

[Banking and Finance Law Daily Wrap Up, TOP STORY—No exclusion for law firm, must comply with CID, \(Apr. 19, 2017\)](#)

Banking and Finance Law Daily Wrap Up

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By [Colleen M. Svelnis, J.D.](#)

The Consumer Financial Protection Bureau has denied a petition to set aside a civil investigative demand (CID) by Seila Law. According to the bureau, none of the objections raised by the law firm warrant setting aside or modifying the CID. The CID was issued for the purpose of determining whether debt relief providers or lead generators "were engaging in unlawful acts or practices in the advertising, marketing, or sale of debt relief services or products." Under the CID, the law firm will be required to produce documents and provide answers to interrogatories.

Seila Law asserted in its [petition](#) that the CID should be set aside because the CFPB's structure violates the Constitution and actions taken by the unconstitutional agency are void. Seila had requested at a minimum that the CID "should be stayed pending the *en banc* ruling in the *PHH Corp. v. CFPB* case." The CFPB responded that Seila Law waived this objection by failing to raise it with Bureau Enforcement counsel during the meet-and-confer process. The CFPB's [decision and order](#) further states that the constitutional challenge was not properly raised.

Seila Law asserted that the CID exceeds the CFPB's statutory authority over Seila Law because it is engaged in the practice of law. However, the bureau states that, under the Consumer Financial Protection Act, it has investigative authority to issue CIDs to "any person" who may have relevant information. The order states that such a fact-based substantive defense argument is not a valid defense to the enforcement of a CID. The order further states that the practice of law exclusion does not apply to transferred authorities, including the Telemarketing Sales Rule, which was cited in this case. The CFPB also referred to 12 U.S. Code Section 5517, stating that even in instances where there is no enforcement authority over a law practice, the law firm would still be subject to the bureau's CID authority.

The CFPB disagreed that the requests in the CID were "excessively vague and overly broad." The CFPB stated that Seila Law did not take advantage of opportunities to suggest modifications during the meet-and-confer process, and suggested it do so.

The order also determined that even though the CFPB issued the CID after a previous, no longer pending, contempt proceeding against Seila Law, the bureau is not precluded from issuing this CID or from investigating whether the law firm violated federal law.

Companies: PHH Corporation; Seila Law, LLC

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