

**Testimony of Devin Watkins
Attorney at the Competitive Enterprise Institute**

**United States House of Representatives
Financial Services Committee
Subcommittee on Oversight and Investigations**

**From Watchdog to Attack Dog:
Examining the CFPB's Chopra-era Assault on Disfavored Industries**

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Chairman Meuser, Ranking Member Green, and Members of this Subcommittee, I appreciate the opportunity to speak to you today.

My name is Devin Watkins. I am an attorney at the Competitive Enterprise Institute. CEI has advocated, for nearly forty years, for more accountable government rather than bureaucratic control, so people can live freer, healthier, and more prosperous lives.

Two years ago, I testified before this committee to express serious concerns about the structure and conduct of the Consumer Financial Protection Bureau. I proposed reforms for the CFPB, and shortly after my testimony, the Supreme Court granted review in *Jarkesy* and last year agreed with me that jury-free administrative trials for the imposition of fines—like those used by the CFPB—are unconstitutional. The absence of my proposed reform—that rules clearly define unlawful actions before enforcement—has led to the abuses I will discuss.

Regulatory enforcement abuse, such as occurred at the CFPB, is just another form of prosecutorial abuse. A normal prosecutor waits for a potential victim, examines the evidence to see if a well-known violation of the law occurred, and then brings enforcement to protect that specific victim. The problem occurs when the prosecutors follow the old Soviet saying: “Show me the man, and I’ll show you the crime.”

That chilling phrase reflects a regime where law is not a constraint on power, but a tool of power. Where the decision of who to investigate comes first and the legal justification follows later. Where the government doesn’t apply well-known rules; it invents them for the occasion.

Sadly, this has become the reality for too many businesses facing CFPB enforcement actions. Let me illustrate with three concrete examples.

Consider the case of Comerica Bank, which CFPB sought to penalize over customer call wait times. I know CFPB regulates banks, but Congress never authorized CFPB to regulate call wait times. There is no law or CFPB rule stating how long a wait time must be. The agency simply decided that the wait time was too long, and sought to retroactively punish Comerica for violating the new rules.

John Locke described freedom as having a “standing rule to live by . . . not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man.” If a company cannot know in advance what conduct it will be punished for, that is not regulation—it is an ambush.

A second example involves Acima, Snap Finance, and the broader rent-to-own industry. The CFPB had never previously regulated rent-to-own leases as credit. Such leases were not previously treated as credit under the law or in CFPB guidance. But one day, the Bureau simply announced that these transactions were now subject to its regulatory authority as “credit” products.

In violation of the spirit of *ex post facto* prohibitions, the CFPB fined companies for transactions that occurred before that new interpretation was announced. That is retroactive enforcement against acts that the government considered lawful at the time. This kind of enforcement regime makes it impossible for good-faith businesses to operate with any confidence. Article I, Section 9, Clause 3 prohibits Congress from passing criminal *ex post facto* laws, “*No Bill of Attainder or ex post facto Law shall be passed,*” but similar punitive civil enforcement should be avoided as well.

Lastly, Townstone Financial is a small Chicago mortgage company. Although this case started before Chopra joined the CFPB, it continued throughout the Chopra-era CFPB. The CFPB didn’t go after Townstone for denying anyone a loan. There were no consumer complaints.

So what was the CFPB’s issue?

Townstone’s owner, Barry Sturner, had a weekend radio talk show. On the radio show, Sturner expressed concern about crime in urban neighborhoods. The CFPB used audio mining software to identify speech it considered beyond the pale, and it targeted Townstone Financial for Barry’s protected speech. The CFPB then destroyed his business by claiming complaints about neighborhood crime on the radio were really disguised attempts to dissuade minority applicants for mortgages.

According to an internal CFPB memo, Townstone could face as much as \$42 million in fines, although CFPB would reduce that to only \$1 million. Facing that mountain of fines, after seven years of spending a million dollars to defend itself, Townstone was offered a settlement for less than it would cost to hire a private lawyer to fight the charges in court. Townstone was defended by Steve Simpson and others at Pacific Legal Foundation, an excellent nonprofit law firm that defends many worthy causes, and Marx Sterbcow. Townstone costs could easily have doubled but for legal assistance provided pro bono, but still the burdens of litigation were too much for Townstone to continue.

Coerced plea agreements are far too common in today’s legal system. When people are facing millions in fines or decades in jail and are offered an agreement to plead guilty for less than it costs to hire a private lawyer to defend yourself and no additional jail time, many innocent people agree to a settlement or plea deal. A coerced agreement of an innocent person is not a badge of honor for the prosecutors, but a mark of shame that they caused an innocent person to be punished.

These are not isolated cases. They represent a broader pattern which the rule of law is supposed to prevent. The CFPB appear to have brought these actions for the purposes of stretching its authority. Congress never gave the CFPB authority to regulate customer service wait times, comments on radio talk shows, or rent-to-own leases, the agency just seized that power.

Fortunately, there is cause for hope. The Trump administration is taking important steps to halt these abuses. Under new leadership, the CFPB has dismissed the abusive enforcement against Comerica Bank, Acima and the rent-to-own industry.

The CFPB has also tried to unwind the Townstone settlement, recognizing that the enforcement violated the First Amendment. This kind of accountability is rare and welcome. But shockingly, a federal judge has refused to let the agency correct its own mistake, blocking the effort to vacate the unjust settlement. According to this judge, the people cannot be allowed to select new leaders to reverse the constitutional violations by their government. President Trump has the power to pardon even the most atrocious terrorists and traitors, but for some reason an unconstitutional settlement in a civil proceeding cannot be vacated. This is wrong.

This situation underscores a disturbing truth: under our current system, constitutional violations may be locked in place—not because the facts are in dispute, but because the process has become more important than justice itself. That is not how the rule of law is supposed to work. The law should be a shield for the innocent, not a weapon of bureaucracy.

The rule of law is not a partisan issue. It is the foundation of our republic. Without it, no one is safe from arbitrary power. If we are to remain a free people, governed by laws and not by bureaucrats, then Congress must ensure that government agencies are themselves bound by the law.

Thank you.