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CFPB Settlements Under Pressure

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I'm a huge music fan. It doesn't matter if it's the blues, classical, country, electronic, rock, or old-school rap. As long as it's got a good beat, and even better lyrics, I'm in.

I heard an oldie but goodie the other day. What started out as a jam session between Queen and David Bowie actually turned into an excellent (and very catchy) song.

"*Pressure pushing down on me*
Pressing down on you, no man ask for
Under pressure that burns a building down"

This song started bouncing around in my head the other day when I heard that U.S. House Financial Services Committee Chair Maxine Waters (D-CA) and Subcommittee on Oversight and Investigations Chair Al Green (D-TX) sent a letter to Kathy Kraninger, director of the Consumer Financial Protection Bureau, requesting documents on the CFPB's 2019 settlements with Sterling Jewelers, Inc., Enova International, Inc., and NDG Financial Corp., which did not result in restitution to consumers.

The CFPB accused Sterling of enrolling credit card customers in payment protection plans without their consent. Sterling settled by agreeing to pay a $10 million penalty, but the settlement did not include a refund for consumers impacted by Sterling's alleged actions.

The CFPB accused Enova of debiting consumers' bank accounts without their authorization. Enova also agreed to settle and pay a $3.2 million penalty, but, again, the settlement did not include a refund for affected consumers.

Finally, the CFPB accused NDG of collecting payments from payday loan borrowers where the loans were allegedly made in violation of state law. Once again, the settlement did not require NDG to provide any relief to affected consumers.

The letter from Waters and Green requested that the CFPB provide any communications between the Bureau and others, including the accused companies listed above, related to restitution to impacted consumers. The letter also asked for all drafts of the proposed consent orders, all meeting minutes, and all memoranda in draft or final form. The letter further stated that the practice of not requiring the payment of redress to consumers harmed by the companies' "illegal conduct" stands in stark contrast to the Bureau's practice under the leadership of former Director Cordray, when the Bureau regularly sought relief for consumers harmed by unlawful practices and reportedly recovered nearly $12 billion in relief for consumers.

What should be a concern for industries regulated by the CFPB is that the records that were requested are not confidential. Publicly disclosing meeting minutes and draft consent orders could have a chilling effect on what companies are willing to disclose to the CFPB in the future.

You may remember that Rep. Waters made it clear late last year that if she were to become the chair of the House Financial Services Committee, she would focus her attention on the CFPB. She also introduced a bill in the House that would require the CFPB to meet its statutory purpose and protect consumers. Well, now that she is chair of the House Financial Services Committee, she certainly seems to be keeping true to her word. Like a dog with a bone, she appears to be laser-focused on the CFPB and is not shy about applying some additional pressure to Director Kraninger.

It's unclear if Director Kraninger will take a page out of former Acting Director Mulvaney's playbook and stonewall or if she'll respond with the requested documentation. It's also unclear if this type of continued pressure from Rep. Waters will influence the CFPB's enforcement decisions and settlements in the future. One thing is clear, however. We can expect Rep. Waters to keep the pressure on Director Kraninger and the Bureau.

And don't expect that pressure to end there. Now that Senator Warren has announced her candidacy for president, I fully expect to be hearing from her on the CFPB's actions, or lack thereof.

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7037 Ridge Road, Suite 300, Hanover, Maryland 21076
410.684.3200

hudsoncook.com