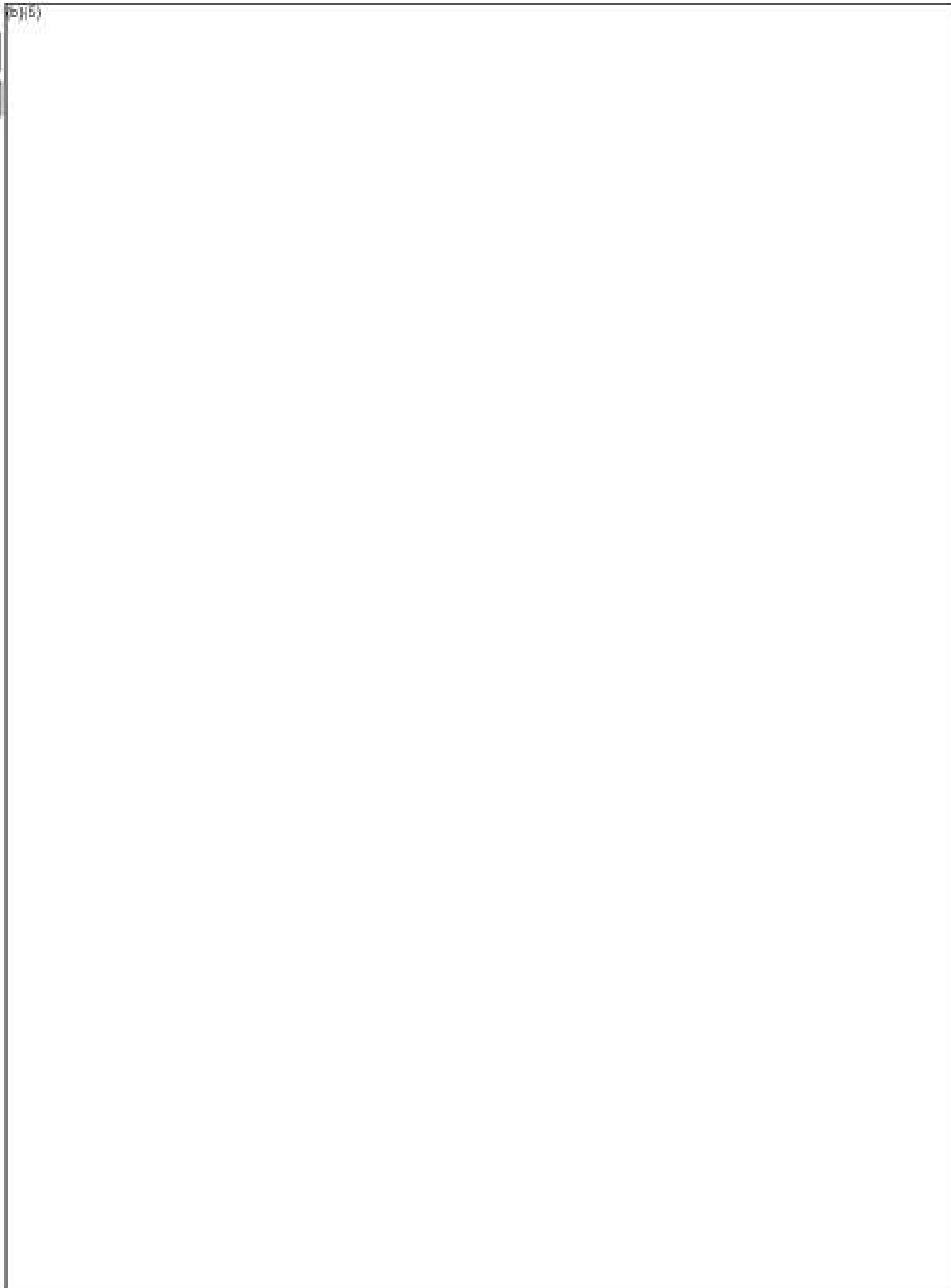
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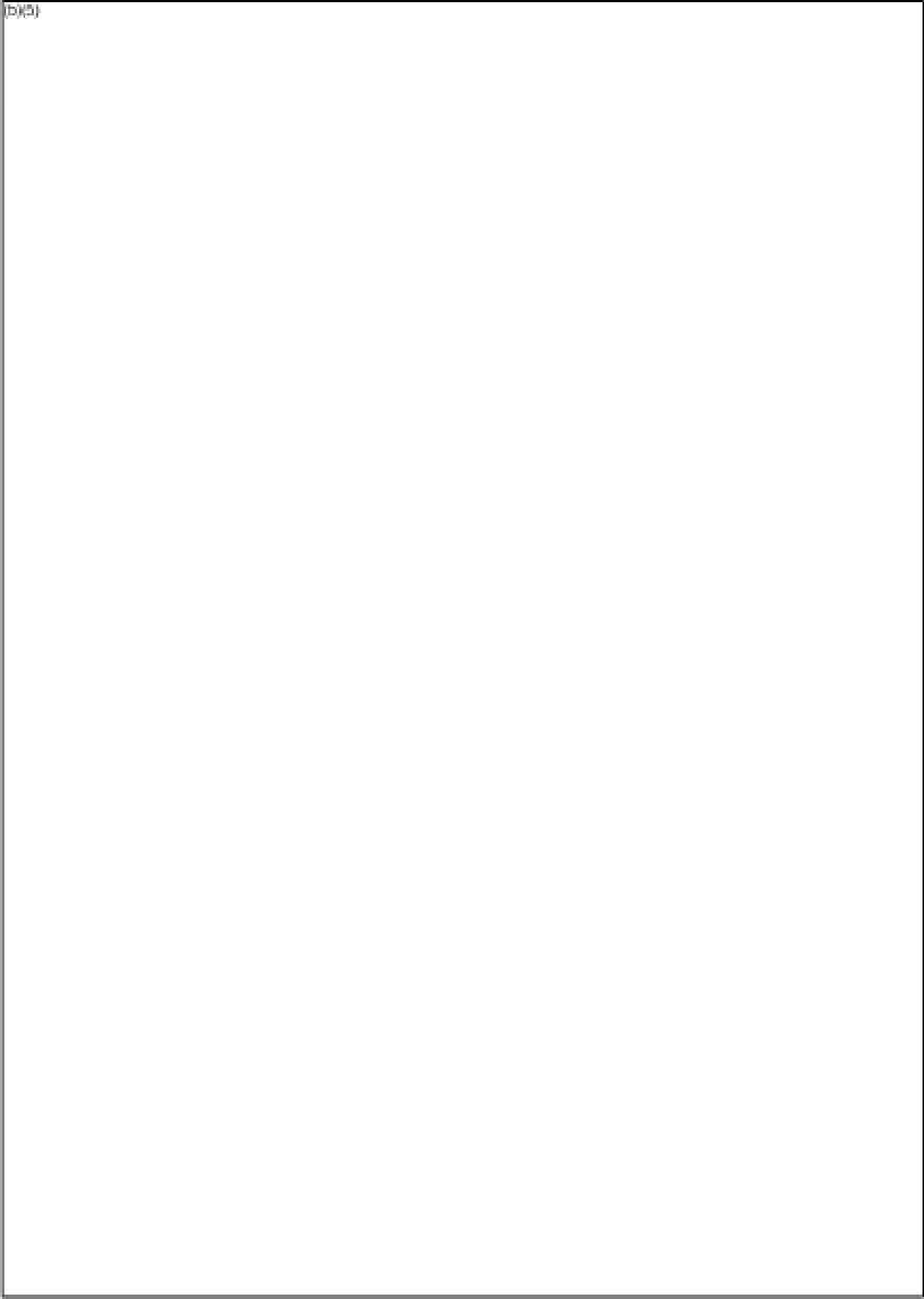
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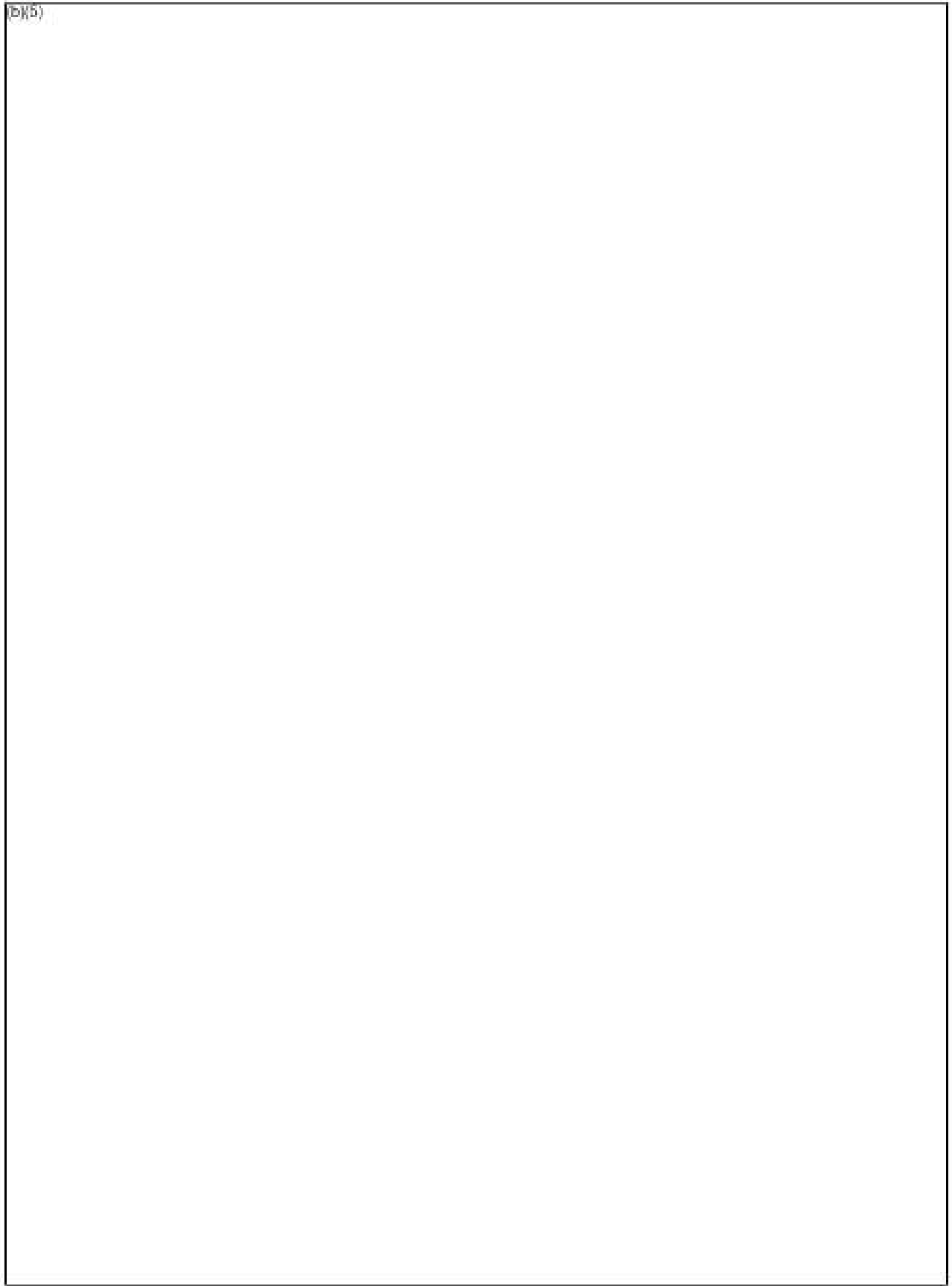
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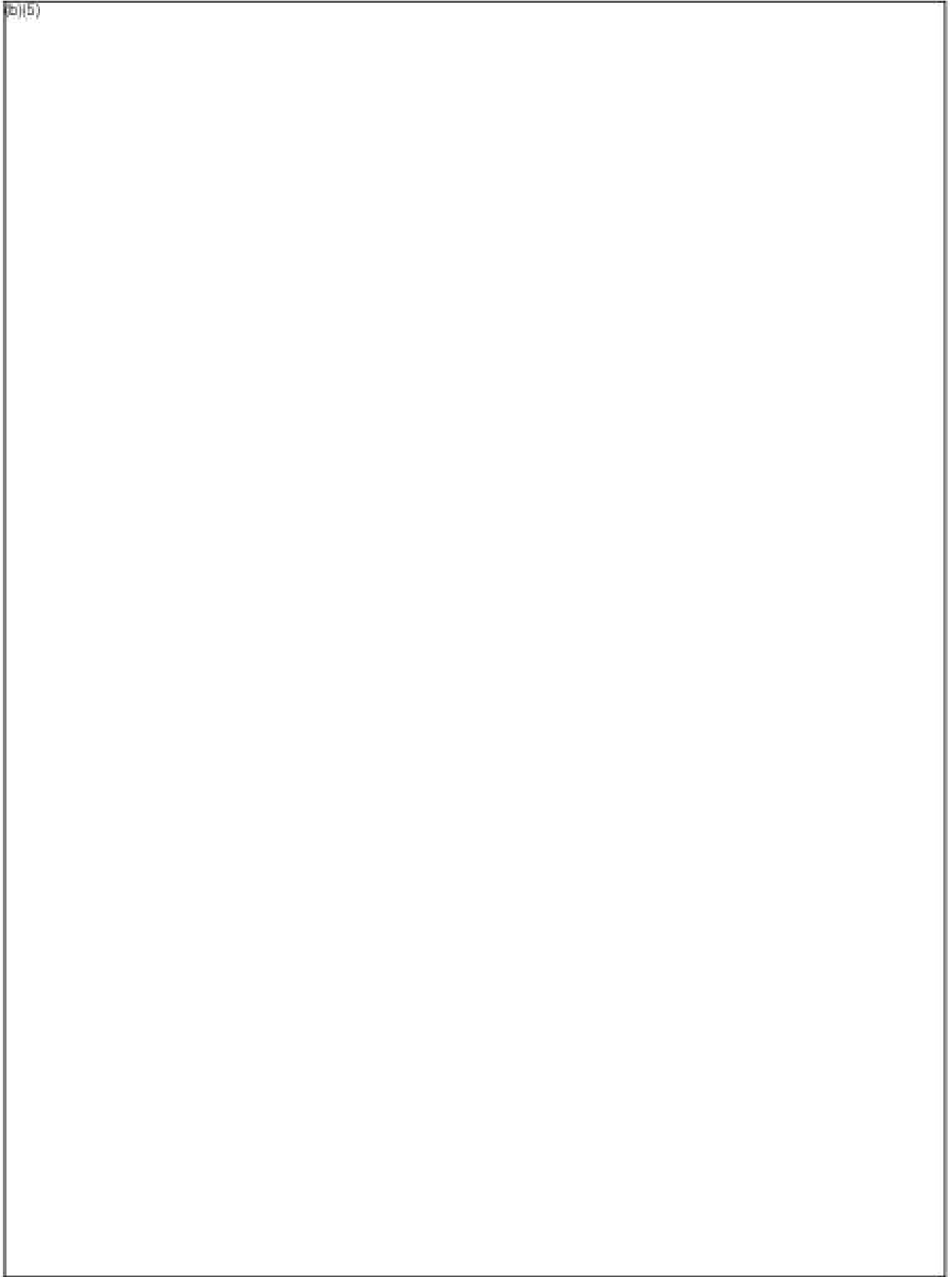
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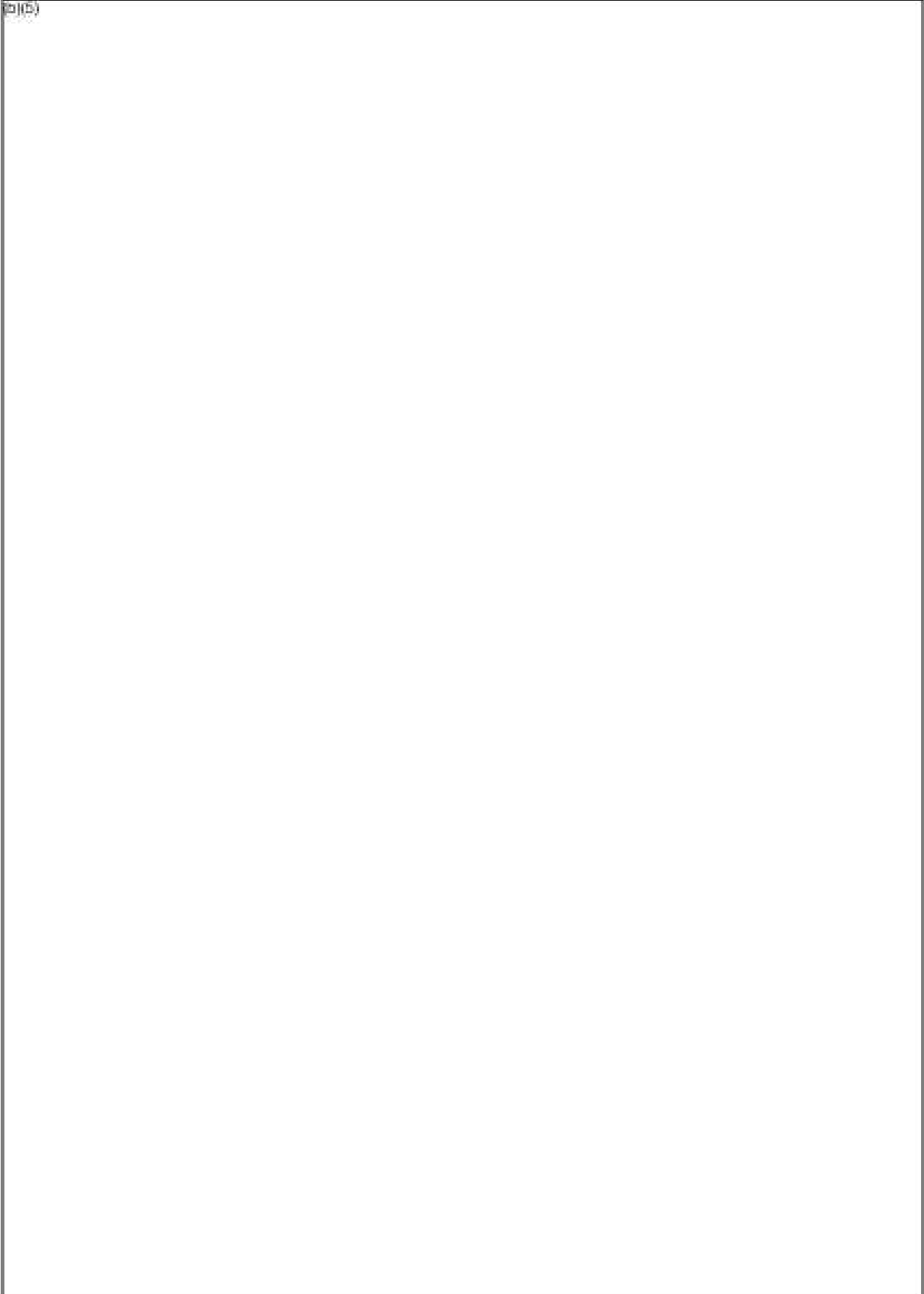
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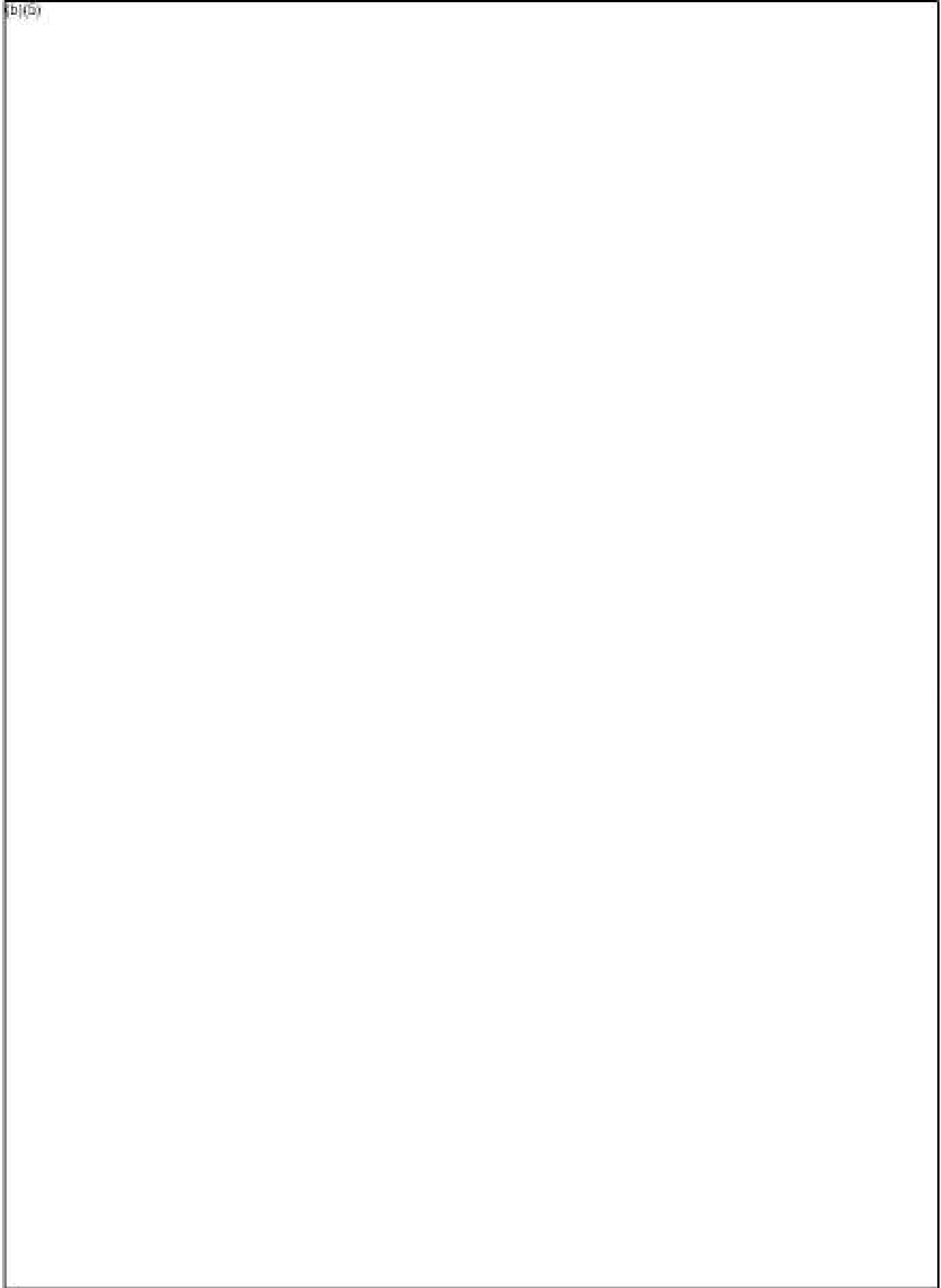


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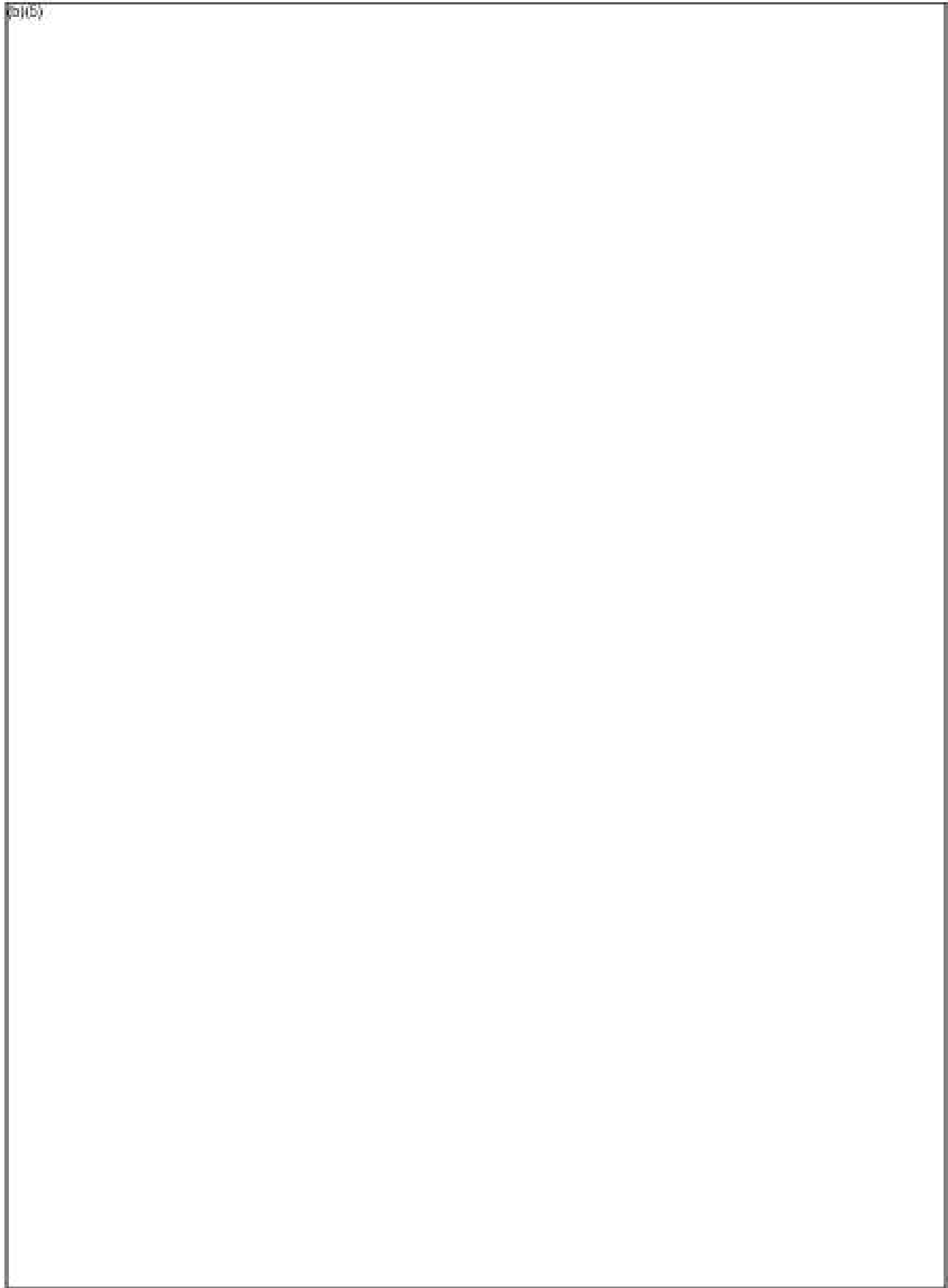


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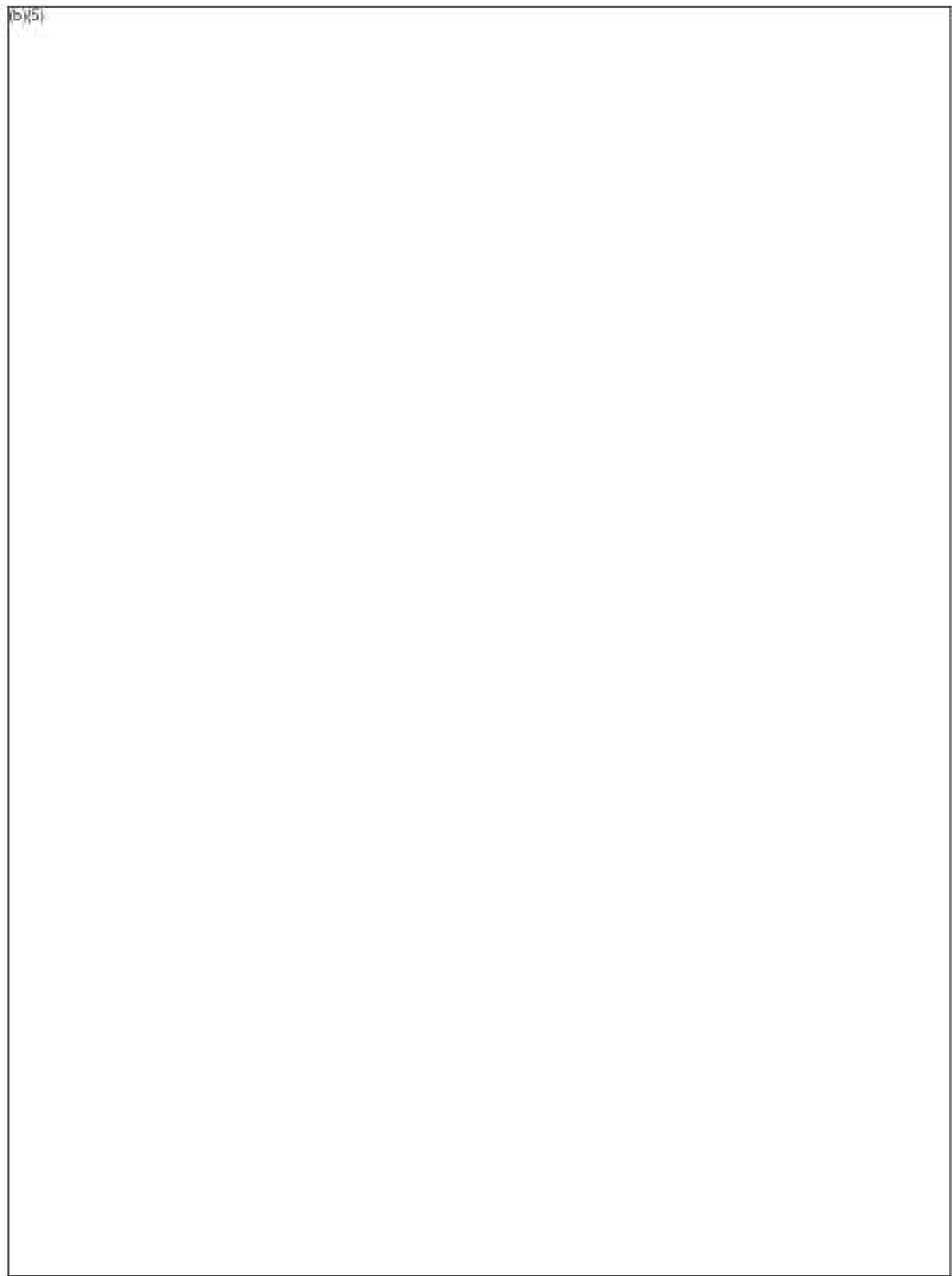
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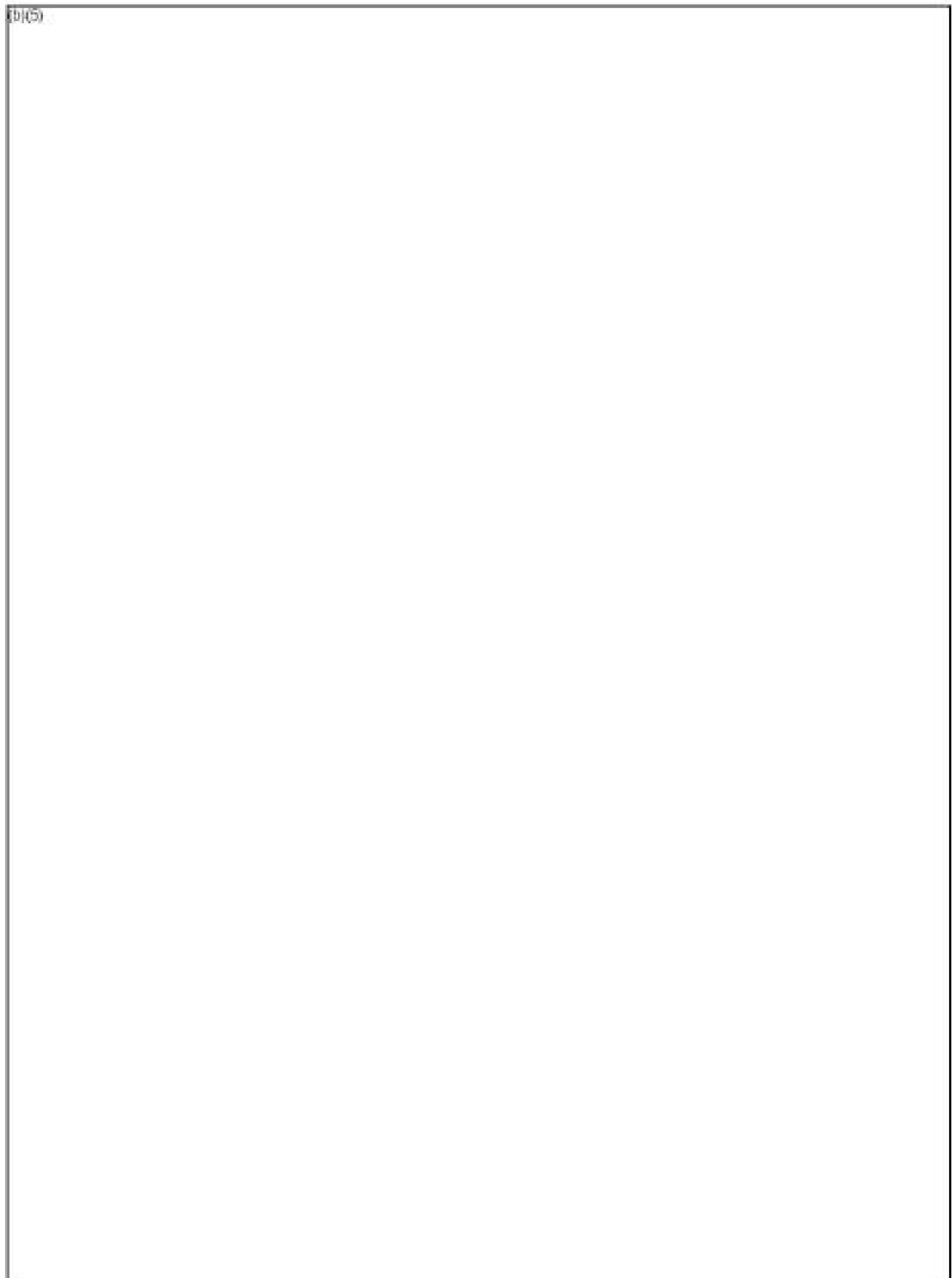
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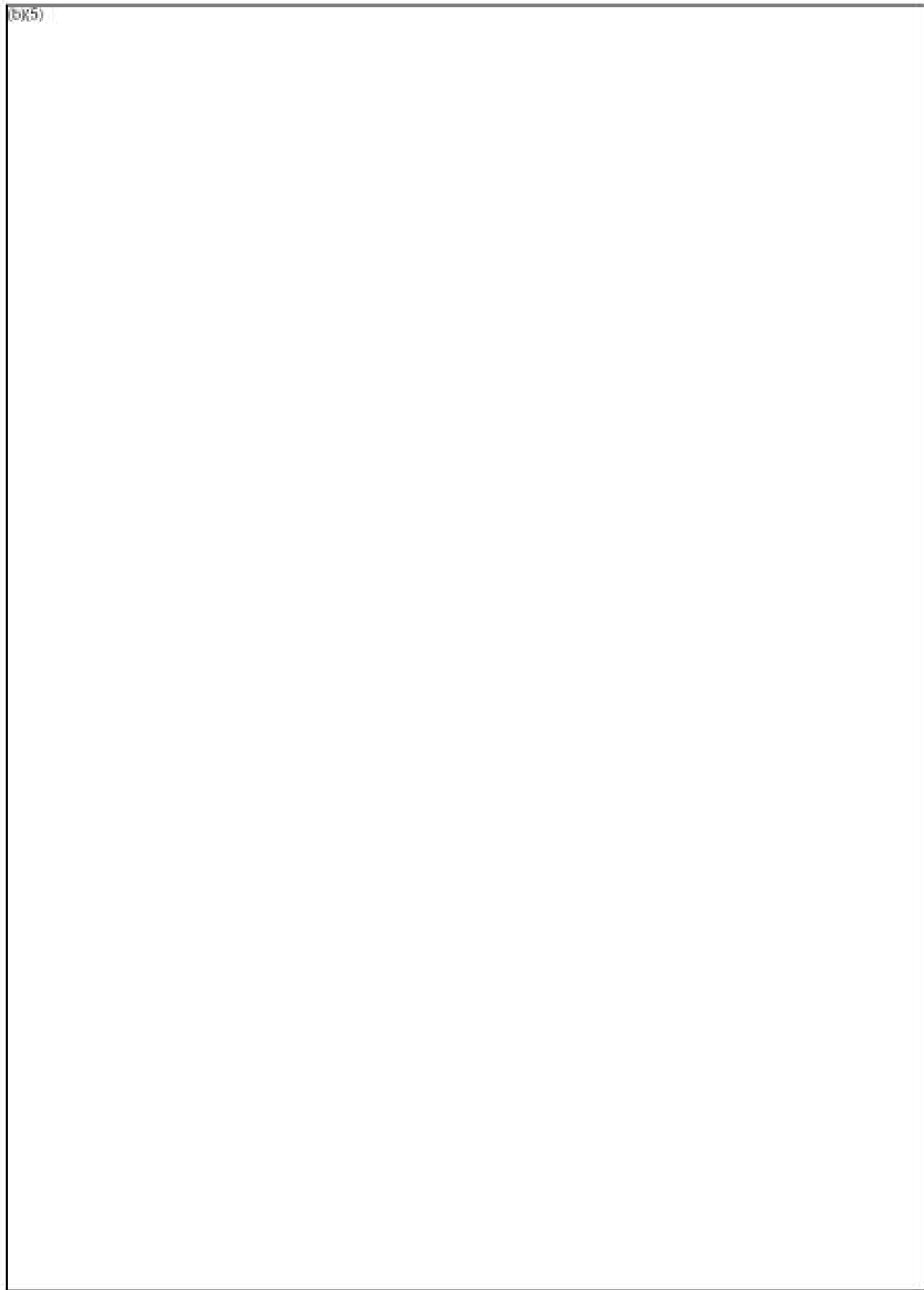
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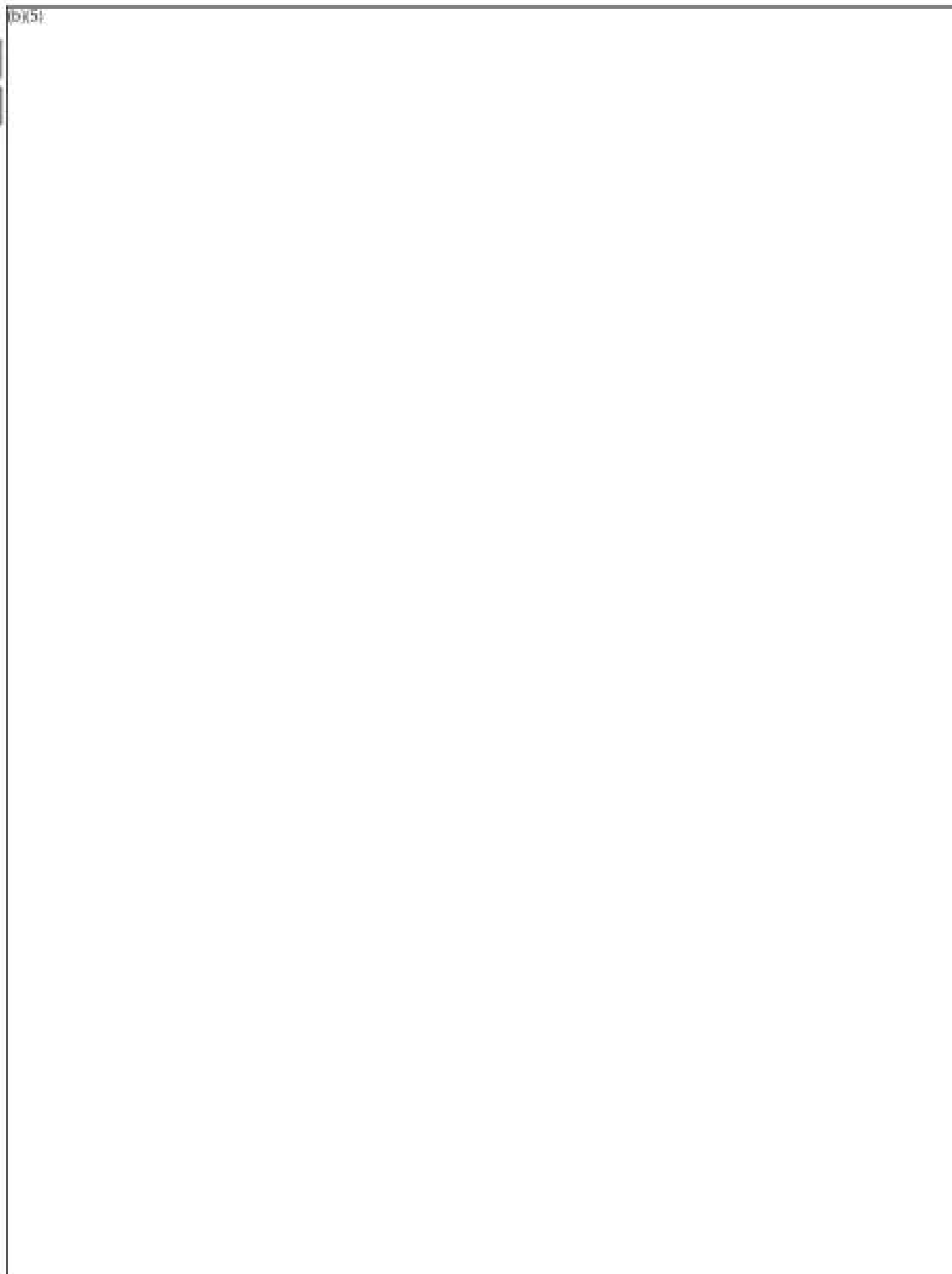
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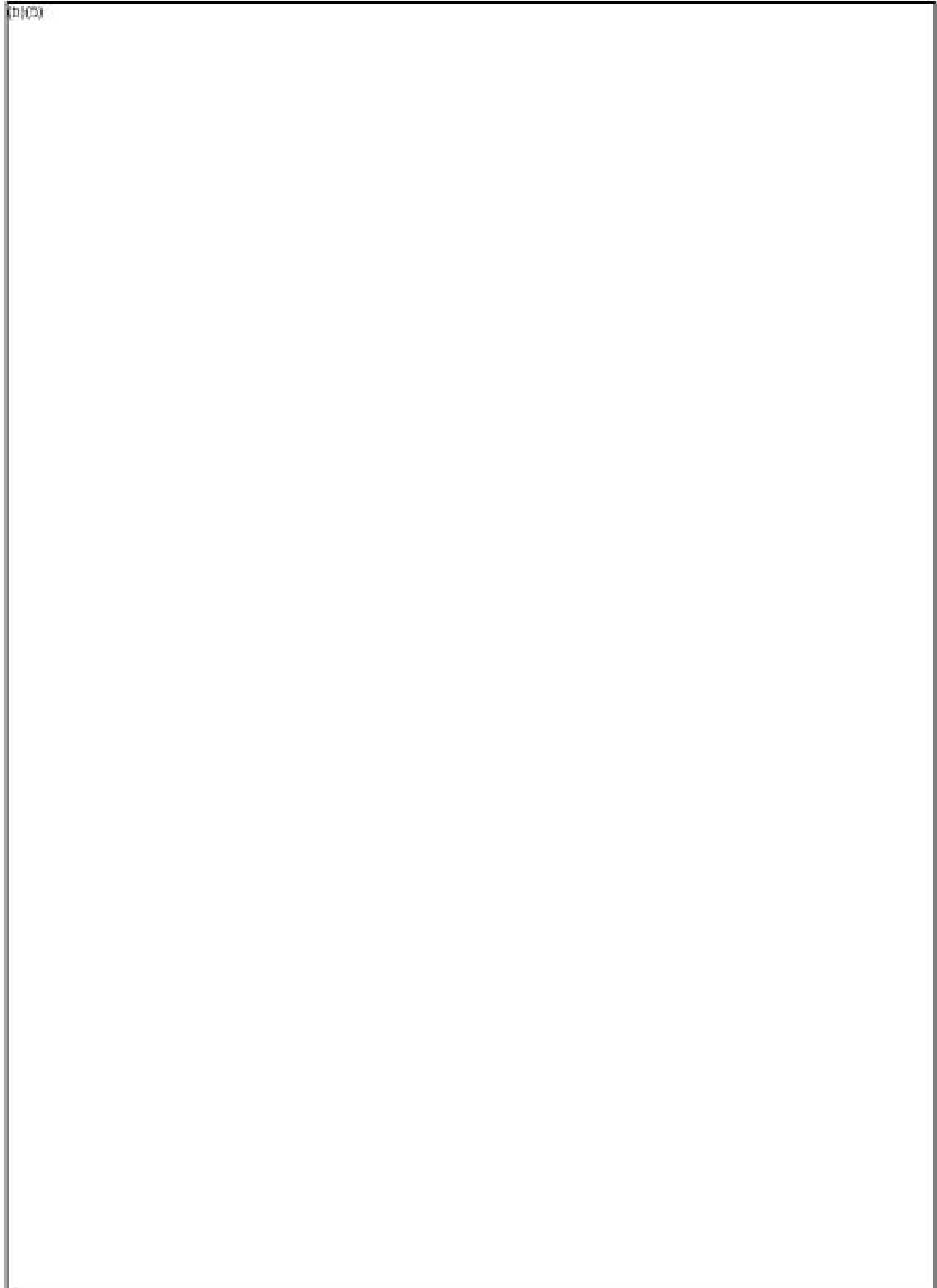
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b7E



(b)(5)



Bureau of Consumer Financial Protection
1700 G Street NW
Washington, D.C. 20552



October 26, 2018

Mr. Peter Sheridan
Associate Inspector General for Information Technology
Board of Governors of the Federal Reserve System &
Bureau of Consumer Financial Protection
20th and C Streets, NW
Washington, DC 20551

Thank you for the opportunity to review and comment on the Office of Inspector General's (OIG) draft report on the *2018 Audit of the BCFP's Information Security Program*. We are

(b)(5)



(b)(5)

(b)(5)

We appreciate the OIG noting our progress on remediating recommendations from previous OIG reviews. We value your objective, independent viewpoints and consider you to be a trusted source of informed, accurate, and insightful information.

