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Enforcement Powers of the CFPB

Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the Act) established the Consumer Financial Protection Bureau (CFPB) and authorizes it to supervise certain consumer financial services companies and large depository institutions and their affiliates for consumer protection purposes. The CFPB has been charged with implementing and examination for compliance with Federal consumer finance law.

The CFPB also has extensive authorities to not only investigate violations of federal consumer protection laws but also implement broad enforcement relief.

The following legal remedies are held to be “without limitation:”

- Rescission or reformation of contracts
- Refund of money
- Disgorgement and refund of various types of assets
- Return of real property
- Restitution
- Disgorgement or compensation for unjust enrichment
- Payment of damages or other monetary relief
- Public notification regarding the violation (including the costs of notification)
- Limits on the activities or functions of the person
- Civil monetary penalties

Dodd-Frank authorizes the court in a court action, or the CFPB in an administrative proceeding, to grant “any appropriate legal or equitable relief with respect to a violation of federal consumer financial law, including a violation of a rule or order prescribed under a federal consumer financial law.

The statute provides there may not be imposing exemplary or punitive damages; however, in an action to enforce any federal consumer financial law, the CFPB, the states Attorneys General, or state regulators may recover their costs, if they prevail.

Notwithstanding the foregoing exclusion of exemplary or punitive damages, for any violation of a law, rule, or final order, or condition imposed in writing by the CFPB, a civil penalty may not exceed \$5,000 for each day during which the violation or failure to pay continues. However, take note: that penalty amount jumps to \$25,000 for each day for any person that recklessly engages in violating a federal consumer financial law, and to \$1,000,000 for each day for any person that knowingly violates a federal consumer financial law.

And if the CFPB obtains evidence that any person has engaged in conduct that may constitute violating federal criminal law, the Bureau will immediately refer the case to the Attorney General of the United States.

For more information, please contact me at 816-527-9445, braden@kennyhertzperry.com, or online at www.kennyhertzperry.com.

About Kennyhertz Perry: Kennyhertz Perry is a business and litigation law firm representing clients in highly-regulated industries. Founded by two veteran Kansas City attorneys, John Kennyhertz and Braden Perry, Kennyhertz Perry brings a unique mix of top law firm quality expertise, practical experience, and pragmatic business solutions.

About Braden Perry: A former federal enforcement attorney and veteran in regulatory compliance and white collar defense, Mr. Perry has expertise and consults with clients throughout the United States in areas of internal investigations, enforcement matters, regulatory issues, and corporate transactions, including advising on mergers and acquisitions in highly complex regulatory structures. Mr. Perry has a deep understanding and first-hand experience with antitrust, securities, financial institutions, commodities, the Foreign Corrupt Practices Act (FCPA), and other emerging compliance and enforcement issues. Mr. Perry is a frequent contributor to financial and legal publications, including Investopedia, Lawyers.com, LawTV, Compliance Crossing, Law360, and NerdWallet.com.