

Department of Financial Protection and Innovation

Position Duty Statement

DFPI HRO 203 (Rev. 07-2021)

NAME	EFFECTIVE DATE
CLASSIFICATION TITLE Attorney V	POSITION NUMBER 410-XXX-5781-XXX
WORKING TITLE Senior Counsel	DIVISION/OFFICE/UNIT/SECTION Enforcement
BARGAINING UNIT M02	GEOGRAPHIC LOCATION

General Statement: Under the general direction of the Assistant Chief Counsel of the Enforcement Division, the Attorney V is responsible for providing expert legal counsel to Executive Management on the most complex and controversial issues before the Department of Financial Protection and Innovation (DFPI or Department). Duties include, but are not limited to, the following:

A. Specific Assignments [Essential (E) / Marginal (M) Functions]:

45%(E) Provides expert legal counsel to Executive Management on the most complex and controversial issues before the Department of Financial Protection and Innovation. This includes advice on the interpretation and analysis of law, court decisions, rules and regulations under the jurisdiction of the Department.

Utilizes exceptional level of expertise as Department's top expert to develops trainings on specialized skills or areas of law and conducts trainings on new laws and protocol for internal staff, programs, and stakeholders.

Represents the DFPI in the most difficult and complex litigation involving innovative theories, practices of law, specialization in law and the highest level of expertise. Demonstrates the highest level expertise in filing civil and administrative cases in state and federal courts and before the Office of Administrative Hearings. Responsible for the most complex and sensitive cases including the issuance of Desist and Refrain Orders for violations of the law, actions to bar, suspend, revoke, censure and deny companies and individuals that are applying for or have licenses, actions to void loan transactions and to levy administrative penalties and obtain restitution for consumers and investors that have lost funds. Appears before federal Bankruptcy Courts and represent the Department in matters relating to actions brought by the Department.

Acts in a lead capacity over other professional staff who litigate and negotiate cases to enforce the laws in the Department's jurisdiction. Reduces legal risk to Department by utilizing oral and written advocacy skills, interpersonal skills, negotiation skills, personal

knowledge and experience with Department policies and practices. May serve as team leader or mentor over small group of attorneys.

40%(E) Prepares opinions and analyses of the law and facts and recommends various types of enforcement action. Achieves positive results based on the decisions, recommendations, and direction in enforcement actions taken. Responsible for some of the more detailed and extensive investigations involving large numbers of consumers and investors, voluminous documents, coordinating with law enforcement and other state and federal agencies and assisting other counsel with complex litigation issues. Issues subpoenas to banks and companies to obtain information necessary in the investigation of the case. Takes administrative testimony of witnesses and defendants during investigations. If subpoenas and interrogatories are not complied with, will be responsible for filing the appropriate civil action to compel compliance.

Independently coordinates the production of discoverable documents and testimony to provide legal representation and advocacy for the Department. Analyzes documents and responds to discovery requests to determine privileges and objections, utilizing expert communication and advocacy skills. Engages in extensive administrative and civil discovery, including taking investigative testimony and conducting depositions, preparing and responding to requests for admissions and propounding and answering interrogatories. Responsible for all aspects on appeal such as preparing writs of mandamus and appellate pleadings.

Directs and conducts investigations consisting of a multi-discipline staff including examiners, investigators, support staff and other attorneys. Directs the operational activities of examiners, legal assistants and support staff in enforcement activities. Responsible for developing the most complex and sensitive investigation and litigation plans to determine violations of the law and also reviewing and analyzing the work product prepared by the examiners, legal assistants, support staff and lower level attorneys.

Utilizes expert knowledge of the laws and government codes regulated and enforced by the Department in order to perform the duties of the position. Utilizes expert knowledge of the Rules of Evidence, the California Code of Civil Procedure and the Administrative Procedures Act in order to perform the duties of the position.

Independently prepares litigation, transactional and advisory documents including, complicated complaints, briefs, memoranda and reports to be filed in court concerning violations of the law. Independently prepares pretrial, trial and post-trial motions.

10%(E) Acts as subject matter expert by providing expertise in investigation and enforcement of the laws under the department's jurisdiction. Works directly with the Commissioner, Deputy Commissioners, General Counsel and other Executive staff on special projects which deal with legal analysis on pending investigations and litigations; legislative

analysis of proposed new and revised legislation and input on new departmental policy in subject matter areas unique to the Department.