Thank you for the professionalism and courtesy that you and all of the OIG personnel demonstrated throughout this review. We have provided comments for each recommendation.

Sincerely,

KATHERINE SICKBERT

(b)(8); (b)(7)(E)

Jerry Horton

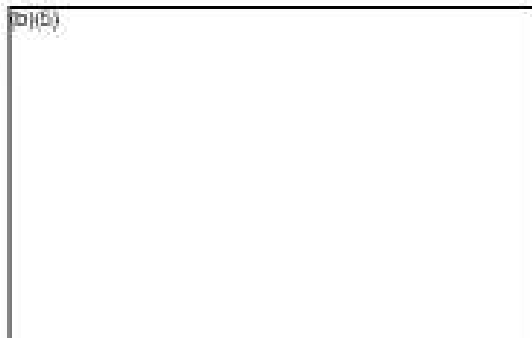
Chief Information Officer

**Response to recommendations presented in the Draft OIG Report,
“2018 Audit of the BCFP’s Information Security Program.”**

(b)(5)

(b)(5)

1700 G Street NW,
Washington, DC 20552



November 13, 2018

Recommendation Memorandum for the Acting Director

FROM	Marianne Roth, Chief Risk Officer, Office of Strategy, x57684
THROUGH	Kate Fulton, Deputy Chief of Staff, Office of the Kate Director, x59688 Fulton
SUBJECT	Request to Approve the Implementation of the Bureau's Name Correction

Recommendation(s)

I recommend you approve the implementation approach for using the Bureau's statutory name, as described below, and authorize the immediate execution of the first phase of that approach, which includes using the statutory name in most public-facing documents and platforms.

Background

Since its establishment, the Bureau has generally operated under the name "Consumer Financial Protection Bureau." In April 2018, Acting Director Mulvaney announced the Bureau would begin use of its statutory name, as cited in Sec. 1011(a) of Dodd-Frank which reads: "[t]here is established in the Federal Reserve System, an independent bureau to be known as the 'Bureau of Consumer Financial Protection.'"

Front Office leadership requested the Office of Strategy convene a cross-Bureau working group to identify the scope of items to be modified with the corrected

name. Based on leadership direction, the working group provided input and considerations that resulted in a 3-phase implementation approach, described below.

(b)(5)

Attachments

Tab 1: Decision Memorandum from the Acting Director

Tab 2: "Use of the logo in implementation of the name correction" Decision Memorandum, signed June 21, 2018.

Recommendation Memorandum for Decision Clearance Sheet

Subject/Document Title Request to Approve the Implementation of the Bureau's Name Correction		
Name of Document Marianne Roth	Office Office of Strategy	Telephone Extension X57684
Approved by (name of Associate or Assistant Director) Kate Fulton		
Legal - Preclearance	Monica Clark, Kelsie Williams	11/5/2018
CEE	Gail Hildebrand	11/7/2018
SEFL	Catherine Latell	11/6/2018
OPS	Jean Chang	11/6/18
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date



June 19, 2018

Recommendation Memorandum for the Acting Director

FROM Audrey Chen, Design and Development Lead, x57211

THROUGH Kate Fulton, Acting Chief Operating Officer, x59688

SUBJECT Use of logo in implementation of the name correction

Recommendation(s)

I recommend that you authorize the expedited implementation of the name correction and approve the use of a corrected logo where appropriate in select Bureau materials and on consumerfinance.gov.

Background

Constraints with Discontinued Use of Logo

The Design team has begun the implementation of replacing the logo with the seal in all instances where possible however, there have been several constraints as follows:

(b)(5)

(b)(5)

19 U.S.C. §294d

(b) (5)

Corrected Seal and Logo

(b)(5)



Recommendation Memorandum for Decision Clearance Sheet

Subject/Document Title Use of logo in implementation of the name correction		
Name of Document Owner Audrey Chen	Office Operations / Design and Development	Telephone Extension X57211
Approved by (name of Associate or Assistant Director) Kate Fulton		
Legal Division	Name of Clearer Kelsie Brandlee Amy Mertz Brown Monica Clark	Date 5/18/2018 6/19/2018
Office Design	Name of Clearer John Paul Doguin	Date 5/14/2018
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date
Office	Name of Clearer	Date



Decision Memorandum from the Acting Director

FROM	Mick Mulvaney
TO	Kate Fulton, Acting Chief Operating Officer
SUBJECT	Use of logo in implementation of the name correction

I approve the use of a two-mark solution to identify the Bureau: a corrected logo and a seal. The corrected logo will be used in select Bureau materials and on consumerfinance.gov. The seal will be used on official correspondence, legal actions, and reports.

Handwritten signature of Mick Mulvaney, with the initials "M.M." and "dpm" visible.

Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection

6-21-18

Date



Bureau of Consumer
Financial Protection

Corrected logo

Credit report review checklist

Once you get your credit report, you will want to review it carefully. Ordering it is not enough—you have to read it. Credit reports may have mistakes. And if there are mistakes, you are the only one who is likely to find them.

Use the following work sheet to review each section of your credit report. Do this for each credit report you get throughout the year. Then, keep the completed checklist with your credit report.

Your credit report contains a lot of personal and financial information. Be sure to keep any hard copies of your credit reports in a safe and secure place. If you do not want to hang on to your credit reports, be sure to shred them before getting rid of them.

Credit report review checklist

Today's date: Name of credit reporting agency:

1. Is your name correct?	YES	NO
2. Is your Social Security number correct?	YES	NO
3. Is your current address correct? Is your current phone number correct?	YES	NO
4. Are the previous addresses they have listed for you correct?	YES	NO
Is your marital status listed correctly?	YES	NO
Is the employment history they have listed for you accurate?	YES	NO
Is everything listed in the personal information section correct?	YES	NO
Is there anything listed in the public record information?	YES	NO
Is it correct?	YES	NO
Highlight the information you think may need to be correct.		

bcfp Bureau of Consumer Financial Protection

Learn more at consumerfinance.gov

1 of 1

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Learn more at consumerfinance.gov

1 of 1

Proportions and size comparison of logo and seal

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6. Are the employment history they have listed for you accurate?	YES	NO
7. Is the information on your credit history correct?	YES	NO
8. Is the information on your credit history correct?	YES	NO
9. Is the information on your credit history correct?	YES	NO
10. Is the information on your credit history correct?	YES	NO



Search more at consumerfinance.gov 1 of 1

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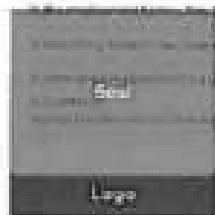
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9. Is the information on your credit history correct?	YES	NO
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Search more at consumerfinance.gov 1 of 1

Required size of the seal (vs logo) to meet Section 508 legibility standards

  Internal Revenue Service	  President of the United States	  US Patent and Trademark Office
  General Services Administration	  Bureau of Consumer Financial Protection	  Federal Deposit Insurance Corporation
  Government Publishing Office	  Department of the Air Force	  United States Postal Service

Examples of government agencies with two-mark solutions

1700 G Street NW,
Washington, DC 20552



MEMORANDUM FOR: Brian Johnson, Principal Policy Director

THROUGH: Mary McLeod, General Counsel

FROM: Sonya A. White, Deputy General Counsel Sonya A. White
Digitally signed by Sonya A. White
Date: 2018.06.01 14:07:00
+0000
Amy Mertz Brown, Assistant General Counsel
KAB Kelsie Brandlee, Counsel
Legal Division

DATE: June 1, 2018

SUBJECT: Trademark issues raised by Bureau name change in connection with the logo

I. Background

The Acting Director has decided that the Bureau will implement a name change to “Bureau of Consumer Financial Protection” and the use of a seal. The Design Team has recommended that to expedite the implementation of the name change, the Bureau use a modified logo¹ in some Bureau materials and on consumerfinance.gov, while also expanding the use of the seal, including in all official correspondence, reports, and uniquely governmental applications.

The Bureau currently has a registered trademark for the name “Consumer Financial Protection Bureau” and a pending trademark application for the acronym “CFPB,” though discussion of these marks is outside the scope of this memo. The Bureau also has a registered trademark protecting the cfpb searchlight logo. (b)(5)

(b)(5)

¹ The modified logo changes the acronym from “cfpb” to “bcbp” and the order of the words appearing to the right of the acronym from “Consumer Financial Protection Bureau” to “Bureau of Consumer Financial Protection,” but it maintains the logo’s other design elements including the searchlight coming out of the lower case “c” and the font.

(b) (5)

(b)(5)

II. Analysis

(b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5)





Consumer Finance
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

*need
Sharon to
review*

December 13, 2017

Recommendation Memorandum for the Acting Director

FROM David P. Gragan, Senior Procurement Executive

THROUGH Sartaj Alag, Chief Operating Officer

SUBJECT Anticipated Contract Actions for December and January

Recommendation(s)

I recommend that you approve the impending procurement actions identified in the attached spreadsheet for award (b)(1) items) or solicitation (b)(1) item).

Attachments

Tab 1: Decision Memorandum from the Acting Director
Tab 2: Procurement Impending Actions 12.11.17 (Spreadsheet)



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

Decision Memorandum from the Acting Director

FROM Mick Mulvaney

TO Dana James, Acting Chief Financial Officer

SUBJECT Anticipated Contract Actions for December and January

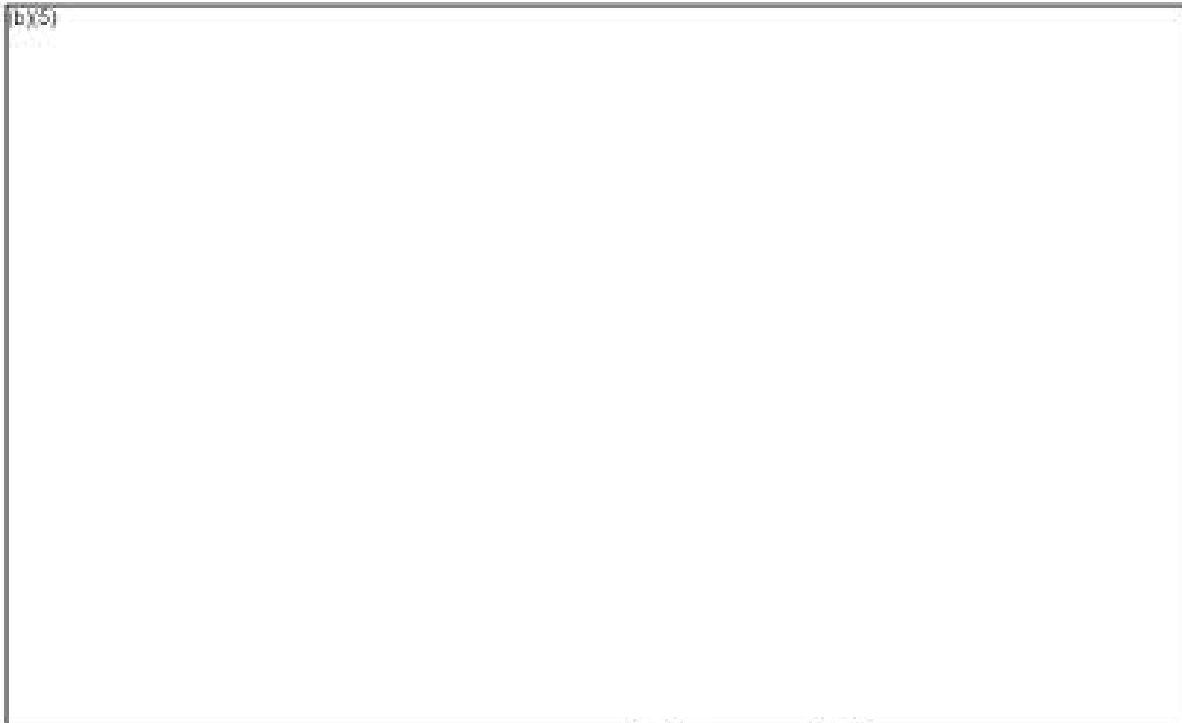
Please proceed with executing the anticipated contract actions for December and January.

Mick Mulvaney
Acting Director
Consumer Financial Protection Bureau

Date

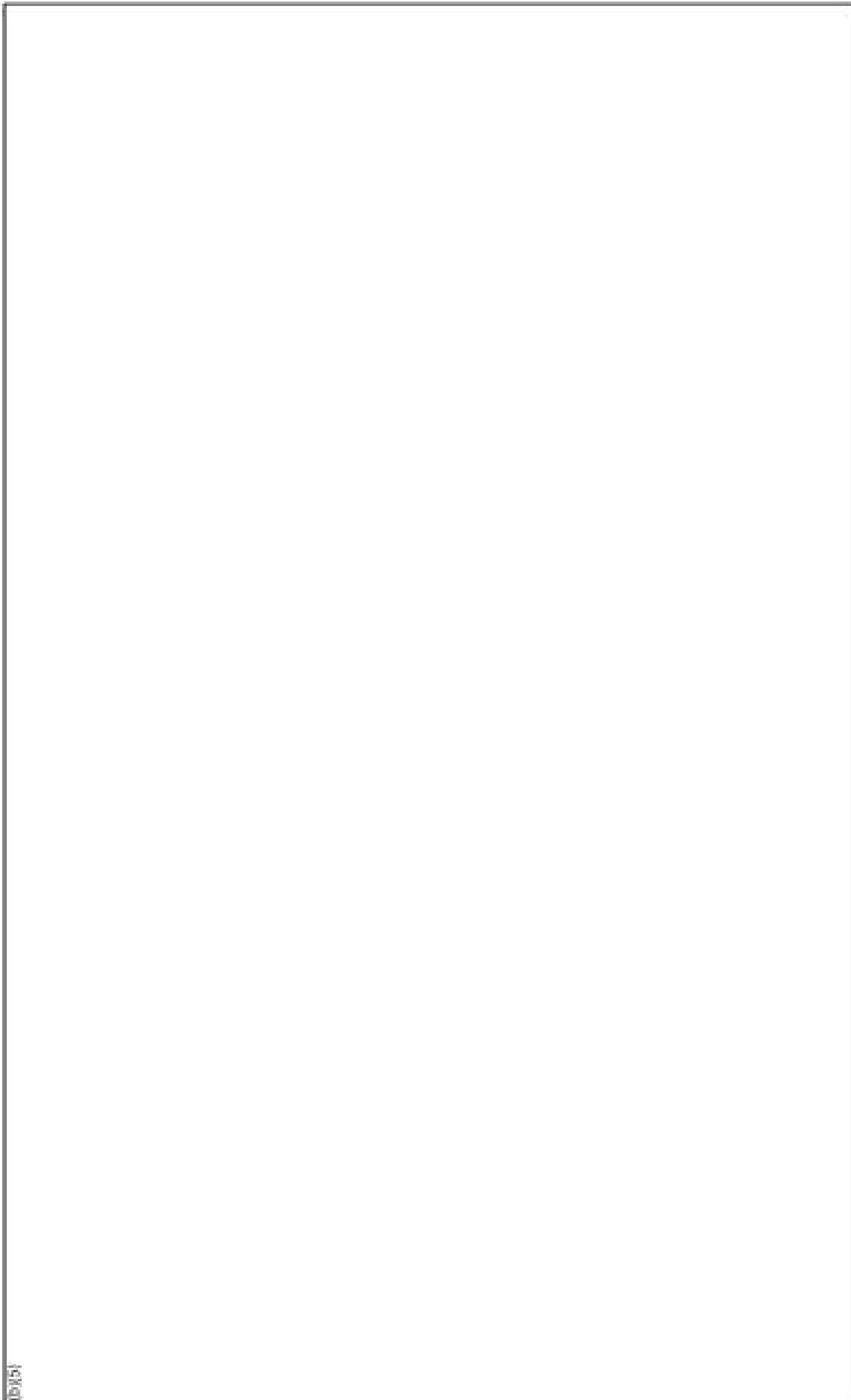
12-14-17

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12.

Division	Description	Anticipated Award Date	Obligation Amount	Contractor	Type of Action	Comments





(b)(5)

(b)(5)

Pre-Solicitation
Action

(b)(5)



June 22, 2018

Information memorandum for the Acting Director

FROM	Catherine Galicia, Assistant Director, Legislative Affairs, x5-9711
THROUGH	Anthony Welcher, Policy Associate Director, External Affairs Zixta Martinez, Associate Director, External Affairs
SUBJECT	Congressional Correspondence

On June 20, 2018, the Office of Legislative Affairs received a recommendation letter, dated June 7, 2018, from Congressman Sean Duffy (WI) recommending Paul Adamski to the Bureau's Community Bank Advisory Council. A copy of the incoming letter is **attached**.

On June 20, 2018, the Office of Legislative Affairs received a letter, dated June 19, 2018, from Congressmen Jared Polis (CO), Keith Ellison (MN), Jamie Raskin (MD), and Congresswoman Pramila Jayapal (WA) about the recent dismissal of the Bureau's Consumer Advisory Board members. A copy of the incoming letter is **attached**.

On June 20, 2018, the Office of Legislative Affairs received a letter from House Committee on Oversight and Government Reform Chairman Trey Gowdy (SC), Subcommittee on Healthcare, Benefits, and Administrative Rules Chairman Jim Jordan (OH), and Subcommittee on Government Operations Chairman Mark

Meadows (NC) regarding Bureau staff salaries. A copy of the incoming letter is **attached**.

On June 20, 2018, the Office of Legislative Affairs received a comment letter, dated June 11, 2018, to the rulemaking processes RFI from Senators Elizabeth Warren (MA) and Mark Warner (VA). A copy of the incoming letter is **attached**.

On June 21, 2018, the Office of Legislative Affairs received a letter from Congressman G.K. Butterfield (NC) regarding the Bureau's work to address discriminatory auto lending practices. A copy of the incoming letter is **attached**.

On June 21, 2018, the Office of Legislative Affairs received an invitation letter from Senate Committee on Banking, Housing, and Urban Affairs Chairman Mike Crapo (ID) for Peggy Twohig, Assistant Director for Supervision Policy, to testify at a hearing entitled "An Overview of Credit Bureaus and the Fair Credit Reporting Act." The hearing is scheduled for July 12, 2018. A copy of the incoming letter is **attached**.

Attachments

Tab 1: 2018.06.07 Duffy to Manon_CBAC Rec_Adamski

Tab 2: 2018.06.19 Polis et al to MM_CAB members

Tab 3: 2018.06.20 TG JJ MM to Mulvaney_salaries

Tab 4: 2018.06.11 Warren Warner to Bureau_comment letter Rulemaking Process RFI

Tab 5: 2018.06.21 Butterfield to MM_auto lending

Tab 6: 2018.06.21 Crapo to PT_2018.07.12 invitation

SEAN P. DUFFY
7TH DISTRICT, WISCONSIN

WASHINGTON
2330 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4907
PH: (202) 225-3365 • TOLL-FREE: 1-855-365-4129
WEBSITE: duffy.house.gov



COMMITTEE ON
FINANCIAL SERVICES
SUBCOMMITTEES:
CREDIT, HOUSING AND INSURANCE
CAPITAL MARKETS, SECURITIES AND
INVESTMENTS

Congress of the United States
House of Representatives

June 7, 2018

Mr. Emmanuel Manon
Office of Consumer Advisory Board and Councils
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

Dear Mr. Manon:

I write to recommend the appointment of Paul Adamski to the Bureau of Consumer Financial Protection's Community Banker Advisory Council. Mr. Adamski will bring a strong rural voice to the Council with a focus on making the mortgage regulatory process more consumer oriented.

Mr. Adamski's career in the Financial Services industry started while he was attending the University of Wisconsin-Stevens Point as a personal lines underwriter for Sentry Insurance. Upon graduation he began working at what was American Savings and Loan in 1974. He continued to serve the people of Wisconsin in various roles, eventually becoming the President and CEO for the Finceries Bank in Stevens Point, Wisconsin.

Mr. Adamski has also served the State of Wisconsin as the Finance Director for the City of Stevens Point and as Deputy Commissioner of Savings and Loans for the State of Wisconsin. His knowledge of the industry from both a private sector and government perspective will provide a great voice for rural community banks, and more importantly, consumers.

Mr. Adamski's service on the Chicago Federal Reserve Bank of Chicago and Wisconsin Savings College Board further exemplifies his commitment to the people of Wisconsin and the Community Banking industry.

I am confident that Mr. Adamski, with his intellect, his experience, and his deep understanding of the challenges to community banking, would be an excellent addition to Bureau of Consumer Financial Protection's Community Banker Advisory Council, and I strongly urge his appointment.

Sincerely,



Sean P. Duffy
Member of Congress

WAUSAU
108 GRANT AVENUE
WAUSAU, WI 54985
PH: (715) 298-9344 • FAX: (715) 298-9348

HELIXON
502 2ND STREET, SUITE 202
HELIXON, WI 54816
PH: (715) 808-8168 • FAX: (715) 808-8167

DAYTON
19954 RIVERS EDGE DRIVE, SUITE 206
DAYTON, WI 54843
PH: (715) 302-3984 • FAX: (715) 302-3999

Congress of the United States
Washington, DC 20515

June 19th, 2018

Acting Director Mick Mulvaney
Consumer Financial Protection Bureau
1700 G St. NW
Washington, D.C. 20552

Dear Acting Director Mulvaney,

We are deeply concerned about your recent decision to fire all 25 members of the Consumer Financial Protection Bureau's ("CFPB") Consumer Advisory Board. Your decision to hastily fire the members of the Consumer Advisory Board ("Board") are deeply concerning as the Board provides outside expertise on areas of consumer finance, trends in the financial sector that affect the everyday consumer and the impact of CFPB's regulations. The Dodd-Frank Wall Street Reform and Consumer Protection Act envisioned a consumer advisory board that encompasses well-informed professionals that focus on increasing financial inclusion, ensuring fair access to financial services products and provided valuable insight about the consumer finance industry.

Section 1014 of Dodd-Frank establishes the Consumer Advisory Board and sets forth the requirements for the Board's make-up, how of providing travel expenses to board members. : membership of the Advisory Board should ha services, community development, fair lending representatives of depository institutions that representatives of communities that have been loans. Congress identified these specific expect CFPB on the best and safest practices in protect fewer than 6 of the members shall be appointed Reserve Bank Presidents, on a rotating basis, regional Federal Reserve Banks that you would or if you requested that they provide you with seats.

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We would like clarification on why you plan for how you intend to fill the vacant seat established by Dodd-Frank. Sources revealed that a CFPB Official, Anthony Welcher, reasoned the termination was to save costs by eliminating travel expenses. We would like to direct you to Section 1014(d)(2), which provides reimbursement for travel for Board members who are not employed by an agency of the federal government.

It is our hope that you understand the Dodd-Frank law in its entirety, especially when making major decisions that affect Americans' financial livelihood. The CFPB was created to protect Americans from financial scams and unfair and deceptive practices that often prey on vulnerable populations and erode the financial health of hard-working families. To effectively ensure this mission, CFPB needs an Advisory Board that mirrors the provisions established in

Congress of the United States

Washington, DC 20515

June 19th, 2018

Acting Director Mick Mulvaney
Consumer Financial Protection Bureau
1700 G St. NW
Washington, D.C. 20552

Dear Acting Director Mulvaney,

We are deeply concerned about your recent decision to fire all 25 members of the Consumer Financial Protection Bureau's ("CFPB") Consumer Advisory Board. Your decision to hastily fire the members of the Consumer Advisory Board ("Board") are deeply concerning as the Board provides outside expertise on areas of consumer finance, trends in the financial sector that affect the everyday consumer and the impact of CFPB's regulations. The Dodd-Frank Wall Street Reform and Consumer Protection Act envisioned a consumer advisory board that encompasses well-informed professionals that focus on increasing financial inclusion, ensuring fair access to financial services products and provided valuable insight about the consumer finance industry.

Section 1014 of Dodd-Frank establishes the Consumer Advisory Board and sets forth the requirements for the Board's make-up, how often they meet and the CFPB's commitment for providing travel expenses to board members. Section 1014(b) specifically mandates that membership of the Advisory Board should have experts in consumer protection, financial services, community development, fair lending and civil rights, community development, representatives of depository institutions that primarily serve underserved communities, and representatives of communities that have been significantly impacted by higher priced mortgage loans. Congress identified these specific experts because they would be able to best advise the CFPB on the best and safest practices in protecting consumers across the U.S. Additionally, no fewer than 6 of the members shall be appointed by the recommendations of the regional Federal Reserve Bank Presidents, on a rotating basis. It is unclear if you informed the Presidents of the regional Federal Reserve Banks that you would be dismissing the current members of the Board or if you requested that they provide you with additional nominees to fill the now vacant Board seats.

We would like clarification on why you terminated all members of the Board and the plan for how you intend to fill the vacant seats to fulfill the obligations of the Board as established by Dodd-Frank. Sources revealed that a CFPB Official, Anthony Welcher, reasoned the termination was to save costs by eliminating travel expenses. We would like to direct you to Section 1014(d)(2), which provides reimbursement for travel for Board members who are not employed by an agency of the federal government.

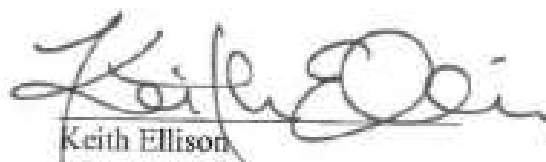
It is our hope that you understand the Dodd-Frank law in its entirety, especially when making major decisions that affect Americans' financial livelihood. The CFPB was created to protect American's from financial scams and unfair and deceptive practices that often prey on vulnerable populations and erode the financial health of hard-working families. To effectively ensure this mission, CFPB needs an Advisory Board that mirrors the provisions established in

Section 1014. It is expected that you follow the law and ensure that the Board reflects financial, civil rights, and community experts and representatives.

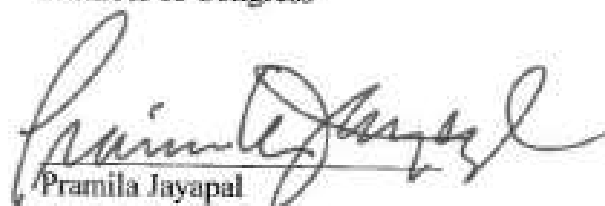
We look forward to hearing your explanation on why you decided to wipe clean the entire Advisory Board and your future plans in adhering to the law when electing new members.

Sincerely,


Jared Polis
Member of Congress


Keith Ellison
Member of Congress


Jamie Raskin
Member of Congress


Pramila Jayapal
Member of Congress

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

Phone: (202) 225-5591

Fax: (202) 225-5191

<http://oversight.house.gov>

June 20, 2018

The Honorable Mick Mulvaney
Acting Director
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, DC 20552

Dear Mr. Mulvaney:

On April 12, 2018, you appeared before the Senate Committee on Banking, Housing, and Urban Affairs to discuss the Consumer Financial Protection Bureau's semi-annual report to Congress.¹ During the hearing, you stated the average compensation for the Bureau's 1,600 employees is \$195,000 per year.² You also testified there are approximately 370 employees at the CFPB who earn more than \$174,000 per year—the salary for a U.S. Senator.³

In creating the Bureau, Congress authorized a compensation schedule apart from the General Schedule (GS) system, which is used at most federal agencies.⁴ This was done in part to ensure the Bureau could attract qualified individuals who may otherwise be enticed to work at leading financial institutions or law firms. The extent to which salaries at the Bureau depart from government-wide norms, however, raises questions.

To help the Committee determine whether taxpayer dollars are being managed efficiently at the Bureau, please provide the following documents and information:

1. An anonymized current list of all CFPB employees, including occupational title, pay band, adjusted base salary (to include locality pay adjustment, if any), and bonus or award received in Fiscal Year 2017, if any; and
2. Documents referring or relating to salary guidelines or factors for determining the appropriate salary level for CFPB employees.

¹ *The Consumer Financial Protection Bureau's Semi-Annual Report to Congress: Hearing Before the S. Comm. on Banking, Housing, and Urban Affairs*, 115th Cong. (2018).

² *Id.*

³ *Id.*

⁴ See 12 U.S.C. § 5493(a)(2) (2016).

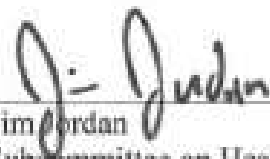
The Honorable Mick Mulvaney

June 20, 2018

Page 2

Provide the documents and information as soon as possible, but no later than 5:00 p.m. on July 5, 2018. An attachment to this letter provides additional instructions for responding to the Committee's request. Please contact James Lesinski of the Majority staff at (202) 225-5074 or James.Lesinski@mail.house.gov with any questions about this request. Thank you for your attention to this matter.

Sincerely,


Trey Gowdy
Jim Jordan
Subcommittee on Healthcare, Benefits,
and Administrative Rules
Mark Meadows
Subcommittee on Government Operations

Enclosures

cc: The Honorable Elijah E. Cummings

The Honorable Raja Krishnamoorthi
Subcommittee on Healthcare, Benefits, and Administrative Rules

The Honorable Gerald E. Connolly
Subcommittee on Government Operations

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; and (b) the individual’s business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
115TH CONGRESS**

NOTICE OF APPEARANCE OF COUNSEL

Counsel submitting: _____

Bar number: _____ State/District of admission: _____

Attorney for: _____

Address: _____

Telephone: (_____) _____ - _____

Pursuant to Rule 16 of the Committee Rules, notice is hereby given of the entry of the
undersigned as counsel for _____ in (select one):

- ☒ All matters before the Committee
- ☐ The following matters (describe the scope of representation):

All further notice and copies of papers and other material relevant to this action should be
directed to and served upon:

Attorney's name: _____

Attorney's email address: _____

Firm name (where applicable): _____

Complete Mailing Address: _____

I agree to notify the Committee within 1 business day of any change in representation.

Signature of Attorney

Date

United States Senate

WASHINGTON, DC 20510

Re: Docket No. CFPB-2018-0009, Request for Information Regarding Bureau Rulemaking Processes*Submitted by Senator Elizabeth Warren and Senator Mark Warner*

Thank you for the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) rulemaking process. We write to highlight how essential data collection must be to rulemaking at the CFPB. The CFPB was designed to be a modern, data-driven agency that analyzes market information to spot and stop consumer scams. But OMB Director Mick Mulvaney, who now controls the agency, has cut back on the CFPB's collection and use of data without any justification. The CFPB's work on behalf of American families has suffered as a result.

Data powers the CFPB's work – and that's a good thing. Dodd-Frank charges the agency with studying markets for products like credit cards and student loans and writing new rules when it spots troubling trends. The CFPB has used this authority to responsibly collect data while protecting individual privacy, to produce ground-breaking reports, and ultimately to write new rules that protect consumers and crack down on consumer scams.

Starving the CFPB of data, as Mr. Mulvaney has been doing, undermines the CFPB. Within two weeks of taking control of the CFPB, Mulvaney froze the CFPB's collection of personal data that freeze lasted for almost six months.¹ Mulvaney pointed to supposed vulnerabilities in the CFPB's cybersecurity infrastructure to justify his actions even though the CFPB had outperformed all other financial regulators in the last two independent government-wide cybersecurity audit.² He said "we're going to hold ourselves to at least the same standard as we hold [regulated entities]."³ That wasn't all. Two weeks later, Mulvaney scrapped a planned survey on debt collection⁴—an online survey of 8,000 individuals related to debt collection disclosures. This survey would have provided important data about debt collection disclosures to assist the CFPB's efforts to write a debt collection rule and otherwise fulfill obligations to root out unfair, deceptive, and abusive acts and practices related to debt collection. And in a recent speech, he suggested that he would like to end public access to the consumer complaint database.

Mr. Mulvaney lifted the freeze last week after yet another independent audit came to the same conclusion – that "externally facing Bureau system appear to be well-secured." But not before

¹ American Banker, "Warren grills CFPB head over data collection freeze," John Heltman, January 8, 2018, <https://www.americanbanker.com/news/warren-grills-cfpb-head-over-data-collection-freeze>.

² White House, "Federal Information Security Modernization Act of 2014: Annual Report to Congress," https://www.whitehouse.gov/sites/whitehouse.gov/files/briefing-room/presidential-actions/related-omb-material/fy_2016_fisma_report%20to%20congress_official_release_march_10_2017.pdf.

³ Bloomberg, "Mick Mulvaney on Wells Fargo and Data Collection," April 11, 2018, <https://www.bloomberg.com/news/videos/2018-04-11/mick-mulvaney-on-wells-fargo-and-data-collection-video>.

⁴ American Banker, "CFPB's Mulvaney scraps survey for debt collection plan," Kate Berry, December 19, 2017, <https://www.americanbanker.com/news/cfpbs-mulvaney-scraps-survey-for-debt-collection-plan>.

CFPB lawyers and investigators had lost six months while their efforts to enforce consumer protection laws ground to a halt because of the freeze.⁵ Other measures to undermine the agency by starving it of data remain in effect.

Meanwhile, Mr. Mulvaney isn't holding companies like Equifax accountable for data breaches even after hackers stole Social Security Numbers, passports, driver's licenses and more from about 145.5 million Americans.⁶ American families are right to be concerned about the security of their personal data. We sure are. But instead of allowing the CFPB to push companies to improve their data practices, Mr. Mulvaney is presenting consumers with a false choice between cybersecurity and a strong consumer watchdog. In reality, the two go hand-in-hand – a strong CFPB secures the data it holds and makes sure that companies it regulates do the same.

The better the agency's information, the more effective it is at standing up for consumers. To make sure a financial institution isn't breaking the laws, the agency can't just look at its policies -- it has to make sure that employees are following these policies. So when the CFPB assesses whether financial institutions are following the laws that govern credit cards, checking accounts, mortgages, and payday loans, it looks at individual accounts to make sure that consumers aren't getting charged for extra products and it checks individual mortgage files to make sure that black borrowers are being offered the same mortgages as white borrowers with similar profiles. And the CFPB uses data to assess market trends to evaluate whether a new rule may be needed to protect consumers, and then uses data again to help assess whether that rule's benefits will outweigh its costs.

The CFPB gets this data in a few ways. Companies, trade groups or individuals sometimes give the CFPB information voluntarily. In other cases, the financial institutions the CFPB supervises are required to give the CFPB information. The CFPB also acquires anonymized data from commercial data vendors to allow it to keep its finger on the pulse of the markets. But regardless of its source, the CFPB handles this data with utmost care. When the data are used for research, they are anonymized before any CFPB researcher ever sees them.⁷ And the agency only collects what it needs – a quantity “similar” to other financial regulators, according to a GAO report.⁸

The CFPB also gets data through its consumer complaint database. If the CFPB is going to intervene with companies on behalf of consumers – and push them to refund an unexplained \$30 fee on a bank statement – it needs the consumer's account information. The CFPB currently makes some consumer complaints public but it is careful to scrub all personal information from the complaints first.⁹ This transparency allows researchers and policymakers to conduct rigorous

⁵ Credit Union Journal, “Mulvaney response to CFPB data security gaps baffles cyber experts,” Kate Berry, April 23, 2018, <https://www.cujournal.com/news/mulvaney-response-to-cfpb-data-security-gaps-baffles-cyber-experts>.

⁶ Office of Senator Elizabeth Warren, “Bad Credit: Uncovering Equifax's Failure to Protect Americans' Personal Information,” February 2018, https://www.warren.senate.gov/files/documents/2018_2_7_%20Equifax_Report.pdf.

⁷ Government Accountability Office, “Consumer Finance Protection Bureau: Some Privacy and Security Procedures for Data Collections Should Continue Being Enhanced,” September 2014, <https://www.gao.gov/assets/670/666000.pdf>.

⁸ *Ibid.*

⁹ *Ibid.*

outside analysis of consumer complaints and arms consumers with important information as they're making choices in the financial marketplace.

Armed with this evidence, the CFPB has successfully stood up for consumers. Under former Director Richard Cordray, the CFPB obtained \$12 billion in relief for more than 29 million consumers and protected millions more through its rules it wrote using rigorous cost-benefit analysis.¹⁰ Make no mistake – the secret to the CFPB's success is that its investigators, lawyers and rule-writers are armed with evidence and powered with data.

The CFPB's decision-making is at its best when it has data to guide the rules it writes and the lawsuits it brings to protect consumers. Dodd Frank requires the CFPB to consider the potential benefits and costs to potential consumers when undertaking a rulemaking—including a rulemaking to collect data.¹¹ Other requirements mean the CFPB must assess the impact of proposed rules on smaller banks and credit unions, consumers in rural areas, among others. Mr. Mulvaney claims that he values cost-benefit analysis and fact-based decision-making, but rolling back data collection makes this impossible, harming consumers and businesses.

The American people deserve better. As the CFPB evaluates its rulemaking process, we urge Mr. Mulvaney and the CFPB to keep data central to the execution of its mission to protect consumers.

¹⁰ Consumer Financial Protection Bureau, "Fact Sheet: By The Numbers," December 2016, https://files.consumerfinance.gov/f/documents/201701_cfpb_CFPB-By-the-Numbers-Factsheet.pdf.

¹¹ 12 U.S.C. 5512(b)(2)(A)(i).



CONGRESS OF THE UNITED STATES

HOUSE OF REPRESENTATIVES

June 21, 2018

Mr. Mick Mulvaney
Acting Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

Dear Acting Director Mulvaney:

I write to better understand how the Consumer Financial Protection Bureau (CFPB) intends to protect consumers from discriminatory auto lending practices at auto dealerships.

After mortgages and student loans, auto loans—80 percent of which are obtained through a dealership—are the largest source of Americans' household debt.¹ At the same time, consumers' ability to get to work, go to school, and obtain medical care has been linked to whether they have access to fair auto financing.²

In 2013, CFPB issued guidance to address the practice of indirect auto lending, in which auto dealers facilitate loans from third-party lenders for customers purchasing a vehicle.³ That guidance was in response to the potentially discriminatory use of dealer markups of indirect auto loans.⁴ CFPB wrote in the guidance that there is a "significant risk" that dealer markups contribute to pricing disparities based on race and other characteristics protected by the Equal Credit Opportunity Act.⁵

Since issuing the 2013 guidance, CFPB has returned more than \$140 million to consumers who were financially harmed by discriminatory dealer markups.⁶ Ally Financial, American Honda

¹ Consumer Financial Protection Bureau, *Prepared Remarks of CFPB Director Richard Cordray at the Auto Finance Field Hearing* (Sept. 18, 2014).

² Center for Responsible Lending, *Under the Hood: Auto Loan Interest Rate Hikes Inflate Consumer Costs and Loan Losses* (Apr. 19, 2011).

³ Consumer Financial Protection Bureau, *CFPB Bulletin 2013-02* (Mar. 21, 2013) (files.consumerfinance.gov/f/201303_cfpb_march_-Auto-Finance-Bulletin.pdf).

⁴ Consumer Financial Protection Bureau, *CFPB to Hold Auto Lenders Accountable for Illegal Discriminatory Markup* (Mar. 21, 2013) (press release).

⁵ See note 3.

⁶ Consumer Financial Protection Bureau, *CFPB and DOJ Order Ally to Pay \$80 Million to Consumers Harmed by Discriminatory Auto Loan Pricing* (Dec. 20, 2013) (press release); Consumer Financial Protection Bureau, *CFPB and DOJ Reach Resolution with Honda to Address Discriminatory Auto Loan Pricing* (July 14, 2013) (press release); Consumer Financial Protection Bureau, *CFPB Takes Action Against Fifth Third Bank for Auto-Lending*

BUTTERFIELD.HOUSE.GOV

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Washington, DC 20012
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Fax: (202) 225-1104

Greensboro
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Greensboro, NC 27409
Phone: (336) 838-4064
Fax: (336) 838-4067

Winston
218 Mt. Pleasant Road
Suite 3
Winston, NC 27394
Phone: (336) 237-8844
Fax: (336) 236-0354

Chapel Hill
801 North Tryon Street
Chapel Hill, NC 27514
Phone: (919) 966-1100
Fax: (919) 966-1104

Finance Corporation, and Fifth Third Bank have all settled with CFPB and the Department of Justice after they were found to have engaged in patterns of discrimination against minority customers seeking indirect auto loans.⁷ Nonwhite borrowers in these cases were charged, on average, hundreds of dollars more for their auto loans than white borrowers.⁸

Yet, you recently released a statement applauding the actions taken by Republican majorities in Congress and the President to overturn regulatory guidance issued by CFPB on March 21, 2013, titled “Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act.”⁹

Clearly, discrimination in auto lending persists. Research indicates that dealer markups contribute to nonwhite consumers paying more for auto loans than white customers with similar financial histories and credit risk.¹⁰ In fact, nonwhite consumers have faced these discriminatory practices for decades.¹¹ Racial disparities in dealer markups have been found in every state in America dating back to the 1990s.¹² In some states, dealers charged nonwhite borrowers three to four times the markup they charged white borrowers.¹³ And in a January 2018 report, the National Fair Housing Alliance detailed the results of their investigation into auto lending at dealerships in Virginia: 62.5 percent of the time, dealers offered nonwhite borrowers costlier loan options than they did less qualified white borrowers.¹⁴

Your decision to dismantle the Office of Fair Lending and Equal Opportunity, together with the elimination of the guidance on discriminatory indirect lending, risks further weakening the Bureau’s ability to detect and prevent discriminatory lending.¹⁵

Discrimination and Illegal Credit Card Practices (Sept. 28, 2015) (press release); Consumer Financial Protection Bureau, *CFPB and DOJ Reach Resolution with Toyota Motor Credit to Address Loan Pricing Policies With Discriminatory Effects* (Feb. 2, 2018) (press release).

