

UNITED STATES OF AMERICA
Before the
CONSUMER FINANCIAL PROTECTION BUREAU

ADMINISTRATIVE PROCEEDING
File No. 2015-CFPB-0029

In the Matter of:

INTEGRITY ADVANCE, LLC and
JAMES R. CARNES

Respondents

ORDER DIRECTING PORTIONS
OF THE TRANSCRIPT SEALED
AND DENYING REQUEST TO
SEAL PORTIONS

Hon. Parlen L. McKenna

On August 5, 2015, the parties submitted a joint filing regarding corrections to the transcript of the hearing in this matter. As part of the email transmitting that filing, Respondents' counsel set out ten sections of the transcript the parties agreed should be sealed in the publicly available version. I hereby direct the following lines of the transcript¹ sealed, pursuant to the parties' joint request:

- I-143:3 – 146:9
- I-151:12 – 161:17
- I-167:24 – 171:7
- I-174:10 – 176:3
- I-192:19 – 198:3
- I-200:15 – 201:1
- I-207:10 – 208:23
- II-52:7 – 53:13
- II-61:14 – 62:5
- II-76:22 – 78:22

¹ All transcript citations are to the corrected transcript transmitted to the parties on August 10, 2016.

Respondents also indicated four sections they want sealed, to which the Bureau does not agree. Respondents' counsel did not style this as a motion to seal those portions of the transcript, and Bureau counsel did not submit any response. However, I do note that during the hearing, Respondents made a motion to seal certain testimony and I reserved ruling. (Tr. I-241:1 – 2). Thus, even though Respondents did not style the proposed redactions as a formal request in their email, I must nevertheless make a determination as to whether the sections of the record the parties have not mutually agreed to seal should, in fact, be sealed.

Respondents contend that financial information regarding Mr. Carnes, a party to this proceeding, and Hayfield Investment Partners, a third party, should remain private. To the extent that personal financial information in an administrative proceeding or judicial action may be entitled to protection, legitimate governmental interests frequently override such protection. *See Strathoros v. New York City Taxi and Limousine Comm'n*, 198 F.3d 317 (2d Cir. 1999); *AFGE v. Dep't of Housing and Urban Dev.*, 118 F.3d 786 (D.C. Cir. 1997), *reversing AFGE v. U.S. Dep't of Housing and Urban Dev.*, 924 F. Supp. 225 (D.D.C. 1996). I also note that in other types of consumer financial enforcement actions, “the public interest in open proceedings outweighs the privacy interests of the individuals and third parties involved.” *Final Enforcement Decision Issued by the Board of Governors*, 86 Fed.Res.Bull. 858, 859, 2000 WL 1865698, at *2.

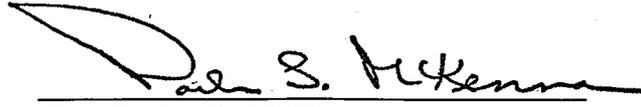
Here, the CFPB's statutes and regulations similarly favor openness. See 12 C.F.R. §§ 1081.111(c); 1081.119; 1081.300. Thus, I must balance whether the public interest in any financial information disclosed during the hearing outweighs the privacy interests in such information. Some factors courts may consider when determining whether to seal documents are “whether allowing access would impair court functions or harm legitimate privacy interests, the degree of and likelihood of injury if made public, the reliability of the information, whether there

will be an opportunity to respond to the information, whether the information concerns public officials or public concerns, and the availability of a less onerous alternative to sealing the documents.” *Romero v. Drummond Co.*, 480 F.3d 1234, 1246 (11th Cir.2007).

I have reviewed the transcript and determined that none of the sections Respondents want sealed contain information that constitutes personally identifiable information warranting non-release to the public. I find the public’s right to disclosure clearly outweighs Respondents’ tenuous attempt to justify why this information should remain private. My specific reasoning is as follows:

- I-107:16 – 108:12 and I-166:12 – 167:17 concern the salary Mr. Carnes received as CEO of Hayfield Investment Partners and de facto CEO of Integrity Advance. This information is many years old and does not reflect Mr. Carnes’ current financial status. The information appears to be reliable and the likelihood of injury if it is made public is low.
- I-239:4 – 8 and I-246:2 – 14 concern the amount of money Mr. Carnes and other persons received through the sale of Hayfield Investment Partners to EZ Corp. The parties were supposed to look at the sales agreement to determine what information related to the sale is publicly available. However, the parties never informed me whether this information was part of the public documents. I find that this type of information is not the type of personal financial information that should be sealed. Since Respondents have failed to submit concrete reasons to justify sealing this portion of the transcript, it will remain open.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Parlen L. McKenna", written over a horizontal line.

**Hon. Parlen L. McKenna
Administrative Law Judge
United States Coast Guard**

Done and dated on this 24th day of August, 2016
Alameda, California.

CERTIFICATE OF SERVICE

I hereby certify that I have served the forgoing *Order Directing Portions of the Transcript Sealed and Denying Request to Seal Portions (2015-CFPB-0029)* upon the following parties and entities in this proceeding as indicated in the matter described below:

(Via Fax and email: D05-PF-ALJBALT-ALJDocket)

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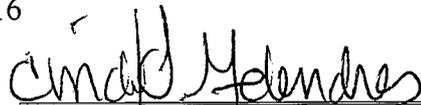
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Done and dated this 24th day in August, 2016
Alameda, California



Cindy J. Melendres
Paralegal Specialist
to the Hon. Parlen L. McKenna