

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

February 7, 2019

The Honorable Kathy Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

Dear Director Kraninger:

The Consumer Financial Protection Bureau (“Consumer Bureau”) has recently announced several settlements against entities for engaging in unlawful practices without requiring the payment of redress to consumers harmed by the illegal conduct. This stands in stark contrast to the Consumer Bureau’s practice under the leadership of former Director Cordray. During Director Cordray’s tenure, the Consumer Bureau recovered nearly \$12 billion in relief for harmed consumers over its first six years.¹ American consumers deserve a Consumer Bureau that will fight to recover their hard-earned money when they are cheated.

On January 16, 2019, the Consumer Bureau announced it had reached a settlement with Sterling Jewelers Inc. (“Sterling”) for numerous claims, including that the company engaged in unfair practices by enrolling consumers who had a Sterling credit card in payment protection insurance without their consent.² Under the terms of the settlement, Sterling is required to pay a penalty to the Consumer Bureau of \$10 million, but does not have to refund consumers any of the money paid for payment protection insurance.³ According to the Consumer Bureau’s complaint against Sterling, payment protection insurance generated \$60 million in revenue in 2016 alone.⁴ The Consumer Bureau has previously required payments to consumers in similar cases where it found that consumers were enrolled in payment protection products without their consent.⁵ The Committee is deeply troubled that the Consumer Bureau would allow a company to keep the profits they made from their illegal sales practices.

On January 25, 2019, the Consumer Bureau announced a settlement with Enova International, Inc. (“Enova”), an online lender, for engaging in unfair practices by debiting consumers’ bank accounts without authorization.⁶ The settlement requires Enova to pay a \$3.2 million civil money penalty to the Consumer Bureau, but contains

¹ <https://www.consumerfinance.gov/about-us/blog/six-years-serving-you/>

² *Bureau of Consumer Financial Protection and the People of the State of New York, by Letitia James, Attorney General for the State of New York, v. Sterling Jewelers Inc.*, Case 1:19-cv-00448 (Jan. 16, 2019), available at <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-settles-claims-against-sterling-jewelers-inc/>.

³ *Id.*

⁴ Complaint at ¶41, available at https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/bcftp_sterling-jewelers_complaint.pdf

⁵ See e.g. . Consumer Financial Protection Bureau, Consent Order *In the Matter of Bank of America, N.A. and FIA Card Services, N.A.* 2014-CFPB-0004 (April 9, 2014) (providing approximately \$269 million in restitution to consumers for deceptively enrolling consumers in payment protection products) available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-bank-of-america-to-pay-727-million-in-consumer-relief-for-illegal-credit-card-practices/>; Consumer Financial Protection Bureau, Consent Order *In the Matter of Fifth Third Bank*, 2015-CFPB-0025 (Sept 28, 2015)(requiring approximately \$3 million in restitution to consumers for deceptively enrolling consumers in payment protection products) available at https://files.consumerfinance.gov/f/201509_cfpb_consent-order-fifth-third-bank-add-on.pdf;

⁶ Consumer Financial Protection Bureau, Consent Order *In the Matter of Enova International, Inc.*, 2019-CFPB-0003, (Jan 25, 2019), available at <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-reaches-settlement-enova-international-inc/>.

no provision for paying redress to consumers.⁷ The factual findings in the administrative consent order indicates that Enova debited payments on thousands of consumers' outstanding loans where it did not have authorization and "extracted millions of dollars in unauthorized debits from consumers' accounts."⁸

On February 1, 2019, the Consumer Bureau announced a settlement with NDG Financial Corporation and other Defendants ("NDG Financial") that did not require them to pay either a penalty or restitution to consumers.⁹ The Consumer Bureau initiated its action against NDG Financial when the agency was still led by former Director Cordray. In its December 2015 amended complaint, the Consumer Bureau alleged that NDG Financial engaged in unfair, deceptive, and abusive practices by collecting on payday loans that were made in violation of state law.¹⁰ The amended complaint specifically sought "damages and other monetary relief as the Court finds necessary to redress injury to consumers resulting from [NDG Financial's] violations of federal consumer protection laws including but not limited to restitution and the refund of monies paid."¹¹ Yet, the settlement agreement seeks no such relief for the wronged consumers.