⁷ *Id.*

⁸ *Id.*

⁹ *House Votes to Dismantle Bias Rule in Auto Lending*, New York Times (May 8, 2018); Consumer Financial Protection Bureau, *CFPB Bulletin 2013-02* (Mar. 21, 2013) (files.consumerfinance.gov/f/201303_cfpb_march_-_Auto-Finance-Bulletin.pdf).

¹⁰ See note 2.

¹¹ National Consumer Law Center, *Racial Disparities in Auto Loan Markups State-by-State Data* (June 2015) (www.nclc.org/images/pdf/car_sales/lb-auto-dealers-racial_disparities.pdf).

¹² *Id.*

¹³ *Id.*

¹⁴ National Fair Housing Alliance, *Discrimination When Buying a Car* (Jan. 11, 2018).

¹⁵ *Trump Administration Strips Consumer Watchdog Office of Enforcement Powers in Lending Discrimination Cases*, Washington Post (Feb. 1, 2018).

To that end, I request you provide detailed information on how you intend to fulfill CFPB's fundamental mission to put American consumers first, and to take tough actions to defend them from discrimination and other abusive financial practices in the auto lending industry.

Very truly yours,

A handwritten signature in black ink, appearing to read "G. K. Butterfield". The signature is fluid and cursive, with a long horizontal stroke at the end.

G. K. Butterfield
Member of Congress

MIKE LEWIS, (DAVE) CHAIRMAN
 RICHARD C. SHULTZ, ALABAMA
 BOB CORNER, TENNESSEE
 PATRICK J. TOOMEY, PENNSYLVANIA
 DEAN KELLES, NEVADA
 TIM SCOTT, SOUTH CAROLINA
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 TOM COTTON, ARKANSAS
 MIKE ROZDOL, SOUTH DAKOTA
 DAVID PERDUE, GEORGIA
 THOM TILLOTSON, NORTH CAROLINA
 JIMMY KIRKWOOD, LOUISIANA
 JERRY MORAN, KANSAS
 SHERRILL BROWN, OHIO
 JACK REED, RHODE ISLAND
 ROBERT MENENDEZ, NEW JERSEY
 ALB TEFER, MONTANA
 MARK WARNER, VIRGINIA
 ELIZABETH WARREN, MASSACHUSETTS
 HELEN HASTRUP, NORTH DAKOTA
 JOE DONNELLY, IOWA
 BRIAN SCHATZ, HAWAII
 GABRIEL GARCIA, NEW MEXICO
 CATHY CORTEZ MASTO, NEVADA
 DOUG JONES, ALABAMA

ORRIN HOWARD, STAFF DIRECTOR
 MARILEE FLOYD, SENIOR STAFF DIRECTOR

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
 URBAN AFFAIRS

WASHINGTON, DC 20510-8075

June 21, 2018

Ms. Peggy L. Twohig
 Bureau of Consumer Financial Protection
 1700 G Street NW
 Washington, DC 20552

Dear Ms. Twohig:

I invite you to appear before the Committee on Banking, Housing, and Urban Affairs to testify at a hearing entitled "An Overview of Credit Bureaus and the Fair Credit Reporting Act." The hearing is scheduled to take place on Thursday, July 12, 2018 at 10:00 a.m. in Room 538 in the Dirksen Senate Office Building.

Your testimony should describe the efforts, activities, objectives, and plans of the Bureau with respect to supervision, regulation, and enforcement related to the credit bureaus. Please provide an overview of the Fair Credit Reporting Act and any other laws or regulations that apply to credit bureaus. In addition, please describe the extent to which your agency oversees the credit bureaus' data security, and provide the Committee with your evaluation of how well the credit bureaus ensure the security and accuracy of the data they collect, what improvements should be made to the oversight of data security and accuracy at credit bureaus, the effectiveness of dispute resolution processes at credit bureaus, and if a data breach occurs, what could be done to ameliorate the damage done by such breach?

For purposes of the Committee Record and printing, your written statement must be submitted by e-mail in Microsoft Word to Joe Carapicet, Joe_Carapicet@banking.senate.gov, and to Ms. Dawn Ratliff, Chief Clerk of the Committee, Dawn_Ratliff@banking.senate.gov. Also, 30 paper copies of your statement must be included for the use of Committee members and staff. These are due to the Committee no later than 24 hours prior to the hearing.

If you have any questions regarding this hearing, please do not hesitate to contact Joe Carapiet at (202) 224-2873. Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in black ink that reads "Mike Crapo". The signature is fluid and cursive, with the first name "Mike" and last name "Crapo" clearly distinguishable.

Mike Crapo
Chairman



Henry:

Thanks very much again for taking
the time to come speak at our
National Hispanic Heritage Month event.

I especially appreciate the opportunity to show a
group of mostly young people that Democrats and
Republicans can be friends. And I value that
you are one of mine.

— And that for the breakfast!

consumerfinance.gov

All the best.



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

January 24, 2018

Recommendation Memorandum for the Acting Director

FROM	Catherine Galicia, Assistant Director, Legislative Affairs, 5-9711
THROUGH	Zixta Martinez, Associate Director, External Affairs
SUBJECT	Response letter to Senator Warren regarding the Bureau's enforcement work

Recommendation

Please review and sign the attached response letter to Senator Elizabeth Warren (MA). This response has completed clearance. If you are satisfied with the response, please sign the letter.

(b)(5)

Background

On December 18, 2017, the Office of Legislative Affairs received a letter from Senator Warren regarding the Bureau's enforcement work. A copy of the incoming letter is **attached**.

Attachments

Tab 1: 2018.01.25 MM to Warren_enforcement
Tab 2: 2017.12.18 Warren to MM_LE_enforcement



1700 G Street NW, Washington, DC 20552

January 25, 2018

The Honorable Elizabeth Warren
United States Senate
317 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Warren:

I write in response to your letter of December 18, 2017, inquiring about my review of enforcement actions and other activities at the Bureau of Consumer Financial Protection ("Bureau").

I reject the insinuation in your letter that individuals at the Bureau may be ignoring legal and ethical duties to avoid conflict of interest. I have the utmost confidence that everyone at the Bureau—both career staff and non-career staff—are complying with applicable laws, regulations, and ethical obligations, and I am not aware of any actual violations. I will not dignify your insinuation to the contrary with any further response.

I am reviewing all of the Bureau's enforcement matters to ensure that the Bureau's ongoing work adheres to the proper interpretation of Federal consumer financial protection law and my policy priorities. I am also reviewing certain draft examination reports for the same reasons. As part of these reviews, non-career staff and I have worked with the Bureau's senior career leadership team to understand each specific enforcement or supervision matter, as well as the relevant processes and procedures.

While I generally will refrain from providing information about internal Bureau operations, I can inform you that, to date, I have not rescinded any formal internal settle-or-sue authority given to the Bureau's Office of Enforcement or Office of Fair Lending by the former Director of the Bureau, nor have I instructed Enforcement or Fair Lending to drop any investigations.

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Should you have further questions about this issue, please do not hesitate to have your staff contact Matthew Pippin in the Bureau's Office of Legislative Affairs. Mr. Pippin can be reached at (202) 435-7552.

Sincerely,

A handwritten signature in black ink, appearing to read "Mick" with "CFPB" written below it.

Mick Mulvaney
Acting Director

consumerfinance.gov

ELIZABETH WARREN
MASSACHUSETTS

COMMITTEES
BANKING, HOUSING, AND URBAN AFFAIRS
HEALTH, EDUCATION, LABOR, AND PENSIONS
ARMED SERVICES
SPECIAL COMMITTEE ON AGING

United States Senate

December 18, 2017

UNITED STATES SENATE
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BOSTON, MA 02203
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1660 MAIN STREET
SUITE 408
SPRINGFIELD, MA 01103
P. 413-788-1850

www.warren.senate.gov

Leandra English
Acting Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

The Honorable Mick Mulvaney
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Acting Director English and OMB Director Mulvaney,

I am writing to seek information about the review of enforcement actions initiated by Mr. Mulvaney at the Consumer Financial Protection Bureau (CFPB). Mr. Mulvaney has not answered my earlier letter inquiring into whether he – or the staff he has brought over from OMB – have complied with CFPB's ethics rules and resolved any potential conflicts of interest. It would be very troubling if Mr. Mulvaney and his political staff were issuing orders affecting ongoing litigation decisions made by career staff. But it would be even more troubling if they were doing so while leaving Congress and the American people in the dark about whether they maintain a financial interest in any of the companies involved in the cases they are reviewing.

According to public reports, Mr. Mulvaney is reviewing 28 enforcement matters currently in litigation, 14 matters in which the CFPB has completed its investigation and is in negotiations with a regulated entity, and 90 ongoing investigations.¹ The results of this review so far appear to have resulted in letting companies off the hook even if they have defrauded consumers. In one case where a judge has already ordered Nationwide Biweekly Administration and Loan Payment Administration and its owner to pay \$7.9 million in penalties for deceptive mortgage practices, the CFPB reversed an earlier decision and allowed Nationwide Biweekly to postpone paying their penalty without posting a bond.²

¹ <https://www.washingtontimes.com/news/2017/nov/30/mick-mulvaney-seeks-more-trump-appointees-help-him/>

² <https://www.bna.com/mulvaney-puts-early-n73014472800/>

At Mr. Mulvaney's behest, the CFPB has also suspended pursuit of a Civil Investigative Demand it issued to Nexus, a company that may have engaged in unfair or deceptive practices in obtaining bonds for immigrants so that they can be released from immigration custody.³

Even Wells Fargo is reportedly catching a break from the CFPB – despite admitting to opening 3.5 million fake accounts, charging nearly 200,000 customers unnecessary fees,⁴ and charging 570,000 customers for car insurance they didn't need.⁵ In early November, under former Director Richard Cordray, the CFPB reportedly approved the terms of a settlement with Wells Fargo in a separate case related to fees the bank unlawfully charged more than 100,000 borrowers in order to secure mortgage rates.⁶ But, according to reports, the settlement is now "on ice" as Director Mulvaney "review[s] whether Wells Fargo should pay" the proposed fine.⁷

Congress and the American people have no idea who is conducting the reviews of these enforcement actions, or their rationale for making decisions about them. We have no way of knowing whether Mr. Mulvaney or any of the political staff that he has brought with him have conflicts of interest. Without information about who is conducting these reviews or how they are doing so, there is no way of ensuring that CFPB is acting lawfully or that this sensitive information is being appropriately protected. Given these concerns, I ask that Mr. Mulvaney answer to following questions no later than December 29, 2017.

1. What is the objective of your review of enforcement matters?
 - a. Which cases among the 28 currently in litigation have you or your staff reviewed?
 - b. Who is conducting these reviews? Please provide their name, title, and job description.
 - c. What is the rationale for choosing which cases to review?
 - d. What actions are you considering during your review, and what criteria are you using to determine how to proceed with these actions?
 - e. Have you rescinded the settle-or-sue authority given by Director Cordray with respect to any case?
 - f. Have you instructed the Division of Supervision, Enforcement and Fair Lending to drop any investigations that were ongoing as a result of this review?
2. What additional information is under review by you or your staff?
 - a. Are you or your staff reviewing any CFPB bank examination information? If so, what is the objective of your review of examination reports?
 - b. Which examination reports have been reviewed?
 - c. Who has been involved in this review? Please provide their job descriptions.

³ <https://www.bna.com/mulvaney-puts-early-n73014472800/>

⁴ <http://money.cnn.com/2017/08/31/investing/wells-fargo-fake-accounts/index.html>

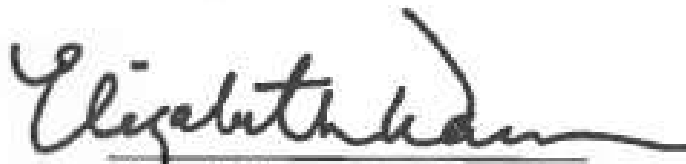
⁵ <http://money.cnn.com/2017/11/14/investing/wells-fargo-repossess-cars-military/index.html>

⁶ <https://www.reuters.com/article/us-usa-trump-wells-fargo-exclusive/exclusive-wells-fargo-sanctions-are-on-ice-under-trump-official-sources-idUSKBN1E12Y5>

⁷ *Id.*

- d. Have the regulated entities been made aware of this review?
 - e. Has anybody taking part in the review made edits to any examination report?
- 3. For all personnel involved in your reviews who were not employed by the CFPB prior to November 24, please indicate whether they are a full-time CFPB employee, whether they concurrently hold any other jobs, and under what authority they were appointed.
 - a. For all involved personnel please indicate whether and when they became fully compliant with the Supplemental Standards of Ethical Conduct for Employees of the Bureau of Consumer Financial Protection.⁸
 - b. For all involved personnel, please provide a list of entities they are disqualified from working on pursuant to 5 C.F.R. § 9401.111.

Sincerely,



Elizabeth Warren
United States Senator

⁸ 5 CFR 9401.



1700 G Street, N.W., Washington, DC 20552

March 20, 2018

Recommendation Memorandum for the Acting Director

FROM	Catherine Galicia, Assistant Director, Legislative Affairs, 5-9711
THROUGH	Anthony Welcher, Policy Associate Director, External Affairs Zixta Martinez, Associate Director, External Affairs
SUBJECT	Response letters to Senator Van Hollen and Senator Cardin

Recommendation

Please review and sign the **attached** response letters to Senate Banking, Housing, and Urban Affairs Committee Member Chris Van Hollen (MD) and Senator Ben Cardin (MD). This response has completed clearance. If you are satisfied with the response, please sign the letters.

Background

On February 14, 2018, the Office of Legislative Affairs received a letter from Senator Van Hollen and Senator Cardin about the Office of Fair Lending and Equal Opportunity. A copy of the letter is **attached**.

Attachments

- Tab 1: 2018.03.23 MM to Van Hollen_Fair Lending
- Tab 2: 2018.03.23 MM to Cardin_Fair Lending
- Tab 3: 2018.02.14 Van Hollen Cardin to MM_Fair Lending



1700 G Street, N.W., Washington, DC 20552

March 23, 2018

The Honorable Chris Van Hollen
United States Senate
110 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Van Hollen: *Chris*

Thank you for your letter of February 14, 2018. The Bureau of Consumer Financial Protection (Bureau) appreciates your interest in the work of our Office of Fair Lending and Equal Opportunity (OFLEO), and shares your commitment to ensuring that the Bureau fulfills all applicable statutory requirements efficiently and effectively.

As you may know, I have been working to ensure that the Bureau's operations are conducted in a way that best enables us to fulfill all of the Bureau's statutory requirements while reducing redundancy and maximizing efficiency. Changes to the structure and operations of OFLEO are being implemented in furtherance of these priorities. The current organizational structure of OFLEO places primary emphasis on oversight and enforcement of fair lending laws. The result has been a focus on corrective measures, rather than promotion of fair lending compliance and education. In addition, maintaining supervision and enforcement functions and processes that are separate from the Offices of Enforcement, Supervision Policy, and Supervision Examinations has created unnecessary duplication.

The reorganization of OFLEO will transfer OFLEO's supervision and enforcement functions to the other offices charged with those functions, and elevate OFLEO's remaining functions to the Director's Office to become part of an Office of Equal Opportunity and Fairness with a focus on fair lending coordination, compliance, and education. The changes are designed to eliminate unnecessary duplication in the Bureau's supervision and enforcement functions, and allow OFLEO to promote fair lending compliance through education and outreach. These changes should improve the Bureau's operations and our interactions with consumers and industry, in fulfillment of our mission, and in full compliance with the Bureau's statutory mandate. The proposed reorganization will not hamper the Bureau's fair lending enforcement and supervisory activity.

Thank you for your interest in the Bureau's work. Should you have any further questions about this matter, please contact Matt Pippin in the Bureau's Office of Legislative Affairs. Mr. Pippin can be reached at (202) 435-7552.

Sincerely,

[Signature]
Matt Mulvaney
Acting Director

consumerfinance.gov

*call me if you want
to discuss in more
detail.*

(b)(6)

CEPD-19-1051-A-000178 *[Signature]*



1700 G Street, N.W., Washington, D.C. 20552

March 23, 2018

The Honorable Benjamin L. Cardin
United States Senate
509 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Cardin:

Thank you for your letter of February 14, 2018. The Bureau of Consumer Financial Protection (Bureau) appreciates your interest in the work of our Office of Fair Lending and Equal Opportunity (OFLEO), and shares your commitment to ensuring that the Bureau fulfills all applicable statutory requirements efficiently and effectively.

As you may know, I have been working to ensure that the Bureau's operations are conducted in a way that best enables us to fulfill all of the Bureau's statutory requirements while reducing redundancy and maximizing efficiency. Changes to the structure and operations of OFLEO are being implemented in furtherance of these priorities. The current organizational structure of OFLEO places primary emphasis on oversight and enforcement of fair lending laws. The result has been a focus on corrective measures, rather than promotion of fair lending compliance and education. In addition, maintaining supervision and enforcement functions and processes that are separate from the Offices of Enforcement, Supervision Policy, and Supervision Examinations has created unnecessary duplication.

The reorganization of OFLEO will transfer OFLEO's supervision and enforcement functions to the other offices charged with those functions, and elevate OFLEO's remaining functions to the Director's Office to become part of an Office of Equal Opportunity and Fairness with a focus on fair lending coordination, compliance, and education. The changes are designed to eliminate unnecessary duplication in the Bureau's supervision and enforcement functions, and allow OFLEO to promote fair lending compliance through education and outreach. These changes should improve the Bureau's operations and our interactions with consumers and industry, in fulfillment of our mission, and in full compliance with the Bureau's statutory mandate. The proposed reorganization will not hamper the Bureau's fair lending enforcement and supervisory activity.

Thank you for your interest in the Bureau's work. Should you have any further questions about this matter, please contact Matt Pippin in the Bureau's Office of Legislative Affairs. Mr. Pippin can be reached at (202) 435-7552.

Sincerely,

Mick Mulvaney
Acting Director

consumerfinance.gov

United States Senate

WASHINGTON, DC 20510

February 14, 2018

Mick Mulvaney
Director, Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Director Mulvaney,

We write with concern regarding reports that OMB Director Mulvaney intends to strip enforcement powers from the Consumer Financial Protection Bureau's (CFPB) Office of Fair Lending and Equal Opportunity (OFLEO).

The 2008 financial crisis had a disproportionately negative impact on minority homeowners and the communities they live in. In the years leading up to the crisis, African-American and Hispanic borrowers were more likely to receive subprime loans than similarly-situated white borrowers.¹ In Baltimore, for example, Wells Fargo engaged in a pattern of discrimination against African-American and Hispanic mortgage applicants. The damage done to Baltimore as a result of Wells Fargo's actions was so significant that the City filed a lawsuit against Wells Fargo. The suit was ultimately taken up by the U.S. Department of Justice, and Wells Fargo agreed to a \$175 million settlement.

Former Labor Secretary Tom Perez, then the head of the Department of Justice's Civil Rights Division, told the story of an "80-year-old African-American resident of the Baltimore area with a 714 credit score and a rock-solid credit file who received a subprime loan instead of a prime loan, and who was not told that she may have qualified for a prime loan with better terms."²

The destruction and equity stripping of communities throughout our country did not have to happen, but serious enforcement gaps in the mortgage and financial markets, especially with regard to fair lending and consumer lending laws, allowed it to happen. For this reason, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 directed the CFPB to create the OFLEO with a mandate of providing "oversight and enforcement of Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities"³

Changing OFLEO's structure and splitting the office apart will harm its ability to perform its critical duties. Since its establishment, this office has played a central role in pursuing cases against discriminatory lenders.

¹ https://www.aclu.org/sites/default/files/field_document/discrimlend_final.pdf

² Wells Fargo agrees to pay \$175M settlement in pricing discrimination suit. *The Baltimore Sun*. July 12, 2012.

³ 12 U.S.C. 5493

OFLEO worked with the Department of Justice to resolve the largest redlining case in history, resulting in a \$33 million settlement, and a case against a mortgage lender that discriminated against 14,000 African-American and Hispanic borrowers with regard to the assessment of brokers' fees.⁴

The support of the federal government is imperative as cities like Baltimore continue to grapple with the consequences of decades of discriminatory lending practices that systematically segregated and stripped wealth from communities of color. The NAACP's recently released *Baltimore Economic Inclusion Plan*⁵ documents disparities in economic opportunity between the city's white and minority residents and illustrates the need for robust enforcement of fair lending laws at all levels of government.⁶

As with any regulator, the actions of the CFPB affect the behavior of the entities it regulates. In stripping the enforcement authority of an office that has vigorously pursued cases against discriminatory lenders, you are sending a signal that the CFPB may not step in to provide oversight and enforcement against racial discrimination by financial institutions.

The OFLEO is an essential cop on the beat, ensuring that some of Americans' most significant financial decisions are not made more difficult on the basis of their race, ethnicity, or where they live. We urge you to change course and provide this office with all of the resources it needs to enforce fair lending laws and prevent further equity stripping from minority neighborhoods.

Sincerely,


Chris Van Hollen
United States Senator
Benjamin L. Cardin
United States Senator

cc: Leandra English

⁴ Fair Lending Report of the Consumer Financial Protection Bureau, April 2016.

⁵ <http://www.naacp.org/wp-content/uploads/2018/02/NAACP-Baltimore-Report-print-2.pdf>

⁶ NAACP report urges action on economic inequalities in Baltimore, February 6, 2018

<http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-naacp-economic-report-20180202-story.html>

1700 G Street NW,
Washington, DC 20552

(b)(5)



October 11, 2018

Recommendation Memorandum for the Acting Director

FROM	Catherine Galicia Assistant Director, Legislative Affairs, x5-9711
THROUGH	Anthony Welcher, Policy Associate Director, External Affairs Zixta Martinez, Associate Director, External Affairs
SUBJECT	Response to Congressman Charlie Crist (FL) on allegations against an auto lender

Digitally signed by
Anthony Welcher
Date: 2018.10.11
15:34:23 -04:00

Recommendation

Please review and sign the attached response letter to Congressman Charlie Crist (FL), member of the House Committee on Financial Services, about allegations of deceptive practices by a Florida auto lender. This response has completed clearance. If you are satisfied with the response, please sign the letter.

Background

On September 25, 2018, the Office of Legislative Affairs received a letter from Congressman Crist regarding an auto lender. A copy of the incoming letter is **attached**.

Attachments

- Tab 1: 2018.10.16 LTR to Crist_auto lender_REC
- Tab 2: 2018.09.25 Crist to MM_auto lending.

1700 G Street NW,
Washington, DC 20552



October 16, 2018

The Honorable Charlie Crist
U.S. House of Representatives
427 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Crist:

Thank you for your letter about allegations of potentially deceptive lending practices by Marlin Financial. The media reports you shared detail troubling practices that may have harmed innocent consumers. The Bureau of Consumer Financial Protection (Bureau) is aware of these reports and is evaluating actions we might take in response.

In general, the Bureau does not comment on or confirm any Bureau supervisory activity or investigations. The Bureau does take allegations of unfair, deceptive, or abusive lending practices very seriously. The Bureau is committed to a consumer financial marketplace that is free, innovative, competitive, and transparent, where the rights of all parties are protected by the rule of law, and where consumers are free to choose the products and services that best fit their individual needs. A central part of the Bureau's mission is to enforce the requirements of Federal consumer financial laws, as defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act, which it continues to do.

consumerfinance.gov

Should you have any additional questions, please do not hesitate to contact me or have your staff contact Meredith Manna in the Bureau's Office of Legislative Affairs. Ms. Manna can be reached at (202) 435-9785.

Sincerely,



Mick Mulvaney
Acting Director

consumerfinance.gov

CHARLIE CRIST
13th District, Florida
www.crist.house.gov

417 Cannon House Office Building
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(202) 225-5941

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St. Petersburg, FL 33704
(727) 316-8732

Congress of the United States
House of Representatives
Washington, DC 20515-0913

FINANCIAL SERVICES COMMITTEE
SUBCOMMITTEES:
Financial Institutions and
Consumer Credit
Monetary Policy and Trade
Oversight and Investigations
SCIENCE, SPACE, AND
TECHNOLOGY COMMITTEE
SUBCOMMITTEES:
Space
Environment

September 25, 2018

The Honorable Mick Mulvaney, Acting Director
Consumer Financial Protection Bureau

Dear Acting Director Mulvaney,

I was disturbed by recent reporting from the *Tampa Bay Times* regarding the business practices of Marlin Financial, an auto loan company operating in Florida. Two articles in particular, titled: "Customers say Marlin Financial's auto loans are deceptive. Now the state is investigating," and "Borrowers need protection from Marlin Financial," detail extensive and apparently illegal abuse against Florida consumers. According to the reporting, Marlin Financial has engaged in unscrupulous business practices including requiring the purchase of unnecessary debt cancellation insurance, charging consumers usurious interest rates, seizing consumers' personal items within repossessed vehicles, and failing to respond to customer complaints.

While the Florida Attorney General and Office of Financial Regulation investigate alleged violations of state law, financial abuse of consumers is illegal under federal law as well. The Dodd-Frank Wall Street Reform and Consumer Protection Act empowers the Consumer Financial Protection Bureau to act to protect the American people from unfair, deceptive, and abusive practices. As a Member of the House Committee on Financial Services, I request that the Consumer Financial Protection Bureau investigate Marlin Financial. Should any of the outrageous behaviors reported by the *Tampa Bay Times* violate federal consumer financial protection laws, I urge you to hold the company accountable and make its victims whole.

Sincerely,



Charlie Crist
UNITED STATES CONGRESSMAN

Enclosures.

Customers say Marlin Financial's auto loans are deceptive. Now the state is investigating

A controversial add-on to auto loans is the focus of consumer complaints across the state.

By Malena Carollo Sep. 14

Isaiah Burgman needed \$10,000, and he didn't have much time to get it. The quickest way, the Temple Terrace resident figured, was to take out a loan against his car, and an online company helped him do just that — it even wired the cash within a few hours.

What Burgman didn't know was that something he'd felt forced to agree to as part of the loan cost \$25,000, making his debt more than \$35,000. He defaulted on the loan when his monthly payments ballooned because of the extra charge, and his Jaguar was repossessed within a few weeks.

Burgman's case isn't unique. Marlin Financial has saddled desperate consumers with much more debt than expected, apparently breaking the law in the process, a *Tampa Bay Times* investigation has found.

The *Times* spoke with 20 Marlin customers, interviewed former employees and reviewed hundreds of pages of documents, from the company and public records from three states.

Marlin has approved loans that are larger than it is licensed to make. Its debt cancellation policy — what Burgman tried to avoid — can push its interest rates over state limits. It has failed to give customers an opportunity to take belongings from repossessed cars, and in Burgman's case, Burgman said a company hired by Marlin hid his repossessed car from him.

For more than a year, the company has largely slipped the notice of state regulators. But after *Times* inquiries, Marlin is now the subject of a consumer protection investigation by the Florida Attorney General's office.

Based on customer accounts, according to experts who reviewed the *Times*' findings, Marlin would be in clear violation of state law. Lenders are required to tell people where their cars are being held and give them an opportunity to take their belongings.

Marlin's site does not list fees for loans as annual percentage rates. Federal law requires this to help consumers avoid confusion and compare apples to apples.

But the biggest violation could center on the policy that Burgman and others purchased.

Contacted through its lawyer, Marlin declined to answer questions about its business practices and would only address questions about specific cases. As of Friday morning, it had not responded to questions about Burgman's case.

Burgman said he paid attention to the fine print in his agreement with Marlin, and one section required him to either "elect to purchase the debt cancellation product" or decline it.

He didn't immediately understand what was being offered and sought clarification from a Marlin representative. Apparently, the policy would cover any remaining debt should his car be totalled while he was paying off the loan.

Burgman, whose car was already insured, told the representative that he didn't want to purchase the agreement and selected "I decline" on the online form. The online contract immediately shut down. He opened it again, redid the form and again declined debt cancellation. It shut down again. Despite the form stating that debt cancellation "is not required to obtain credit" from Marlin, Burgman literally couldn't complete the loan process.

After several attempts, he agreed to debt cancellation because he was pressed for time.

This is the crux of at least a dozen lawsuits across the state against Marlin. While the Miami lender says debt cancellation is optional, in practice, customers say it is required.

Burgman hired St. Petersburg lawyer Michael Brundage to help get his repossessed car back. Brundage said four other clients he is working with also were required to sign up for debt cancellation if they wanted a loan. Two more Marlin customers told the *Times* the same thing happened to them.

"This isn't right," St. Petersburg resident Amy Friedman said about her experience with Marlin. Friedman's daughter, who was in college at the time, had taken out a loan with Marlin for about \$2,000, which ballooned to nearly \$10,000 with the debt cancellation. Friedman didn't know about the loan until her daughter's car was repossessed following a missed payment.

If debt cancellation is truly not optional, experts said, Marlin's interest rates are greater than the state allows. With the type of lending license that Marlin has — a consumer finance license — the maximum interest rate it can charge involves a calculation: 30 percent on the first \$3,000 of the loan, 24 percent on the next \$1,000 and 18 percent on everything after that up to \$25,000.

For Burgman's \$10,000 loan, that means his interest rate should be capped at 22 percent, within the legal limits. Instead, when adjusted to include debt cancellation, Burgman's interest rate balloons to just over 66 percent.

On average, Marlin customers whose contracts the *Times* reviewed have debt cancellation that costs 125 percent of their loan, effectively doubling their original borrowed balance. At least three of those loans totalled above the maximum of \$25,000 Marlin's license allows.

"All the debt cancellation products (I've seen) have been very low-value and are usually a waste of the customer's money," said Christopher Peterson, a law professor at the University of Utah and former senior counsel for enforcement policy and strategy at the Consumer Financial Protection Bureau.

The way customers should measure the value of such a product, he said, is by its "payout ratio" — the money a customer pays in premiums compared to what the company would pay out in claims. Life insurance, for example, has a particularly high payout ratio. That's not the case for debt cancellation.

The average amount for Marlin's debt cancellation also sets it apart. According to Lynn Drysdale, a lawyer at Jacksonville Legal Aid, debt cancellation is generally priced much lower, in the hundreds of dollars.

And, typically, add-on products like this are offered by a different company than the firm handling the loan, Drysdale said. When a customer buys in, the lender gets a cut of the money and the rest goes to the company offering the add-on.

But Marlin's is an in-house offering, which means customers are effectively paying the same company twice.

Peterson said the company's practices would have triggered an investigation at the Consumer Financial Protection Bureau during his tenure.

Marlin first came to Florida in 2015. Its website says it serves the state's biggest metro areas with "convenient branches" in Tampa, Orlando and Miami and employees who have "spent years in the lending industry." The only officer listed for the company is Jeremy Tolan, who, business records show, has been associated with various Miami addresses.

But the picture of friendly looking staff on Marlin's "about us" page is an iStock photo. Its president, Tolan, appears to own no property nor has any voting record in the state. One of the addresses listed on Marlin contracts for Tolan is the old residence of the company's former chief operating officer.

The website shows an Orlando office and previously listed a Tampa office, but neither is maintained by Marlin anymore. The Tampa building's owner, Fred Lay, remembers seeing Marlin's name on a lease before he bought the building in April 2016, but he said the company had moved out by the time he took over.

Marlin's only physical presence in Florida is a small suite in a high-rise office building in downtown Miami. It still occupies that location as of this month. In late December 2017, when the Times visited, a painting of a purplish-blue Marlin fish was propped up on a table against the wall, the sole decoration in the white tiled space. It had just two desks and a table in a meeting space separated by a glass wall on the far side of the room.

Geronima Medina, who identified herself as the office manager, was the only employee there that day. She described Marlin as an "online company" with its headquarters in the Miami office and a location in Chicago that handled "back-end work," she said.

She said she didn't know how many customers the company had and would not disclose the names of the owners. But she did say her days were fast-paced.

"It's very busy," she said. "We're growing significantly."

Much of that business happens in Northbrook, Ill., at 1500 Skokie Blvd.

Jeremy Tolan is listed as an officer or registered agent for two companies in the building. Two more companies list the building as the address for their registered agent — Joshua Tolan, Jeremy's brother. An early incarnation of Marlin listed Peter Poernich as a contact; he, too, lists the Illinois building as his address for a company at which he is an officer. Richard Tolan, the Tolan brothers' father, lists the building as his officer address for another company.

Pocrnich and Richard Tolan's business relationship dates to at least 2010, court records show, when Tolan was president of EZ Loan Lookup Inc., a company Pocrnich started. EZ Loan Lookup, while dissolved by the state of Illinois in 2012, has an active website that requires potential borrowers to agree to receive information on other products and services from "Ez Solutions." That company, too, is headquartered at 1500 Skokie Blvd., and Joshua Tolan is listed as an officer. His address on the company's business forms is a home owned by his father, property records show.

At least two Marlin customers told the Times they were referred to the company by EzLoanLookup.com, and it is referenced in at least one lawsuit filed against Marlin.

EZLoanLookup.com was ordered to stop doing business in California in 2011 by the state's Business Transportation and Housing Agency because it was not properly licensed for the type of auto loans it was making.

Complaints against Marlin aren't the first consumer credit business issue for a member of the Tolan family. In the early 2000s, Richard Tolan and his business partner, Fallean Mintz, operated a business that regional telecom BellSouth said defrauded it of millions of dollars.

Here's how BellSouth said it worked: Tolan and Mintz bought companies that resold phone service from the regional Bell telecom and got service on credit from the local Bell, several lawsuits show. Then, they sold pre-paid services for cash to low-income people with bad credit and didn't pay back the Bell company. They operated across eight states, collecting about \$25 million, according to Ronald Peterson, bankruptcy trustee in the cases that had been filed by Tolan and Mintz.

In an August 2007 permanent injunction, a federal court in Georgia found that Tolan and Mintz had engaged in a scheme to defraud BellSouth. They failed to respond on time to defend the case.

During the process, a bankruptcy court denied them relief from their debt, an instance that Peterson said is "extraordinary."

"It's as rare as a blue moon on a leap year," he said.

The bankruptcy trustee's investigation found Tolan had ordered an employee to hide assets and wipe the company's hard drives in anticipation of the bankruptcy trustee coming to assess the business.

"We came in there on a raid, and you could tell from the patterns on the carpeting that they had removed furniture," Peterson said. "When we got to the computers, all the computers had been purged."

In a three-page opinion, Judge A. Benjamin Goldgar did not mince words:

"The evidence in this case as a whole showed that for these men, truth is a fluid concept, one that ebbs and flows to suit the needs of the moment," the judge wrote. "Continually they quibble, split hairs and play games until at last they're cornered. Then they either plead ignorance or, blaming others, complain they are being mistreated or misunderstood."

As for Marlin, the Florida Office of Financial Regulation, which licenses lenders, said it received 12 complaints against the company in the past four years. The Florida Attorney General's office received 19.

The Better Business Bureau recorded 32 complaints against Marlin's Florida operation. On the bureau's website, there is a warning on its page for Marlin about an identified pattern of complaints, specifically that consumers who took out loans with Marlin discovered their debt "had significantly increased," sometimes doubling the initial loan amount. Marlin responded to the warning in May saying it offers a pro-rated amount for the debt cancellation in the case of default, and the company also insisted that the debt cancellation is optional.

The Florida Attorney General told the *Times* in late July that there is an active investigation into Marlin that opened in November 2017. Beyond confirming an active investigation into the company, spokeswoman Kylie Mason said the agency does not comment on current cases.

Of the dozen known cases filed against Marlin by its customers, none have gone to trial.

All have been forced into arbitration by a clause in Marlin's contract, which also limits the choice of arbitrators to two pre-selected organizations.

In Isaiah Burgman's case, his lawyer said, they are waiting on Marlin.

Editorial: Borrowers need protection from Marlin Financial

Published: September 21, 2018

State and federal lending regulations exist to protect consumers from being surprised — and overwhelmed — by ballooning debt. Marlin Financial, a shadowy auto lender doing business around Florida, seems to be skirting those protections to the great detriment of its customers. Attorney General Pam Bondi has opened an investigation, but in the meantime Floridians should beware.

Tampa Bay Times business reporter Malena Carollo chronicled the business practices of Marlin, which began operating in Florida in 2015 by offering quick-turn consumer loans, with borrowers commonly using their cars as collateral. Marlin is authorized to make loans up to \$25,000, with interest rates capped on a stair-step basis. It can charge up to 30 percent interest on the first \$3,000 of a loan, 24 percent on the next \$1,000 and 18 percent after that up to \$25,000. But Carollo talked to several Marlin customers and reviewed lawsuits against the company alleging that by requiring borrowers to purchase its debt cancellation policy, they ended up owing far more than they realized and were charged a much higher interest rate.

Debt cancellation is a relatively cheap (in price and value) product that borrowers can purchase to protect themselves if, for example, their car is totalled while they are still paying off their loan. By law, it must be optional, but Marlin customers reported that the company's online loan application process literally shut down when they declined it and only worked when they accepted it. And it was anything but cheap. With debt cancellation, the interest rate on one Temple Terrace man's \$10,000 loan — capped by law at 22 percent — skyrocketed to 66 percent. On top of that, Carollo found, Marlin issued larger loans than it was authorized to make and failed to give customers a chance to get their belongings out of cars that were repossessed — which would be illegal.

But Marlin customers would be hard-pressed to find an office where they could lodge a complaint or even seek loan assistance. The company advertises as operating in Florida's major cities with "convenient branches" in Tampa, Orlando and Miami. No such branches exist, only a single office in a Miami high-rise staffed with a single employee who didn't want to discuss anything about Marlin — even who owns it. That would be Jeremy Tolan, the lone listed officer, who has family ties to other lending businesses that have drawn scrutiny from authorities in three states.

This is, in many ways, a tale of a classic Florida scam: a shadowy company with no brick-and-mortar presence, operating below the radar but still managing to bilk customers out of thousands. The stack of complaints against Marlin is growing: 12 in the last four years with the Office of Financial Regulation, 19 with the state Attorney General and 32 with the Better Business Bureau.

The Attorney General's office opened an investigation in November, which is better late than never. But Florida's next attorney general should take a more proactive approach to consumer protection and not wait for one company's list of victims to grow so long.

Companies like Marlin Financial are the very reason banking and lending rules are necessary. Borrowing limits, interest rate caps and disclosure requirements all work to protect consumers. But as long as bad actors try to flout the rules, consumers also have to take steps to protect themselves.



July 10, 2018

Recommendation Memorandum for the Acting Director

FROM	Catherine Galicia Assistant Director, Legislative Affairs, x5-9711
THROUGH	Anthony Welcher, Policy Associate Director, External Affairs Zixta Martinez, Associate Director, External Affairs
SUBJECT	Response to Congressman Polis (CO) et al on CAB membership

Recommendation

Please review and sign the attached response letters to Congressmen Jared Polis (CO), Keith Ellison (MN), Jamie Raskin (MD), and Congresswoman Pramila Jayapal (WA) about the membership of the Bureau's Consumer Advisory Board. This response has completed clearance. If you are satisfied with the response, please sign a letter for each of the four signatories.

Background

On June 20, 2018, the Office of Legislative Affairs received a letter, dated June 19, 2018, from Congressman Polis and three other House Members about the membership of the Bureau's Consumer Advisory Board members. A copy of the incoming letter is **attached**.

Attachments

- Tab 1: 2018.07.12 Response to Polis et al_CAB_REC
- Tab 2: 2018.07.12 Response to Ellison et al_CAB_REC
- Tab 3: 2018.07.12 Response to Raskin et al_CAB_REC
- Tab 4: 2018.07.12 Response to Jayapal et al_CAB_REC

Tab 5: 2018.06.19 Polis et al to MM_CAB members

1700 G Street NW,
Washington, DC 20552



July 12, 2018

The Honorable Jared Polis
U.S. House of Representatives
1727 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Polis:

Thank you for your letter on June 19, 2018 regarding the Bureau of Consumer Financial Protection's (Bureau's) advisory committees. Specifically you shared concerns regarding the membership of the Bureau's Consumer Advisory Board (CAB) and the frequency of its statutorily required meetings.

First, I want to be clear about two issues raised in your letter. Members of the Bureau's advisory committees, including those of the CAB, were not fired; they were informed that their terms on their respective committees would not be extended past August 31, 2018. Additionally, I can assure you that the Bureau will continue to fulfill its statutory obligations under section 1014 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to convene the CAB at least twice a year and will continue to provide forums for the Community Bank Advisory Council (CBAC) and the Credit Union Advisory Council (CUAC).

Under the previous Bureau leadership, the Bureau's advisory committees' memberships grew to a significant size. For example, the CAB had 25 members, the CBAC had 19 members, and the CUAC had 17 members, totaling 61 members across all three committees. All of these committees met a few times a year in Washington, D.C. and the Bureau paid for members' travel, lodging, and meals for all of these meetings, totaling approximately \$300,000 a year. The Bureau will use the 2018 application solicitation that was published in the *Federal Register* on March 16, 2018 to

consumerfinance.gov

reconstitute the current advisory committees with new, smaller memberships.¹ By right-sizing these committees, the Bureau is able to save valuable resources while obtaining the important feedback these committees were established to provide.

I am disappointed to see that a few of the members of the current advisory committees are making unfounded allegations about our new strategic direction. The decision not to extend their terms past August certainly was not personal, but done in an effort to decrease costs for the Bureau. I am looking forward to continuing to hear diverse feedback from a balanced membership of consumer advocates, industry representatives, and others in the future.

Should you have any additional questions, please do not hesitate to contact me or have your staff contact Meredith Manna in the Bureau's Office of Legislative Affairs. Ms. Manna can be reached at (202) 435-9785.

Sincerely,


Mick Mulvaney
Acting Director

*Jones -
Call me about this
if you want to chat
further. There will
be a call.
M.M.*

¹ <https://www.gpo.gov/fdsys/pkg/TR-2018-03-16/pdf/2018-05421.pdf>

1700 G Street NW,
Washington, DC 20552



July 12, 2018

The Honorable Keith Ellison
U.S. House of Representatives
2263 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Ellison:

Thank you for your letter on June 19, 2018 regarding the Bureau of Consumer Financial Protection's (Bureau's) advisory committees. Specifically you shared concerns regarding the membership of the Bureau's Consumer Advisory Board (CAB) and the frequency of its statutorily required meetings.

First, I want to be clear about two issues raised in your letter. Members of the Bureau's advisory committees, including those of the CAB, were not fired; they were informed that their terms on their respective committees would not be extended past August 31, 2018. Additionally, I can assure you that the Bureau will continue to fulfill its statutory obligations under section 1014 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to convene the CAB at least twice a year and will continue to provide forums for the Community Bank Advisory Council (CBAC) and the Credit Union Advisory Council (CUAC).

