

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
CONSUMER FINANCIAL)	
PROTECTION BUREAU,)	
)	
	Plaintiff,)	
)	
	v.)	Civil Action No. 17-2238 (ABJ)
)	
NEXUS SERVICES, INC., <i>et al.</i> ,)	
)	
	Defendants.)	
_____)	

MEMORANDUM OPINION AND ORDER

On August 21, 2017, the Consumer Financial Protection Bureau (“CFPB”) issued a Civil Investigative Demand (“CID”) to Libre by Nexus Inc. and Nexus Services, Inc. (collectively, “Nexus”), demanding documents and information in connection with persons who provided products or services related to bonds posted on behalf of detainees and whether those persons were engaging in unfair, deceptive, or abusive acts in violation of the Consumer Financial Protection Act of 2010 (“CFPA”), 12 U.S.C. §§ 5531, 5536. On October 25, 2017, Nexus filed a complaint with this Court, claiming that any enforcement of the CID should be enjoined because it was issued without authority and was overly broad. Compl. [Dkt. # 1], *Nexus v. CFPB*, Civ. A. No. 17-2215 (D.D.C. Oct. 25, 2017). On October 30, 2017, the CFPB filed a separate petition in this Court to enforce the CID. Petition [Dkt. # 1].

On August 7, 2018, with the parties’ consent, the Court ordered mediation. Order [Dkt. # 33], *Nexus v. CFPB*, Civ. A. No. 17-2215 (D.D.C. Aug. 7, 2018). On December 4, 2018, the parties notified the Court that they had reached an agreement in principle on the scope and timetable for compliance with the CID. *See* Joint Status Report [Dkt. # 27]. They filed a

stipulation that same day, stating that Nexus had agreed to comply with a modified CID, and as such, Nexus's lawsuit could be dismissed with prejudice. Stipulation [Dkt. # 28]. The modified CID, unlike the original CID, did not seek the personal information, such as addresses, telephone numbers, and email addresses, of approximately 17,000 immigrants that were Nexus clients who obtained products or services related to an immigration bond. *Compare* Original CID [Dkt. # 1-5] at 3, 4(b) (requesting personal information) *with* Modified CID [Dkt. # 30-2] at 3, 4(b) (requesting only the contact information as indicated on the I-352 forms). The stipulation also stated that the Court would retain jurisdiction to enforce the terms of the modified CID and adjudicate any disputes related to it. *Id.* That day, the Court entered the parties' stipulation in an order, [Dkt. # 29], and Nexus's case was terminated. *See* Order [Dkt. # 44], *Nexus v. CFPB*, Civ. A. No. 17-2215 (D.D.C. Dec. 11, 2018).

On March 15, 2019, Nexus moved to enforce the modified CID. Defs.' Mot. to Enforce Modified CID [Dkt. # 30] ("Defs.' Mot."). The parties were ordered to confer and inform the Court whether they agreed that the dispute should be referred back to the Circuit Mediator. Min. Order (Mar. 20, 2019). The parties could not agree to a referral, *see* Joint Status Report [Dkt. # 31], and the CFPB filed its opposition to the motion to enforce the CID on March 29, 2019. Pl.'s Opp. to Defs.' Mot. to Enforce CID [Dkt. # 32] ("Pl.'s Opp"). Nexus replied on April 5, 2019. Reply to Pl.'s Opp. [Dkt. # 33] ("Defs.' Reply").

Nexus claims that, as an end-around the parties' stipulation as reflected in the modified CID, the CFPB pursued the personal information of Nexus clients from third parties, such as Statewide Bonding, Inc. Defs.' Mot. at 4. Nexus requests that the Court enjoin the CFPB from requesting such information from third parties, because it argues that by doing so, the CFPB has reneged on its stipulation and is acting in bad faith. *Id.* at 5–7.

The stipulation agreed to by the parties and ordered by the Court stated:

1. The Consumer Financial Protection Bureau's petition to enforce civil investigative demand (CID) (ECF No. 1 in Case No. 2238) is granted as to the CID as modified on October 11, 2018 and December 4, 2018 (Modified CID);
2. Respondents Nexus Services, Inc. and Libre by Services, Inc. are directed to comply with the Modified CID;
3. Plaintiffs Nexus Services, Inc.'s and Libre by Nexus, Inc.'s claims against the Consumer Financial Protection Bureau (ECF No. 1 in Case No. 2215) are dismissed with prejudice; and
4. The Court retains jurisdiction to enforce the terms of the Modified CID and adjudicate any disputes related to the Modified CID.

Order [Dkt. # 29]. The stipulation does not preclude the CFPB from acquiring any type of information from third parties. And the modified CID makes no mention of CIDs issued to other parties. Thus, by seeking the information about Nexus's clients, which Nexus declined to provide, from a third party, the CFPB is not violating the terms of the settlement, the modified CID, or any Court order. As the CFPB points out, "Nexus could have bargained in mediation for the relief that it now seeks." Pl.'s Opp. at 5.

Nexus agrees that it never made an agreement with the CFPB about third party CIDs. Defs.' Mot. at 6 n.3. But it argues that the purpose of the settlement and modified CID was to preclude the CFPB from obtaining its clients' personal information, and now, it is violating that purpose by attempting to obtain the information from other sources. But a stipulation "must be discerned within its four corners, and not by reference to what might satisfy the purposes of one of the parties to it," because the parties' agreement "cannot be said to have a purpose; rather parties have purposes, generally opposed to each other, and the resultant decree embodies as much of those opposing purposes as the respective parties have the bargaining power and skill to achieve." *United States v. Armour & Co.*, 402 U.S. 673, 681–82 (discussing a consent decree

entered into by the parties). Because the stipulation and modified CID do not reference third party CIDs, the CFPB was well within its right to issue CIDs to other parties seeking the information that Nexus refused to provide.

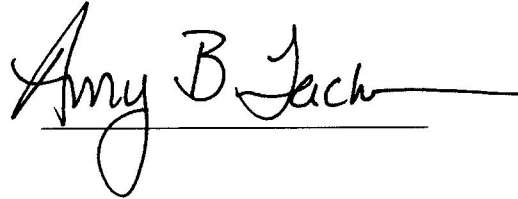
Nexus also contends that the CFPB has engaged in misconduct by pursuing the information. But Nexus has not identified any standard or ethical rule that the CFPB lawyers violated – the CFPB is not required to disclose that it is issuing CIDs to third parties, nor are they precluded from seeking information from third parties.

Furthermore, it is unclear to the Court that Nexus has standing to contest the CFPB's CID to a third party. The same issue arose in the related case, *Nexus v. CFPB*, No. 17-cv-2215, in which Nexus challenged, among other things, the CFPB's attempt to use third party discovery. Compl. [Dkt. # 1], *Nexus v. CFPB*, Civ. A. No. 17-2215 (D.D.C. Oct. 25, 2017) at ¶¶ 149–53. The Court found that these portions of Nexus's claims raised significant standing issues. *See* Nov. 13, 2018 Status Conf. Tr. [Dkt. # 26] at 5:21–25. Here too, Nexus does not state what injury it will suffer if the information is disclosed by a third party. Disclosing the information requested may cause harm to the entity responsible for the disclosure, or to the people that the information is related to, but it is difficult to imagine a path by which third party disclosure would harm Nexus.

Thus, for all of these reasons, it is

ORDERED that Nexus's motion to enforce the modified CID [Dkt. # 30] is **DENIED**.

SO ORDERED.

A handwritten signature in black ink that reads "Amy B. Jackson". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

AMY BERMAN JACKSON
United States District Judge

DATE: October 18, 2019