Section 1055 of the Consumer Financial Protection Act of 2010 ("CFPA") explicitly authorizes the Consumer Bureau to obtain relief for consumers, including the refund of money, restitution, or the payment of damages or other monetary relief. 12 U.S.C. § 5565(a)(1)(2).

The Committee has serious concerns about how the Consumer Bureau is exercising its enforcement authority, especially how it is determining whether to require companies to pay redress to consumers that have been harmed. The fact that two of the three settlements involve online lending raises serious questions about the Consumer Bureau's commitment to protecting America's consumers from predatory online lending practices.

As part of the Committee's oversight over the Consumer Bureau,¹² please provide the following records by no later than March 5, 2019:

- (1) All documents and communications referring or related to the issue of restitution in the settlement in *Bureau of Consumer Financial Protection and the People of the State of New York, by Letitia James, Attorney General for the State of New York, v. Sterling Jewelers Inc.*, Case 1:19-cv-00448, including but not limited to, all memoranda (whether draft or final), any and all drafts of the proposed consent order, and all meeting minutes.
- (2) All communications between the Bureau and Sterling or its representatives referring or related to the issue of restitution in the settlement in *Bureau of Consumer Financial Protection and the People of the State of New York, by Letitia James, Attorney General for the State of New York, v. Sterling Jewelers Inc.*, Case 1:19-cv-00448, including but not limited to, any and all drafts of the proposed consent order.
- (3) All documents and communications referring or related to the issue of restitution in the settlement in *In the Matter of Enova International, Inc.*, 2019-CFPB-0003, including but not limited to, all

⁷ *Id.*

⁸ *Consent Order* at ¶¶ 14, 18, available at https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_enova-international-consent-order-2019-01.pdf.

⁹ *Consumer Financial Protection Bureau v. NDG Financial Corp. et al.*, Case 1:15-cv-05211-CM (February 1, 2019) available at <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-settles-ndg-financial-corp/>

¹⁰ Amended Complaint at ¶¶ 275-95 available at

https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_northway_amended-complaint_122015.pdf

¹¹ *Id.* at ¶337(b).

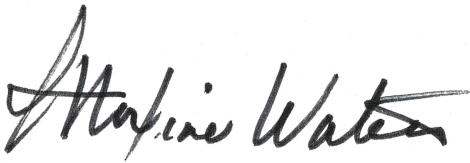
¹² Rule X, Rules of the House of Representatives, 116th Congress

memoranda (whether draft or final), any and all drafts of the proposed consent order, and all meeting minutes.

- (4) All communications between the Bureau and Enova or its representatives referring or related to the issue of restitution in the settlement in *In the Matter of Enova International, Inc.*, 2019-CFPB-0003, including but not limited to, any and all drafts of the proposed consent order.
- (5) All documents and communications referring or related to the issue of restitution in the settlement in *Consumer Financial Protection Bureau v. NDG Financial Corp. et al.*, Case 1:15-cv-05211, including but not limited to, all memoranda (whether draft or final), any and all drafts of the proposed consent order, and all meeting minutes.
- (6) All communications between the Bureau and NDG (or any of the other Defendants named in the settlement) or their representatives referring or related to the issue of restitution in the settlement in *Consumer Financial Protection Bureau v. NDG Financial Corp. et al.*, Case 1:15-cv-05211, including but not limited to, any and all drafts of the proposed consent order.

Please address any questions regarding this request to Committee staff at (202) 225-4247.

Sincerely,



MAXINE WATERS
CHAIRWOMAN



AL GREEN
CHAIRMAN
Subcommittee on Oversight and Investigations

cc: The Honorable Patrick McHenry, Ranking Member