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Should you have any additional questions, please do not hesitate to contact me or have your staff contact Meredith Manna in the Bureau's Office of Legislative Affairs. Ms. Manna can be reached at (202) 435-9785.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Mulvaney', with a stylized flourish underneath.

Mick Mulvaney
Acting Director

⁴ <https://www.gpo.gov/fdsys/pkg/FR-2018-03-16/pdf/2018-05421.pdf>

1700 G Street NW,
Washington, DC 20552



July 12, 2018

The Honorable Jamie Raskin
U.S. House of Representatives
431 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Raskin:

Thank you for your letter on June 19, 2018 regarding the Bureau of Consumer Financial Protection's (Bureau's) advisory committees. Specifically you shared concerns regarding the membership of the Bureau's Consumer Advisory Board (CAB) and the frequency of its statutorily required meetings.

First, I want to be clear about two issues raised in your letter. Members of the Bureau's advisory committees, including those of the CAB, were not fired; they were informed that their terms on their respective committees would not be extended past August 31, 2018. Additionally, I can assure you that the Bureau will continue to fulfill its statutory obligations under section 1014 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to convene the CAB at least twice a year and will continue to provide forums for the Community Bank Advisory Council (CBAC) and the Credit Union Advisory Council (CUAC).

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Sincerely,



Mick Mulvaney
Acting Director

¹ <https://www.gpo.gov/fdsys/pkg/FR-2018-03-16/pdf/2018-05421.pdf>

1700 G Street NW,
Washington, DC 20552



July 12, 2018

The Honorable Pramila Jayapal
U.S. House of Representatives
319 Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Jayapal:

Thank you for your letter on June 19, 2018 regarding the Bureau of Consumer Financial Protection's (Bureau's) advisory committees. Specifically you shared concerns regarding the membership of the Bureau's Consumer Advisory Board (CAB) and the frequency of its statutorily required meetings.

First, I want to be clear about two issues raised in your letter. Members of the Bureau's advisory committees, including those of the CAB, were not fired; they were informed that their terms on their respective committees would not be extended past August 31, 2018. Additionally, I can assure you that the Bureau will continue to fulfill its statutory obligations under section 1014 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to convene the CAB at least twice a year and will continue to provide forums for the Community Bank Advisory Council (CBAC) and the Credit Union Advisory Council (CUAC).

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A handwritten signature in black ink, appearing to read 'M. Mulvaney', with a stylized flourish at the end.

Mick Mulvaney
Acting Director

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Congress of the United States

Washington, DC 20515

June 19th, 2018

Acting Director Mick Mulvaney
Consumer Financial Protection Bureau
1700 G St. NW
Washington, D.C. 20552

Dear Acting Director Mulvaney,

We are deeply concerned about your recent decision to fire all 25 members of the Consumer Financial Protection Bureau's ("CFPB") Consumer Advisory Board. Your decision to hastily fire the members of the Consumer Advisory Board ("Board") are deeply concerning as the Board provides outside expertise on areas of consumer finance, trends in the financial sector that affect the everyday consumer and the impact of CFPB's regulations. The Dodd-Frank Wall Street Reform and Consumer Protection Act envisioned a consumer advisory board that encompasses well-informed professionals that focus on increasing financial inclusion, ensuring fair access to financial services products and provided valuable insight about the consumer finance industry.

Section 1014 of Dodd-Frank establishes the Consumer Advisory Board and sets forth the requirements for the Board's make-up, how often they meet and the CFPB's commitment for providing travel expenses to board members. Section 1014(b) specifically mandates that membership of the Advisory Board should have experts in consumer protection, financial services, community development, fair lending and civil rights, community development, representatives of depository institutions that primarily serve underserved communities, and representatives of communities that have been significantly impacted by higher priced mortgage loans. Congress identified these specific experts because they would be able to best advise the CFPB on the best and safest practices in protecting consumers across the U.S. Additionally, no fewer than 6 of the members shall be appointed by the recommendations of the regional Federal Reserve Bank Presidents, on a rotating basis. It is unclear if you informed the Presidents of the regional Federal Reserve Banks that you would be dismissing the current members of the Board or if you requested that they provide you with additional nominees to fill the now vacant Board seats.

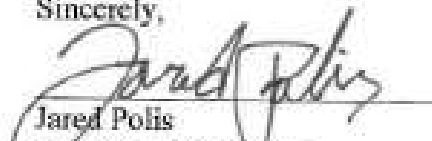
We would like clarification on why you terminated all members of the Board and the plan for how you intend to fill the vacant seats to fulfill the obligations of the Board as established by Dodd-Frank. Sources revealed that a CFPB Official, Anthony Welcher, reasoned the termination was to save costs by eliminating travel expenses. We would like to direct you to Section 1014(d)(2), which provides reimbursement for travel for Board members who are not employed by an agency of the federal government.

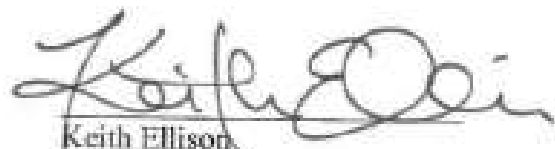
It is our hope that you understand the Dodd-Frank law in its entirety, especially when making major decisions that affect Americans' financial livelihood. The CFPB was created to protect American's from financial scams and unfair and deceptive practices that often prey on vulnerable populations and erode the financial health of hard-working families. To effectively ensure this mission, CFPB needs an Advisory Board that mirrors the provisions established in

Section 1014. It is expected that you follow the law and ensure that the Board reflects financial, civil rights, and community experts and representatives.

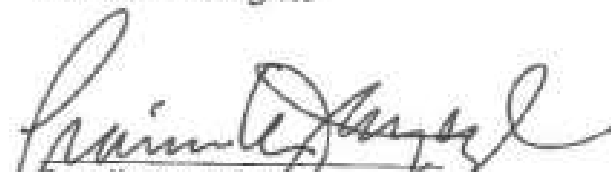
We look forward to hearing your explanation on why you decided to wipe clean the entire Advisory Board and your future plans in adhering to the law when electing new members.

Sincerely,


Jared Polis
Member of Congress


Keith Ellison
Member of Congress


Jamie Raskin
Member of Congress


Pramila Jayapal
Member of Congress



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

March 29, 2018

Recommendation Memorandum for the Acting Director

FROM	Catherine Galicia, Assistant Director, Legislative Affairs, 5-9711
THROUGH	Anthony Welcher, Policy Associate Director, External Affairs Zixta Martinez, Associate Director, External Affairs
SUBJECT	Response letter to Senator Patrick Toomey on Consumer Complaint Database

Recommendation

Please review and sign the attached interim response letter to Senate Committee on Banking, Housing, and Urban Affairs Member Patrick Toomey (R-PA) regarding the Bureau of Consumer Financial Protection's Consumer Complaint Database. If you are satisfied with the response, please sign the letter.

Background

On March 7, 2018, the Office of Legislative Affairs received a letter from Senator Toomey about whether the Information Quality Act applies to the Bureau's Consumer Complaint Database. This interim response letter has completed clearance review.

A copy of the incoming letter and the response letter are **attached**.

Attachments

Tab 1: 2018.04.03 MM to Toomey_IQA CCDB.

Tab 2: 2018.03.07 Toomey to MM_Consumer Complaint Database.



Consumer Finance
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

April 3, 2018

The Honorable Patrick Toomey
United States Senate
248 Russell Senate Office Building
Washington, D.C. 20510

(b)(5)

Sincerely,

Mick Mulvaney
Acting Director

(b)(5)

consumerfinance.gov

United States Senate

WASHINGTON, DC 20510

March 7, 2018

The Honorable Mick Mulvaney
Acting Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Mulvaney,

I am writing to request that the Consumer Financial Protection Bureau (CFPB) evaluate its Consumer Complaints Database ("the database") for compliance with the standards of information integrity set forth in the Information Quality Act (IQA). Based on the lack of verification requirements for database information in the CFPB's final policy statement,¹ I am concerned that the database may fail to meet the rigorous standards of the IQA.

Adopted as an amendment to the 2001 General Government Appropriations Act (Public Law 106-554), the IQA is broad in both its reach and its applicability. Specifically, it requires that information (i.e. any communication of knowledge in any form) be properly vetted to ensure the information is fair, objective, and useful to the public and safeguarded from manipulation. It is a crucial check, ensuring that agencies disseminate to the public information that is not erroneous in statements of fact.

In addition to the general guidelines published by the Office of Management and Budget (OMB), the IQA instructs each agency to develop its own specific guidelines for ensuring compliance with Congress's explicit statutory directive that information disseminated by the executive branch is accurate. The CFPB guidelines lists three requirements for ensuring that the quality of information is consistent with OMB's final rule:²

¹ https://files.consumerfinance.gov/f/201303_cfpb_Final-Policy-Statement-Disclosure-of-Consumer-Complaint-Data.pdf

² <https://www.consumerfinance.gov/open-government/information-quality-guidelines/>

- **Utility:** “In assessing the usefulness of information disseminated to the public, the Bureau will consider how the public will use the information. When transparency of information is relevant to an assessment of the public’s perception of its usefulness, the Bureau will address transparency – the clear, obvious, and precise nature of the data or analysis – when developing and reviewing information.”
- **Objectivity:** “The Bureau will consider whether disseminated information is accurate, clear, complete, and unbiased both in presentation and substance. Information will be presented within its proper context. Where appropriate, data will be accompanied by full, accurate, and transparent documentation, and will disclose error sources affecting its quality. Analytic results will be generated using sound statistical and research methods.”
- **Integrity:** “The Bureau will protect information from unauthorized access or revision, to prevent corruption or falsification of information. The Bureau will comply with government-wide security requirements when disseminating information.”

Further, the Bureau’s guidelines clearly state that the CFPB has an obligation to apply the IQA to information communicated over any form or medium. Indeed, the Bureau’s guidelines apply to “information disseminated to the public in any medium, including textual, graphic, narrative, numerical, or individual forms. The guidelines apply to information that the Bureau posts on the Internet.”³

In contrast with the CFPB’s guidelines, the Consumer Complaints Database publishes information that has not been carefully vetted. Specifically, the CFPB solicits and collects comments and complaints from consumers regarding their experience with financial products and companies. The Bureau does not, however, appear to ascertain the accuracy of the information in complaints prior to publishing them in the public database. The Bureau’s only action is to establish whether the consumer has a “business relationship” with the company they are filing a complaint against. It is important to note that the consumer’s business relationship

³ <https://www.consumerfinance.gov/open-government/information-quality-guidelines/>

with the company does not need to be aligned with the subject of their complaint. Once the Bureau establishes the relationship, it waits 15 days for the company to respond to the complaint and then publishes the complaint online.

In light of this cursory review process, I worry that the Consumer Complaints Database may contain inaccurate information and that it is vulnerable to publishing inaccurate information in the future. For these reasons, I believe a careful review of the database is warranted. Please respond to the following questions:

- Is the IQA applicable to the Consumer Complaints Database?
- If so, does the database meet the standards of the IQA?
- If the database is not in compliance with IQA, how will you ensure future compliance?

It is important that all branches and agencies of the federal government hold the information they release to the public to a high standard. Regarding the Consumer Complaint Database, the CFPB must ensure that it does not release inaccurate information that could lead consumers to make misinformed decisions.

Thank you for your prompt attention to this letter. I look forward to engaging with you on this and other matters.

Sincerely,



Pat Toomey
U.S. Senator



Consumer Financial
Protection Bureau

1700 G Street NW, Washington, DC 20552

March 15, 2018

Recommendation Memorandum for the Acting Director

FROM	Cheryl Parker Rose, Assistant Director, Intergovernmental Affairs, External Affairs x57266 Beverly Yang, Attorney-Advisor (Detailee) x 59878
THROUGH	Anthony Welcher, Policy Associate Director, External Affairs Zixta Martinez, Associate Director, External Affairs
SUBJECT	Thank you Correspondence to Small Business Administrator (SBA) Linda McMahon

Recommendation

The Office of Intergovernmental Affairs recommends sending thank you correspondence to SBA Administrator Linda McMahon for participating in the Bureau's celebration of Women's History Month on Wednesday, March 14.

Draft language is provided for your consideration and signature.

Attachment(s)

Tab 1: Thank you correspondence to SBA Administrator Linda McMahon



Consumer Financial
Protection Bureau

1700 G Street NW, Washington, DC 20552

March 15, 2018

The Honorable Linda McMahon
Administrator
The Small Business Administrator
409 3rd Street, SW, Suite 700
Washington, DC 20416

Dear Administrator McMahon, *Linda*

Wow! Your presentation was fantastic. Your illuminating remarks and timeless examples of lessons learned were pitch-perfect. Thanks so much for joining us in commemorating Women's History Month on Wednesday, March 14.

I look forward to working with you over the coming months to execute on our agencies' intersecting statutory requirements and policy initiatives. For now, I am grateful that you made the time to join us in recognizing the rich and enduring contributions of women to our nation's culture, economy, and history.

Sincerely,

Mick Mulvaney
Acting Director

consumerfinance.gov

You Were Fabulous!

Thanks again.



November 5, 2018

Recommendation memorandum for the Acting Director

FROM	Cheryl Parker Rose, Assistant Director, Office of Intergovernmental Affairs, x5.7266	
THROUGH	Anthony Welcher, Policy Associate Director Zixta Martinez, Associate Director	Delicia Hand Digitally signed by Delicia Hand Date: 2018.11.05 19:24:58-0500
SUBJECT	Thank you Letter to Louisiana Attorney General Jeff Landry	

Recommendation

The Office of Intergovernmental Affairs recommends you sign the attached letter to Louisiana Attorney General Jeff Landry, expressing gratitude for his co-hosting and supporting the October 18th Town Hall in Baton Rouge.

Background

The Attorney General's office supported the Bureau's efforts in identifying subject matters experts for the panel discussion, providing staff resources to supplement Bureau staff presence, and ensuring the right furnishings and set-up for the Listening Session and Roundtable.

Attachments

Tab 1: Thank You Letter

Recommendation Memorandum for Decision Clearance Sheet

Subject/Document Title Recommendation Memo for AG Landry Thank You		
Name of Document Owner Cheryl Parker Rose	Office Office of Intergovernmental Affairs	Telephone Extension [Insert telephone extension]
Approved by (name of Associate or Assistant Director) Delicia Hand		
Legal Division	Name of Clearer Daniel Kanter	Date 11/6/18
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]

Bureau of Consumer Financial Protection
1700 G Street NW
Washington, D.C. 20552



November 05, 2018

Jeff Landry
Attorney General, Louisiana Department of Justice
1885 North Third Street
Baton Rouge, Louisiana 70802

RE: Preventing Elder Financial Exploitation

Dear Attorney General Landry,

Jeff

Thanks so much for co-hosting the Town Hall on Preventing Elder Financial Exploitation with me on October 18, 2018. It takes a great deal of collaboration and on the ground engagement to organize and execute these kinds of events. You and your team were fantastic partners at every stage of the process.

I enjoyed and learned a great deal from the rich discussion with you and our guest panelists – all experts and notable practitioners in identifying and rooting out scams targeting our nation's elders. Under your leadership, the Louisiana Department of Justice is recognized as being one of the country's leaders in setting policies that deter post-disaster financial fraud. Prosecution of such cases, sends a strong message to would-be fraudsters that law enforcement officials and regulators are prepared to use multiple tools to track and stop such bad actors.

I look forward to further partnering with you and the nation's Attorneys General on preventing elder financial exploitation, as well as, working with the members on the newly created Special Committee on Elder Fraud. Until then, please don't hesitate to let us know if there are Bureau resources that will support your efforts.

consumerfinance.gov

Best wishes on your term as 2019 President of the National Association of Attorneys General.

Sincerely,



Mick Mulvaney

Acting Director, Bureau of Consumer Financial Protection

Hope to see ya again soon. Let
me know next time ya will
be up here.



1700 G Street NW,
Washington, DC 20552



Decision Memorandum from the Acting Director

FROM	Mick Mulvaney
TO	Eric Blankenstein, SEFL Policy Director; Chris D'Angelo, SEFL Associate Director; Kristen Donoghue, Assistant Director for Enforcement
SUBJECT	Authorization to Enter into Settlement with Sterling Jewelers, Inc. or to File Suit – ENF Matter No. (b)(5)

I authorize the Office of Enforcement to enter into a settlement with or file a lawsuit against Sterling Jewelers, Inc. under the parameters recommended by the Office of Enforcement on October 29, 2018.

The Office of Enforcement's October 29, 2018 recommendation memorandum identifies (b)(5) (in addition to injunctive relief and a civil money penalty). Of those three options, I authorize the following:

(b)(5)


Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection

11-1-18
Date



Consumer Financial
Protection Bureau

1700 D Street NW, Washington, DC 20552

April 13, 2018

Recommendation Memorandum for the Acting Director

FROM

Lawrence Brown, Mary Olson, David Hendricks, Stephanie Duff-O'Bryan, Navid Vazire, Kara Miller, John Wells, Jeff Ehrlich, and Kristen Donoghue, Office of Enforcement; Charles Nier, Jesse Stewart, Rebecca Gelfond, Patrice Ficklin, Office of Fair Lending

SUBJECT

Authority to Sue Wells Fargo Bank, N.A.—ENF Matter Nos. (b)(5)

Recommendation

(b)(5)

Attachments

- Tab 1: Draft Decision Memorandum from the Acting Director
- Tab 2: April 8, 2018 Settlement Recommendation Memorandum
- Tab 3: April 9, 2018 Decision Memorandum from the Acting Director



Consumer Financial
Protection Bureau

1700 G Street NW, Washington, DC 20003

April 8, 2018

Recommendation Memorandum for the Director

FROM

Lawrence Brown, Mary Olson, David Hendricks, Stephanie Duff-O'Bryan, Navid Vazire, Kara Miller, John Wells, Jeff Ehrlich, and Kristen Donoghue, Office of Enforcement; Charles Nier, Jesse Stewart, Rebecca Gelfond, Patrice Ficklin, Office of Fair Lending

SUBJECT

Authority to Settle with Wells Fargo Bank, N.A.—ENF Matter Nos. (b)(5)

Recommendation

We recommend that you authorize us to settle with Wells Fargo Bank, N.A. under the parameters described in section IV below through an administrative consent order.

I. Overview

(b)(5)

(b)(5)

C. Recommendation

(b)(5)

II. Facts

(b)(5)

(b)(5)

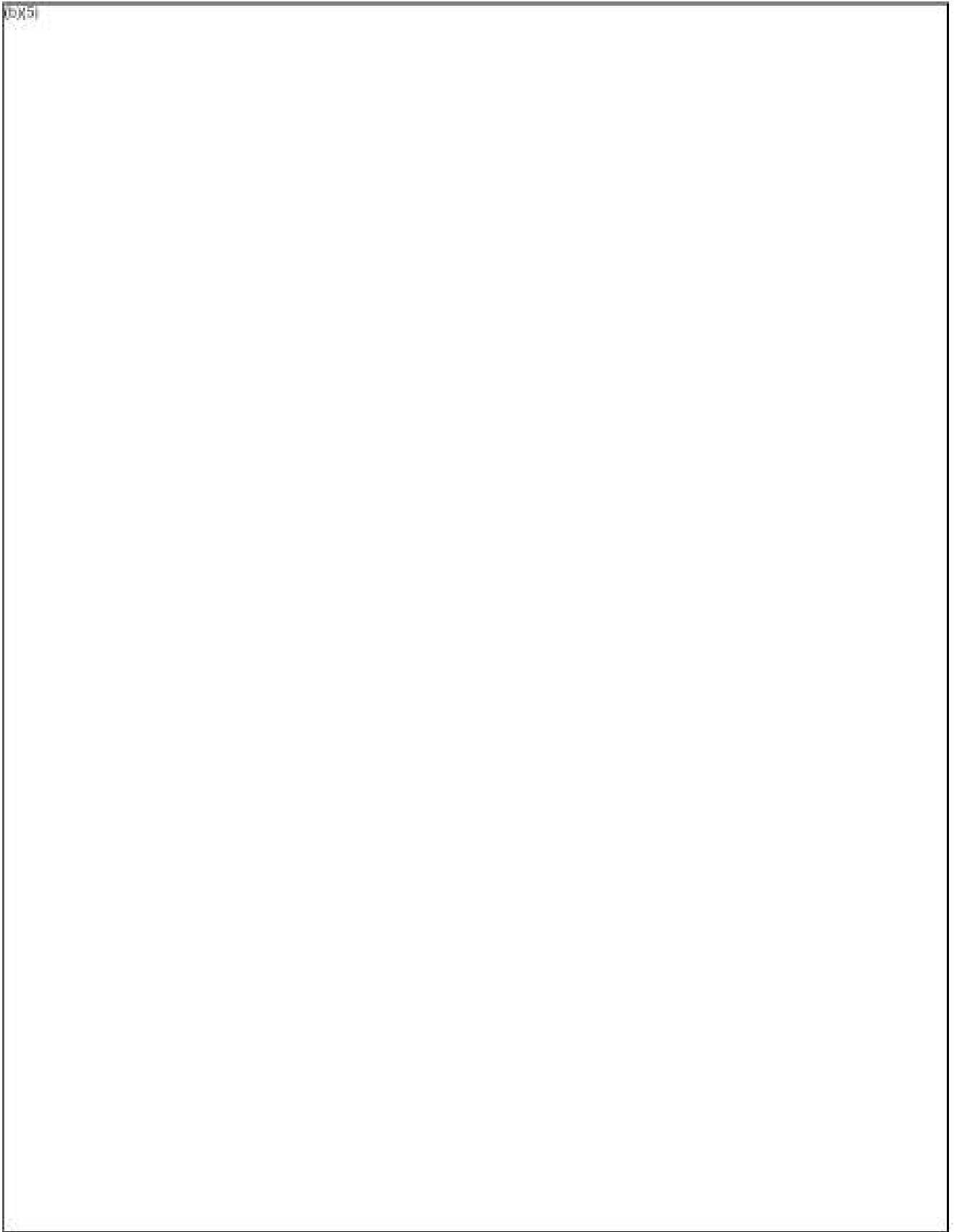
(b)(5)

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III. Legal Analysis

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IV. Recommendation to Settle

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A. Injunctive relief

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B. Redress

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(b)(5)

C. Penalty

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(b)(5)

(b)(5)

V. Assessment of Risks of the Recommended Approach.⁸⁷

(b)(5)

(b)(5)

(b)(5)

(b) (5)

(b)(5)

VI. Conclusion

The Bureau should settle this matter under

(b)(5)

VII. The Legal Division's Views on the Fair Lending Claim

(b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5)

C. Conclusion

(b)(5)

Attachments

Tab 1: Draft Decision Memorandum from the Director

Tab 2: (b)(5) (b)(7)(E)

(b)(5) Memorandum from Fair Lending and Legal staff (July 15, 2015)

Tab 3: "Use of Proxies in Fair Lending Assessments," Information Memorandum for the Acting Director (Jan. 11, 2018)



Consumer Financial
Protection Bureau

Decision Memorandum from the Acting Director

FROM	Mick Mulvaney
TO	Eric Blankenstein, SEFL Policy Director, Chris D'Angelo, SEFL Associate Director; Kristen Donoghue, Assistant Director for Enforcement
SUBJECT	Authorization to Enter into Settlement with Wells Fargo Bank, N.A. - (b)(5)

I authorize the Office of Enforcement to settle with Wells Fargo Bank under the parameters recommended by the Office of Enforcement on April __, 2018. *



Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection

4-9-18

Date

(b)(5)



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

Decision Memorandum from the Acting Director

FROM Mick Mulvaney

TO Mary McLeod

SUBJECT Appeal in *CFPB v. CashCall, Inc.*, No. (b)(5)

(b)(5)

(b)(5)


Mick Mulvaney
Acting Director
Consumer Financial Protection Bureau

3-23-18
Date

PRIVILEGED/CONFIDENTIAL



Division Updates

Legal Division

June 22, 2018

Office of Litigation and Oversight

(b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5)



1700 G Street NW
Washington, DC 20552

(b)(5)



June 26, 2018

Recommendation Memorandum for the

FROM

Steven Bressler, Assistant General Counsel
Christopher Deal, Senior Counsel
David King, Attorney, x5928

THROUGH

Mary McLeod, General Counsel

SUBJECT

Appeal in *CFPB v. RD Legal*
890 (S.D.N.Y. June 21, 2018)

(b)(5)

Recommendation

(b)(5)



June 26, 2018

Recommendation Memorandum for the Acting Director

FROM	Steven Bressler, Assistant General Counsel, x57248 Christopher Deal, Senior Counsel, x59582 David King, Attorney, x59289
THROUGH	Mary McLeod, General Counsel, x57993
SUBJECT	Appeal in <i>CFPB v. RD Legal Funding, LLC</i> , No. 17-cv-890 (S.D.N.Y. June 21, 2018)

Recommendation

(b)(5)

(b)(5)

Discussion

(b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5)

Attachments

Tab 1: Draft Decision Memorandum from the Acting Director.

Recommendation Memorandum for Decision Clearance Sheet

Subject/Document Title Appeal in <i>CFPB v. RD Legal Funding, LLC</i> , No. 17-cv-890 (S.D.N.Y. June 21, 2018)		
Name of Document Owner Christopher Deal	Office Legal, Litigation & Oversight	Telephone Extension x59582
Approved by (name of Associate or Assistant Director) Mary McLeod		
Legal Division N/A	Name of Clearer N/A	Date N/A
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]



Decision Memorandum from the Acting Director

FROM Mick Mulvaney

TO Mary McLeod, General Counsel

SUBJECT *Motion for Entry of Judgment in CFPB v. RD Legal*
(S.D.N.Y.)

I approve filing of a motion for entry of judgment pursuant to Fed. R. Civ. P. 54(b) in *CFPB v. RD Legal Funding, LLC*, No. 17-cv-890 (S.D.N.Y.).

Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection

Date



January 19, 2018

Recommendation memorandum for the Acting Director

FROM	John Coleman, Deputy General Counsel, x 5-7254, Laura Hussain, Assistant General Counsel, x5-7789
THROUGH	Mary McLeod, General Counsel, x5-7993
SUBJECT	Response Letter to Senator Sasse regarding the Legal Defense Funds

Please review and sign the attached revised response letter to Senator Ben Sasse's request for information regarding government ethics rules and legal defense funds.

Background

On December 20, 2017, the Bureau received a letter from Senator Sasse requesting information regarding how government ethics rules apply to any legal defense funds that may have been established to pay the legal expenses of Deputy Director Leandra English.

(b)(5)

A copy of the incoming letter is also **attached**.

Attachment(s)

Tab 1: 2018.01.19 MM to Sasse_Legal Defense Funds (Final)
Tab 2: 2017.12.20 Sasse to MEM_CFPB



1700 G Street NW, Washington, DC 20552

January 23, 2018

The Honorable Ben Sasse
United States Senate
136 Russell Senate Office Building
Washington, DC 20510-2709

Dear Senator Sasse,

Ben

Thank you for your letter regarding various questions and concerns you have about the Executive branch ethics program at the Consumer Financial Protection Bureau. In your letter, you seek answers to several questions relating to the ethical rules and laws applicable to legal defense funds established to pay the legal expenses of Executive branch employees.

With respect to your questions specific to Deputy Director English, because of the personal, sensitive nature of ethics questions and advice, and to encourage employees to seek affirmative ethics guidance whenever in doubt, records related to advice provided to individual Bureau employees is maintained in a system of records that is subject to the Privacy Act, 5 U.S.C. § 522a.¹ The Privacy Act precludes the release of Privacy Act-protected information to a member of Congress acting in his or individual capacity, without the consent of the individual to whom the record pertains.² Accordingly, we are not able to respond to your specific questions about any ethics advice Ms. English may have sought or received.

While we are unable to respond to questions relating to a particular individual, we can provide the below information with respect to how the ethics rules apply generally to legal defense funds.

¹ See System of Records Notice, "CFPB.015 - CFPB Ethics Program Records," 77 Fed. Reg. 1049 (Jan. 9, 2012).

² See 5 U.S.C. § 552a(b)(9); Office of Management & Budget, Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 26,946, 28,955 (July 9, 1975).

consumerfinance.gov

There is no statutory or regulatory framework in the ethics laws specifically concerning the manner in which a legal defense fund may be established for an Executive branch employee. If such a fund is established for the benefit of a Federal employee, that employee must comply with all applicable ethics rules. Specifically, the employee must comply with the criminal conflict of interest statutes at 18 U.S.C. §§ 201-209, the rules concerning gifts from outside sources and gifts from other federal employees found in the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) at 5 C.F.R. Part 2635, Subparts B and C, and any financial disclosure requirements concerning the reporting of gifts at 5 C.F.R. §§ 2634.304, 2634.907.

For more information about how ethics rules apply specifically to legal defense funds, we refer you to the U.S. Office of Government Ethics (OGE), which has issued three advisory letters addressing legal defense funds and the application of 18 U.S.C. § 209. See OGE Letter to a Private Attorney 85 x 19 (Dec. 12, 1985)³; OGE Letter to an Alternate Designated Agency Ethics Official 93 x 21 (Aug. 30, 1993)⁴; OGE Legal Advisory 17 x 10 (Sept. 28, 2017).⁵ In its most recent advisory regarding legal defense funds, OGE emphasized that "solicitation and acceptance of contributions from prohibited sources are barred under the gift rules at 5 C.F.R. Part 2635, Subpart B, unless an exception applies."⁶ OGE also advised that the instruments establishing legal defense funds should include a clause stating that donations from anonymous sources would not be accepted, and urged individuals to consult with an agency ethics official or OGE before establishing a fund.⁷

As a general matter, Bureau employees are expected to conduct themselves with the highest level of integrity, and the Bureau has a robust government ethics program. All incoming employees receive government ethics training during new employee orientation. In addition, Bureau executives and all financial disclosure filers receive annual ethics training as required by OGE regulation. Training sessions cover the financial conflict of interest statutes, as well as the standards concerning gifts. The Bureau's Ethics Office has an open door policy and a dedicated email inbox to assist with any ethics questions. The Bureau's intranet site, Ethics Handbook, and

³ [https://www.oge.gov/web/oge/nsl/All%20Documents/14B35E17745C7FDC85257E96005FBC1E/\\$FILE/85x19.pdf](https://www.oge.gov/web/oge/nsl/All%20Documents/14B35E17745C7FDC85257E96005FBC1E/$FILE/85x19.pdf).

⁴ [https://www.oge.gov/web/OGE/nsl/All%20Documents/0C4D87012885C50385257E96005FBC7B/\\$FILE/93x21.pdf](https://www.oge.gov/web/OGE/nsl/All%20Documents/0C4D87012885C50385257E96005FBC7B/$FILE/93x21.pdf).

⁵ [https://www.oge.gov/web/OGE/nsl/All%20Documents/DACCD72B29936DB8852581A900497C51/\\$FILE/LA-17-10.pdf](https://www.oge.gov/web/OGE/nsl/All%20Documents/DACCD72B29936DB8852581A900497C51/$FILE/LA-17-10.pdf).

⁶ *Id.*

⁷ *Id.*

training materials invite and encourage employees to contact an ethics official with any ethics questions prior to taking action.

Lastly, we do wish to note that while Bureau ethics officials always stand ready to assist any employee with ethics questions, each Bureau employee is ultimately responsible for obtaining ethics advice and guidance if needed or desired, and ensuring the employee's own compliance with all applicable government ethics rules.

Thank you again for your interest in this matter. If you have any questions, please feel free to contact Catherine Galicia in the Office of Legislative Affairs, at (202) 435-9711.

Sincerely,


Mick Mulvaney
Acting Director

*Ben:
call me if
you want to
discuss further.
-Mike*

(b)(6)

United States Senate

WASHINGTON, DC 20510

December 20, 2017

Mary McLeod
General Counsel
U.S. Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Dear Ms. McLeod,

I write to you concerning the efforts of a rogue CFPB employee to usurp the role of Acting Director of your agency despite the President's designation of Office of Management and Budget Director Mick Mulvaney as Acting CFPB Director. As you advised agency employees on November 25 in your capacity as the CFPB's chief legal officer, Director Mulvaney is indeed the lawful Acting Director of your agency. Nevertheless, this rogue employee has filed suit to overturn your determination and install herself as head of an unaccountable agency by court order. Recently, I joined a number of my colleagues in conveying my concerns to Acting Director Mulvaney about the policy implications of this rogue employee's actions. Today, I am seeking answers from you regarding the legal and ethical status of the rogue employee's conduct.

Within hours of former Director Richard Cordray's resignation, this rogue employee filed a complaint for declaratory and injunctive relief in the U.S. District Court for the District of Columbia, seeking an emergency temporary restraining order to prevent Director Mulvaney from assuming his lawful role as CFPB Acting Director. In filing this detailed, nine-page document, the rogue employee was represented by attorneys—including both name partners—from Gupta Wessler PLLC, a private law firm that describes itself as a "national appellate, constitutional, and complex litigation boutique" that is "proud to be battling Donald Trump on multiple fronts." Despite having this request for an emergency temporary restraining order denied by a federal judge, the rogue employee continues to litigate the case. Given the nature of the suit and the realities of the nomination and confirmation process, this litigation appears likely to consume a significant amount of billable hours on the part of this rogue employee's attorneys, not to mention the valuable time and limited resources of the Department of Justice in defending Acting Director Mulvaney's lawful position.

In an interview with CNBC, Mr. Gupta confirmed that his firm's representation of the rogue employee is being paid for not by the rogue employee herself, but rather by private donors that the rogue employee and her attorneys have declined to identify. This arrangement appears to constitute the inappropriate solicitation or acceptance of a gift under the Office of Government Ethics Employee Standards of Conduct. As you know, the Standards define a gift to "include[] any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value." Under the Standards, employees may neither solicit or accept gifts

"given because of the employee's official position" or given by a prohibited source, which include:

any person who: (1) Is seeking official action by the employee's agency; (2) Does business or seeks to do business with the employee's agency; (3) Conducts activities regulated by the employee's agency; (4) Has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or (5) Is an organization a majority of whose members are described in paragraphs . . . (1) through (4) of this section.

In light of this troubling situation, please answer the following questions:

1. Did this rogue employee seek counsel from the CFPB's Legal Division regarding whether to accept outside legal representation paid for by private donors?
2. If so, when was the Legal Division's advice solicited?
3. In soliciting the Legal Division's advice, did the rogue employee disclose the private donors' identities or any potential interests they may have before the CFPB?
4. What advice if any did the Legal Division provide the rogue employee on this matter?
5. In what format if any did the Legal Division provide the rogue employee with this advice?
6. When if ever did the Legal Division provide the rogue employee with this advice?
7. Does the rogue employee's acceptance of outside legal representation paid for by private donors constitute an impermissible gift under the Standards or any other applicable ethical regulations?

Please respond in writing within ten days. If you have any questions, please contact my staff at (202) 224-4224. Thank you for your attention to this important matter.

Sincerely,



Ben Sasse
United States Senator

cc: Mick Mulvaney, Acting Director, U.S. Consumer Financial Protection Bureau

1700 G Street NW,
Washington, DC 20552



August 7, 2018

Recommendation(s)

FROM

THROUGH

SUBJECT

rding

Recommendation(s)

We recommend that you review and sign the attached letter to Senators Crapo and Brown regarding the Bureau's data collection activities.

Background

On June 11, 2018, the Bureau of Consumer Financial Protection received letters from Senate Committee on Banking Housing and Urban Affairs Chairman Michael Crapo and Ranking Member Sherrod Brown requesting certain information regarding the Bureau's data collection activities.

Attachment(s)

Tab 1: Draft Letter responding to Senators Crapo and Brown

Tab 2: Attachment A –

Tab 3: Letters from Senators Crapo and Brown

1700 G Street NW,
Washington, DC 20552



August 9, 2018

The Honorable Michael Crapo
Chairman
Committee on Banking, Housing and
Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

(b)(5)

Dear Chairman Crapo: (b)(5)

(b)(5)

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(b)(5)

Sincerely,

Mick Mulvaney
Acting Director

(b)(5)

Attachment A:

(b)(5)

(b)(5)

MR. (NAME), SEN. CHAIRMAN

RICHARD C. SHROYER, ALABAMA
BOB CORNER, TENNESSEE
PATRICK J. TOOMEY, PENNSYLVANIA
DEAN HELLER, NEVADA
THOMAS COFFY, SOUTH CAROLINA
BEN RAY, NEBRASKA
TOM COTTON, ARKANSAS
MIKE ROYCE, SOUTH DAKOTA
DAVID PERDUE, GEORGIA
THOMAS TILLS, NORTH CAROLINA
JOHN R. HENRY, LOUISIANA
JERRY BRADY, KANSAS

SHERRILL BROWN, OHIO
JACK REED, RHODE ISLAND
ROBERT CRUZ, NEW JERSEY
JON TESTER, MONTANA
MARK WARREN, VIRGINIA
ELIZABETH WARREN, MASSACHUSETTS
KEVIN CROWLEY, NORTH DAKOTA
JOE DONNELLY, ILLINOIS
BRIAN SCHATZ, UTAH
CHRIS VAN HOLLEN, MARYLAND
CATHERINE CORTEZ MASTO, NEVADA
DOUG JONES, ALABAMA

DANIEL P. ROSEN, STAFF DIRECTOR
KIM E. FORDEN, DEMOCRATIC STAFF DIRECTOR

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-8075

June 11, 2018

Leandra English
Acting Director, Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Mick Mulvaney
Director, Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Director Mulvaney and Acting Director English,

The collection and protection of personally identifiable information (PII)¹ by both the government and private companies is something that deserves close scrutiny. Americans are rightly concerned about how their data is collected and used, and how such data is secured and protected.

The collection and use of PII will be a major focus of the Banking Committee moving forward. The people of the United States have a legitimate interest in protecting their personal privacy against both government and private sector abuse. It is important that Congress get a better understanding of what type of PII is being collected, by whom, and for what purposes.

Accordingly, please respond to the following:

- Describe what types of and how much PII your organization collects on individuals.
- Describe how many individuals' PII your organization possesses.
- Explain what your organization does with the PII it collects and possesses.
- Describe how your organization protects PII it possesses.
- Describe your organization's policies for (a) data security, (b) data retention, and (c) data destruction.
- Identify all sources from which your organization obtains PII, and, for each source, the statutory authority under which PII is collected.
- Identify your organization's outstanding contracts with third party vendors as it pertains to data collection.

¹ For purposes of this letter, PII includes "nonpublic personal information" as defined in 15 U.S.C. § 6809.

English, Mulvancy
June 11, 2018
Page 2 of 2

- Describe how your organization ensures that data it relies on that is collected or stored by third party vendors is protected.
- How much does your organization spend on data collection and protection? Please share with us any reports or documentation that describe how much institutions and individuals that provide data to your organization spend on reporting and providing such data.
- Does your organization sell any of the PII it possesses, to whom, and under what terms?
- Has your organization experienced any data breaches in the previous three years? If so, explain how many and provide details of the nature of each.

I am sure you share the belief that protecting individuals' PII is paramount to the American people. I appreciate your prompt attention to this request.

Sincerely,



Sherrod Brown
Ranking Member

MIKE CRAPO (R-ID), CHAIRMAN

RICHARD C. SHIELDS, ALABAMA
BOB CORNER, TENNESSEE
PATRICK J. TOOMEY, PENNSYLVANIA
DEAN HELLER, NEVADA
TIM SCOTT, SOUTH CAROLINA
BEN SANKS, NEBRASKA
TOM COTTECH, ARKANSAS
MIKE ROONEY, SOUTH DAKOTA
DAVID PERDUE, GEORGIA
THOM TILNIS, NORTH CAROLINA
JOHN KENNEDY, LOUISIANA
JERRY MORAN, KANSAS

SHERROD BROWN, OHIO
JACK REE, PUERTO RICO
ROBERT MENENDEZ, NEW JERSEY
JON TESTER, MONTANA
MARK WARNER, VIRGINIA
FI STAFF TH FARMER, MASSACHUSETTS
KEVIN COTTECH, NORTH DAKOTA
JOHN DONNELLY, INDIANA
BRUNO BERNARDI, HAWAII
CHRIS VAN HOLLEN, MARYLAND
CATHERINE CORTEZ MASTO, NEVADA
DOUG JONES, ALABAMA

GRIGG REINHOLD, STAFF DIRECTOR
MARK L. PAVLEN, DEMOCRATIC STAFF DIRECTOR

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-8075

June 11, 2018

The Honorable Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection
1700 G St. N.W.
Washington, D.C. 20552

Dear Acting Director Mulvaney:

The collection and protection of personally identifiable information (PII)¹ by both the government and private companies is something that deserves close scrutiny. Americans are rightly concerned about how their data is collected and used, and how such data is secured and protected.

The collection and use of PII will be a major focus of the Banking Committee moving forward. The people of the United States have a legitimate interest in protecting their personal privacy against both government and private sector abuse. It is important that Congress get a better understanding of what type of PII is being collected, by whom, and for what purposes.

Accordingly, please respond to the following:

- Describe what types of and how much PII your organization collects on individuals.
- Describe how many individuals' PII your organization possesses.
- Explain what your organization does with the PII it collects and possesses.
- Describe how your organization protects PII it possesses.
- Describe your organization's policies for (a) data security, (b) data retention, and (c) data destruction.
- Identify all sources from which your organization obtains PII, and, for each source, the statutory authority under which PII is collected.
- Identify your organization's outstanding contracts with third party vendors as it pertains to data collection.
- Describe how your organization ensures that data it relies on that is collected or stored by third party vendors is protected.
- How much does your organization spend on data collection and protection? Please share with us any reports or documentation that describe how much institutions and individuals that provide data to your organization spend on reporting and providing such data.

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The Honorable Mick Mulvaney

June 11, 2018

Page 2 of 2

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We are sure you share our belief that protecting individuals' PII is paramount to the American people. We appreciate your prompt attention to this request.

Sincerely,



Mike Crapo
Chairman

1700 G Street NW,
Washington, DC 20552

June 22, 2018

Recommendation Memorandum for t

FROM	Dara Goodman, Counsel, 5-7490 Laura Hussain, Assistant General Counsel, 5-7789 John Coleman, Deputy General Counsel, 5-7254
THROUGH	Mary McLeod, General Counsel
SUBJECT	Letters to Senator Brown et al regarding Office for Students

Recommendation(s)

We recommend that you review, approve, and sign the attached letters, which respond to a letter from Ranking Member Brown, Senator Patty Murray, Senator Richard J. Durbin, Senator Elizabeth Warren, Senator Richard Blumenthal, Senator Kirsten Gillibrand, Senator Mazie Hirono, and Senator Jack Reed regarding the Office for Students.

Background

The Bureau recently received a letter on May 18, 2018 from Ranking Member Brown and others regarding the plan to fold the Office for Students in to the Office of Financial Education. The response letters and incoming letter are attached.

