UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CONSUMER FINANCIAL PROTECTION BUREAU and UNITED STATES OF AMERICA, Plaintiffs, v. COLONY RIDGE DEVELOPMENT, LLC, d/b/a Terrenos Houston, Terrenos Santa Fe, and Lotes y Ranchos; COLONY RIDGE BV, LLC; COLONY RIDGE LAND, LLC, formerly d/b/a Terrenos Houston and Lotes y Ranchos; and LOAN ORIGINATOR SERVICES, LLC, Defendants.	Civil Action No. 4:23-cv-4729 Judge Alfred H. Bennett

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs write to notify the Court of the Supreme Court's decision in *CFPB v. Community Financial Services Ass'n of Am., Ltd.*, No. 22-448, 2024 WL 2193873 (U.S. May 16, 2024) ("CFSA"), which squarely forecloses several arguments raised in Defendants' pending motions to dismiss, ECF Nos. 45 and 47, and entirely moots Defendants' pending motions to stay, ECF Nos. 49 and 50.

In *CFSA*, the Supreme Court—with Justice Thomas writing for a seven-justice majority—rejected the same attack on the Bureau's statutory method of funding that Defendants raised here and upheld the validity of the Bureau's funding. ECF No. 45 at 2; ECF No. 47 at 3-6; ECF No. 49 at 12; ECF No. 50 at 18-19. Relying on constitutional text and history, the Court explained that "appropriations need only identify a source of public funds and authorize the expenditure of those funds for designated purposes to satisfy the Appropriations Clause." *CFSA*,

2024 WL 2193873, at *5. It had no difficulty concluding that "[t]he Bureau's funding statute contains the requisite features of a congressional appropriation" and "fits comfortably with the First Congress' appropriations practice." *Id.* at *9. The Court thus affirmed "that the requirements of the Appropriations Clause are satisfied" by the Bureau's statute. *Id.* It accordingly reversed the contrary judgment of the Fifth Circuit that Defendants have relied on here. *See id.* at 12.

The Court's ruling decisively resolves a number of the arguments Defendants have made in their motions to dismiss. Specifically, Loan Originator Services, LLC's (LOS) motion to dismiss urged this Court to vacate Regulation B's definition of creditor "[u]nless and until" the Supreme Court reversed the Fifth Circuit in *CFSA*, ECF No. 49 at 12, which it has now done. Similarly, the Colony Ridge Defendants sought the dismissal of "all claims brought by the [Bureau]" based on the Fifth Circuit ruling that the Supreme Court has now reversed. ECF No. 50 at 18-19.

Defendants have also urged this Court to stay the litigation pending a Supreme Court opinion in *CFSA*. Because that decision has now issued, the Court should deny Defendants' requests for a stay as moot. ECF Nos. 49 and 50.

Finally, in light of the *CFSA* ruling, Plaintiffs will promptly meet and confer with Defendants and submit a revised Rule 26(f) Report in advance of the Initial Scheduling Hearing set in this matter on June 28, 2024.

Dated: May 17, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2024, a copy of the foregoing PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

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