Assists as co-counsel or as expert witness and participates in grand jury proceedings in criminal prosecutions and provides litigation assistance. Is assigned to large financial frauds and working with other agencies to effectively prosecute persons that violate the laws under the Department's jurisdiction. Prepares referrals for criminal prosecution; assists district attorneys and federal prosecutors in the preparation of criminal cases, and upon request presents criminal cases at preliminary hearings, grand jury hearings, trials, and related proceedings. Responsible for direct and cross examination of witnesses, opening and closing arguments and drafting of points and authorities and jury instructions relevant to the charges relating to the laws under the Department's jurisdiction. Responsible for drafting and responding to motions concerning the conduct of the criminal case. Actively participates in statewide or national agencies and groups, on working groups, task forces, boards or similar groups related to the laws enforced by the Department.

5%(M) Performs other job-related duties as required.

B. Supervision Received

The Attorney V of the Enforcement Division reports directly to and receives the majority of assignments from the Assistant Chief Counsel; however, direction and assignments may also come from the Deputy Commissioner, Chief Deputy or the Commissioner.

C. Supervision Exercised

None.

D. Administrative Responsibility

None.

E. Personal Contacts

The incumbent interacts with Investigators, Examiners, Legal support, Programs, Department of Justice, Attorney General, District Attorney's, and various federal/state agencies when completing examinations and investigations at the request of Counsels. Investigations are confidential and sensitive in nature, involving company books & records, financial statements, bank records, and investigative reports. The incumbent interacts frequently with Counsels on every case assigned and as often as 10 times per week depending on the complexity of cases. All other contacts occur on an as needed basis and no more than five times per month.

F. Actions and Consequences

When the job is inadequately performed, the Department's ability to protect investors and borrowers will be compromised. The Department will not be able to ensure all licensees meet regulatory requirements, detect fraud and abusive practices resulting from unlicensed activity,

which may cause harm to the public. Consequences include the inability to complete examinations and investigations of unlicensed activity, bring administrative orders; and civil injunctive actions to enjoin violations of the laws, obtain equitable remedies including rescission, restitution and penalties against violators, and assist in the criminal investigation and prosecution of laws, and refer criminal violations to the appropriate entity for prosecution.

G. Functional Requirements

The incumbent works 40 hours per week in an office setting, with artificial light and temperature control. The use of a personal computer, telephone, copier, and fax machine is essential to the duties of this position. The position requires bending and stooping to retrieve files, sitting and standing consistent with office work, and light lifting of no more than 25 lbs.

H. Other Information

Exercises good judgment in decision-making, exercises creativity and flexibility in problem identification and resolution, and manages time and resources effectively. Works well with others, under changing priorities, and work irregular hours when workload dictates. Regular attendance and punctuality are essential. Possesses good written and verbal communication skills.

Skills to draft and analyze legal documents (e.g. pleadings, motions, briefs), evaluate arguments, and determine an appropriate actions, and analyze case files (e.g. investigative reports, discovery materials, administrative record) to determine appropriate actions. Skill to analyze legal principles and precedents and apply them to complex legal and administrative problems.

The incumbent is required to travel statewide for court appearances and investigation demands as needed. (approximately 10 times per year).

CONFLICT OF INTEREST

This position is subject to Title 16, section 3830 of the California Code of Regulations, the Department of Financial Protection and Innovation’s Conflict of Interest Regulations. The incumbent is required to submit a Statements of Economic Interests (Form 700) within 30 days of assuming office, annually by April 1st and within 30 days of leaving office.

I have read and understand the duties listed above and I can perform these duties with or without reasonable accommodation. (If you believe reasonable accommodation is necessary, discuss your concerns with the hiring supervisor. If unsure of a need for reasonable accommodation, inform the hiring supervisor, who will discuss your concerns with the Health & Safety analyst.)

Employee Signature

Date

Employee's Printed Name, Classification

I have discussed the duties of this position with and have provided a copy of this duty statement to the employee named above.

Supervisor Signature

Date

Supervisor's Printed Name, Classification