Attachments

Tab 1: 2018.06.22 MM to Brown_Office for Students



June 22, 2018

Recommendation Memorandum for the Acting Director

FROM	Dara Goodman, Counsel, 5-7490
	Laura Hussain, Assistant General Counsel, 5-7789
	John Coleman, Deputy General Counsel, 5-7254
THROUGH	Mary McLeod, General Counsel
SUBJECT	Letters to Senator Brown et al regarding Office for Students

Recommendation(s)

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Background

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Attachments

Tab 1: 2018.06.22 MM to Brown_Office for Students

Tab 2: 2018.06.25 MM to Murray_Office for Students
Tab 3: 2018.06.25 MM to Durbin_Office for Students
Tab 4: 2018.06.25 MM to Warren_Office for Students
Tab 5: 2018.06.25 MM to Blumenthal_Office for Students
Tab 6: 2018.06.25 MM to Gillibrand_Office for Students
Tab 7: 2018.06.25 MM to Hirono_Office for Students
Tab 8: 2018.06.25 MM to Reed_Office for Students
Tab 9: 2018.05.18 Brown et al to MM_Office for Students

1700 G Street NW,
Washington, DC 20552



June 28, 2018

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Ranking Member Brown:

Thank you for your letter of May 18, 2018 about the Bureau of Consumer Financial Protection's (Bureau's) Office for Students and Young Consumers (Office for Students). As you know, the Office for Students is currently housed as a separate office within the Bureau's Division of Consumer Education and Engagement (CEE). Recently I have announced that the Office for Students will be folded into the Office of Financial Education (Fin Ed), which is also a part of CEE. I share your commitment to ensuring that the Bureau fulfills all applicable statutory requirements efficiently and effectively.

As you may know, I have been working to ensure that the Bureau's operations are conducted in a way that best enables us to fulfill all of the Bureau's statutory requirements while reducing redundancy and maximizing efficiency. Changes to the structure of the Office for Students are being implemented in furtherance of these priorities and in fulfillment of the Bureau's mission. The proposed reorganization will not hamper the Bureau's important work in helping young adults navigate the financial choices they must make.

Fin Ed, in association with other CEE offices, leads the Bureau's efforts to educate and engage with the public about consumer finance, including offering consumer advice, listening to consumer concerns, and promoting effective financial education. The Office for Students has worked to help young adults navigate the choices they must make about money and manage their money when paying for college or repaying student debt, including by producing and disseminating information to educate young adults about their financial choices. Given the natural relationship between

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these missions, I believe that both are well served by putting the Office for Students under the Fin Ed umbrella.

Your letter asked a number of questions regarding how this reorganization will affect specific reporting relationships and the distribution of responsibilities within the Bureau. In response to your first question, the Office for Students is a small office with slots for seven full-time employees. It is currently staffed with four full-time staff members. It had six full-time staff members as of January 19, 2017 and five as of May 8, 2018. An additional full-time staff member departed after May 8, 2018.

With regard to your second question requesting the specific details of the reorganization, revised organizational charts and job duties are still under review at this time and will not be implemented until the Bureau has consulted with Bureau stakeholders and the National Treasury Employees Union, if appropriate, in accordance with Chapter 71 of Title 5 of the U.S. Code and the Bureau's collective bargaining agreement. We are working diligently to effect these changes while minimizing disruption to operations and employees. We do not foresee a change in the job duties or responsibilities of the current employees at the Office for Students. We are confident that the reorganization will not hinder the Bureau's ability to fulfill its statutory mandate.

Regarding your third question, the Bureau did not prepare any internal memoranda, legal analysis, cost-benefit studies, or other work products to support the decision. As Acting Director, I am vested with the authority under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to direct the establishment and maintenance of offices in the Bureau and distribute business among its personnel.¹ Nothing in the Dodd-Frank Act requires the Bureau to maintain the Office for Students as a separate office within CEE, and I exercised my discretion as Acting Director to better align the organization with the mission of the Dodd-Frank Act. There are no documents responsive to your third request.

In order to answer your fourth and fifth questions, regarding the strategic plans for Fin Ed and CEE, I have attached CEE's Annual Financial Literacy Report,² which describes in detail the Bureau's national financial literacy strategy and provides more detail on individual programs and projects. I have also attached the Bureau's five-year strategic plan which details CEE's strategy to

¹ 12 U.S.C. § 5492(a)(3), (8).

² <https://www.consumerfinance.gov/data-research/research-reports/2017-financial-literacy-annual-report/>

address the need for inclusion and financial security of servicemembers, older Americans, traditionally underserved consumers and communities, and students.³

It is not possible to answer your sixth question, regarding the number of full-time employees that monitor, evaluate, and provide recommendations based on student loan complaints. Such tasks might be done by a varying number of employees across the Bureau, including by employees in the Office of Consumer Response as well as in the Supervision, Enforcement, and Fair Lending Division, depending on the specific complaints we receive, their volume, and the way in which they come to the Bureau. I do note that the Bureau will continue to have a Private Education Loan Ombudsman who will fulfill the statutorily-required duties of that position, including “compil[ing] and analyz[ing] data on borrower complaints regarding private education loans” and “mak[ing] recommendations.”⁴

Your seventh and eighth questions are related to your claim that the Bureau “abandoned plans to develop rules” to reform student-loan servicing, and you request information related to this decision. Although the Bureau published a Request for Information Regarding Student Loan Servicing in the Federal Register in May 2015,⁵ the Bureau had never begun active rulemaking plans in connection with student-loan servicing, such as proposed rule or final rule activities.⁶ As you know, the Bureau recently released its Spring 2018 Unified Agenda.⁷ Some of the items—including “Student Loan Servicing”—that had been listed in previous editions of our Unified Agenda have been reclassified as “inactive,” in the expectation that final decisions on whether and when to proceed with such projects will be made by the Bureau’s next permanent director. This change in designation is not intended to signal a substantive decision on the merits of the projects.

³ <https://www.consumerfinance.gov/about-us/budget-strategy/strategic-plan/>

⁴ 12 U.S.C. § 5535.

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⁷ <https://www.consumerfinance.gov/about-us/blog/spring-2018-rulemaking-agenda/>.

In response to your ninth request, I am committed to enforcing the Dodd-Frank Act. The Bureau supervises certain student loan servicers pursuant to a larger participant rule published in the Federal Register on December 6, 2013.⁸ The Bureau is currently developing its 2019 exam calendar, and exams of student loan servicers subject to the Bureau's supervisory authority will be considered, together along with other types of exams, as part of the prioritization process consistent with 12 U.S.C. § 5514(b)(2). As the Bureau has stated in previous Unified Agendas, the Bureau will continue to monitor the student-loan servicing market for trends and developments, as it does for all consumer financial markets within its jurisdiction.

Finally, you request any documents that describe policies or procedures at the Bureau that will ensure that my responsibilities as Director of the Office of Management and Budget do not conflict with the Bureau's obligation to administer Federal consumer financial law. There is no statutory or regulatory framework that requires any such policies or procedures for an individual serving in an acting capacity pursuant to the Federal Vacancies Reform Act. Further, I reject the premise that there is any theoretical or actual conflict of interest between the two positions, and I will continue to satisfy all statutory obligations of both roles so long as I serve. Accordingly, the Bureau does not possess any documents responsive to your request.

Should you have any questions about this response, please do not hesitate to contact me or have your staff contact Laura M. Hussain in the Bureau's Legal Division or Matthew Pippin in the Bureau's Office of Legislative Affairs. Ms. Hussain can be reached at (202) 435-7789, and Mr. Pippin can be reached at (202) 435-7552.

Respectfully,

Mick Mulvaney
Acting Director

Enclosures

⁸ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/defining-larger-participants-student-loan-servicing-market/>

1700 G Street NW,
Washington, DC 20552



June 28, 2018

The Honorable Patty Murray
United States Senate
154 Russell Senate Office Building
Washington, DC 20510

Dear Senator Murray:

Thank you for your letter of May 18, 2018 about the Bureau of Consumer Financial Protection's (Bureau's) Office for Students and Young Consumers (Office for Students). As you know, the Office for Students is currently housed as a separate office within the Bureau's Division of Consumer Education and Engagement (CEE). Recently I have announced that the Office for Students will be folded into the Office of Financial Education (Fin Ed), which is also a part of CEE. I share your commitment to ensuring that the Bureau fulfill all applicable statutory requirements efficiently and effectively.

As you may know, I have been working to ensure that the Bureau's operations are conducted in a way that best enables us to fulfill all of the Bureau's statutory requirements while reducing redundancy and maximizing efficiency. Changes to the structure of the Office for Students are being implemented in furtherance of these priorities and in fulfillment of the Bureau's mission. The proposed reorganization will not hamper the Bureau's important work in helping young adults navigate the financial choices they must make.

Fin Ed, in association with other CEE offices, leads the Bureau's efforts to educate and engage with the public about consumer finance, including offering consumer advice, listening to consumer concerns, and promoting effective financial education. The Office for Students has worked to help young adults navigate the choices they must make about money and manage their money when paying for college or repaying student debt, including by producing and disseminating information to educate young adults about their financial choices. Given the natural relationship between these missions, I believe that both are well served by putting the Office for Students under the Fin Ed umbrella.

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Your letter asked a number of questions regarding how this reorganization will affect specific reporting relationships and the distribution of responsibilities within the Bureau. In response to your first question, the Office for Students is a small office with slots for seven full time employees. It is currently staffed with four full-time staff members. It had six full-time staff members as of January 19, 2017 and five as of May 8, 2018. An additional full-time staff member departed after May 8, 2018.

With regard to your second question requesting the specific details of the reorganization, revised organizational charts and job duties are still under review at this time and will not be implemented until the Bureau has consulted with Bureau stakeholders and the National Treasury Employees Union, if appropriate, in accordance with Chapter 71 of Title 5 of the U.S. Code and the Bureau's collective bargaining agreement. We are working diligently to effect these changes while minimizing disruption to operations and employees. We do not foresee a change in the job duties or responsibilities of the current employees at the Office for Students. We are confident that the reorganization will not hinder the Bureau's ability to fulfill its statutory mandate.

Regarding your third question, the Bureau did not prepare any internal memoranda, legal analysis, cost-benefit studies, or other work products to support the decision. As Acting Director, I am vested with the authority under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to direct the establishment and maintenance of offices in the Bureau and distribute business among its personnel.¹ Nothing in the Dodd-Frank Act requires the Bureau to maintain the Office for Students as a separate office within CEE, and I exercised my discretion as Acting Director to better align the organization with the mission of the Dodd-Frank Act. There are no documents responsive to your third request.

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address the need for inclusion and financial security of servicemembers, older Americans, traditionally underserved consumers and communities, and students.³

It is not possible to answer your sixth question, regarding the number of full-time employees that monitor, evaluate, and provide recommendations based on student loan complaints. Such tasks might be done by a varying number of employees across the Bureau, including by employees in the Office of Consumer Response as well as in the Supervision, Enforcement, and Fair Lending Division, depending on the specific complaints we receive, their volume, and the way in which they come to the Bureau. I do note that the Bureau will continue to have a Private Education Loan Ombudsman who will fulfill the statutorily-required duties of that position, including “compil[ing] and analyz[ing] data on borrower complaints regarding private education loans” and “mak[ing] recommendations.”⁴

Your seventh and eighth questions are related to your claim that the Bureau “abandoned plans to develop rules” to reform student-loan servicing, and you request information related to this decision. Although the Bureau published a Request for Information Regarding Student Loan Servicing in the Federal Register in May 2015,⁵ the Bureau had never begun active rulemaking plans in connection with student-loan servicing, such as proposed rule or final rule activities.⁶ As you know, the Bureau recently released its Spring 2018 Unified Agenda.⁷ Some of the items—including “Student Loan Servicing”—that had been listed in previous editions of our Unified Agenda have been reclassified as “inactive,” in the expectation that final decisions on whether and when to proceed with such projects will be made by the Bureau’s next permanent director. This change in designation is not intended to signal a substantive decision on the merits of the projects.

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Respectfully,

Mick Mulvaney
Acting Director

Enclosures

⁸ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/defining-larger-participants-student-loan-servicing-market/>

1700 G Street NW,
Washington, DC 20552



June 28, 2018

The Honorable Dick Durbin
United States Senate
711 Hart Senate Office Building
Washington, DC 20510

Dear Senator Durbin:

Thank you for your letter of May 18, 2018 about the Bureau of Consumer Financial Protection's (Bureau's) Office for Students and Young Consumers (Office for Students). As you know, the Office for Students is currently housed as a separate office within the Bureau's Division of Consumer Education and Engagement (CEE). Recently I have announced that the Office for Students will be folded into the Office of Financial Education (Fin Ed), which is also a part of CEE. I share your commitment to ensuring that the Bureau fulfill all applicable statutory requirements efficiently and effectively.

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Respectfully,

Mick Mulvaney
Acting Director

Enclosures

⁸ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/defining-larger-participants-student-loan-servicing-market/>

1700 G Street NW,
Washington, DC 20552



June 28, 2018

The Honorable Elizabeth Warren
United States Senate
317 Hart Senate Office Building
Washington, DC 20510

Dear Senator Warren:

Thank you for your letter of May 18, 2018 about the Bureau of Consumer Financial Protection's (Bureau's) Office for Students and Young Consumers (Office for Students). As you know, the Office for Students is currently housed as a separate office within the Bureau's Division of Consumer Education and Engagement (CEE). Recently I have announced that the Office for Students will be folded into the Office of Financial Education (Fin Ed), which is also a part of CEE. I share your commitment to ensuring that the Bureau fulfill all applicable statutory requirements efficiently and effectively.

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consumerfinance.gov

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Finally, you request any documents that describe policies or procedures at the Bureau that will ensure that my responsibilities as Director of the Office of Management and Budget do not conflict with the Bureau's obligation to administer Federal consumer financial law. There is no statutory or regulatory framework that requires any such policies or procedures for an individual serving in an acting capacity pursuant to the Federal Vacancies Reform Act. Further, I reject the premise that there is any theoretical or actual conflict of interest between the two positions, and I will continue to satisfy all statutory obligations of both roles so long as I serve. Accordingly, the Bureau does not possess any documents responsive to your request.

Should you have any questions about this response, please do not hesitate to contact me or have your staff contact Laura M. Hussain in the Bureau's Legal Division or Matthew Pippin in the Bureau's Office of Legislative Affairs. Ms. Hussain can be reached at (202) 435-7789, and Mr. Pippin can be reached at (202) 435-7552.

Respectfully,

Mick Mulvaney
Acting Director

Enclosures

⁸ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/defining-larger-participants-student-loan-servicing-market/>

1700 G Street NW,
Washington, DC 20552



June 28, 2018

The Honorable Richard Blumenthal
United States Senate
706 Hart Senate Office Building
Washington, DC 20510

Dear Senator Blumenthal:

Thank you for your letter of May 18, 2018 about the Bureau of Consumer Financial Protection's (Bureau's) Office for Students and Young Consumers (Office for Students). As you know, the Office for Students is currently housed as a separate office within the Bureau's Division of Consumer Education and Engagement (CEE). Recently I have announced that the Office for Students will be folded into the Office of Financial Education (Fin Ed), which is also a part of CEE. I share your commitment to ensuring that the Bureau fulfill all applicable statutory requirements efficiently and effectively.

As you may know, I have been working to ensure that the Bureau's operations are conducted in a way that best enables us to fulfill all of the Bureau's statutory requirements while reducing redundancy and maximizing efficiency. Changes to the structure of the Office for Students are being implemented in furtherance of these priorities and in fulfillment of the Bureau's mission. The proposed reorganization will not hamper the Bureau's important work in helping young adults navigate the financial choices they must make.

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Respectfully,

Mick Mulvaney
Acting Director

Enclosures

⁸ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/defining-larger-participants-student-loan-servicing-market/>

1700 G Street NW,
Washington, DC 20552



June 28, 2018

The Honorable Kirsten Gillibrand
United States Senate
478 Russell Senate Office Building
Washington, DC 20510

Dear Senator Gillibrand:

Thank you for your letter of May 18, 2018 about the Bureau of Consumer Financial Protection's (Bureau's) Office for Students and Young Consumers (Office for Students). As you know, the Office for Students is currently housed as a separate office within the Bureau's Division of Consumer Education and Engagement (CEE). Recently I have announced that the Office for Students will be folded into the Office of Financial Education (Fin Ed), which is also a part of CEE. I share your commitment to ensuring that the Bureau fulfill all applicable statutory requirements efficiently and effectively.

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Mick Mulvaney
Acting Director

Enclosures

⁸ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/defining-larger-participants-student-loan-servicing-market/>

1700 G Street NW,
Washington, DC 20552



June 28, 2018

The Honorable Mazie Hirono
United States Senate
730 Hart Senate Office Building
Washington, DC 20510

Dear Senator Hirono:

Thank you for your letter of May 18, 2018 about the Bureau of Consumer Financial Protection's (Bureau's) Office for Students and Young Consumers (Office for Students). As you know, the Office for Students is currently housed as a separate office within the Bureau's Division of Consumer Education and Engagement (CEE). Recently I have announced that the Office for Students will be folded into the Office of Financial Education (Fin Ed), which is also a part of CEE. I share your commitment to ensuring that the Bureau fulfill all applicable statutory requirements efficiently and effectively.

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1700 G Street NW,
Washington, DC 20552



June 28, 2018

The Honorable Senator Jack Reed
United States Senate
728 Hart Senate Office Building
Washington, DC 20510

Dear Senator Reed:

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Your letter asked a number of questions regarding how this reorganization will affect specific reporting relationships and the distribution of responsibilities within the Bureau. In response to your first question, the Office for Students is a small office with slots for seven full-time employees. It is currently staffed with four full-time staff members. It had six full-time staff members as of January 19, 2017 and five as of May 8, 2018. An additional full-time staff member departed after May 8, 2018.

With regard to your second question requesting the specific details of the reorganization, revised organizational charts and job duties are still under review at this time and will not be implemented until the Bureau has consulted with Bureau stakeholders and the National Treasury Employees Union, if appropriate, in accordance with Chapter 71 of Title 5 of the U.S. Code and the Bureau's collective bargaining agreement. We are working diligently to effect these changes while minimizing disruption to operations and employees. We do not foresee a change in the job duties or responsibilities of the current employees at the Office for Students. We are confident that the reorganization will not hinder the Bureau's ability to fulfill its statutory mandate.

Regarding your third question, the Bureau did not prepare any internal memoranda, legal analysis, cost-benefit studies, or other work products to support the decision. As Acting Director, I am vested with the authority under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to direct the establishment and maintenance of offices in the Bureau and distribute business among its personnel.¹ Nothing in the Dodd-Frank Act requires the Bureau to maintain the Office for Students as a separate office within CEE, and I exercised my discretion as Acting Director to better align the organization with the mission of the Dodd-Frank Act. There are no documents responsive to your third request.

In order to answer your fourth and fifth questions, regarding the strategic plans for Fin Ed and CEE, I have attached CEE's Annual Financial Literacy Report,² which describes in detail the Bureau's national financial literacy strategy and provides more detail on individual programs and projects. I have also attached the Bureau's five-year strategic plan which details CEE's strategy to

¹ 12 U.S.C. § 5492(a)(3), (8).

² <https://www.consumerfinance.gov/data-research/research-reports/2017-financial-literacy-annual-report/>

address the need for inclusion and financial security of servicemembers, older Americans, traditionally underserved consumers and communities, and students.³

It is not possible to answer your sixth question, regarding the number of full-time employees that monitor, evaluate, and provide recommendations based on student loan complaints. Such tasks might be done by a varying number of employees across the Bureau, including by employees in the Office of Consumer Response as well as in the Supervision, Enforcement, and Fair Lending Division, depending on the specific complaints we receive, their volume, and the way in which they come to the Bureau. I do note that the Bureau will continue to have a Private Education Loan Ombudsman who will fulfill the statutorily-required duties of that position, including “compil[ing] and analyz[ing] data on borrower complaints regarding private education loans” and “mak[ing] recommendations.”⁴

Your seventh and eighth questions are related to your claim that the Bureau “abandoned plans to develop rules” to reform student-loan servicing, and you request information related to this decision. Although the Bureau published a Request for Information Regarding Student Loan Servicing in the Federal Register in May 2015,⁵ the Bureau had never begun active rulemaking plans in connection with student-loan servicing, such as proposed rule or final rule activities.⁶ As you know, the Bureau recently released its Spring 2018 Unified Agenda.⁷ Some of the items—including “Student Loan Servicing”—that had been listed in previous editions of our Unified Agenda have been reclassified as “inactive,” in the expectation that final decisions on whether and when to proceed with such projects will be made by the Bureau’s next permanent director. This change in designation is not intended to signal a substantive decision on the merits of the projects.

³ <https://www.consumerfinance.gov/about-us/budget-strategy/strategic-plan/>

⁴ 12 U.S.C. § 5535.

⁵ <https://www.federalregister.gov/documents/2015/05/21/2015-12226/request-for-information-regarding-student-loan-servicing>.

⁶ The Bureau also issued a report on student loan repayment trends in August 2017, which is available at <https://www.consumerfinance.gov/data-research/research-reports/cfpb-data-point-student-loan-repayment/>. The Bureau has not issued, and never developed even in draft form, any notice of proposed rulemaking regarding student loan servicing, and therefore lacks any documents responsive to your request for “official work product in progress regarding student loan servicing regulations.”

⁷ <https://www.consumerfinance.gov/about-us/blog/spring-2018-rulemaking-agenda/>.

In response to your ninth request, I am committed to enforcing the Dodd-Frank Act. The Bureau supervises certain student loan servicers pursuant to a larger participant rule published in the Federal Register on December 6, 2013.⁸ The Bureau is currently developing its 2019 exam calendar, and exams of student loan servicers subject to the Bureau's supervisory authority will be considered, together along with other types of exams, as part of the prioritization process consistent with 12 U.S.C. § 5514(b)(2). As the Bureau has stated in previous Unified Agendas, the Bureau will continue to monitor the student-loan servicing market for trends and developments, as it does for all consumer financial markets within its jurisdiction.

Finally, you request any documents that describe policies or procedures at the Bureau that will ensure that my responsibilities as Director of the Office of Management and Budget do not conflict with the Bureau's obligation to administer Federal consumer financial law. There is no statutory or regulatory framework that requires any such policies or procedures for an individual serving in an acting capacity pursuant to the Federal Vacancies Reform Act. Further, I reject the premise that there is any theoretical or actual conflict of interest between the two positions, and I will continue to satisfy all statutory obligations of both roles so long as I serve. Accordingly, the Bureau does not possess any documents responsive to your request.

Should you have any questions about this response, please do not hesitate to contact me or have your staff contact Laura M. Hussain in the Bureau's Legal Division or Matthew Pippin in the Bureau's Office of Legislative Affairs. Ms. Hussain can be reached at (202) 435-7789, and Mr. Pippin can be reached at (202) 435-7552.

Respectfully,

Mick Mulvaney
Acting Director

Enclosures

⁸ <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/defining-larger-participants-student-loan-servicing-market/>

United States Senate

WASHINGTON, DC 20510

May 18, 2018

Ms. Leandra English
Acting Director, Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Mr. Mick Mulvaney
Director, Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Director Mulvaney and Acting Director English:

We write to express our concern with the Consumer Financial Protection Bureau's (CFPB) decision to undermine student loan borrowers' rights by eliminating the Office for Students and Young Consumers ("Office for Students"). As you know, the Office for Students has secured more than \$750 million in relief for consumers, a track record that suggests that maintaining a dedicated unit is effective, appropriate, and in the best interest of borrowers and taxpayers. Additionally, the CFPB revealed that it is abandoning plans to rein in predatory student loan servicing and debt collection practices. These decisions send a message to students who are being misled, cheated, or defrauded by student loan companies that this Administration will not protect them.

The ability to monitor and punish bad actors in our student loan system is critical to our economy and the financial well-being of millions of families. Student loan debt in the United States recently surpassed \$1.5 trillion and continues to climb. Recent data show that more than 1.1 million borrowers default on their loans every year—over 3,000 defaults each day. Far too many student loan borrowers have struggled with predatory, fraudulent, and misleading loan products and servicing. The CFPB, spearheaded by the Office of Students, has until recently been instrumental in providing much-needed oversight and transparency to the college financial product and student loan marketplace, protecting students and promoting best practices for institutions of higher education, loan servicers, and financial service providers.

However, under the current Administration, the U.S. Department of Education and the CFPB are closing investigations and rolling back oversight at the behest of corporate interests and putting student borrowers, taxpayers, and the entire economy at risk. Quickly following the announcement of CFPB's decision to scuttle the Office for Students, which worked to collect critical information about the student loan industry, it was reported that Secretary DeVos had largely gutted the Student Aid Enforcement Unit at the U.S. Department of Education, an office which was dedicated to identifying and investigating fraud at institutions of higher education.

The CFPB also abandoned plans to develop rules to reform student loan servicing by removing this important priority from the unified regulatory agenda. This effectively ends an effort originally set in motion in 2015 to identify and address widespread failures by student loan companies. In the lead-up to the financial crisis, lax supervision, ineffective regulation, and poor

servicing standards in the mortgage industry helped send the economy into a tailspin. The Ombudsman and the Office for Students sounded the alarm about similar practices in the student loan marketplace. The CFPB cannot forget the lessons of the financial crisis and must act to reform student loan servicing and debt collection practices.

Unfortunately, abandoning the rulemaking effort on student loan servicing confirms that reorganizing the Office for Students was not simply bureaucratic, but a substantive withdrawal of the CFPB's leadership in policing illegal and harmful student loan servicing practices. By disbanding enforcement teams and rulemaking efforts, the federal government is essentially giving predatory servicers and lenders the green light to continue nefarious practices that harm student loan borrowers, including servicemembers, veterans, and older Americans with debt.

In the past, the CFPB and the U.S. Department of Education worked together to address harmful and inefficient practices at lenders and servicers that unnecessarily drive students into default. The vast majority of this work would not have been possible without the expertise of the staff in the Office for Students.

For example, the unit's work led to three enforcement actions last year alone. In 2015, the U.S. Department of Justice worked with Holly Petracus in the CFPB's Office of Servicemember Affairs, the Ombudsman, and the Office for Students to return \$60 million to 77,000 servicemembers whose rights under the Servicemember Civil Relief Act were violated by unscrupulous student loan servicers. The Office's research and reporting on student loan servicing issues also revealed systemic lapses in the offering of U.S. Department of Education's income-driven repayment plans, undermining the Department's efforts to prevent unnecessary defaults and losses.

Additionally, the Office for Students also coordinated with federal and state agencies to end widespread abuse by the predatory Corinthian Colleges, Inc. and ITT Educational Services, Inc. chains, in large part by monitoring and following up on an enormous volume of complaints that could not have been reviewed by the Ombudsman alone. In fact, much of the quantitative data we have on student loans today—the same quantitative data the CFPB has pledged to use in its decision-making process—only exists because of the efforts of the Ombudsman's team in the Office for Students. This team has now been reassigned.

You promised that you would rely on quantitative analysis to make your decisions, and do everything as required by the law. Congress specifically created the Ombudsman to coordinate with the U.S. Department of Education to address complaints regarding both private and federal student loans. Clearly, this function requires a dedicated and knowledgeable staff to support the Ombudsman. To help us understand how the CFPB will be able to fulfill its statutory mission without the support of a dedicated Office of Students, we request answers to the following questions and access to the following documentation:

- 1) The full-time equivalents (FTEs) allocated to the Office for Students on January 19, 2017, and on May 8, 2018, respectively.
- 2) A detailed list of where the FTEs to the Office for Students were recently reassigned within the CFPB.

- 3) All internal memoranda, legal analyses, cost-benefit studies, and work products that supported your decision to eliminate the Office for Students.
- 4) The strategic plan and organizational chart for the Office of Financial Education, including details on its specific goals and responsibilities, and how its strategic plan and organizational chart has been amended to account for consolidation with the Office for Students.
- 5) The strategic plan and organizational chart of the Consumer Education and Engagement Division, including details on its specific goals and responsibilities, and how its strategic plan has been amended to account for consolidation with the Office for Students.
- 6) The number of FTEs that will monitor, evaluate, and provide recommendations based on student loan complaints.
- 7) All official work product in progress regarding student loan servicing regulations, including the CFPB resources that will be devoted to working, in coordination with the U.S. Departments of Treasury and Education, on moving forward with the Joint Statement of Principles on Student Loan Servicing identified in September 2015.
- 8) A full analysis regarding why the loan servicing regulations were dropped from the CFPB's regulatory agenda.
- 9) Any analysis or documentation that explains how the CFPB will continue to independently and responsibly meet all of its obligations to monitor and supervise student loan lenders and servicers.
- 10) Documents that describe policies and procedures you have put in place at the CFPB that ensure Mr. Mulvaney's duty as OMB Director to protect taxpayers' investments in federal debt collection contracts are not allowed to conflict with the CFPB's obligation to fairly and independently administer consumer financial protection laws.

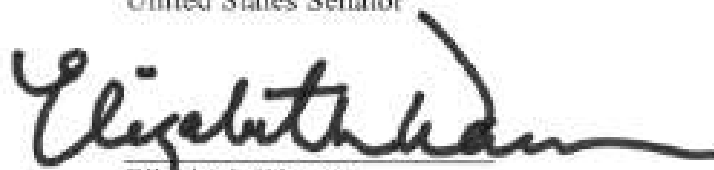
We request that a response to these questions and the relevant documents be provided no later than June 7, 2018. If you have any questions, please contact Corey Frayer with the U.S. Senate Committee on Banking, Housing, and Urban Affairs at (202) 224-7391. Thank you for your attention to this important issue.

Sincerely,


Sherrod Brown
United States Senator


Patty Murray
United States Senator


Richard J. Durbin
United States Senator


Elizabeth Warren
United States Senator



Richard Blumenthal
United States Senator



Kirsten Gillibrand
United States Senator



Mazie Hirono
United States Senator



Jack Reed
United States Senator



November 29, 2018

Recommendation Memorandum for the Acting Director

FROM	John Coleman, Deputy General Counsel (x57254), Steven Bressler, Assistant General Counsel (x57248), Thomas McCray-Worrall, Senior Counsel (x59683)
THROUGH	Mary McLeod, General Counsel <i>MEM</i>
SUBJECT	Response to Inquiry from Small Business Administration, Office of the National Ombudsman

Recommendation(s)

We recommend that you review and approve Mary McLeod to sign the attached response letter to the Small Business Administration, Office of the National Ombudsman.

On October 26, 2018, the Bureau received an inquiry from the Office of the National Ombudsman requesting, (b)(5)

(b)(5)

Attachments

- Tab 1: Draft Decision Memorandum
- Tab 2: Proposed response letter to SBA Ombudsman
- Tab 3: Letter from SBA Ombudsman dated October 26, 2018

Recommendation Memorandum for Decision Clearance Sheet

Subject/Document Title Response to Inquiry from Small Business Administration, Office of the National Ombudsman		
Name of Document Owner Thomas McCray-Worrall	Office Legal Division	Telephone Extension x59683
Approved by (name of Associate or Assistant Director) Mary McLeod (General Counsel)		
Office Legal Division	Name of Clearer Steven Bressler John Coleman Sonya Pass	Date 11/26/18
Office Enforcement	Name of Clearer Nina Schichor	Date 11/23/18
Office External Affairs	Name of Clearer Cheryl Parker Rose	Date 11/23/18
Office Front Office	Name of Clearer Hallee Morgan	Date 11/23/18
Office	Name of Clearer	Date
Office	Name of Clearer	Date

1700 G Street NW,
Washington, DC 20552

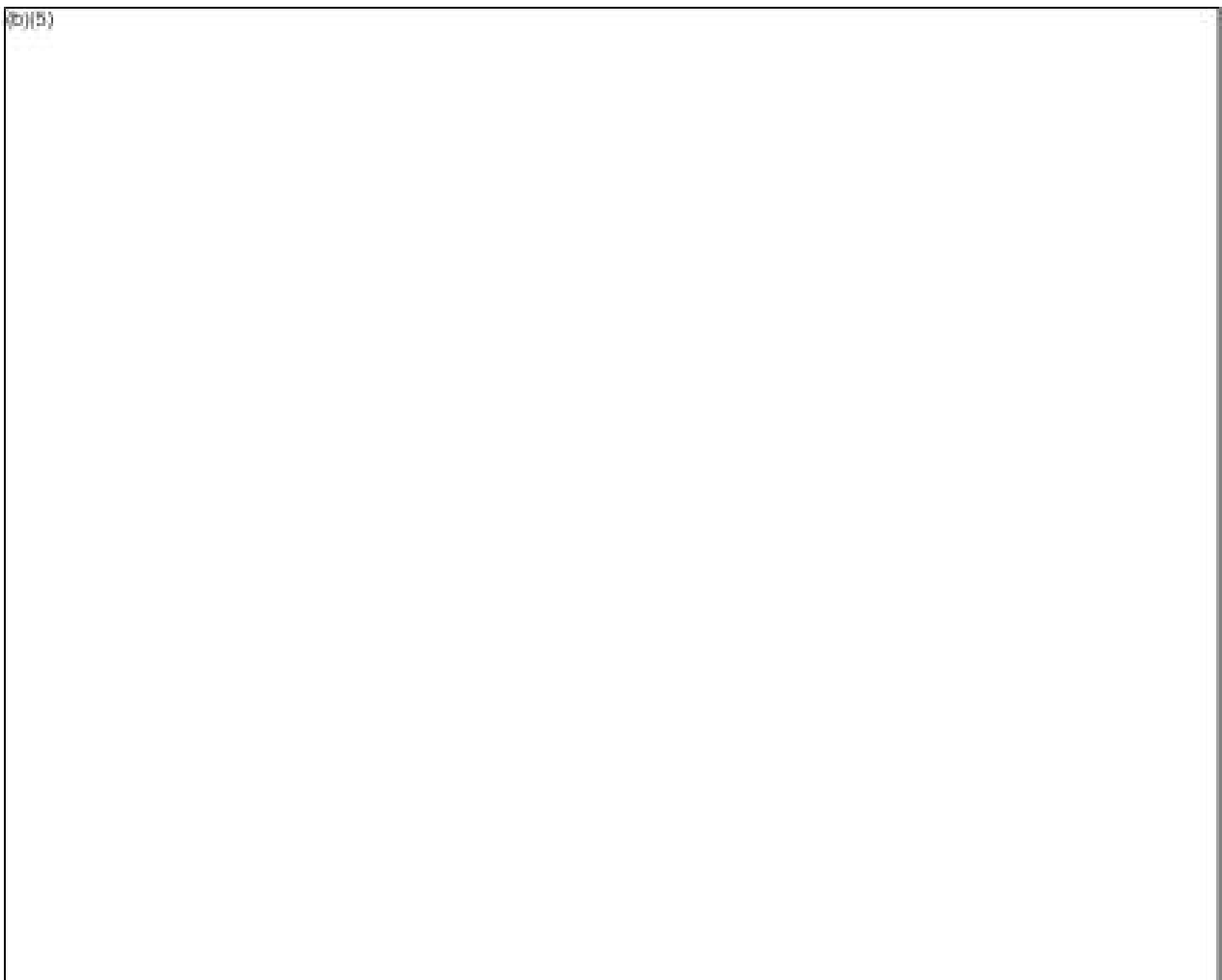


November ■, 2018

Mina A. Wales
Deputy National Ombudsman
Office of the National Ombudsman
U.S. Small Business Administration
409 3rd Street, SW, MC 2120
Washington, DC 20416-0005

Dear Ms. Wales,

(b)(5)

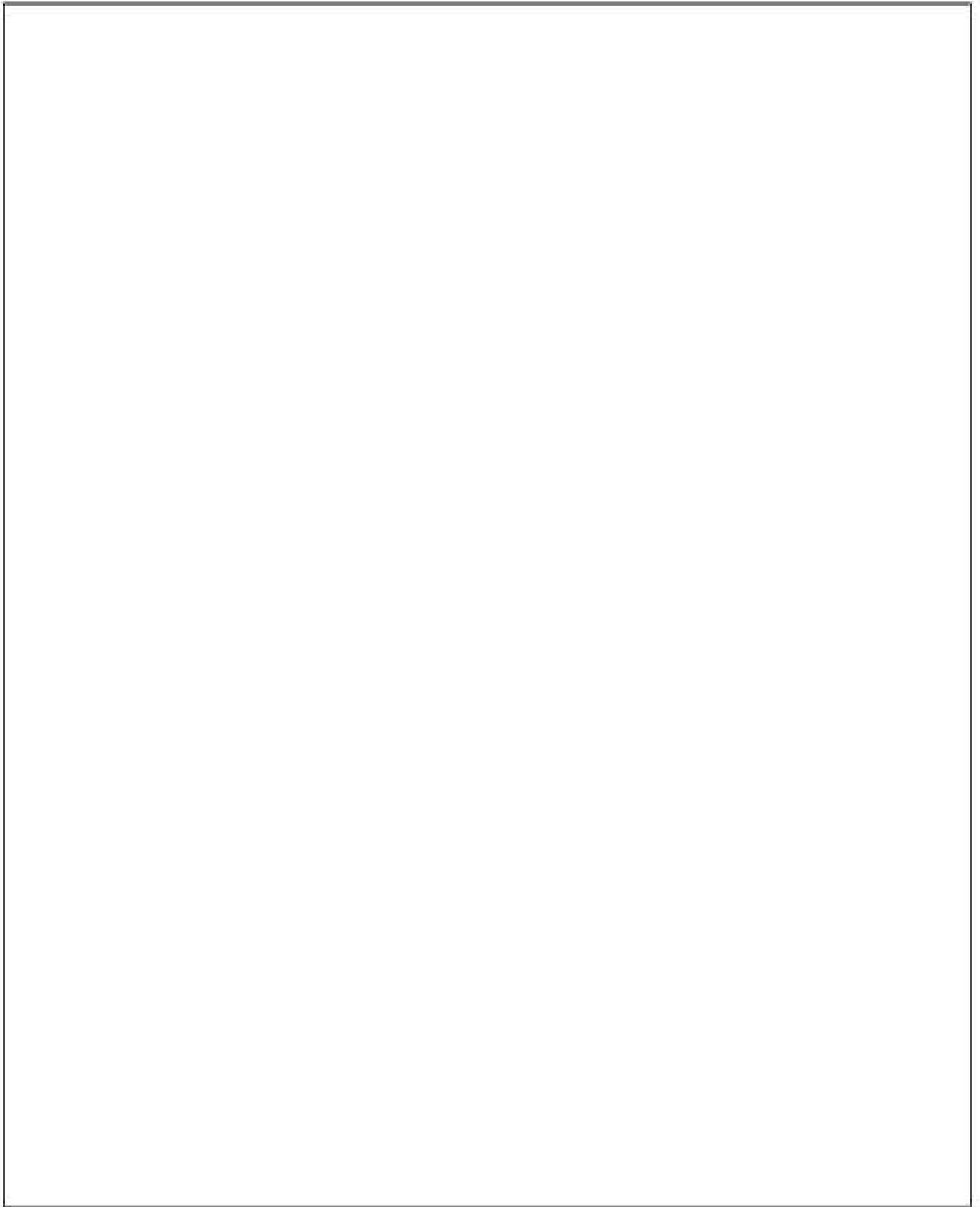


consumerfinance.gov

(b)(5)

Sincerely,

Mary McLeod
General Counsel



1700 G Street NW,
Washington, DC 20552



(b)(7)(E)

VIA Email and USPS Registered Mail

Andrew Lehman
2600 South Shore Blvd., Suite 300
League City, TX 77573

Re: Civil Investigative Demand served on Andrew Lehman on September 19, 2018

Dear Mr. Lehman

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 section 1052(e) 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). Please be prepared to discuss your planned compliance.

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 202-435-7964. I look forward to your call.

Sincerely,

/s/ Benjamin Vaughn

Benjamin Vaughn
Enforcement Attorney

Attachment

consumerfinance.gov



United States of America
Bureau of Consumer Financial Protection

Civil Investigative Demand

To **Andrew Lehman**
2600 South Shore Blvd., Suite 300
League City, TX 77573

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 (check all that apply)

☒ **Appear and Provide Oral Testimony**

Location of Investigational Hearing
U.S. Attorney's Office
Southern District of Texas
1000 Louisiana, Ste. 2300
Houston, TX 77002

Date and Time of Investigational Hearing

(b)(7)(E)

Name of Investigator

Benjamin Vaughn and Gabriel Hopkins

☐ **Produce Documents and/or Tangible Things, as set forth in the attached document, by the following date:**

☐ **Provide Written Reports and/or Answers to Questions, as set forth in the attached document, by the following date:**

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

The purpose of this investigation is to determine whether mortgage debt relief providers, financial advisory services providers, or other persons in connection with the advertising, marketing, sale, or processing of mortgage debt relief services or products have engaged or are engaging in unfair, deceptive, or abusive acts or practices in violation of §§ 1031 and 1036 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. §§ 5531, 5536, or Regulation O, 12 C.F.R. Part 1015. 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

U.S. Marshals Service
100 Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20037

Bureau Counsel

Benjamin Vaughn/Gabriel Hopkins
The Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20553

Date Issued

09/19/2018

Signature

Deborah Morris

Digitally signed by Deborah

Morris

(b)(7)(E)

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 in 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-RI-GATE (1-888-741-3247) 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 ORAL TESTIMONY

I. 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 ["Definitions and Instructions" or "Topics for Hearing, Definitions, and Instructions"].
- D. "Bureau" means the Bureau of Consumer Financial Protection.
- E. "You" or "Your" means Andrew Lehman.
- F. "Deputy Enforcement Director" refers to a Deputy Assistant Director of the Office of Enforcement.
- G. "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.
- H. "Each" includes "every," and "every" includes "each."
- I. "Enforcement Director" refers to the Assistant Director of the Office of Enforcement.
- J. "Person" means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

II. Instructions.

- A. **Confidentiality:** This CID relates to a nonpublic, law-enforcement investigation being conducted by the Bureau. We ask that you not disclose the existence of this CID, except to legal counsel, until you have been notified that the investigation has been completed. Premature disclosure of this investigation could interfere with the Bureau's law-enforcement activities.
- B. **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.

C. Meet and Confer: As stated in 12 C.F.R. § 1080.6(c), you must contact Enforcement Attorney Benjamin Vaughn at 202-435-7964 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.

D. Applicable Period for Responsive Materials: Unless otherwise directed, the applicable period for the request is from (b)(7)(E) until the date of full and complete compliance with this CID.

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 preparation for providing oral testimony in response 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 of Requests: If you believe that the scope of the CID can be narrowed consistent with the Bureau's need for information, you are encouraged to discuss such possible modifications, including modifications of the requirements of these instructions, with Enforcement Attorney Benjamin Vaughn at 202-435-7964. 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. 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.

I. Scope of Investigational Hearing: This CID covers 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.

BUREAU OF CONSUMER FINANCIAL PROTECTION
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 Bureau of Consumer Financial Protection (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. §§ 3511, 3562.



Consumer Financial
Protection Bureau

1400 G Street NW, Washington, DC 20552

(b)(7)(E)

Via USPS Certified Mail and UPS Overnight Mail

Certified Forensic Loan Auditors, LLC
2750 W. Main Street, Suite C
League City, TX 77573

Re: Civil Investigative Demand served on Certified Forensic Loan Auditors, LLC on
01/17/19

To whom it may concern:

Attached is a civil investigative demand (CID) issued to Certified Forensic Loan Auditors, LLC 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 III.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 202-435-9668. I look forward to your call.

