IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

CONSUMER FINANCIAL PROTECTION BUREAU, Plaintiff, v. HEIGHTS FINANCE HOLDING CO. f/k/a SOUTHERN MANAGEMENT CORPORATION; COVINGTON CREDIT OF ALABAMA, INC.; SOUTHERN FINANCE OF TENNESSEE, INC.; COVINGTON CREDIT OF GEORGIA, INC.; SOUTHERN FINANCE OF SOUTH CAROLINA, INC.; COVINGTON CREDIT OF TEXAS, INC.; COVINGTON CREDIT, INC.; and QUICK CREDIT CORPORATION, Defendants.	Civil Action No. 6:23-CV-04177-JDA

PLAINTIFF'S NOTICE OF SUPPLEMENTAL AUTHORITIES

The Bureau respectfully submits this Notice of Supplemental Authorities to alert this Court to three recently issued decisions rejecting an argument that Defendants made in their Motion for Judgment on the Pleadings.

In *Consumer Financial Protection Bureau v. Active Network, LLC*, defendant Active Network—just like Defendants here—argued that a Bureau enforcement action could not move forward because the Bureau may draw funds from the Federal Reserve System only when the System generates net excess earnings. *See* Mot. to Dismiss at 22-24, *CFPB v. Active Network, LLC*, No. 4:22-cv-00898-ALM (E.D. Tex. June 17, 2024), ECF No. 28. The United States District Court for the Eastern District of Texas summarily rejected that argument and denied

Active Network's motion on October 7. *See CFPB v. Active Network, LLC*, No. 4:22-cv-00898, 2024 WL 4437639, at *2 (E.D. Tex. Oct. 7, 2024).

In *Texas v. Colony Ridge, Inc.*, defendants likewise sought dismissal of claims brought under the Consumer Financial Protection Act (there, by the State of Texas under a provision authorizing states to enforce the CFPA, *see* 12 U.S.C. § 5552(a)) based on the same argument that the Federal Reserve System is not generating net excess earnings. Texas opposed, arguing in part that the CFPA does not limit the Bureau to drawing funds only from the Federal Reserve's net excess earnings. On October 11, a magistrate judge of the U.S. District Court for the Southern District of Texas recommended denying the motion. *See* Mem. & Recommendation at 9, *Texas v. Colony Ridge, Inc.*, No. H-24-0941 (S.D. Tex. Oct. 11, 2024), ECF No. 61 ("Colony Ridge Op.") (Ex. 1). Among other reasons, the magistrate judge noted that the Supreme Court in *CFPB v. Community Financial Services Ass'n of America, Ltd.*, 601 U.S. 441 (2024) had "found that the CFPB is constitutionally funded" during a time that Colony Ridge argued the CFPB was not properly funded. Colony Ridge Op. at 9.

Finally, in *Consumer Financial Protection Bureau v. SoLo Funds, Inc.*, defendant SoLo Funds, Inc. also argued that the Federal Reserve System's lack of net excess earnings requires dismissal of the Bureau's case. On October 17, the U.S. District Court for the Central District of California rejected that argument and denied the motion to dismiss. *See* Order at 3, *CFPB v. SoLo Funds, Inc.*, No. 2:24-cv-4108 (C.D. Cal. Oct. 17, 2024), ECF No. 54 (Ex. 2).

Dated: October 22, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2024, I electronically filed the foregoing Notice of Supplemental Authorities using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ David Hendricks
David Hendricks