Sincerely,

Colin Reardon
Enforcement Attorney

Attachment



United States of America
Consumer Financial Protection Bureau

Civil Investigative Demand

To **Certified Forensic Loan Auditors, LLC**
2750 W. Main Street, Suite C
League City, TX 77573

This demand is issued pursuant to Section 1052 of the Consumer Financial Protection Act of 2010 and 12 C.F.R. Part 1000 to determine whether there has been a violation of any law 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 Investigator(s)

☒ Produce Documents and/or Tangible Things, as set forth in the attached document, by the following date: **09/08/2017**

☒ Provide Written Reports and/or Answers to Questions, as set forth in the attached document, by the following date: **09/08/2017**

Notification of Purpose Pursuant to 12 C.F.R. § 1000.5

The purpose of this investigation is to determine whether mortgage debt relief providers, financial advisory services providers, or other persons in connection with the advertising, marketing, sale, or processing of mortgage debt relief services or products have engaged or are engaging in unfair, deceptive, or abusive acts or practices in violation of §§ 1031 and 1036 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. §§ 5531, 5536, or Regulation O, 12 C.F.R. Part 1015. 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, Deputy Director
Consumer Financial Protection Bureau
1400 K Street, N.W.
Washington, DC 20004

Bureau Counsel

John J. Berman, General Counsel
Consumer Financial Protection Bureau
1400 K Street, N.W.
Washington, DC 20004

Date Issued

08/08/2017

Signature

Deborah Morris

(b)(6); (b)(7)(E)

Name / Title

Deborah Morris, Deputy Enforcement Director

Service

The delivery of this demand to this entity method presented by the Consumer Financial Protection Act of 2010, 12 U.S.C. § 1052, as legal service. If you fail to comply with this demand, the Bureau may seek a court order regarding your compliance.

Travel Expenses

Request a receipt to allow for later reimbursement to which you are entitled for a return ticket to the Bureau pursuant to Section 1052 of the Consumer Financial Protection Act of 2010, 12 U.S.C. § 1052.

Right to Regulatory Enforcement Fairness

The CFPB is committed to fair regulatory enforcement. If you are a small business and/or Small Business Administration standards, you have a right to contact the Small Business Administration's National Ombudsman at 1-888-368-6338 (toll-free) or 1-847-331-7100 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 for 500 under the Paperwork Reduction Act of 1995.

CIVIL INVESTIGATIVE DEMAND FOR
PRODUCTION OF DOCUMENTS AND ANSWERS TO INTERROGATORIES

I. Requests.

Interrogatories

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

28. Identify all Persons who participated in responding to this CID and the specific tasks performed by each Person.

Requests for Documents

(b)(7)(E)

(b)(7)(E)

II. Definitions.

- A. "Advertisement" means any statement, illustration, depiction, or promotional material, whether in English or another language, that is designed to effect a sale or create interest in goods or services, regardless of where it appears.
- B. "And" and "or" must be construed both conjunctively and disjunctively.
- C. "Any" includes "all," and "all" includes "any."
- D. "CID" means the Civil Investigative Demand, including the Requests, Topics for Hearing, Definitions, and Instructions.
- E. "CFPB" or "Bureau" means the Bureau of Consumer Financial Protection.

F. **"Company" or "you" or "your"** means Certified Forensic Loan Auditors, LLC, and any successor in interest.

G. **"Deputy Enforcement Director"** refers to a Deputy Assistant Director of the Office of Enforcement.

H. **"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.

I. **"Each"** includes **"every,"** and **"every"** includes **"each."**

J. **"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.

K. **"Enforcement Director"** refers to the Assistant Director of the Office of Enforcement.

L. **"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.

M. **"Mortgage Assistance Relief Product or Service"** means any product, service, plan, or program, offered or provided to the consumer in exchange for consideration, that is represented, expressly or by implication, to assist or attempt to assist the consumer with any of the following:

- i. stopping, preventing, or postponing any mortgage or deed of trust foreclosure sale for the consumer's dwelling, any repossession of the consumer's dwelling, or otherwise saving the consumer's dwelling from foreclosure or repossession;

2. negotiating, obtaining, or arranging a modification of any term of dwelling loan, including a reduction in the amount of interest, principal balance, monthly payments, or fees;
3. obtaining any forbearance or modification in the timing of payments from any dwelling loan holder or servicer on any dwelling loan;
4. negotiating, obtaining, or arranging any extension of the period of time within which the consumer may (i) cure his or her default on a dwelling loan, (ii) reinstate his or her dwelling loan, (iii) redeem a dwelling, or (iv) exercise any right to reinstate a dwelling loan or redeem a dwelling;
5. obtaining any waiver of an acceleration clause or balloon payment contained in any promissory note or contract secured by any dwelling; or
6. negotiating, obtaining, or arranging (i) a short sale of a dwelling, (ii) a deed in lieu of foreclosure, (iii) or any other disposition of a dwelling loan other than a sale to a third party that is not the dwelling loan holder.

The foregoing shall include any manner of claimed assistance, including, but not limited to, providing a consumer with a "securitization audit," "forensic loan audit," "Quiet Title audit," or with a "Quiet Title Litigation Package" or with any "litigation support" documents for use in litigation relating to a mortgage loan, including civil complaints, lis pendens, temporary restraining orders, and expert witness affidavits.

N. **"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 Colin Reardon at (202) 435-9668 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 July 1, 2014 until the date of this CID.

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 Colin Reardon at (202) 435-9668. 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 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 4059
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 4059
Washington, DC 20006

Please provide your intended method of production and any tracking numbers by e-mail or telephone to Enforcement Attorney Colin Reardon at colin.reardon@cfpb.gov and (202) 435-9668.



August 23, 2018

*received
8/24/18?*

Recommendation Memorandum for the Acting Director

FROM	Nicole Heiser, Assistant General Counsel, 5-7677
THROUGH	Mary McLeod, General Counsel, 5-7993 <i>MM</i> 8/24/2018
SUBJECT	Agency Head Review of the OFLEO Re-Organization Memorandum of Understanding with the National Treasury Employees Union, Chapter 335

Recommendation(s)

I recommend that you approve the attached Memorandum of Understanding regarding the implementation of the Office of Fair Lending and Equal Opportunity reorganization.

Background

Pursuant to 5 U.S.C. § 7114(c), an agreement between an agency and its exclusive representative is subject to review by the head of the agency (Agency Head Review). The head of the agency shall approve an agreement that is consistent with applicable law and disapprove an agreement that is contrary to law. If the agency head does not approve or disapprove an agreement 30 days from its execution, the agreement will take effect.

Representatives of the National Treasury Employees Union (NTEU) and the Bureau's Office of Fair Lending and Equal Opportunity ("OFLEO") negotiated and came to tentative agreement on the plan to implement the Bureau's OFLEO reorganization on August 16, 2018. (b)(5)

(b)(5)

Attachments

Tab 1: Draft Decision Memorandum from the Acting Director

Tab 2: OFLEO Re-Organization Memorandum of Understanding

Recommendation Memorandum for Decision Clearance Sheet

Subject/Document Title		
Agency Head Review of the OFLEO Re-Organization Memorandum of Understanding with the National Treasury Employees Union, Chapter 335		
Name of Document Owner Jarid Smith	Office Legal Division, Office of General Law and Ethics	Telephone Extension 5-9697
Approved by (name of Associate or Assistant Director)		
Mary McLeod		
Legal Division	Name of Clearer Jarid Smith	Date 08/20/2018
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]

OFLEO RE-ORGANIZATION

Introduction

The parties recognize that the negotiated language in the Collective Bargaining Agreement is in effect, and governs negotiations as to the process and timeframe, absent a mutual party agreement. The parties recognize that all impacted employees are guaranteed a position.

1. Position Descriptions

The Bureau will provide the Union with relevant position descriptions (PD's) for which bargaining unit employees may apply as soon as possible. The Bureau acknowledges that the Union reserves the right to modify its bargaining proposals once it obtains and reviews the applicable PD's.

2. Union Access to Information

In accordance with Title V, Section 7114, of the United States Code and the parties' Collective Bargaining Agreement (CBA), the Bureau will furnish to the Union, upon request, data and information normally maintained in the regular course of business, which is reasonably available and necessary for full and proper negotiations. The Bureau will normally provide the requested information within ten (10) business days, and will inform the Union if it cannot comply with the request for information within this time period in reasonably close proximity to the time it has made that determination.

Further, in order to fulfill its representational duties, the Union reserves the right to request additional information from the Bureau, including, but not limited to, documentation regarding the allocation of the 25 new positions in SEFL.

3. Career Ladder Promotions

The current career ladder, and eligibility factors to obtain a career ladder promotion, remain in effect and will not change. In other words, the same opportunities and standards for obtaining a career ladder promotion will be in effect as impacted employees move to the new positions so that career ladder BU members remain on the same track post-reorganization (e.g., current promotion potential is not jeopardized by new position).

In accordance with CBA Article 19, Career Ladder Promotions, where an employee is eligible to receive a career ladder promotion before the re-organization is complete, that employee can apply to a position at the higher level.

4. Application Process

The application process will not begin until revised Position Descriptions have been provided to the Union and all bargaining obligations required by law or the parties' Collective Bargaining Agreement have been fulfilled.

The application process will be in accordance with the process shown below. All affected OFLEO employees are guaranteed a position as a result of this reorganization.

Bureau management in each Office will conduct interviews and make selections in accordance with the following procedures, which apply to all affected OFLEO employees:

- A. All OFLEO employees will receive an email containing links to all available bargaining unit vacancy announcements that will be open for seven business days in accordance with CBA Article 18, Merit Promotion; only OFLEO bargaining unit employees may apply.
- B. Bargaining unit employees may apply for positions of interest at their same band level by submitting their resume on-line by 11:59 PM the closing date of the announcement; bargaining unit employees can apply to more than one position but may only apply to positions in the same service (i.e., competitive service employees may only apply to competitive service vacancies and excepted service employees may only apply to excepted service vacancies).
- C. All qualified applicants are referred and selections will be made based on review of resumes and structured interviews.
- D. If an employee does not apply to a position or does not receive an offer, the Bureau will directly reassign the employee into a position for which the employee is qualified in accordance with CBA Article 21, Reassignments. If there are the same number of applicants on the referral list as vacancies for that position, the Bureau may make the selection based on a paper application, and may forego a formal interview process.
- E. Where practicable, if an employee is not selected for the position(s) that they applied for, the employee will have their reassignment directed as part of the reorganization. The employee may continue to apply for other vacant positions when advertised.
- F. If an employee chooses to compete for more than one position, and is selected for more than one position, the employee will choose among the offered positions. Selections for positions in the gaining Offices will be offered at the same time.

5. Telework Agreement, Training, and Conferences

A. Telework

Bureau management will maintain telework arrangements for bargaining unit employees impacted by the OFLEO reorganization as they transition to new positions unless the gaining Office determines that the arrangement does not meet the suitability criteria outlined in Article 12, Telework. Additionally, CBA Article 12, Definitions, Section (A)(3)(1) is specifically waived for individuals subject to this reorganization.

B. Training/Conferences

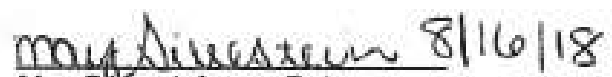
Bureau management will honor training and conference opportunities for bargaining unit employees impacted by the OFLEO reorganization that have been approved through 2018 as employees transition into new positions unless the gaining Office determines that those training or conference opportunities do not meet the evaluative criteria outlined in Article 15, Section 3.B, Training.

6. Miscellaneous

A. Location

Incumbent employees who are currently home-duty stationed will remain home-duty-stationed, and their status will be considered "incumbent only." Incumbent employees currently duty-stationed in a Regional Office will retain their current duty station and also be considered "incumbent only". Neither of these decisions will be deemed to set a precedent for any office within SEFL.


Kate Fulton Date
COO BCFP


May Silverstein Date
Council NTEU



Division Updates

(b)(5)

Legal Division

June 27, 2018

Office of Litigation and

(b)(5)

RMR

June 25, 2018

Consumer Finance Round Robin

(b)(5)

4



Division Updates

Legal Division

June 27, 2018

Office of Litigation and Oversight

(b)(5)

RMR

June 25, 2018

Consumer Finance Round Robin

(b)(5)

Operations**June 27, 2018**

(b)(5)
CEE**June 27, 2018**

(b)(5)
EA**June 27, 2018**

(b)(5)
Office of the Director**June 27, 2018**

(b)(5)
SEFL**June 27, 2018**

(b)(5)

Bureau of Consumer Financial Protection
1700 G Street NW
Washington, D.C. 20552



November 30, 2018

Recommendation memorandum for the Acting Director

FROM	Ron Borzekowski Assistant Director, Office of Research x57381
THROUGH	David Silberman, Associate Director Tom Pahl, Policy Associate Director
SUBJECT	Economist Posting on USAJobs

11-30-18
RBP

Recommendation(s)

(b)(5)

Background

Staffing: During the last two years, the Office of Research (OR) has lost several economists and has only hired one. In 2017, one economist that had worked on the payday rulemaking as well as our disclosure agenda left the agency. This year, OR has lost two additional PhD economists. The first worked primarily on benefit-cost analyses for rulemakings and also served as one of the primary economists on the servicing assessment. (b)(5)

(b)(5)

did not receive an exception to the hiring freeze, and therefore did not hire any PhD economists.

(b)(5)

The Annual Recruiting Cycle. The market for PhD Economists is on an annual cycle which begins at the meeting of the American Economic Association (AEA) (January 4-6, 2019 in Atlanta). The AEA conference serves, in part, as the primary recruitment forum for academic institutions, government agencies, and private sector firms. Such entities seeking to hire economists all make their offers by mid-to late-February and economists hired during this process usually start sometime between May and August, unless they already work for a government agency or a private sector firm.

(b)(5)

(b)(5)

Attachments

Tab 1: Draft Decision Memorandum from the Acting Director.

Recommendation Memorandum for Decision Clearance Sheet

Subject/Document Title Economist Posting on USAJobs		
Name of Document Owner Susan Singer	Office RMR	Telephone Extension 5-7797
Approved by (name of Associate or Assistant Director) Tom Pahl		
Legal Division [Insert legal division]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]
Office [Insert office]	Name of Clearer [Insert name of clearer]	Date [Insert date]

1700 G Street NW,
Washington, DC 20552



Decision Memorandum from the Acting Director

FROM Mick Mulvaney

TO Tom Pahl, Policy Associate Director for RMR; Chris D'Angelo, SEFL Associate Director; Kristen A. Donoghue, Assistant Director for Enforcement

SUBJECT Authority to Settle with State Farm Bank, FSB or to File Suit—ENF Matter No. (b)(5) Exam IDs (b)(5) and (b)(5)

I authorize the Office of Enforcement to enter into a settlement with or file a lawsuit against State Farm Bank, FSB under the parameters recommended by the Office of Enforcement on September 21, 2018, except I do not authorize the Office of Enforcement to seek a penalty. The Bureau may enter into a settlement obtaining only the injunctive relief described in Enforcement's recommendation memo.


Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection

Date _____

Tom

(b)(5)

*(P)
Let me if you/Chris have any questions*

1700 G Street NW,
Washington, DC 20552



Decision Memorandum from the Acting Director

FROM	Mick Mulvaney
TO	Eric Blankenstein, SEFL Policy Director; Chris D' Angelo, SEFL Associate Director; Kristen Donoghue, Assistant Director for Enforcement
SUBJECT	Authority to <u>Settle with Equifax, Inc.</u> , and to File Suit – ENF Matter No. (b)(5)

I authorize the Office of Enforcement to enter into a settlement with and file a lawsuit against Equifax under the parameters recommended by the Office of Enforcement on September 21, 2018.

** see attached memo*



Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection

10-2-18

Date

(b)(5)

OK
W.A.
SEPP 10-2-18



Consumer Financial
Protection Bureau

Decision Memorandum from the Acting Director

FROM Mick Mulvaney

TO Eric Blankenstein, SEFL Policy Director, Chris D'Angelo, SEFL Associate Director; Kristen Donoghue, Assistant Director for Enforcement

SUBJECT Authorization to Enter into Settlement with Wells Fargo Bank, N.A. (b)(5)

I authorize the Office of Enforcement to settle with Wells Fargo Bank under the parameters recommended by the Office of Enforcement on April __, 2018. *


Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection

4-9-18
Date

(b)(5)

1700 G Street NW,
Washington, DC 20552



Decision Memorandum from the Acting Director

FROM Mick Mulvaney, Acting Director

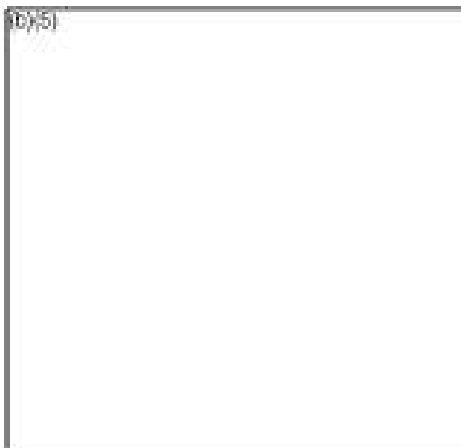
TO Kristen Donoghue, Director for Enforcement

SUBJECT Authorization to enter settlement negotiations with, or
commence litigation against, Sterling Infosystems, Inc. – ENF
Matter No. (b)(5)

I authorize the Office of Enforcement to enter into a settlement with and file a lawsuit against Sterling Infosystems, Inc. under the parameters recommended by the Office of Enforcement on May 13, 2018.


Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection

5-17-18
Date





November 5, 2018

Recommendation Memorandum for the Acting Director

FROM Jessica Divine, Shirley Chiu, Cynthia Lesser, David Rubenstein, and Kristen Donoghue, Office of Enforcement

THROUGH Eric Blankenstein, SEFL Policy Director; Chris D'Angelo, SEFL Associate Director

EBB/gjattw
11/5/18

SUBJECT Authority to Enter into Settlement with NDG Financial Corp., E-Care Contact Centers, Ltd., Blizzard Interactive Corp., New World Consolidated Lending Corp., New World Lenders Corp., Payroll Loans First Lenders Corp., New World RRSP Lenders Corp., Kimberly DeThomas, Jeremy Sabourin, William Wrixon, Emerald Willow Holdings, Ltd., Red River Holdings Company Ltd., and Twillingate Holdings, Ltd. (collectively, the "Canadian NDG Defendants"), Northway Financial Corp., Ltd., and Northway Broker, Ltd. (collectively, the "Maltese Defendants") – ENF Matter No. (b)(5) [redacted]

Recommendation

The Bureau should settle with the Canadian NDG Defendants and the Maltese Defendants (collectively, the "Defaulting Defendants") under the parameters described in (b)(5) [redacted]

I. Overview

As set forth in the July 1, 2015 decision memorandum in this matter and the complaint filed on July 31, 2015 in the Southern District of New York, the Bureau has alleged that defendants engaged in an illegal international online payday lending scheme that targeted United States consumers. From Canada and Malta, defendants originated, serviced, and collected payday loans that were void in whole or in part under certain state laws. Further, defendants misrepresented that federal and state law did not apply to the loans, and used deceptive and unfair tactics to secure repayment of the loans. Defendants operated the scheme as a common enterprise with shared ownership, management, business functions, addresses, office space and employees located in Canada and Malta.

(b)(5)

(b)(5)

II. Recommendation to Settle

The Bureau should settle with the Defaulting Defendants on certain substantive and procedural terms, as set forth below:

(b)(5)

(b)(5)

(b)(5)

IV. Conclusion

The Bureau should settle with Defaulting Defendants consistent with the terms in

(b)(5)

Attachments

Tab 1: Draft Decision Memorandum from the Acting Director

Tab 2: Bureau's First Amended Complaint

Tab 3: Decision Memorandum for the Director to File Suit

Tab 4: Bureau's Motion for Default Judgment

Recommendation Memorandum for Decision Clearance Sheet

Subject/Document Title Rec memo re authority to enter into settlement with NDG Financial Corp., E-Care Contact Centers, Ltd., Blizzard Interactive Corp., New World Consolidated Lending Corp., New World Lenders Corp., Payroll Loans First Lenders Corp., New World RRSP Lenders Corp., Kimberly DeThomas, Jeremy Sabourin, William Wrixon, Emerald Willow Holdings, Ltd., Red River Holdings Company Ltd., and Twillingate Holdings, Ltd., Northway Financial Corp., Ltd., and Northway Broker, Ltd.		
Name of Document Owner Catherine Latell	Office SEFL FO	Telephone Extension X59744
Approved by (name of Associate or Assistant Director) Chris D'Angelo, Eric Blankenstein		
This submission completed EAP on 11/5.		

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Consumer Financial Protection Bureau,

Plaintiff,

v.

NDG Financial Corp., Northway Financial Corp., Ltd., Northway Broker, Ltd., E-Care Contact Centers, Ltd., Blizzard Interactive Corp., New World Consolidated Lending Corp., New World Lenders Corp., Payroll Loans First Lenders Corp., New World RRSP Lenders Corp., Peter Ash, Sagewood Holdings, Ltd., Kimberly DeThomas, Jeremy Sabourin, William Wrixon,

Defendants,

Peter Ash, Sagewood Holdings, Ltd., Paul Ash, Knightsbridge Holdings Ltd., Paul Grehan, 0562752 B.C. Ltd., Kimberly DeThomas, Emerald Willow Holdings, Ltd., Jeremy Sabourin, Red River Holdings Company Ltd., William Wrixon, Twillingate Holdings Ltd.

Relief Defendants.

Case No. 15cv5211 (CM)

FIRST AMENDED COMPLAINT

The Consumer Financial Protection Bureau (Bureau) brings this action against NDG Financial Corp., Northway Financial Corp., Ltd., Northway Broker, Ltd., E-Care Contact Centers, Ltd., Blizzard Interactive Corp., New World Consolidated Lending Corp., New World Lenders Corp., Payroll Loans First Lenders Corp., New World RRSP Lenders Corp., Peter Ash, Sagewood Holdings Ltd., Kimberly DeThomas, Jeremy Sabourin, and William Wrixon (Defendants). The Bureau also names Peter Ash, Sagewood Holdings, Ltd., Paul Ash, Knightsbridge Holdings, Ltd., Paul Grehan, 0562752, B.C. Ltd., Kimberly DeThomas, Emerald Willow Holdings, Ltd., Jeremy

Sabourin, Red River Holdings Company, Ltd., William Wrixon, and Twillingate Holdings Ltd., as Relief Defendants (collectively with Defendants, the NDG Enterprise).

INTRODUCTION

1. Defendants, operating through a maze of interrelated companies, originate, service, and collect payday loans that are void in whole or in part under state law in sixteen states including New York. Defendants deceive consumers into believing that federal and state laws do not apply to the Defendants or the loans. Defendants also use various unfair and deceptive tactics in securing repayment of the payday loans.

2. The Bureau brings this action under the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531(a), 5536(a), 5564(a); and the Credit Practices Rule, 16 C.F.R. §444.1(a), §444.2(a)(3)(i)-(iii). This action seeks permanent injunctive relief; restitution; the refund of monies paid; disgorgement of ill-gotten monies; and other equitable relief for Defendants' violations of the CFPA and the Credit Practices Rule.

JURISDICTION AND VENUE

3. This Court has subject-matter jurisdiction over this action because it is brought under "Federal consumer financial law," 12 U.S.C. § 5564(a)(1), presents a federal question, 28 U.S.C. § 1331, and is brought by an agency of the United States, 28 U.S.C § 1345.

4. Venue is proper in this district because a substantial part of the events or omissions giving rise to the claims occurred here and Defendants do business here. 28 U.S.C. § 1391(b); 12 U.S.C. § 5564(f).

PLAINTIFF

5. The Bureau is an independent agency of the United States Government created by the CFPA, 12 U.S.C. § 5491(A). The Bureau is charged with enforcing federal consumer financial laws, 12 U.S.C. §§ 5563, 5564.

6. The CFPB is authorized to initiate federal district court proceedings in its own name and through its own attorneys to address violations of federal consumer financial law, including the CFPA, 12 U.S.C. § 5564(a)-(b). Sections 1031 and 1036(a) of the CFPA, 12 U.S.C. §§ 5531 and 5536(a), prohibit unfair, deceptive, or abusive acts or practices, or other violations of federal consumer financial law, by any covered person or service provider.

DEFENDANTS AND RELIEF DEFENDANTS

7. The NDG Enterprise includes a collection of commonly controlled companies located in Canada and Europe that function as a seamless unit to offer unlicensed and usurious payday loans over the Internet to US consumers.

8. The NDG Enterprise, which includes Sagewood Holdings Ltd., (Sagewood), Peter Ash, Knightsbridge Holdings Ltd. (Knightsbridge), Paul Ash, 0562752 B.C. Ltd. (0562752), Paul Grehan, Emerald Willow Holdings, Ltd., (Emerald Willow), Kimberly DeThomas, Red River Holdings Company, Ltd. (Red River), Jeremy Sabourin, Twillingate Holdings Ltd., (Twillingate), William Wrixon, NDG Financial Corp., (NDG Financial), Northway Financial Corp. Ltd. (Northway), Northway Broker Ltd., (Northway Broker), E-Care Contact Centers Ltd. (E-Care), Blizzard Interactive Corp. (Blizzard), New World Lenders Corp. (NWL), New World Consolidated Lenders

Corp. (NWCL), Payroll Loans First Lenders Corp. (PLFL), and New World RRSP Lenders (NWRRSP), have collectively operated the payday lending scheme under common control and ownership.

9. From approximately 2005 until 2013, Sagewood owned 50.1% of NDG Financial shares, Knightsbridge owned 39.8%, and 0562752 owned 10.1%.

10. During this period, NDG Financial owned, directly or indirectly, the other NDG Enterprise corporations.

11. In approximately 2009, the NDG Enterprise reorganized resulting in all of the Canadian corporations (E-Care, Blizzard, NWL, NWCL, PLFL, NWRRSP) being owned, directly or indirectly, by NDG Financial and all of the European corporations, including Defendants Northway and Northway Broker, being owned by New Northway S.A. (New Northway).

12. After the reorganization, Sagewood owned 50.1% of NDG Financial and New Northway; Knightsbridge owned 39.8% of each and 0562752 owned 10.1%.

13. On or about September 1, 2013, Sagewood transferred its majority interest in NDG Financial and New Northway to Emerald Willow, while the remaining interests were transferred from Knightsbridge and 05662752 to Red River and Twillingate

14. Prior to the transfer, Defendant and Relief Defendant Peter Ash held 50.1% of NDG Financial and New Northway shares through his 100% interest in Sagewood.

15. Prior to the transfer, Relief Defendant Paul Ash held 39.8% of NDG Financial and New Northway shares through his 100% interest in Knightsbridge.

16. Prior to the transfer, Relief Defendant Paul Grehan held 10.1% of NDG Financial and New Northway shares through his 100% interest in 0562752.

17. Defendant NDG Financial is a Canadian corporation with its principal place of business at Suite 200, 15225 104th Avenue, Surrey, British Columbia.

18. NDG Financial has also listed Suite 400, 15225 104th Avenue, Surrey, British Columbia as its address.

19. NDG Financial lists its registered office mailing address at Suite 3334, Four Bentall Centre, P.O. Box 49116, 1055 Dunsmuir Street, Vancouver, British Columbia.

20. NDG Financial is a privately held global e-commerce company focused on providing payday loans in the United States over the Internet through its subsidiaries and affiliate companies.

21. From approximately 2005 to 2013, NDG Financial was owned by Sagewood, Knightsbridge and 0562752.

22. NDG Financial is currently owned by Emerald Willow, Red River, and Twillingate.

23. At all times material to this Complaint, NDG Financial, acting through its affiliates (Northway and Northway Broker) and subsidiaries (E-Care and Blizzard), advertised, marketed, originated, serviced, and collected on the extension of credit in the form of payday loans to consumers residing in this district and throughout the United States.

24. Those activities are “consumer financial services” under the CFPA, 12 U.S.C. § 5481(5)(A), (A)(i), (A)(x).

25. NDG Financial provided “material services” to its affiliates and subsidiaries in order to facilitate the NDG Enterprise’s payday lending activities. NDG Financial personnel established and managed banking and payment processing

relationships with US-based service providers on behalf of its subsidiaries and entities with which it is under common control. NDG Financial is therefore an “affiliate,” “service provider,” and “covered person” under the CFPA. 12 U.S.C. § 5481(1), (6)(B), (26)(A)(i).

26. Defendant Northway, registered as a private limited liability company under the Malta Companies Act of 1995 and licensed by the Malta Financial Services Authority (MFSA), has its principal place of business located at Level 8, Plaza Commercial Centre, Bisazza Street, Sliema, Malta.

27. Northway, as the lending arm of the NDG Enterprise payday loan operation, extends credit to US consumers in the form of payday loans using a series of Internet “doing business as” websites, including CashTransferCenters.com; PRLDirect.com; 247Greenstreet.com; GreenPicket.com; PaydayAvenue.com; CashTaxi.com; PixyCash.com; SonicPayday.com; and Zip19.com (the DBA websites).

28. Northway is directly or indirectly owned and operated by NDG Financial or its affiliates or related parties.

29. Northway provides a “consumer financial product or service,” and is therefore a “covered person” under the CFPA. 12 U.S.C. § 5481(6)(A), (15)(A)(i). It is also a “lender” under the Credit Practices Rule. 12 C.F.R. § 444.1(a).

30. Defendant Northway Broker, Ltd. (Northway Broker), registered as a private limited liability company under the Malta Companies Act of 1995 and licensed by the MFSA, shares its principal place of business with Northway in Sliema, Malta.

31. Northway Broker provides money brokering services to US consumers applying for payday loans from Northway via the DBA websites.

32. Northway Broker generates revenue by charging broker fees for Northway's loan transactions as well as Non-Sufficient Funds (NSF) fees to consumers that default on payment.

33. Northway Broker is directly or indirectly owned and operated by NDG Financial or its related parties or affiliates.

34. Northway Broker provides a "consumer financial product or service" and is therefore a "covered person" under the CFPA, 12 U.S.C. § 5481(6)(A), (15)(A)(i). It is also a "lender" under the Credit Practices Rule, 12 C.F.R. § 444.1(a).

35. Northway Broker also provides "material services" to Northway by contracting with credit reporting agencies that provide background information on potential Northway loan applicants. It is therefore also an "affiliate" and "service provider" under the CFPA, 12 U.S.C. § 5481(1), (26)(A).

36. Defendant E-Care, incorporated in Canada, was formerly known as Payroll Loans, Ltd. and is a wholly owned subsidiary of NDG Financial.

37. E-Care shares both its principal place of business and registered office address with NDG Financial.

38. E-Care has also used Suite 400, 15225 104th Ave, Surrey BC as its address.

39. E-Care has an additional location at Suite 300, 433 Main Street, Winnipeg, Manitoba.

40. E-Care collects payday loans extended by Northway, which constitutes a "consumer financial service" under the CFPA and makes E-Care a "covered person" under the CFPA, 12 U.S.C. § 5481(5)(A), (15)(A)(x), (6).

41. E-Care also provides "material services" to Northway by managing Northway's relationships with banks, Third Party Payment Processors (TPPP), and

credit reporting agencies, which makes it an “affiliate” and “service provider” under the CFPA. 12 U.S.C. § 5481(1), (26)(A).

42. Defendant Blizzard is a Canadian incorporated, wholly owned subsidiary of NDG Financial with its principal place of business at Suite 500, 433 Main Street, Winnipeg, Manitoba.

43. Blizzard also shares an address with NDG Financial and E-Care.

44. Blizzard identifies potential payday loan customers for Northway by generating a demographic profile of its target customers, including their state of residence.

45. Blizzard then sends this profile to third-party lead generators and pays a fee for any leads referred.

46. Blizzard is therefore an “affiliate,” “service provider,” and “covered person” under the CFPA. 12 U.S.C. § 5481(1), (6), (26).

47. Defendants NWL, NWCL, PLFL and NWRRSP (the Funding Entities) are NDG Financial wholly owned subsidiaries or affiliates located in Canada that assist in raising funds for the payday lending operation.

48. Northway uses the funds raised by these entities to extend loan principal to US consumers.

49. NWL is a private company incorporated under the laws of British Columbia in 2005 and is a wholly owned subsidiary of NWCL.

50. NWL lists its address at Suite 200, 15225 104th Ave., Surrey, BC V3R 6Y8.

51. NWCL is a private company incorporated under the laws of British Columbia and is a wholly owned subsidiary of NDG Financial.

52. PLFL was a private company incorporated under the laws of British Columbia and in 2013, listed its address at Suite 200, 15225 104th Ave, Surrey BC, Canada.

53. PLFL was dissolved on July 22, 2014.

54. NWRRSP was a private company incorporated under the laws of British Columbia and in 2012, listed its address at Suite 200, 15225 104th Ave., Surrey, BC V3R 6Y8.

55. NWRRSP was dissolved on November 29, 2013.

56. NWL, PLFL, and NWRRSP were established primarily as vehicles to provide funding to NWCL which in turn provides funds to Northway.

57. By raising money on behalf of Northway, which Northway then lends to US consumers in the form of loan principal, the Funding Entities participate in the operation and maintaining of the NDG Enterprise's payday lending service and are therefore NDG Financial and Northway "affiliates," "service providers," and "covered persons" under the CFPA. 12 U.S.C. § 5481(1), (6), (26).

58. Defendant Sagewood is a Canadian corporation that has its registered office mailing address at Suite 200 8837 – 201 Street, Langley, BC V2Y 0C8.

59. Individual Defendant Peter Ash is 100% owner of Sagewood as well as its sole director and officer.

60. During time periods relevant to this Complaint, Peter Ash listed a business address at Suite 400 15225 104th Avenue, Surrey, British Columbia.

61. Until September 1, 2013, Sagewood controlled a 50.1% share of NDG Financial.

62. During time periods relevant to this Complaint, Sagewood controlled a 50.1% share of New Northway, which was formerly known as Northway S.a.r.l.

63. New Northway owns 100% of the shares in Cumberland Holdings Ltd. (Cumberland).

64. Cumberland owns 99.9% of the shares in Northway and Northway Broker.

65. Sagewood and Peter Ash, its 100% owner, are therefore “related persons” and “covered persons” under the CFPA. 12 U.S.C. § 5481(6), (25).

66. Internal NDG Enterprise documents refer to Peter Ash as a shareholder of the “NDG Group of companies,” which included, NDG Financial, E-Care, Blizzard, NWL, NWCL, NWRRSP, PLFL, New Northway, Cumberland, Northway and Northway Broker.

67. Peter Ash was an officer and director of NDG Financial, Northway, Northway Broker, Blizzard, E-Care, NWL, NWCL, and New Northway, and was charged with managerial responsibility over those entities during time periods relevant to this Complaint.

68. Sagewood and Peter Ash materially participated in the affairs of NDG Financial, New Northway, and the NDG Enterprise and are therefore “related persons” and “covered persons” under the CFPA. 12 U.S.C. §5481(6), (25).

69. Relief Defendant Emerald Willow lists its address at Suite 200, 15225 104th Ave, V3R 6Y8.

70. Emerald Willow currently controls a majority of shares in NDG Financial.

71. Emerald Willow is therefore a “related person” and “covered person” under the CFPA. 12 U.S.C. § 5481(6), (25).

72. Individual Defendant and Relief Defendant Kimberly DeThomas (DeThomas) is the Chief Executive Officer of NDG Financial and E-Care and is charged with managerial responsibility over those entities.

73. DeThomas is Chief Executive Officer (CEO), President, and Director of NWL.

74. DeThomas is a Director of NWCL.

75. DeThomas was CEO and President of NWRRSP at the time of its dissolution in 2013.

76. DeThomas was a Director of PLFL at the time of its dissolution in 2014.

77. DeThomas is a Director of Northway.

78. DeThomas is a Director of Northway Broker.

79. DeThomas is a Director of Blizzard.

80. DeThomas is therefore a "related person" and "covered person" under the CFPA, 12 U.S.C. §5481(6),(25).

81. Individual Defendant and Relief Defendant Jeremy Sabourin (Sabourin) is the Chief Operating Officer of NDG Financial.

82. Sabourin is President of Blizzard.

83. Sabourin is an officer or director of E-Care, NWL, NWCL, PLFL, NWRRSP, and Red River Holdings Co., Ltd. (Red River).

84. Sabourin is charged with managerial responsibility over NDG, E-Care, Blizzard, NWL, and NWCL.

85. Sabourin is therefore a "related person" and "covered person" under the CFPA, 12 U.S.C. §5481(6),(25).

86. Individual Defendant and Relief Defendant William Wrixon (Wrixon) is the Chief Financial Officer of NDG Financial, Blizzard, and NWL.

87. Wrixon is also an officer or director for E-Care, Blizzard, NWRRSP, PLFL, NWCL, and Twillingate.

88. Wrixon is charged with managerial responsibility of NDG, E-Care, Blizzard, NWL, and NWCL.

89. Wrixon is therefore a “related person” and “covered person” under the CFPA. 12 U.S.C. §5481(6),(25).

90. Relief Defendant Knightsbridge was incorporated on November 9, 2004 in British Columbia.

91. Knightsbridge has listed its registered office at Suite 3334, Four Bentall Centre, P.O. Box 49116, 1055 Dunsmuir Street, Vancouver B.C., V7X 1G4 during time periods relevant to this Complaint.

92. Knightsbridge owned 39.8% of shares in NDG Financial and New Northway during time periods relevant to this Complaint.

93. Relief Defendant Paul Ash was the sole director, officer, and shareholder for Knightsbridge during time periods relevant to this Complaint.

94. Knightsbridge and Paul Ash materially participated in the affairs of NDG Financial, and the NDG Enterprise and are therefore “related persons” and “covered persons” under the CFPA. 12 U.S.C. §5481(6), (25).

95. Relief Defendant 0562752 (formerly Blackrock Capital Corp.) was incorporated on April 9, 1998 in British Columbia.

96. 0562752 has listed its registered office at Suite 3334 Four Bentall Centre, P.O. Box 49116, 1055 Dunsmuir Street, Vancouver, B.C., V7X 1G4 during time periods relevant to this Complaint.

97. 0562752 owned 10.1% of shares in NDG Financial and New Northway during time periods relevant to this Complaint.

98. Relief Defendant Grehan was a director and shareholder of 0562752 during time periods relevant to this Complaint.

99. 0562752 and Grehan materially participated in the affairs of NDG Financial and the NDG Enterprise and are therefore “related persons” and “covered persons” under the CFPA. 12 U.S.C. §5481(6), (25).

100. Relief Defendant Red River holds shares in NDG Financial and has materially participated in its affairs.

101. Red River is therefore a “related person” and “covered person” under the CFPA. 12 U.S.C. §5481(6), (25).

102. Relief Defendant Twillingate holds shares in NDG Financial and has materially participated in its affairs.

103. Twillingate is therefore a “related person” and “covered person” under the CFPA. 12 U.S.C. §5481(6),(25).

COMMON ENTERPRISE

104. Sagewood, Peter Ash, Knightsbridge, Paul Ash, 0562752, Grehan, Emerald Willow, Kimberly DeThomas, Red River, Sabourin, Twillingate, Wrixon, NDG Financial, Northway, Northway Broker, E-Care, Blizzard, NWCL, NWL, PLFL, and NWRRSP have operated as a common enterprise (the NDG Enterprise) while engaging in the unfair, deceptive, and abusive acts and practices and other violations of law described below.

105. The NDG Enterprise has conducted its business practices through an interrelated network of companies that have common ownership, management, business functions, addresses, office space, and employees.

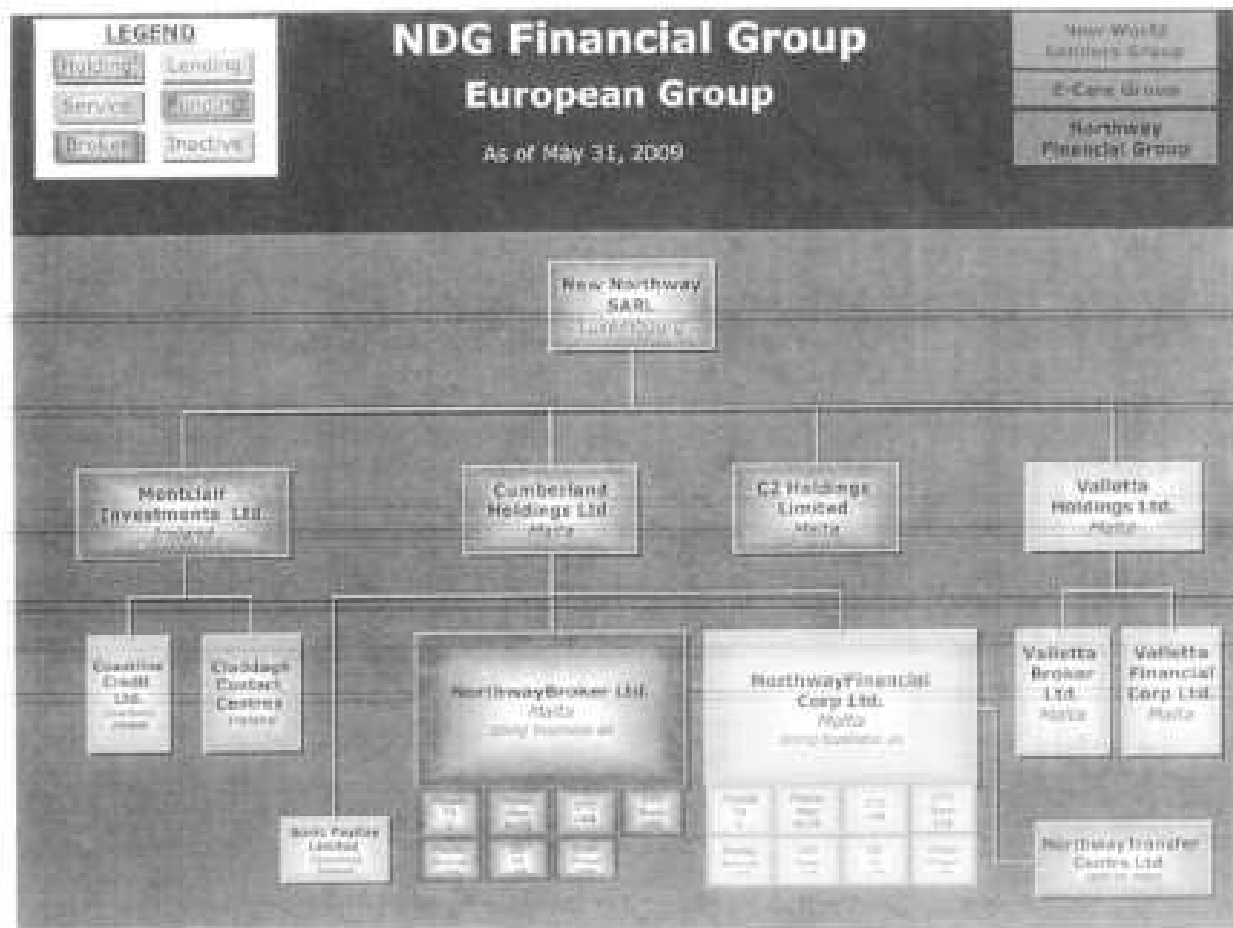
106. In addition, the NDG Enterprise has distributed funds collected from US consumers amongst its various entities using shared bank accounts located in the US and Canada.

107. Because these entities have operated as a common enterprise, each of the named Corporate and Individual Defendants is jointly and severally liable for the acts and practices alleged below.

STRUCTURE OF THE NDG ENTERPRISE

108. The NDG Enterprise is split into two groups: (1) the European Group and (2) the Canadian Group.

109. Below are NDG Group organizational charts for the European Group and the Canadian Group in 2009:



111. After September 1, 2013, control over both the European and Canadian Groups was transferred to Emerald Willow, Red River, and Twillingate.

AMERICAN
OVERSIGHT

113. From at least as early as 2009 to 2012, a big four accounting firm performed an external audit of the combined financial statements of the European and Canadian Groups of NDG Enterprise entities. The audit was sent to the shareholders: Sagewood, Knightsbridge, and 0562752.

114. The 2010 audit included Defendants NDG Financial, E-Care, Blizzard, NWCL and NWL in the Canadian Group. It included New Northway, Cumberland, along with Defendants Northway and Northway Broker in the European Group.

115. The 2010 audit stated that “the entities included in the combined financial statements are all under common control. These combined financial statements have been prepared to represent the results of the Companies’ payday lending operations.”

116. The 2010 audit also described the nature of NDG Enterprise operations:

“The Companies operate an Internet-based payday lending business. The Companies specialize in providing unsecured short-term loans over the Internet to US, European and Australian consumers with immediate cash needs. All of the Companies’ marketing takes place over the Internet. Over 66% of the Companies’ business is conducted with US consumers.”

HISTORY OF THE NDG ENTERPRISE

117. The NDG Enterprise created a “Corporate Fact Sheet” for service providers that described the history of the enterprise.

118. A version of the “NDG Corporate Fact Sheet,” created in approximately 2010, included the following statements:

- a. “Company Profile: NDG Financial Group is a privately-held global e-commerce company focused on providing short-term unsecured consumer loans in the United States, Australia and the United Kingdom. The products and services provided in stated regions are through Northway Financial Corporation Ltd. and Northway Broker

Ltd. which are licensed and regulated financial institutions under the Malta Financial Services Authority (MSFA)."

- b. "Corporate Headquarters: NDG Financial Corp., Suite 400-15225, 104th Avenue, Surrey, BC, Canada V3R 6Y8, Tel. 1-604-587-6500."
- c. "European Operations: Northway Financial Corp. Ltd., Northway Broker, Ltd., Level 8, Plaza Commercial Centre, Bisazza Street, Sliema, Malta SLM 1640, Tel: 356-22606890."
- d. "Management: Kimberly DeThomas, Chief Executive Officer; Jeremy Sabourin, Chief Strategy Officer; William Wrixon, Chief Financial Officer."
- e. "Shareholders: Peter Ash, 50.1%; Paul Ash, 39.899%, Paul Grehan, 10.001%."
- f. "Websites: www.ecarecenters.com- E Care Contact Centers (Contact Center); www.blizzard.com- Blizzard Interactive (Internet Marketing); www.cashtransfercenters.com- CashTransferCenters.com (US); www.paydayavenue.com- PaydayAvenue.com (US); www.prlldirect.com- PRLDirect.com (US); www.sonicpayday.com- SonicPayday.com(US); www.zip19.com-- Zip19.com (US); www.greenpicket.com- GreenPicket.com (US)."
- g. "November 1995: Payroll Loans Ltd. was born with its first retail outlay in Surrey, British Columbia, Canada. Peter Ash, with Master degree and an entrepreneur joined the operation."
- h. "May 1998: Winnipeg call centre opened and Kim DeThomas was the first employee hired by Peter Ash."

- i. "November 1999: Peter Ash commenced on-line business under Payroll Loans Direct."
- j. "March 2000: Paul Ash joined the company as Chief Information Technology Officer."
- k. "2002: Jeremy Sabourin, an entrepreneur with his own internet business, joined the operation in charge of marketing and strategic growth; total number of collectors reached 27."
- l. "December 2004: Peter Ash, Paul Ash and Paul Grehan acquired the group of companies; monthly sales surpassed USD \$25M."
- m. "May 2005: Northway Financial Corporation Ltd. and Northway Broker, Ltd. were incorporated, both Malta Financial Services Authority licensed financial institutions within European Union."
- n. "August 2005: E-Care Contact Centers Ltd. and Blizzard Interactive Corporation were created, Kim DeThomas and Jeremy Sabourin were appointed as Presidents with respective operations."
- o. "October 2005: NDG Group begins to own and operate Northway Financial Corporation Ltd. and Northway Broker Ltd."
- p. "February 2006: New proprietary loan processing system called 'Whitebox' goes live."
- q. "April 2007: Peter & Paul Ash met with Maltese Prime Minister Lawrence Gonzi at Northway offices in Sliema, Malta."

119. A version of the NDG Corporate Fact sheet circulated in 2011 identified the shareholders as Sagewood Holdings, Ltd. (50.1%), Knightsbridge Holdings, Ltd. (39.899%), and Blackrock Capital, Ltd. (10.001%).

DEFENDANTS' BUSINESS PRACTICES

120. Since 2005, the NDG Enterprise, through its commonly controlled entities, has extended high-cost, short-term loans, also known as payday loans, exclusively over the Internet to consumers in all fifty of the United States.

121. The NDG Enterprise entities work together as a seamless unit, all in support of the overall payday lending operation (as described in the 2010 external audit).

122. Blizzard identifies customers for Northway's loans by purchasing leads from lead generation companies.

123. Consumers apply for loans via DBA websites managed by Northway Broker.

124. The Funding Entities generate the capital to fund the loans that Northway makes to US consumers.

125. Northway originates the loans.

126. E-Care collects the debts.

127. NDG Financial, Blizzard, and E-Care personnel establish and manage Northway's US-based service provider relationships required for continued funding and operation of the lending enterprise.

Blizzard Identifies Potential Consumers for Northway's Loans

128. Blizzard establishes required demographic criteria for the consumers to whom it seeks to market the NDG Enterprise's loans.

129. Blizzard then sends its required criteria to the lead generators.

130. One of the criteria that Blizzard uses to identify customers is the consumer's state of residency. For example, in June 2013, Blizzard targeted consumers

residing in the United States, with the exception of Georgia, Pennsylvania, Puerto Rico, West Virginia, American Samoa, Guam, Mariana Islands, and North Dakota.

131. In June 2013, Blizzard worked with a lead generator to target consumers residing in New York and New Jersey.

132. Blizzard maintains software that redirects its purchased leads to the DBA websites.

Consumers Access Northway's Loans Through the DBA Websites

133. Each DBA website server has been physically housed (aka "hosted") with Canadian and US-based telecommunications companies using the following domain name servers associated with E-Care: dns1.ecarecenters.net, dns2.ecarecenters.net, and dns3.ecarecenters.net.

134. A publicly available domain name search indicates that the DBA websites use servers physically located in the United States or Canada.

135. In order to apply for a loan via the websites, the consumer must first establish a personal website account by creating a user name and password.

136. Once the account is created, the website prompts the consumer to enter the amount for which he or she is applying.

137. Consumers are required to enter their checking account number, social security number, date of birth, and home address.

138. The websites further indicate that the loan funds will be disbursed directly into the consumer's checking account through an ACH credit.

The NDG Enterprise Disburses and Receives Funds via ACH transfer

139. The NDG Enterprise uses US-based banks, payment processors, and money transmitters to transfer funds to and from US consumers, typically through Automated Clearing House (ACH) credit and debit entries.

140. In order to disburse funds to and collect funds from US consumers through the ACH network, NDG Financial and E-Care employees established and maintained accounts with several US-based Originating Depository Financial Institutions, Third Party Payment Processors, and money services transmitters in the name of several NDG Enterprise entities, including Northway, Northway Broker, New Northway, Cumberland, and Blizzard.

141. Originating Depository Financial Institutions (“ODFIs”) are financial institutions that initiate credit and debit entries via the ACH system.

142. Third Party Payment Processors (“TPPPs”) are nonbank companies that process ACH and other types of payments on behalf of their merchant clients using accounts they establish with ODFIs.

143. NDG Financial employees communicate with its ODFIs and TPPPs using e-mail accounts belonging to NDG Financial, Northway, and E-Care.

144. For example, Northway’s Treasury Manager, working out of NDG Financial headquarters in Surrey, BC, sent e-mails using @ndgfinancial.com and @ecarecenters.com addresses.

145. NDG Enterprise personnel have also established affiliated accounts at a Canadian financial institution on behalf of NDG Enterprise entities.

146. Northway loan repayments are deposited into Northway’s accounts with a US-based ODFL.

147. NDG Enterprise personnel then wire loan repayments from Northway's US-based ODFI accounts through correspondent accounts located in New York to its Canadian-based accounts which are then funneled to and between affiliated entity accounts, including Sagewood, Knightsbridge, Blackrock (now 0562752), NDG Financial, E-Care, Blizzard, NWL, NWCL, NWRRSP, PLFL, and Northway.

148. The NDG Enterprise, using one New York correspondent banking institution for northbound wires and a second New York correspondent banking institution for southbound wires, conducted hundreds of wire transactions between its depository accounts located in the United States and Canada.

149. Consumers also repaid Northway loans via wire payments through money transmitter services.

150. E-Care set up relationships with US-based money transmitter service providers in order to collect Northway loans that US consumers took out through NDG's DBA websites.

151. Bank records indicate that since July 21, 2011, the NDG Enterprise has collected, at least, an estimated \$500 million in Northway loan repayments from US consumers via ACH and money transmitter service repayments.

NDG Enterprise Loan Characteristics

152. The NDG Enterprise originates, services, and collects payday loans in all fifty states, including states such as New York, in which those loans have no legal effect because they violate state usury caps and licensing requirements.

153. The loans are generally short term (14 days), ranging from \$100-\$1500 with finance charges between \$19.98 and \$26.98 per \$100 borrowed.

154. In addition, some loan agreements include a wage assignment clause that, by its terms and conditions, is not revocable and does not contain an opt-out provision.

155. According to the wage assignment clause, if the consumer defaults on the loan for more than seven days from the date that payment is due, the consumer authorizes the NDG Enterprise to instruct the consumer's employer to pay the outstanding loan amount directly to the NDG Enterprise from the consumer's wages.

156. In numerous instances, Defendants, pursuant to wage assignment clauses signed by consumers, received money directly from the consumers' employers' payroll accounts via ACH debit entries.

157. Records from one of Defendants' ODFI's shows ACH debit entries from various business entity accounts that Defendants admit, in correspondence with that ODFI, represent loan repayments pursuant to consumer wage assignment clause authorizations.

158. Below is a sample chart on the CashTaxi.com website from May 2013 disclosing the cost of the loan in terms of both a flat fee and annual percentage rate:

Loan Term (days)	Loan Amount	Total Fees	Days in a Year	APR
14	\$100.00	\$22.98	365	599.12%
14	\$100.00	\$25.98	365	677.34%
14	\$100.00	\$26.98	365	703.41%
14	\$500.00	\$114.90	365	599.12%
14	\$500.00	\$129.90	365	677.34%
14	\$500.00	\$134.90	365	703.41%
14	\$1000.00	\$229.80	365	599.12%
14	\$1000.00	\$259.80	365	677.34%
14	\$1000.00	\$269.80	365	703.41%
14	\$1500.00	\$344.70	365	599.12%
14	\$1500.00	\$374.70	365	677.34%
14	\$1500.00	\$404.70	365	703.41%

Defendants' Collection Practices

159. Once the loan is disbursed to the consumer, E-Care collects delinquent payments on behalf of the NDG Enterprise.

160. E-Care, using the name of the DBA website through which the consumer selected the loan, contacts delinquent consumers by phone, e-mail, and letter, restating the consumer's obligation to repay the principal and interest in full, along with a \$39.00 NSF fee, and a \$20.00 late payment fee.

161. In numerous instances, the NDG Enterprise, through E-Care, falsely represented to consumers that non-payment of debt would result in lawsuit, arrest, imprisonment, or wage garnishment, despite lacking the intention or legal authority to take such actions.

162. In fact, the NDG Enterprise had no intention of suing individuals in the United States.

163. In correspondence with an ODFI, Defendants admitted that they do not sue individuals in the United States.

164. The NDG Enterprise also has no intention of employing wage garnishment as a collections technique.

165. In correspondence with an ODFI, Defendants admitted that they do not employ wage garnishment in the United States.

166. Between July 2011 and 2014, the NDG Enterprise furnished information to credit reporting agencies on trade lines belonging to consumers residing in all fifty states, including approximately at least 15,000 trade lines belonging to New York residents.

Defendants' Assertions of Federal and State Law Immunity

167. Some of the loan agreements issued by Northway and Northway Broker on behalf of the NDG Enterprise expressly claimed that Northway and Northway Broker were not subject to any laws of the US federal government or any state.

168. The loan agreements also asserted that US federal and state laws did not apply to Northway and Northway Broker, the consumer's account, or to the terms of the loan agreement.

169. In response to consumers that contacted Defendants to report a complaint, dispute a charge, or request reimbursement, Defendants asserted that the consumers' state laws did not apply.

170. For example, Defendants frequently sent a form letter to complaining consumers, which stated:

"If you take a moment to review the attached loan agreement, you will see that Northway Financial Corporation Ltd. is a Financial Institution licensed and regulated in accordance with the European Union (EU) Directives. As such, the laws of the Republic of Malta (member State of the European Union), not the state of [consumer's state of residence] applies to its terms. We provided you with this notice so that you would understand the terms of your loan."

171. In response to hundreds of complaints against Northway for alleged violations of consumer protection laws, several states have issued cease and desist orders to Northway, directing it to stop extending unlicensed loans that do not comply with various state consumer lending law protections.

172. Those states include: Michigan (2014), California (2008, 2012, 2013, and 2014), Virginia (2013), New Hampshire (2011), Maine (2011), Oregon (2011), and Pennsylvania (2010).

173. In some instances, after receiving the cease and desist orders, the NDG Enterprise continued to originate, service, or collect loans in those states.

174. Since at least 2008, the NDG Enterprise responded to state regulators in many instances through a Malta-based law firm, which sent a form letter stating:

We act for Northway Financial Corporation Limited (NF) and Northway Broker (NB) Limited...[o]ur clients carry on their business exclusively in Malta. They do not carry on business, they do not have facilities, or employ any staff anywhere in the State, or anywhere else in the United States of America. Our client has no subsidiary or related company carrying on any business in the State or any other State of the United States of America...

175. The letters generally concluded with the following statements:
"Accordingly, we cannot agree with the Desist and Refrain order which states that clients are in breach of [state law]," or "[a]ccordingly, we cannot agree that either of NF or NB have transacted business in the state and/or are subject to the provisions of state law."

176. In 2005, E-Care set up an account with a money transmitter service to collect Northway loan repayments from US consumers.

177. In doing so, it provided a false address to the money transmitter service.

178. An internal e-mail between employees of the money transmitter, dated August 11, 2005, indicated that E-Care's Collections Manager "want[ed] to keep the BC address and references to them being in Canada to a minimum as far as the customer is concerned. We had to use a US address to set them up...please make sure to work with [the Collections Manager] to clearly communicate whatever you decide on for 'city, state' at the training and in our system."

179. Accordingly the E-Care address for processing repayment of Northway loans was listed as Suite 400, 15225 104th Ave., Los Angeles, CA 90013—a non-existent address.

180. In late 2007, a US state regulator notified E-Care that based on consumer complaints, E-Care was collecting debts without a license in violation of state regulations.

181. On December 18, 2007, DeThomas sent a written response that she signed in her capacity as President of E-Care, stating:

We have received your letter of November 26, 2007, referring to 'information' indicating that we are 'servicing or collecting payments on supervised loans.' We have no knowledge of the information to which you refer. We operate a telephone call service center in Winnipeg and Surrey. We do not make loans, take any assignment of loans or undertake direct collection of payments or enforce rights against consumers in respect of such loans. In fact, we do not provide these services to any lender. However, we do act for a loan broker

182. On July 15th, 2009, DeThomas sent a second written response that she signed in her capacity as President of E-Care, stating: "In reviewing your original correspondence we believe that we have addressed your concerns. We reaffirm that E-Care Contact Centers Ltd. does not at present collect debt from residents of [the state], nor do we plan to in the future."

183. Northway then sent two letters in response to the state regulator, dated December 16, 2009 and February 2, 2010, asserting that: (1) E-Care provided customer service support to Northway and Northway Broker, (2) E-Care was not engaging in any debt collection activity in the state, and (3) all debt collection activity regarding the state was completed at Northway's offices in Malta.

184. According to records from the money transmitter service, a relationship that E-Care employees established in 2005 and maintained into 2014, residents of the state in question sent over 554 loan repayments to Northway Financial totaling \$310,906.46 between 2010 and 2014.

185. The address for Northway's receiver account for each of these transactions was Suite 400, 15225 104th Avenue, Los Angeles, CA 90013.

The NDG Enterprise Made Conflicting Statements Regarding the Application of Federal and State Law Based on its Audience

186. In contrast to what it told consumers and regulators, the NDG Enterprise knew, as far back as 2005, that it was subject to US state and federal law, and that its loans were unlicensed, exceeded state interest rate caps, and as a consequence likely void and/or unenforceable.

187. Between 2005 and 2013, NWL issued eighteen Offering Memos to potential investors, generally issuing two each year.

188. The memos warned potential investors that: (1) Northway's loans were regulated by various US state and federal agencies and subject to state usury laws, general small loan laws, and laws setting maximum fees, (2) Northway and its payday lending competitors had been subject to lawsuits seeking to void repayment of the loans involved, (3) although Northway loans were secured by wage assignments, there was a risk that Northway could not enforce the wage assignments, and (4) there was a risk that if US state regulators applied interest rate caps to Northway's loans, they would be unenforceable.

189. From 2005 to June 2009, the NWL Offering Memoranda were signed by Peter Ash, Paul Ash and Paul Grehan, in their capacities as officers and directors, under

the statement that: “[t]his offering memorandum does not contain a misrepresentation.”

190. The June 29, 2009 NWL Offering Memorandum warned investors that:

“An APLE’s marketing efforts and the representations APLEs make about their products and services may also be subject to federal and state unfair and deceptive practices statutes. The Federal Trade Commission enforces the Federal Trade Commission Act and the state attorneys general and private plaintiffs enforce the analogous state statutes...We can provide no assurance that APLEs are in compliance with applicable state laws.”

191. The offering memo defined APLE as “Affiliated Payday Loan Entities” which means “any Payday Loan entity that is an Affiliate of NWCL, which brokers or advances a Payday Loan to a Loan Recipient.” This definition includes Northway and Northway Broker.

192. In contrast, to the NDG Enterprise’s 2009 warning to potential investors, in 2008, Grehan signed a letter assuring a TPPP service provider that Northway complied with all US state and federal laws:

“Northway’s practices are consistent with the requirements of US, European and Australian consumer protection statutes...in our dealings with US consumers, our business practices are compliant with Regulations Z, B and E. Furthermore, all collection practices at Northway are consistent with the “Fair Debt Collection Practices Act...all laws related to the collection of debt in the jurisdiction in which the customer resides are adhered to at all times.”

193. In 2011, an employee for the TPPP referenced the 2008 Grehan letter in an internal e-mail describing NDG Enterprise business practices, observing that the policies “had not changed.”

194. In further contrast to what it told consumers, the NDG Enterprise, in an application filed with a US bank in order to process ACH transactions, acknowledged that it was subject to US federal law:

"US Operations are governed under federal law. As detailed by NDG [Financial]'s management, US companies can operate either under the Federal law or State law, and are subject to the regulations and taxes according to the choice of law. As NDG [Financial] is an Internet company with no physical location in any state, NDG [Financial] opted to be regulated under Federal law, which provides it the freedom to operate across differing states. Challenge with opting for Federal law is the company is occasionally subject to cease and desist orders from States who are unaware they are operating under Federal law."

195. The 2010 external audit placed the NDG Enterprise on notice that its payday lending operations were subject to US federal and state law.

196. The 2010 audit report stated that: (1) the NDG Enterprise was subject to extensive regulation in the jurisdictions in which it operated; (2) there was a risk that regulatory authorities in those jurisdictions would apply specific lending legislation on loans issued to borrowers residing in those jurisdictions; (3) there was a risk that the NDG Enterprise was violating specific loan legislation in the borrowers' jurisdictions; and (4) that the interest rates on NDG Enterprise loans would exceed the maximum permissible rate of interest in some borrowers' jurisdictions, thus making the borrowers' obligations legally unenforceable.

197. According to the audit, the NDG Enterprise informed the auditor that it conducted business in accordance with the applicable laws of the respective jurisdictions.

198. According to bank records, in 2012, the NDG Enterprise discontinued its relationship with the accounting firm that conducted that audit, and replaced it with Facet Advisors, a local accounting firm in Vancouver that also serves as Sagewood's registered office.

199. Further, records show that an ODFI service provider met with NDG Enterprise personnel to express concerns about the Enterprise's compliance with federal and state laws.

200. The NDG Enterprise responded by claiming it did not need to comply with state licensing requirements because its US operations were governed by federal law and that it was "federally registered."

201. In 2011, one of the New York based correspondent banking institutions that processed NDG Enterprise wire transactions refused to process further transactions because of concerns over the NDG Enterprise's compliance with US state and federal law.

202. In August 2013, the New York Department of Financial Services (NYDFS) sent a letter to Northway instructing it to cease and desist from offering and collecting void loans to and from New York consumers.

203. Between August 5 and September 2, 2013, Northway sent a letter to New York consumers, in which it stated that it would no longer offer loans to New York consumers:

Northway Financial Corporation Ltd has decided to no longer provide loans to residents of the State of New York. Northway is incorporated in the European Union and licensed as a regulated Financial Institution. It has always adhered strictly to the terms of its license conditions, followed federal U.S. law and treated all of its customers, including those in New York, with the utmost fairness and respect.

204. On September 30, 2013, DeThomas received an e-mail, with a subject line, "Tribal Opportunity" in which a colleague provided a mutual introduction between DeThomas and a potential venture capital partner: "Kim runs a great online lending

company out of Canada and [potential partner] is working with a large, well-capitalized tribe to start a loan program.”

205. In a September 30, 2013 NWL Offering Memorandum to potential investors, the NDG Enterprise admitted that under the terms of Northway’s license with the MFSA, it was required to comply with national federal, state, and provincial truth-in-lending and fair debt collection practices in the jurisdiction in which each Loan Recipient resides.

206. In that memo, the NDG Enterprise also announced that it would attempt to seek “Tribal Immunity” by setting up relationships with Native American Tribes located in the US:

It is intended that any arrangements entered into by our Affiliates with Tribal Lenders will be with Tribal Lenders that qualify as federally recognized Native American tribes in the United States, that operate in the Consumer Lending Industry and that meet the legal and regulatory requirements to benefit from sovereign immunity.

207. The offering memo also stated that the NDG Enterprise could not provide any “assurance that ASTLE’s or any other entity our Affiliates do business with that are involved in the Consumer Lending Industry are in compliance with all the laws of the jurisdiction in which Loan Recipients reside.”

208. The September 30, 2010³ offering memo defines “ASTLEs” as Affiliated Short Term Lending Entities, which, like the 2009 offering memo, include Northway and Northway Broker.

209. The September 30, 2013 Offering Memorandum was signed by DeThomas (as Chief Executive Officer, President, and a Director), Sabourin (as Director) and Wrixon (as Chief Financial Officer, Secretary, and a Director) under the heading: “This offering memorandum does not contain a misrepresentation.”

INDIVIDUAL ROLES

210. In 2005, Peter Ash, Paul Ash, and Grehan (the Original Owners) built the NDG Enterprise and devised its strategy and practice of extending unlicensed, triple digit interest rate loans to consumers residing in New York and throughout the United States.

211. The original NDG Enterprise structure, devised by the Original Owners, largely remains in place and has been maintained by DeThomas, Sabourin, and Wrixon (the Current Owners).

2005-2009: The Original Owners Put the Pieces in Place

212. The Original Owners, between 2005 and 2009, exercised comprehensive control over NDG Enterprise operations.

213. In 2005, E-Care, with Peter Ash as President and CEO, Paul Ash as Vice President and Chief Information Officer, and Paul Grehan as Chief Financial Officer, established a relationship with a money transmitter service for the purpose of collecting loans the NDG Enterprise extended to US consumers using the internet.

214. In 2005, the Original Owners incorporated Blizzard, with Peter Ash as President, Paul Ash as Secretary and Paul Grehan as Treasurer.

215. In 2005, Peter Ash was a director for both Northway and Northway Broker.

216. The Malta Financial Services Authority (MFSA), upon issuing a license to both Northway and Northway Broker, issued a media statement on September 7, 2005 describing the newly licensed institutions as “subsidiaries of Northway Financial s.a.r.l, a company in Luxembourg which in turn is part of the NDG Group based in Canada. The

NDG Group specializes in providing unsecured short-term loans over the Internet to U.S., Canadian, Irish and U.K. consumers.”

217. In 2005, the Original Owners incorporated NWL and NWCL.

218. The June 29, 2009 NWL Offering Memorandum described NDG Enterprise operations and the roles of the Original Owners:

- a. “We are a private British Columbia company established primarily as a funding vehicle to provide funding to NWCL which in turn provides funds to APLEs.”
- b. “Peter Ash: (Director, President and Promoter since incorporation) For the last six years, [Mr. Ash] has provided strategic leadership to APLEs and is presently responsible to provide complete leadership throughout the group.”
- c. “Paul Ash: (Director, Secretary and Promoter since incorporation) Paul is the primary architect of the suite of unique technology services that have facilitated APLEs’ rapid growth. He coordinated the development and implementation of a new customer relationship management (CRM) software system across the group of APLE companies.”
- d. “Paul Grehan: (Director, Treasurer and Promoter since incorporation) Mr. Grehan has been associated with APLEs since 2003 and is responsible for corporate finance.”
- e. “Potential Subscribers must appreciate the conflicts of interest which exist as a result of our principals being officers, directors and shareholders of both the Issuer, NWCL, the APLE’s and their Affiliates.”

The Original Owners Dominated Control Over NDG Enterprise entities

219. Beginning in at least 2007, Peter and Paul Ash established affiliated private and commercial bank accounts at a major Canadian financial institution under the following names:

- a. Private Banking: Beaufort Investments, Ltd., Compark Investments, Ltd., Sagewood Holdings, Ltd., Knightsbridge Holdings, Ltd., Peter Ash, Paul Ash.
- b. Commercial: Compark Investments, Ltd. & Beaufort Investments Ltd., NDG Financial Corp, Northway Financial Corporation Ltd., Cross Canada Financial, Inc., E-Care Contact Centres, Ltd., Blizzard Interactive Corp., New World Consolidated Lenders Corp., New World Capital, Ltd., Payroll Loans First Lenders Corp., New World Lenders Corp., New World RRSP Lenders Corp., Red River Holding Company, Ltd., Emerald Willow Holding, Ltd., Twillingate Holdings, Ltd., Cross Canada Financial Limited Partnership.

220. Bank records show that in 2007, Peter Ash, Paul Ash, and Paul Grehan possessed signing authority over a Blizzard bank account with a US-based ODFL, which empowered them to:

- a. Authorize drafts/instruments for the payment of money from Blizzard accounts.
- b. Open or close accounts and sign signature cards for such accounts.
- c. Issue instructions with respect to the transfer or payment of Blizzard funds on deposit with the bank.

221. In 2007, Peter Ash signed a "Cash Management Services Master Agreement" with the same bank in his capacity as a Director of Northway Broker.

222. In signing this document, Peter Ash authorized himself, Paul Ash, Paul Grehan and other officers of the NDG Enterprise, to execute domestic and international wire transfers on behalf of Northway Broker.

223. Bank records show that until 2011, Peter Ash possessed similar signing authority over a Northway account at the same bank.

224. In 2008, Peter Ash was appointed director of New Northway.

225. In August 2009, an account review at a Canadian financial institution indicated that Northway transferred money from an account in which it deposited US consumer loan repayments, to accounts belonging to Sagewood, Knightsbridge and 0562752 (formerly Blackrock).

226. That same account review showed that Northway internally transferred money from its US consumer loan repayment deposit account to affiliated accounts belonging to E-Care, Blizzard, NWCL, and NWL.

227. An August 2010 account review at the same institution revealed that money originating from Northway's deposit account for US consumer loan repayments was funneled to accounts belonging to Knightsbridge, 0562752 as well as to individuals with "signing authority:" DeThomas, Sabourin, and Wrixon.

228. Bank records show that in approximately October 2010, Peter and Paul Ash used cash reserves from Sagewood and Knightsbridge to finance a real estate transaction on behalf of two real estate companies they controlled, Beaufort Investments, Ltd. and Compark Investments, Ltd.

229. During a routine review of these accounts, a bank official sent an internal e-mail on May 20, 2011, stating that “the investigative notes seem to indicate a concerning flow of funds through intercompany accounts that normally indicates kiting or money laundering. The investigative notes also point out that the operation of the accounts does not support the stated business of these companies...There are certainly many ‘red flags’ here.”

2009: The Original Owners Transfer Day-To-Day Management to the Current Owners, While Continuing to Collect Dividends

230. Beginning in 2009, the Original Owners began transferring day-to-day management of NDG Enterprise operations to DeThomas, Sabourin, and Wrixon, while maintaining control over the NDG Enterprise as shareholders.

231. The December 2009 NWL Offering Memorandum, signed by DeThomas, Sabourin, and Wrixon, described the roles of the Current Owners:

- a. “Kimberly DeThomas (Director and President since November 25, 2009): Ms. DeThomas has worked for the Issuer for over 11 years and currently serves as the Chief Executive Officer of the NDG Group of Companies. Ms. DeThomas has overseen recruitment, training, development, and overall management of NDG’s workforce with in Canada and overseas for the past several years as well as the launching of [NWL’s] product into existing markets and new markets.”
- b. “Jeremy Sabourin (Director since November 25, 2009): Mr. Sabourin has worked for the Issuer for 7 years and currently serves as the Chief Strategy Officer for the NDG Group of Companies. During his seven years, Mr. Sabourin led all marketing efforts for NDG and oversaw the

launch of multiple lending entities in the United States at various price points. Mr. Sabourin was also the creator of the Issuer's proprietary custom scoring algorithm which predicts and manages the Issuer's bad debt."

c. "Bill Wrixon: (Director and Secretary since November 25, 2009): Mr. Wrixon joined the Issuer in February 2009."

232. In May 2009, DeThomas was appointed director of Northway.

233. In August 2009, Peter Ash resigned his position as director in Northway and Northway Broker.

234. In November 2009, DeThomas was appointed director of Northway Broker.

235. In a 2010 bank review of NDG Enterprise accounts, the bank listed Sagewood (50.10%) and Knightsbridge (39.899%) as "entity owners" with 25% or more ownership in NDG, Peter Ash as 100% shareholder of Sagewood, Paul Ash as 100% shareholder of Knightsbridge, and DeThomas (CEO), Wrixon (CFO), and Sabourin (CSO) as "controlling parties."

236. NDG Enterprise profits are primarily paid out in dividends to the shareholders. In 2010, the NDG Enterprise collected \$157 million in revenue, with a net profit of \$33 million.

237. As of November 30, 2011, DeThomas, Sabourin, and Wrixon were authorized with signature authority for Blizzard bank accounts at a US ODFI.

238. On December 1, 2011, Wrixon signed a Certificate of Account Resolutions with the ODFI indicating that he was Secretary of Blizzard, with custody of its corporate

records and confirming the list of individuals authorized to sign on behalf of the corporation.

239. According to notes from a bank relationship manager based on interviews with Grehan and Wrixon in 2011, after transferring day-to-day operational control, the Original Owners continued to collect dividends from loans targeted to US consumers, while providing “strategic direction at the board level.”

240. Those notes also indicated that the Original Owners continued to have a strong influence over the NDG Enterprise, “with many of the business practices in NDG reflective of the beliefs of ownership.”

241. On March 14, 2013, Sabourin, in his capacity as Blizzard President, personally signed an agreement with a US lead generator for its services in locating potential Northway loan recipients in the United States.

Peter Ash used Sagewood as a Vehicle for Real Estate Ventures Unrelated to the Payday Lending Enterprise

242. On June 23, 2011, Langley Holdings Corporation (Langley Holdings) was established in Washington State. The registered agent was a Seattle, Washington law firm.

243. Peter Ash was listed as Langley Holdings' sole officer, with an address of Suite 200, 15127 100th Ave in Surrey, BC.

244. Between August 4, 2011 and November 14, 2013, Sagewood, using a correspondent account based in New York, wired \$53,981 to the registered agent for Langley Holdings.

245. Between December 1, 2011 and October 10, 2013, Sagewood, using a correspondent account based in New York, sent three wire transactions totaling

\$11,136.64 to a civil engineering firm located in Washington State, the first on behalf of Langley Holdings and the last two for Compark Investments, Ltd.

246. On September 5, 2013, four days after transferring its controlling interest in NDG Financial, Sagewood wired \$5,141,336.84 to a title company located in Washington State, labeled as "escrow for 32125 Weyerhaeuser."

247. On September 9, 2013, Langley Commercial Investments purchased 32125 Weyerhaeuser Way S, Federal Way, Washington, 98001.

248. Peter Ash is the sole officer of Langley Commercial.

249. Langley Commercial lists its mailing address at 15127 100th Ave, #200, Surrey, BC V3R 0N9, which is the same address listed for Langley Holdings.

250. Peter Ash operates a charitable organization with the same address as Langley Holdings and Langley Commercial.

251. On September 10, 2013, Sagewood wired \$3,129.06 to the same title company located in Washington State.

252. On August 17, 2015, Langley Holdings was deactivated.

STATE LAWS PROTECTING CONSUMERS WHO TAKE OUT SMALL DOLLAR LOANS

253. In addition to extending payday loans in states that have affirmatively tried to stop Defendants from selling unlicensed and illegal payday loans to their citizens, Defendants have originated, serviced, and collected on loans that consumers are not obligated to pay, in whole or in part, based on state licensing regulations or usury caps that render non-compliant loans, such as those offered by Defendants, void.

254. Many states protect consumers from harmful practices associated with the origination, servicing, and collection of payday loans.

255. Such legal protections include restrictions upon the types of entities which may engage in these types of transactions, licensing requirements, and civil and criminal usury limits.

256. Loans that violate these laws are declared void, meaning that the lender has no legal right to collect, and the borrower is not obligated to pay, some or all of the principal or interest on the loan.

Interest-Rate Caps

257. The following states have enacted laws that render payday loans void if they exceed the usury limit:

- a. Arkansas, whose state constitution provides that all contracts with interest in excess of 17% “shall be void as to principal and interest. . . .” Ark. Const. amend. 89, §§ 3, 6(b);
- b. Minnesota, which caps interest rates for (a) written loan contracts at 8% absent applicability of another statute, Minn. Stat. § 334.01, subdiv. 1; (b) consumer short-term loans (\$1,000 or less) at 21.75% APR, or the total of 33% a year on the part of the unpaid balance up to \$1,125 and 19% a year on the part of the unpaid balance above \$1,125, Minn. Stat. §47.59, subdiv. 3(a); and (c) consumer small loans (single installment loans of \$350 or less) at 7% of loan principal between \$101-\$250 and 6% of loan principal between \$251 and \$350. Loans that exceed these rates are void and the borrower has no obligation to pay any amounts owing on them. Minn. Stat. §§ 334.03, 47.60, subdiv. 6, 47.601, subdiv. 6(b);

- c. New Hampshire, which prohibits annual interest rates above 36% for payday loans (capped at \$500) and loans of \$10,000 or less. N.H. Rev. Stat. §§ 399-A:17, 399-A:12(I). Loans that do not comply with those restrictions are void, and the lender has no right to collect any principal, charges, or recompense. N.H. Rev. Stat. § 399-A:11(V);
- d. New York, which prohibits any person or corporation not licensed by the state of New York from “directly or indirectly charg[ing], tak[ing] or receiv[ing] any interest . . . at a rate exceeding” annual interest of 16% on covered loans. N.Y. Gen. Oblig. Law § 5-501; N.Y. Banking Law § 14-a(1). Loans that exceed the rate are void. N.Y. Gen. Oblig. Law § 5-511; see also *Szerdahelyi v. Harris*, 490 N.E.2d 517, 522-23 (N.Y. 1986) (“[A] usurious transaction is void *ab initio*”); and
- e. North Carolina imposes a cap on loans \$25,000 and under, which is the greater of 16% or the latest published noncompetitive rate for U.S. Treasury bills with a six month maturity as of the fifteenth day of the month plus six percent (6%) rounded to the nearest one-half of one percent. N.C. Gen. Stat. §§ 24-1.1(a)(1), (c). North Carolina also places a tiered set of interest-rate limits with a maximum of 30% on loans below \$15,000 and repayable between 12 and 96 months. N.C. Gen. Stat. § 53-176(a). Loans \$15,000 and under that violate those provisions are void, and the lender has no right to collect, receive, or retain any principal or charges. N.C. Gen. Stat. § 53-166(a),(d).

258. Colorado prohibits annual interest above 12% on unpaid balances for consumer loans other than supervised loans. Colo. Rev. Stat. §§ 5-1-301(12), (15)(a), 5-2-

201(1). Consumers are relieved of the obligation to pay any charge that exceeds these limits and are entitled to a refund from the lender or assignee for any excess amount that they paid. Colo. Rev. Stat. § 5-5-201(2).

259. Defendants made loans to consumers in Arkansas, Minnesota, New Hampshire, New York, and North Carolina that charged interest at rates exceeding those allowed by the laws of the respective states, and therefore, those loans are void.

260. Defendants made loans to consumers in Colorado that charged interest at rates exceeding those allowed by Colorado law, and therefore, consumers were relieved of the obligation to pay charges in excess of the legal limits.

Licensing Requirements

261. The following states have implemented licensing regimes that include measures aimed at preventing and penalizing harmful consumer lending practices: Arizona, Colorado, Illinois, Indiana, Kentucky, Massachusetts, Minnesota, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, and Utah. The licensing regimes in these states reflect substantive consumer-protection concerns by, for instance:

- a. ensuring that licensees possess the requisite character, integrity, and experience (Ariz. Rev. Stat. § 6-603(F)(2); Colo. Rev. Stat. § 5-2-302(2); Ind. Code § 24-4.5-3-503(2); 209 Mass. Code Regs. 20.03; N.C. Gen. Stat. § 53-168(a)(2); N.H. Rev. Stat. § 399-A:4(I); N.Y. Banking Law § 342); and
- b. ensuring compliance with loan-term and disclosure regulations by requiring compliance examinations and investigations by state regulators as well as recordkeeping and annual reports (Ariz. Rev. Stat.

§§ 6-607, 6-608(A), 6-609(A)-(D); Colo. Rev. Stat. §§ 5-2-304, 5-2-305; Ind. Code § 24-4.5-3-505; Mass. Gen. Laws ch. 140 §§ 97-99; N.H. Rev. Stat. §§ 399-A:6, 399-A:10; N.Y. Banking Law §§ 348, 349; N.C. Gen. Stat. §§ 53-184).

262. These state licensing statutes reflect the strong public policy interest in ensuring that entities seeking to engage in the consumer-lending business are vetted and supervised by regulators for compliance with consumer protections and other laws.

263. The following state laws render payday loans void if they are made without a license. If a covered loan is made without a license in the following states, the entity has no right to collect from consumers, or the consumers have no obligation to repay certain loan amounts:

- a. Arizona, which voids covered loans of \$10,000 or less that are made or procured without a license, and the lender has no right to collect any principal, finance charges, or other fees in repayment of such loans, Ariz. Rev. Stat. §§ 6-601(5)-(7), 6-602(B), 6-603(A), 6-613(b);
- b. Illinois, which voids payday loans made after January 1, 2013, without a license, and the person who made the loan shall have no right to collect, receive, or retain any principal, interest, or charges related to the loan, 205 Ill. Comp. Stat. §§ 122/1-10, 122/4-10(h);
- c. Indiana, which voids small loans and consumer loans made without a license and the debtor has no obligation to pay either the principal or finance charges on such loans, Ind. Code §§ 24-4.5-7-104, 24-4.5-7-409, 24-4.5-3-502(3),(5), 24-4.5-5-202(2),;

- d. Kentucky, which voids covered loans of \$15,000 or less if the interest rate exceeds 8% and the loan is made without a license, as well as unlicensed deferred deposit transactions, and the lender has no right to collect any principal, charges, or recompense whatsoever on such loans, Ky. Rev. Stat. Ann. §§ 286.4-991(1), 286.4-420, 360.010(1); 286.9-010(5),(14),(21), 286.9-020, 286.9-035(1).
- e. Massachusetts, which voids covered loans of \$6,000 or less if interest and expenses on the loan exceed 12% a year and the loan is made or purchased without a license, and the lender or purchaser has no right to collect money in repayment of such loans, Mass. Gen. Law. Ch. 140, §§ 96, 110;
- f. Minnesota, which voids small, short term, and regulated loans made without a license, and the borrower is not obligated to pay any amounts owing on such loans, Minn. Stat. §§ 47.59 subdiv. 1(k), 47.60, subdiv. 1(a), subdiv. 6, 47.601, subdiv. 1(d), subdiv. 6(b)(1), 56.19, subdiv. 3;
- g. Montana, which voids deferred deposit loans made as of April 24, 2013 that are made without a license, Mont. Code Ann. §§ 31-1-703(5)(c), 31-1-712(2);
- h. New Hampshire, which voids covered loans of \$10,000 or less that are made without a license, and the lender has no right to collect such loans, N.H. Rev. Stat. §§ 399-A:1(X), (XI), 399-A:2(I), (IV);
- i. New Jersey, which voids consumer loans of \$50,000 or less that are made without a license, and the lender has no right to collect or receive any principal, interest, or charges on such loans, unless the act was the

result of good faith error, N.J. Rev. Stat. §§ 17:11C-2, 17:11C-3, 17:11C-33(b);

- j. New Mexico, which voids loans of \$2,500 or less made by a person with no license, and the lender has no right to collect, receive, or retain any principal, interest, or charges whatsoever on such loans, N.M. Stat. § 58-15-3A;
- k. New York, which voids personal loans of \$25,000 or less that are made without a license and where the interest or other charge exceeds that permitted to a licensee, and the lender has no right to collect such loans, N.Y. Banking Law §§ 340, 355;
- l. North Carolina, which voids covered loans of \$15,000 or less that are made or secured for repayment without a license, and any party in violation shall not collect, receive, or retain any principal or charges with respect to such loans, N.C. Gen. Stat. § 53-166(a), (d);
- m. Ohio, which voids loans of \$5,000 or less that are made without a license, and the lender has no right to collect, receive, or retain any principal, interest, or charges on such loans, Ohio Rev. Code Ann. § 1321.02; and
- n. Utah, which voids deferred deposit loans made after May 8, 2012 by persons who have not registered with the Department of Financial Institutions, and the lender has no right to collect, receive, or retain any principal or other interest or fees in connection with the loan, Utah Code Ann. §§ 7-23-102(7), 7-23-201(1)(a)(i),(7).

264. Colorado relieves the consumer's obligation to pay finance charges to the lender or assignee where the lender or assignee has failed to obtain the requisite license. Colo. Rev. Stat. §§ 5-5-201(1), 5-2-301(1)(a), (b), 5-1-301(17).

265. Defendants were not licensed to make loans in any US state.

266. Defendants made loans to consumers residing in Arizona, Illinois, Indiana, Kentucky, Massachusetts, Minnesota, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, and Utah, and those loans are void because of Defendants' failure to acquire the required licenses.

267. Defendants made loans to consumers residing in Colorado, and those consumers were relieved of the obligation to repay finance charges because of Defendants' failure to acquire the required licenses.

**Summary of States in Which
Defendants' Loans Are Void in Whole or in Part**

268. Defendants' loans were void in the following states based on state licensing law, state usury law, or both: Arizona, Arkansas, Illinois, Indiana, Kentucky, Massachusetts, Minnesota, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, and Utah.

269. Colorado relieves consumers of the obligation to repay excess fees and finance charges for loans that exceed interest rates limits or are issued without a license.

270. These states are hereinafter referred to as the "Subject States."

VIOLATIONS OF THE CONSUMER FINANCIAL PROTECTION ACT

Unfair, Deceptive, or Abusive Acts or Practices

271. Sections 1031 and 1036 of the CFPA, 12 U.S.C. §§ 5531(a) and 5536(a)(1), prohibit a “covered person” or “service provider” from engaging in “any unfair, deceptive or abusive act or practice.” 12 U.S.C. §§ 5531(a), 5536(a)(1)(B).

272. An act or practice is unfair if it causes or is likely to cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that is not outweighed by countervailing benefits to consumers or competition. 12 U.S.C. § 5531(c).

273. An act or practice is abusive if it materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service. 12 U.S.C. §5531(d).

274. An act or practice is also abusive if it takes unreasonable advantage of a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service. 12 U.S.C. § 5531(d).

Count I

Deception Relating to the Collection of Loan Payments which Consumers Did Not Owe

275. The Bureau realleges and incorporates by reference paragraphs 1-274 of this Complaint.

276. Through the actions set forth above, Defendants represented expressly or by implication that consumers residing in the Subject States were obligated to repay loan amounts, an obligation that in fact did not exist because the loans violated state licensing and/or usury laws that declared such amounts void.

277. Through the following actions, Defendants reinforced the misrepresentations that consumers were obligated to pay debts that were void in the Subject States:

- a. Sending executed loan agreements;
- b. Sending demand letters for payment;
- c. Originating ACH debit entries from consumer bank accounts;
- d. Offering and accepting repayment through money service transmitters;
- and
- e. Contacting consumers by telephone to demand repayment.

278. Defendants falsely represented that they had the legal right to collect certain loan payments for loans that were void under state law.

279. Defendants falsely represented that consumers had the legal obligation to pay the loan amounts for loans which were void under state law.

280. In numerous instances, consumers residing in Subject States were not under a legal obligation to repay the void amounts.

281. Defendants' misrepresentations were likely to mislead reasonable consumers.

282. Defendants' misrepresentations were material.

283. Defendants' misrepresentations, actions, and materially incomplete statements constitute deceptive acts in violation of 12 U.S.C. § 5536(a)(1)(B).

Count II

Unfairness Relating to the Collection of Loan Payments that Consumers Did Not Owe

284. The Bureau realleges and incorporates by reference paragraphs 1-283 of this Complaint.

285. Defendants caused substantial injury by forcing consumers residing in the Subject States to pay illegal amounts that they did not owe.

286. Consumers were unlikely to know that Subject States' usury laws and licensing requirements rendered Defendants' loans void, and thus consumers were unable to avoid paying illegal amounts to which Defendants were not entitled.

287. Consumers could not reasonably avoid paying illegal amounts because Defendants repeatedly asserted that state law did not apply to the loan agreements.

288. The injuries sustained by consumers residing in the Subject States were not outweighed by countervailing benefits to consumers or to competition.

289. Defendants' actions constitute unfair acts in violation of 12 U.S.C. § 5536(a)(1)(B).

Count III

Abusiveness Relating to the Collection of Loan Payments that Consumers Did Not Owe

290. The Bureau realleges and incorporates by reference paragraphs 1-289 of this Complaint.

291. The consumer's legal obligation to repay is a material term, cost, and condition of the loan.

292. As set forth above, Defendants materially interfered with consumers' ability to understand that they were not under legal obligation to repay the loan amounts that were void under state law.

293. Consumers residing in the Subject States likely were unaware that Defendants lacked the legal authority to collect the loans because the loans violated usury and licensing laws in those states.

294. Defendants took unreasonable advantage of consumers' lack of understanding regarding the enforceability of the loans by collecting debts to which Defendants were not legally entitled and by repeatedly asserting that state law did not apply to the loan agreements.

295. Defendants' actions constitute abusive acts in violation of 12 U.S.C. § 5536(a)(1)(B).

Count IV

Deception Relating to Applicability of US Federal and State Law

296. The Bureau realleges and incorporates by reference paragraphs 1-295 of this Complaint.

297. In loan agreements and communications with consumers, Defendants represented that they and the loan agreements were not subject to US federal or state law.

298. By contrast, Defendants told their service providers that they are, in fact, subject to US federal law.

299. In fact, Defendants are subject to US federal and applicable state law.

300. Defendants' external auditor placed Defendants on notice that they are subject to the laws of the borrowers' jurisdictions.

301. Defendants told service providers that their practices complied with US consumer protection statutes and laws related to the collection of debt in the jurisdiction in which the customer resides.

302. Defendants' representations that they were not subject to US federal or applicable state law were likely to mislead reasonable consumers.

303. The governing law applicable to the parties and their respective rights and responsibilities relating to the loans was a material condition of the product.

304. Defendants' representations that they were not subject to US federal or applicable state law were material.

305. Defendants' representations constitute deceptive acts in violation of 12 U.S.C. § 5536(a)(1)(B).

Count V

Abusiveness Relating to Applicability of US Federal and State Law

306. The Bureau realleges and incorporates by reference paragraphs 1-305 of this Complaint.

307. Defendants' loan agreements and its communications with consumers materially interfered with consumers' abilities to understand that US federal and applicable state laws applied to Defendants and governed disputes arising from the use of Defendants' loans.

308. The governing law applicable to the parties and their respective rights and responsibilities relating to the loans was a condition of the product.

309. Defendants' actions constitute abusive acts in violation of 12 U.S.C. § 5536(a)(1)(B).

Count VI

*Deception Relating to Consequences of Non-Payment
(As to Corporate Defendants NDG Financial, Northway, Northway Broker, E-Care,
Blizzard, NWL, NWCL, PLFL, NWRRSP and Individual Defendant DeThomas)*

310. The Bureau realleges and incorporates by reference paragraphs 1-309 of this Complaint.

311. Defendants, in numerous instances, represented to consumers that non-payment of debt would result in lawsuits, arrest, imprisonment, or wage garnishment.

312. When the Defendants made these representations, they did not intend to take the threatened actions.

313. Defendants did not have the legal authority to take some of the actions they threatened.

314. Defendants' representations were designed to increase the likelihood that consumers would repay the debt.

315. Defendants admitted to their ODFI service provider that, "in order to garnish wages Northway would have to get a judgement [sic] first. Since Northway does not sue individuals in the United States, wage garnishment is not available to Northway as a method to collect from US customers. In addition, Northway has no intention in employing garnishment as a collection technique."

316. Defendants' representations to US consumers regarding the actions Defendants would take were false and misleading and constitute deceptive acts in violation of 12 U.S.C. § 5536(a)(1)(B).

VIOLATION OF THE CREDIT PRACTICES RULE

317. The Credit Practices Rule (CPR) is a rule promulgated by the Federal Trade Commission (FTC) under Section 18 of the FTC Act, 15 U.S.C. § 57a.

318. The Bureau is authorized to enforce a rule prescribed under the FTC Act by the FTC with respect to an unfair or deceptive act or practice to the extent that such rule applies to a covered person or service provider with respect to the offering or provision of a consumer financial product or service as if it were a rule prescribed under section 1031, 12 U.S.C. § 5531, of the CFPA. The Bureau therefore may enforce the CPR, 12 U.S.C. § 5581(b)(5)(B)(ii).

319. The CPR defines a “lender” as “a person who engages in the business of lending money to consumers within the jurisdiction of the Federal Trade Commission,” 16 C.F.R. § 444.1(a).

320. Northway and Northway Broker are “lenders” as defined under the CPR and are “covered persons” under the CFPA.

321. The Credit Practices Rule prohibits lenders, in connection with the extension of credit to consumers, from taking or receiving from a consumer an obligation that constitutes or contains an assignment of wages or other earnings unless: (i) the assignment by its terms is revocable at the will of the debtor, (ii) the assignment is a payroll deduction plan or preauthorized payment plan, commencing at the time of the transaction, in which the consumer authorizes a series of wage deductions as a method of making each payment, or (iii) the assignment applies only to wages or other earnings already earned at the time of the assignment, 16 C.F.R. § 444.2(a)(3).

322. The Bureau is authorized to bring a civil action against any person that violates the CPR, 12 U.S.C. §§ 5564(a), 5581(b)(5)(B)(ii).

Count VII

Conditioning the Extension of Credit on an Irrevocable Wage Assignment Clause

323. The Bureau realleges and incorporates by reference paragraphs 1-322 of this Complaint.

324. In numerous instances, in connection with the extension of credit to consumers, Defendants have taken or received from consumers an obligation that constitutes or contains an assignment of wages or other earnings where the assignment: (i) by its terms is not revocable at the will of the consumer, (ii) is not a payroll deduction plan or preauthorized payment plan, commencing at the time of the transaction, in which the consumer authorizes a series of wage deductions as a method of making each payment, and (iii) does not apply only to wages or other earnings already earned at the time of the assignment, in violation of Section 444.2(a)(3) of the Credit Practices Rule, 16 C.F.R. § 444.2(a)(3).

Count VIII

Unfairness Relating to Conditioning the Extension of Credit on an Irrevocable Wage Assignment Clause

325. The Bureau realleges and incorporates by reference paragraphs 1-324 of this Complaint.

326. Defendants' practice of conditioning some loan agreements upon irrevocable wage assignment clauses caused or was likely to cause substantial injury to consumers.

327. Wage assignments occur without the procedural safeguards of a hearing and opportunity to assert defenses or counter claims.

328. The use of irrevocable wage assignments causes serious and detrimental interference with employment relationships, negatively affects promotions, pay raises, and job assignments, and can result in job loss.

329. Further, the use of irrevocable wage assignments disrupts consumers' finances and can make it difficult for a consumer to purchase necessities or discharge other obligations in a timely fashion.

330. Consumers cannot reasonably avoid these injuries because some loans are conditioned upon the wage assignment clause and are irrevocable.

331. Finally, these injuries are not outweighed by countervailing benefits to consumers or to competition.

332. Defendants' actions constitute unfair acts in violation of 12 U.S.C. § 5536(a)(1)(B).

Count IX – Against Relief Defendants Only

333. Relief Defendants Peter Ash, Sagewood, Paul Ash, Knightsbridge, Paul Grehan, 0562752, Kimberly DeThomas, Emerald Willow, Jeremy Sabourin, Red River, William Wrixon, and Twillingate have received, directly or indirectly, funds or other assets from Defendants that are traceable to funds obtained from Defendants' consumers through the unfair, deceptive, abusive, and unlawful acts or practices described herein.

334. The Relief Defendants were signatories on bank accounts into which Defendants deposited void Northway loan repayments from consumers residing in the Subject States.

335. Relief Defendants have no legitimate claims to such funds and Relief Defendants will be unjustly enriched if they are not required to disgorge or give up such funds or the value of the benefit they received.

THIS COURT'S POWER TO GRANT RELIEF

336. Under Section 1055 of the CFPA, 12 U.S.C. § 5565, this Court has “jurisdiction to grant any appropriate legal or equitable relief with respect to a violation of Federal consumer financial law . . .” including the CFPA. 12 U.S.C. § 5565(a)(1). This relief includes rescission, refund of monies, restitution, disgorgement or compensation for unjust enrichment, payment of damages or other monetary relief, public notification regarding the violation, limits on the activities or functions of the person, and civil money penalties. 12 U.S.C. § 5565(a)(2). In addition, the CFPB may recover its costs in connection with the action, if it is the prevailing party. 12 U.S.C. § 5565(b).

PRAYER FOR RELIEF

337. Wherefore, the CFPB, pursuant to Sections 1054 and 1055 of the CFPA, 12 U.S.C. §§ 5564 and 5565, and the Court's own equitable powers, request that the Court:

- a. Permanently enjoin the Defendants from committing future violations of the CFPA, the CPR, or any other provision of “Federal consumer financial law,” as defined by 12 U.S.C. § 5481(14);
- b. Award damages and other monetary relief as the Court finds necessary to redress injury to consumers resulting from the Defendants' violations of the CFPA and CPR including but not limited to restitution and the refund of monies paid;
- c. Order disgorgement against Defendants and Relief Defendants of ill-gotten gains;

- d. Award the costs of bringing this action;
- e. Award other injunctive relief as appropriate, including but not limited to the cessation of collection activities and the correction of information furnished to any credit reporting agencies; and
- f. Award additional relief as the Court may determine to be just and proper.

Dated: December 11, 2015

Respectfully submitted,

Anthony Alexis
Enforcement Director

Deborah Morris
Deputy Enforcement Director

Craig Cowie
Assistant Litigation Deputy

/s/ Charles R. Gayle
Charles R. Gayle
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Consumer Financial Protection Bureau
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Washington, DC 20552
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E-mail: charlie.gayle@cfpb.gov
Attorneys for Consumer Financial Protection Bureau

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of December, 2015, the foregoing First Amended Complaint was electronically filed with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

/s/ Charles R. Gayle
Charles R. Gayle
Enforcement Attorney
Consumer Financial Protection Bureau



Consumer Financial
Protection Bureau

(b)(5)

July 1, 2015

DECISION MEMORANDUM FOR THE DIRECTOR

for RC

FROM Charles Gayle, Edward Reilly, Craig Cowie, Deborah Morris and Anthony Alexis, Office of Enforcement

SUBJECT Authorization to File Suit in Federal District Court against the NDG Enterprise – ENF Matter No. (b)(5)

Recommendation

That you authorize the Office of Enforcement to file a lawsuit in federal district court against the NDG Enterprise, consisting of NDG Financial Corp., Northway Financial Corp., Ltd., Northway Broker, Ltd., E-Care Contact Centers, Ltd., Blizzard Interactive Corp., New World Consolidated Lenders Corp., Payroll Loans First Lenders Corp., New World Lenders Corp., New World RRSP Lenders Corp., and Sagewood Holdings, Ltd., asserting the claims expressed in the attached complaint.¹ We intend to seek the assistance of the Department of Justice's Office of Foreign Litigation (DOJ OFL) to serve and, if necessary, enforce any U.S. judgment in the Canadian courts.²

✓ RC _____ Approve _____ Disapprove _____ Let's Discuss

I. Overview

NDG Financial Corp. is a privately held Canadian company that, through its complex web of subsidiaries operating in Canada and Europe (collectively, the NDG Enterprise), advertises, extends, services, and collects unlicensed and usurious high-cost, short-term loans that, in many states, consumers are not obligated to pay in whole or in part. The NDG Enterprise knows these loans are legally unenforceable. Yet, it induces consumers into repaying these void loans by falsely asserting that it is not subject to federal and state law and that consumers waive any protections arising under such laws as a condition of accepting a loan.

¹ Tab 1. In requesting authorization to file the attached complaint, we also seek authority to fix minor typographical errors or to make other non-substantive changes to the complaint before filing.

² We provided a copy of the complaint to DOJ OFL to ensure that it will be enforceable in Canada, and have incorporated their feedback.

The NDG Enterprise uses its Maltese-based subsidiary, Northway Financial Corp., Ltd., to originate and extend unlicensed online loans to U.S. consumers at interest rates exceeding 381%. Its loan agreements are conditioned upon consumers' consent to repay via pre-authorized electronic transfers and some include an irrevocable wage assignment clause with no opt-out provision. The NDG Enterprise collects loan payments in states where the licensing or usury laws render the loans wholly or partially void (b)(5), (b)(7)(E) while using a variety of unfair and deceptive collection tactics in every state, all the while falsely claiming that it is not subject to U.S. federal or state law.

The NDG Enterprise has recently attempted to partner with a Native American tribe, (b)(5)

(b)(5) Several NDG Enterprise websites are currently active and solicit loans in the name of Oasis, LLC (Oasis).³ According to the DBA websites, Oasis is the tribal lending agency of Lac Courte Oreilles Financial Services, LLC, purportedly an arm and entity of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin. The recommended civil action only involves NDG Enterprises' offshore conduct, and does not include any tribal-related conduct.

We seek authorization to sue the named NDG Enterprise entities in the U.S. District Court for the Southern District of New York.

II. Factual Background

A. History of the Investigation

(b)(5), (b)(7)(E)

B. The NDG Enterprise

The NDG Enterprise is a privately held collection of global e-commerce companies focused on providing short-term, unsecured loans over the Internet to consumers in the United States, Australia, and the U.K. The NDG Enterprise consists of 13 companies located in Canada and Europe. NDG Financial Corp., directs all of the operations of the NDG subsidiaries. NDG Financial Corp., in turn, is controlled by three

³ The websites through which the NDG Enterprise extends loans include: CashTransferCenters.com; PRLDirect.com; 247Greenstreet.com; GreenPicket.com; PaydayAvenue.com; CashTaxi.com; PixyCash.com; sonicpayday.com; and Zip19.com (hereinafter, "the DBA websites"). We have not named Oasis as a party to this action.

holding companies, each of which is wholly owned by one of the NDG Enterprise founders: Peter Ash, Paul Ash, and Paul Grehan. The organizational structure of the various members of the NDG Enterprise is depicted in Attachment B. NDG Enterprise operations are dispersed amongst the various subsidiary companies which commingle funds and share common control, offices, and personnel. According to an external audit, the NDG Enterprise entities work together to operate an Internet-based payday lending business that specializes in providing unsecured, short-term loans over the Internet to U.S. consumers.⁴ (b)(5)

(b)(5)

1. Corporate Defendants

a. Northway Financial Corp., Ltd. (Northway)

Northway is the public facing entity through which the NDG Enterprise originates loans. It is incorporated in Malta and licensed and regulated by the Malta Financial Services Authority (MFSA), with its principal place of business in Sliema, Malta. Between Northway and Northway Broker, Ltd., there are approximately 150 NDG Enterprise employees located in Sliema. Northway markets the loans it originates through the DBA websites described above. (b)(5)

(b)(5)

b. NDG Financial Corporation (NDG Financial)

NDG Financial is a Canadian company that directs all NDG Enterprise operations. Its personnel provide material services to Northway by establishing and maintaining accounts with banks and payment processors in Northway's name. For example, upon opening Northway's bank accounts, NDG personnel met with bank relationship managers as part of the due diligence process. Northway then uses these accounts to originate ACH entries to and from U.S. consumer bank accounts. NDG Financial personnel maintain the banking relationships on Northway's behalf by regularly communicating with the banks and third-party processors using NDG Financial letterhead and e-mail addresses. (b)(5)

(b)(5)

c. Northway Broker, Ltd. (Northway Broker)

⁴ BMO-CFPB00008119 (NDG Financial Corp. Combined Financial Statement).

⁵ 12 U.S.C. §§ 5481(6), 5481(15)(a)(i).

⁶ 12 U.S.C. § 5481(26)(A)(i).

⁷ 12 U.S.C. § 5481(6)(B).

Northway Broker is a Maltese company whose principal activity is the “provision of money brokering services to consumers of small short term loans over the Internet to the US, UK and Australian markets.”⁸ According to Northway loan agreements, Northway Broker serves as broker for the transaction between Northway and the consumer. (b)(5)

(b)(5)

d. E-Care Contact Centers, Ltd. (E-Care)

E-Care is a Canadian company that services and collects on the loans originated by Northway. E-Care operates the contact centers responsible for communicating with consumers once their accounts go into collection. (b)(5)

(b)(5)

e. Blizzard Interactive Corp. (Blizzard)

Blizzard is a Canadian company that identifies potential customers for NDG Enterprise loans. Blizzard generates a demographic profile for its target consumers and sends those profiles to third-party lead generation marketing partners. Blizzard then pays the marketing partner for each lead referred to the NDG Enterprise. Blizzard personnel also establish contractual relationships with telecommunication companies that provide web-hosting services for Northway’s DBA websites. (b)(5)

(b)(5)

f. Sagewood Holdings, Ltd. (Sagewood)

Sagewood is a Canadian company that holds a controlling 50.1% interest in NDG Financial and is itself 100% owned by Peter Ash. It has received wire transfers from Northway and NDG Financial accounts with Bank of Montreal. As controlling

⁸ BMO-CFPB00006836 (Northway Broker Annual Report and Financial Statement).

⁹ 12 U.S.C. §§ 5481(6), 5481(15)(A)(i).

¹⁰ 12 U.S.C. § 5481(26)(A).

¹¹ 12 U.S.C. §§ 5481(1), 5481(6).

¹² 12 U.S.C. § 5481(6).

¹³ 12 U.S.C. §§ 5481(1), 5481(26)(A).

shareholder of NDG Financial and all of its subsidiaries.

(b)(5)

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g. “Funding Entities”: New World Consolidated Lenders, Corp. (NWCL), New World Lenders Corp. (NWL), Payroll Loans First Lenders Corp. (PLFL), and New World RRSP Lenders Corp. (New World RRSP)

NWCL, NWL, PLFL and New World RRSP (“the Funding Entities”), located in Canada, issue bonds to individual/corporate investors to raise funds which Northway then loans to consumers through ACH credits. The bonds are issued in increments of \$10,000 with 1% to 2% interest per month and 10-year terms.

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C. The NDG Enterprise

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¹⁴ 12 U.S.C. § 5481(25).

¹⁵ 12 U.S.C. §§ 5481(1), 5481(26).

¹⁶ 12 U.S.C. § 5481(6).

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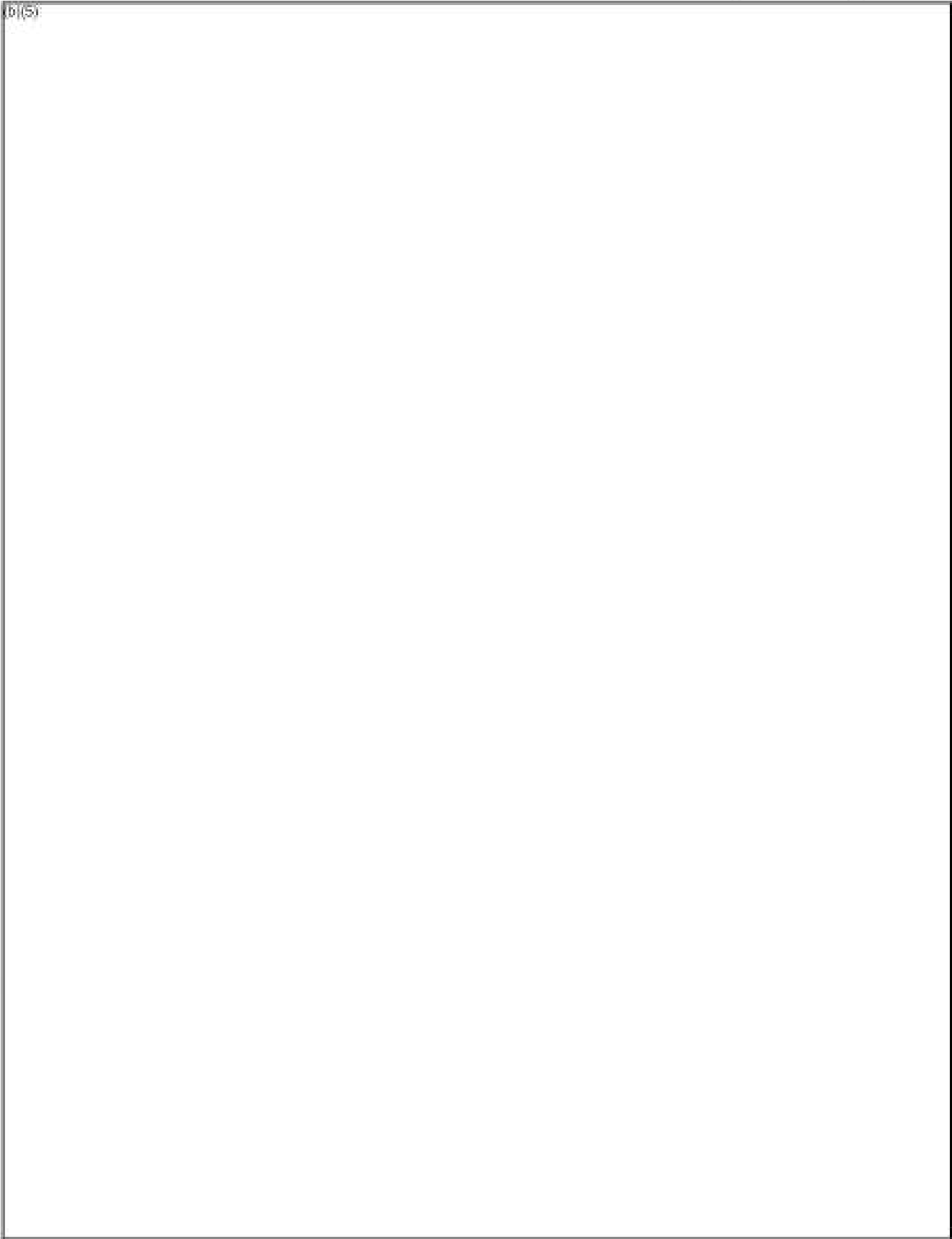
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III. Legal Analysis

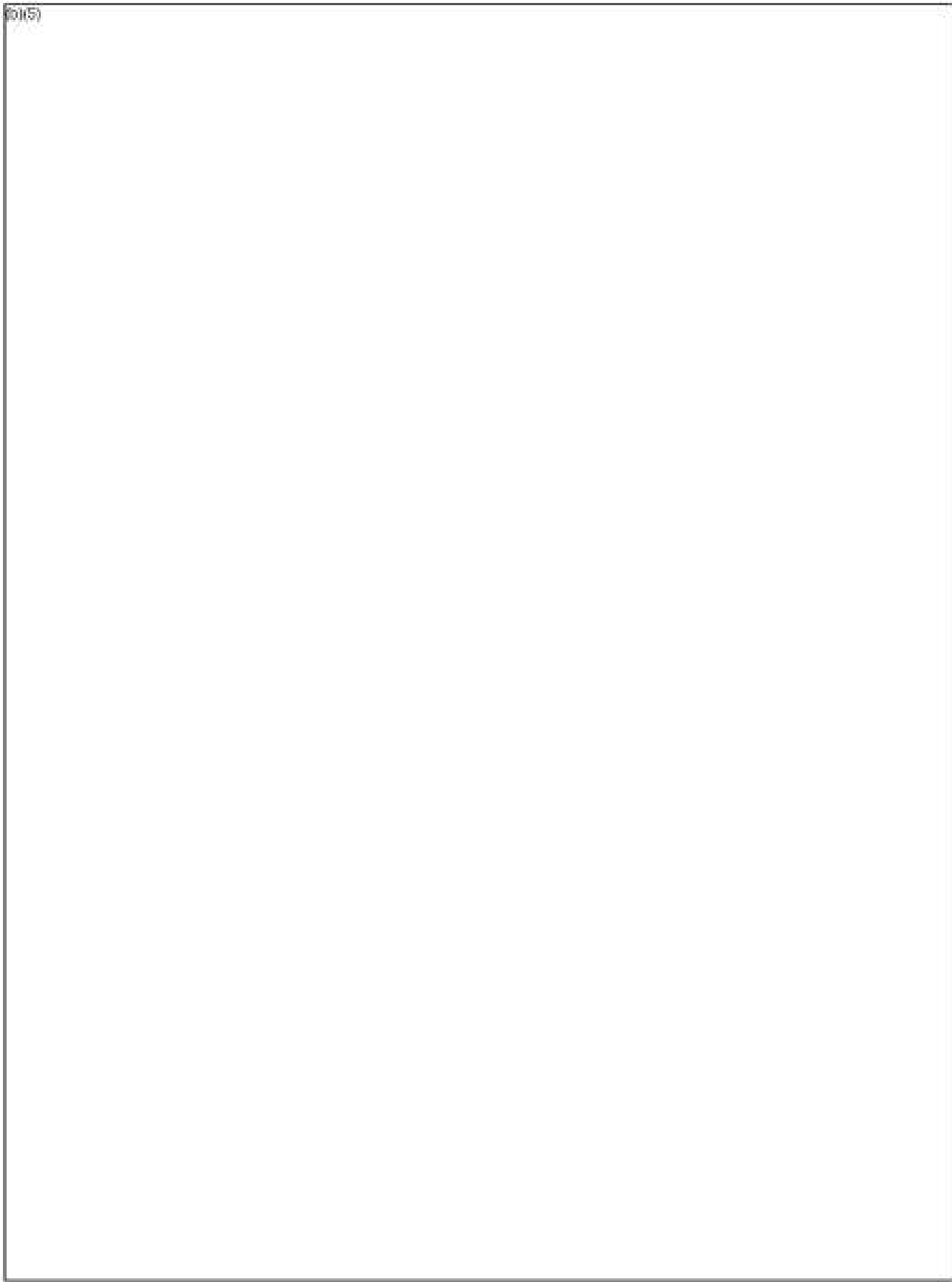
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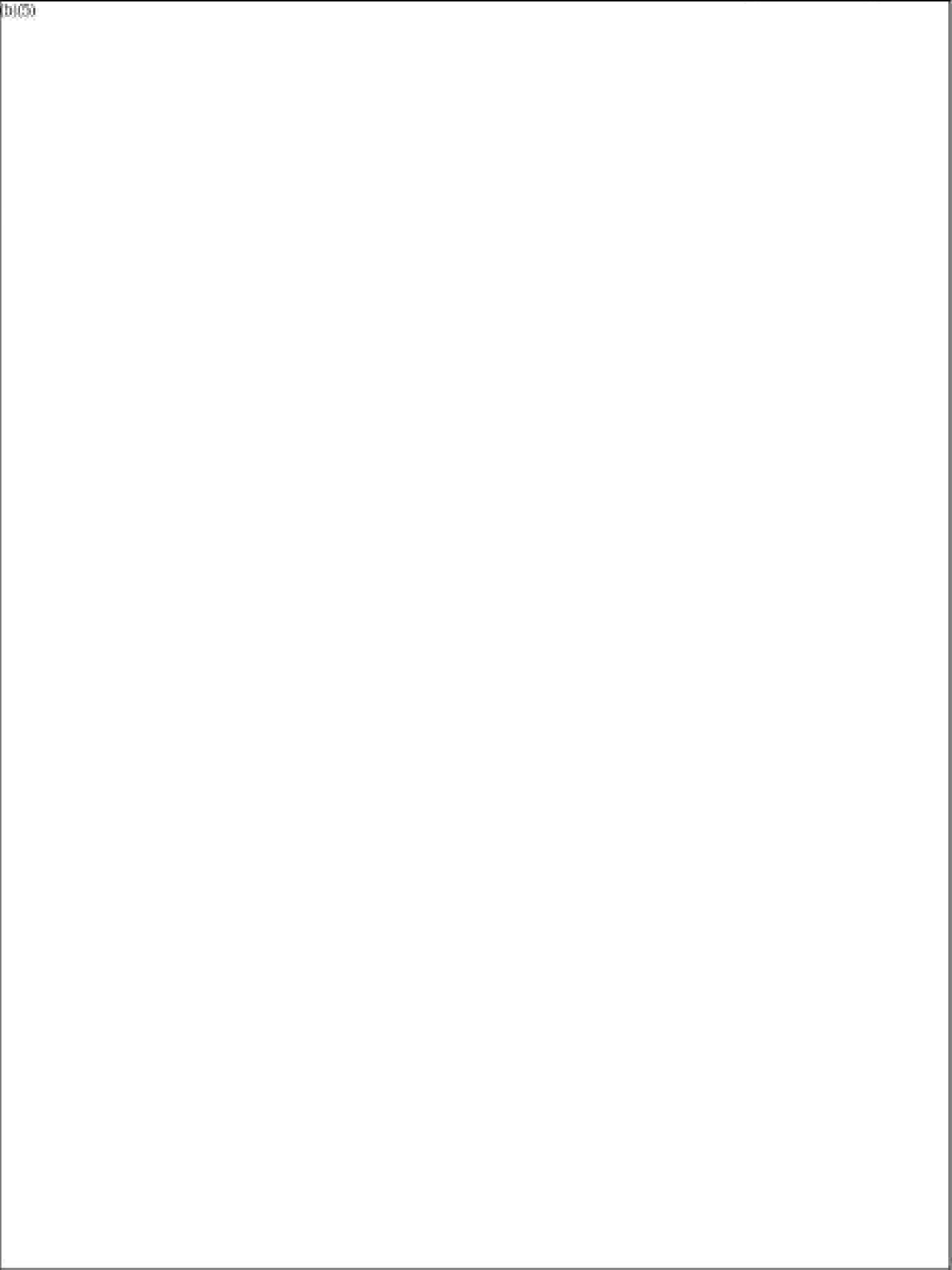


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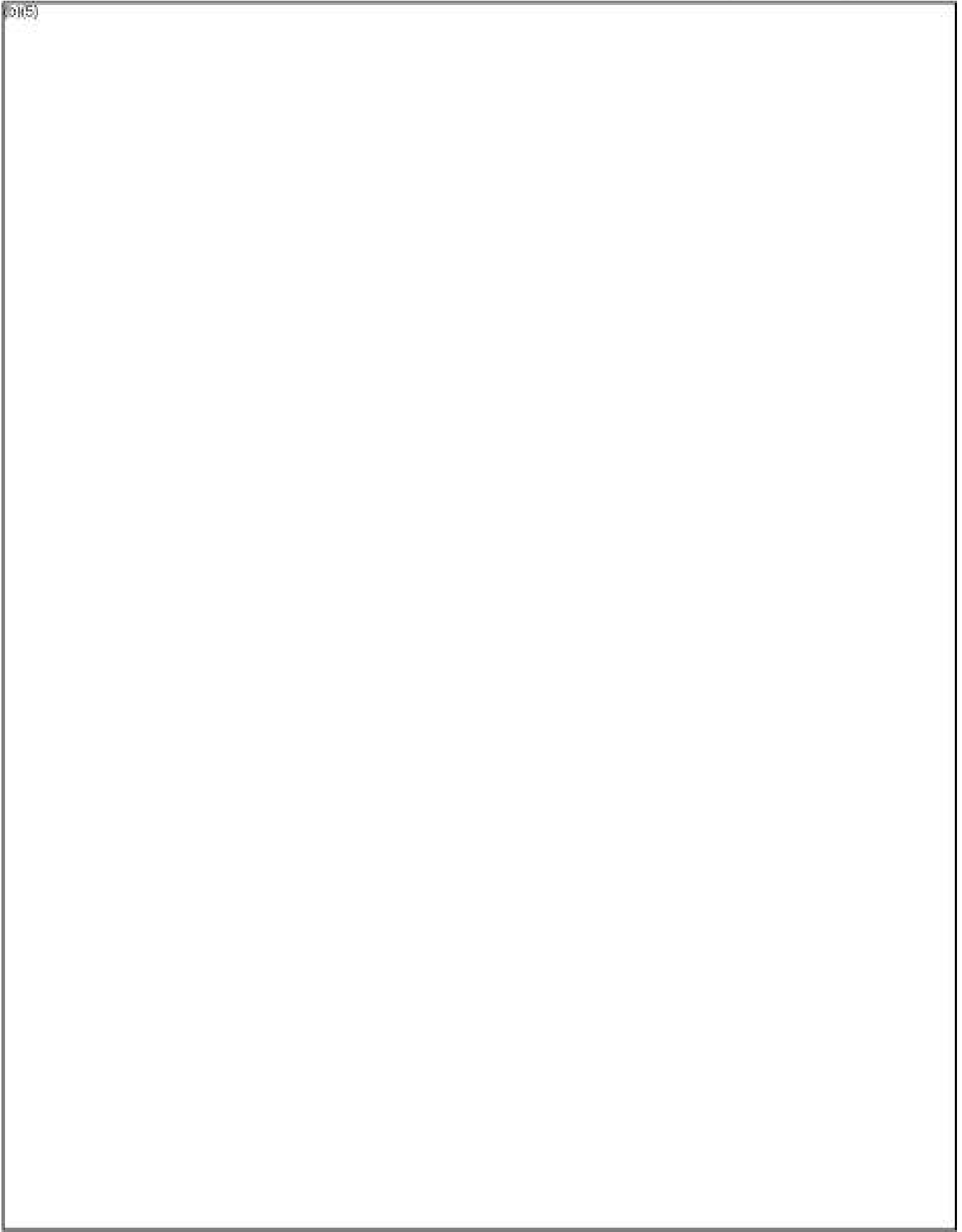
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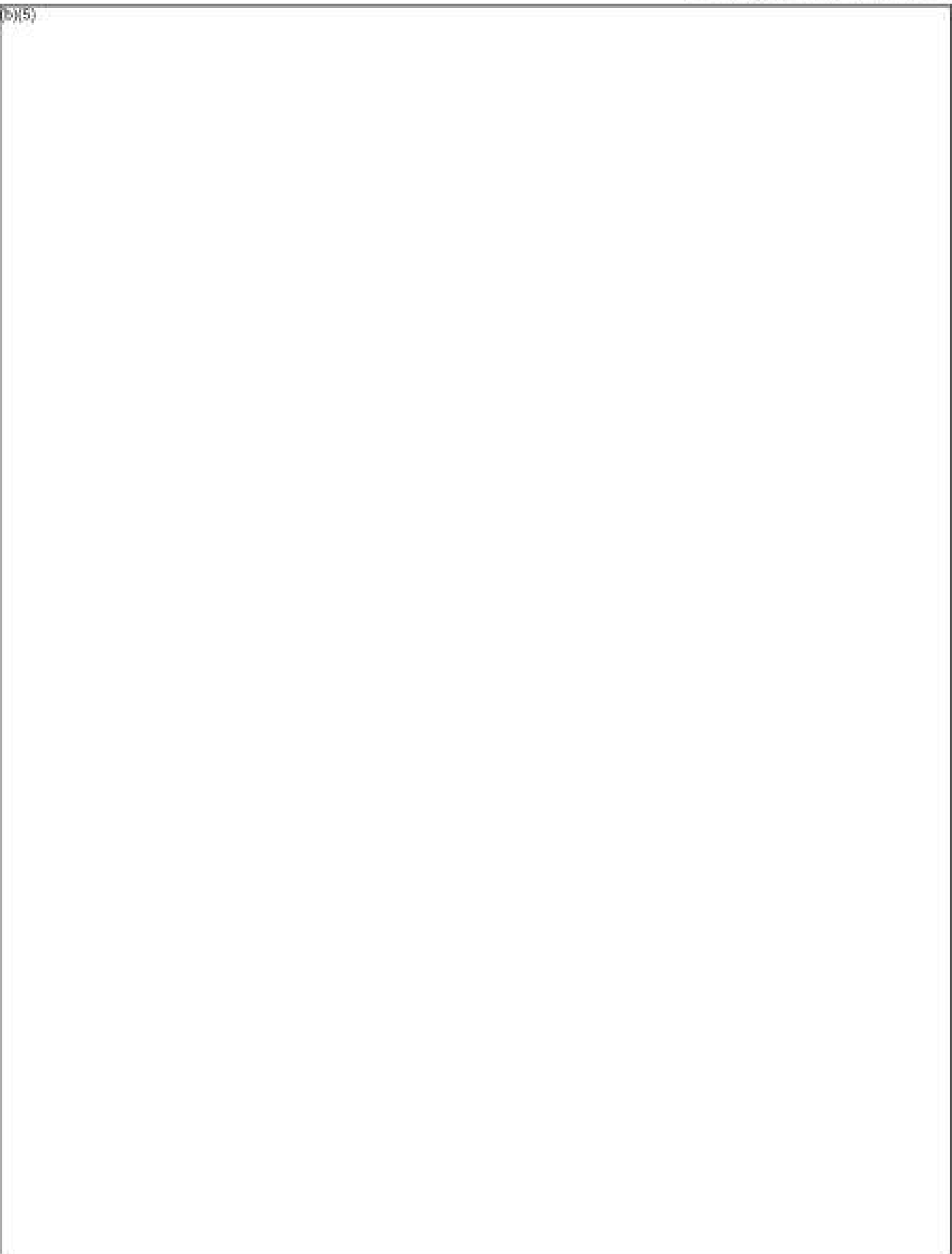
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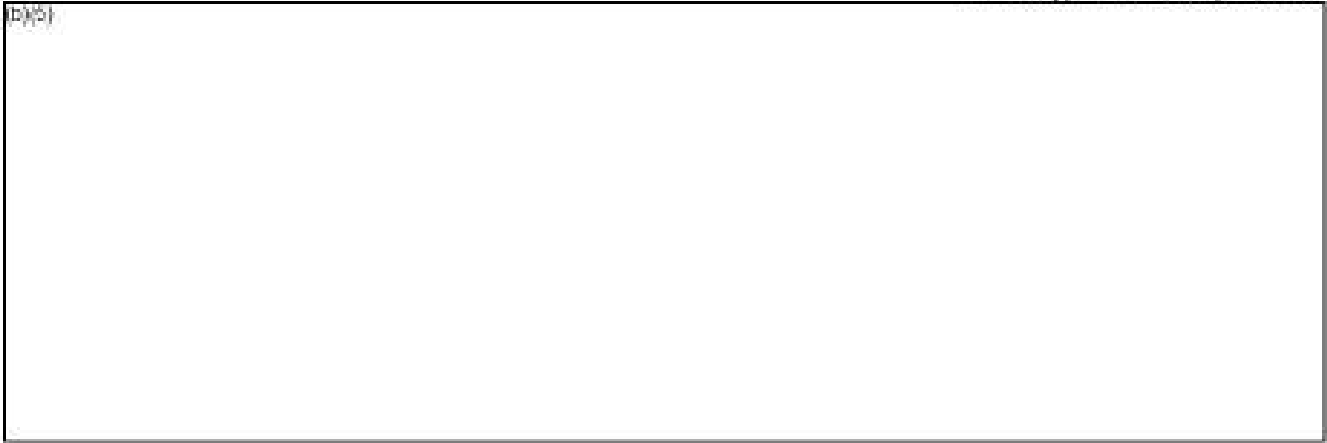


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VI. Conclusion

We recommend that you authorize us to file suit using the attached complaint.

Tab 1: Draft Complaint

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Washington, DC 20552

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May 15, 2018

Recommendation Memorandum for the Acting Director

FROM	Casey Huggins, Senior Advisor, Supervision Examinations (x59177)
THROUGH	Eric Blankenstein, SEFL Policy Director; Chris D'Angelo, SEFL Associate Director
SUBJECT	For the Acting Director's review and comment: draft FFIEC meeting minutes for the March 27, 2018 Council meeting

Recommendation

The Bureau recommends that you review the attached minutes for the March 27, 2018 FFIEC meeting and provide any comments or edits that you may have.

Background

The FFIEC's Office of the Executive Secretary (OES) has sent, for the Acting Director's review, the draft minutes from the March 27, 2018 Council meeting. These minutes are being circulated to each of the Council Principals: once any edits are received, the OES will circulate a final version of the minutes for the Principals' approval via notational vote, likely at the end of this month.

The Bureau is asking that the Acting Director review the attached draft and provide any comments or edits. The draft attached at Tab 1 includes edits made by other Bureau stakeholders during their review. (b)(5)

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Attachments

Tab 1: Draft March 27 Council Meeting Minutes

