

OCCC CASE NO. L25-022

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NO.: 450	§	OFFICE OF CONSUMER
COVINGTON CREDIT OF TEXAS, INC.	§	
d/b/a HEIGHTS FINANCE	§	CREDIT COMMISSIONER
101 NORTH MAIN STREET, SUITE 600	§	
GREENVILLE, SOUTH CAROLINA 29601	§	STATE OF TEXAS

ORDER DISAPPROVING PLAIN LANGUAGE CONTRACT SUBMISSION

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order Disapproving Plain Language Contract Submission against Covington Credit of Texas, Inc. d/b/a Heights Finance (“Heights Finance”).¹

Statement of Facts and Law

Chapter 341 of the Texas Finance Code requires loan contracts entered under Chapter 342 of the Texas Finance Code to be written in plain language designed to be easily understood by the average consumer.² A creditor must use either a model contract adopted by rule of the Finance Commission of Texas or a contract that the creditor has submitted to the OCCC for plain language review.³ Non-standard contracts submitted to the OCCC must be printed in an easily readable type size, must be consistent with Texas and federal law, must include a notice with the OCCC’s contact information, and must not exceed a maximum Flesch-Kincaid grade level score.⁴

In September 2021, Heights Finance submitted copies of documents titled Promissory Note, Convenience Check, Security Agreement, and Spanish Disclosure to the OCCC for plain language review. The submission form reflects that the contract’s form number is TX-Note rev. 01/18. Additionally, the check reflects the form number <ST-BRAND>08/20 [front] on the front of the check and the form number <ST-BRAND>08/20 [back] on the back of the check. The

¹ Tex. Fin. Code §§ 14.208, 341.502.

² Tex. Fin. Code § 341.502(a).

³ Tex. Fin. Code § 341.502(b)-(c).

⁴ 7 Tex. Admin. Code § 90.104(a)(1)-(5).

submission form reflects that the documents are intended to be used under Chapter 342, Subchapter F of the Texas Finance Code.

A. Type Size

For loan contracts submitted under Chapter 342, the text outside of the federal disclosure boxes must be at least as large as 8 points in the Times New Roman typeface.⁵

In its submission form, Heights Finance stated that the font size for the loan contract is 9 points. An OCCC examiner reviewed the submission and found that the font size in portions of the submission's text other than the federal disclosure boxes are in a 7-point type size.

The loan contract submitted by Heights Finance includes provisions that are not at least as large as 8 points in Times New Roman. Therefore, Heights Finance's loan contract is not printed in an easily readable type size, and does not comply with Section 341.502 of the Texas Finance Code and its implementing rules.

B. Flesch-Kincaid Grade Level Score

For contracts submitted under Chapter 342, Subchapter F, the maximum Flesch-Kincaid score is grade 8.⁶

In its submission form, Heights Finance stated on its submission form that the Flesch-Kincaid grade level score for the submission is grade 8. An OCCC examiner reviewed the submission and found that the Flesch-Kincaid grade level score for the Promissory Note is 8.2, the Flesch-Kincaid grade level score for the front of the Convenience Check is 8.7, and the Flesch-Kincaid grade level score for the back of the Convenience Check is 9.8. In July 2024, the OCCC sent a letter to Heights Finance describing this issue. Heights Finance did not respond to the OCCC's letter.

The loan contract submitted by Heights Finance does not have a Flesch-Kincaid grade level score of 8 or below. Therefore, Heights Finance's loan contract is not written in plain language designed to be easily understood by the average

⁵ 7 Tex. Admin. Code § 90.103(d).

⁶ 7 Tex. Admin. Code § 90.104(c)(4)(A).

consumer, and does not comply with Section 341.502 of the Texas Finance Code and its implementing rules.

Authority

If the Commissioner determines that a plain language contract does not comply with Section 341.502 of the Texas Finance Code or its implementing rules, then the Commissioner shall issue an order disapproving the contract.⁷ If the Commissioner issues an order disapproving a contract, a person may not use the contract after the order takes effect.⁸

The Commissioner has determined that the contract submitted by Heights Finance does not comply with Section 341.502 of the Texas Finance Code and its implementing rules. For this reason, the Commissioner issues this Order.

Order

IT IS ORDERED that:

1. The plain language loan contracts submitted by Heights Finance, form numbers TX-Note rev. 01/18, <ST-BRAND>08/20 [front], and <ST-BRAND>08/20 [back] are DISAPPROVED.
2. Heights Finance must cease and desist using the loan contracts with form numbers TX-Note rev. 01/18, ST-BRAND>08/20 [front], and <ST-BRAND>08/20 [back].
3. **No later than 30 days after the date of this Order**, Heights Finance must provide the OCCC with a written statement acknowledging that Heights Finance has ceased and desisted using the versions of form number TX-Note rev. 01/18, <ST-BRAND>08/20 [front], and <ST-BRAND>08/20 [back] that were submitted to the OCCC. Heights Finance must send the written statement by email to Audrey Spalding at audrey.spalding@occc.texas.gov.

⁷ Tex. Fin. Code § 341.502(c).

⁸ Tex. Fin. Code § 341.502(d).

Violation of Order

If you violate this Order, the OCCC may impose an administrative penalty of up to \$1,000 for each day.⁹

Right to Request Hearing

You have the right to request a hearing regarding this Order.¹⁰ To request a hearing, you must send a written hearing request to the OCCC no later than 30 days after the date of this Order.¹¹ You must send your request to Audrey Spalding, Assistant General Counsel, by mail to 2601 N. Lamar Blvd., Austin, TX 78705, or by email to audrey.spalding@occc.texas.gov.

If you request a hearing, a hearing will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.¹² If you fail to request a hearing by this deadline, the Order will be considered final and enforceable.¹³

All communications with the OCCC concerning this matter must be through Audrey Spalding, Assistant General Counsel, who may be contacted by mail at 2601 N. Lamar Blvd., Austin, TX 78705, by telephone at 512-936-7659, or by email to audrey.spalding@occc.texas.gov.

Signed this 18th day of December, 2024.

/s/ Leslie Pettijohn
Leslie L. Pettijohn
Consumer Credit Commissioner
State of Texas

⁹ Tex. Fin. Code § 14.208(c).

¹⁰ Tex. Fin. Code § 14.208(b).

¹¹ Tex. Fin. Code § 14.208(b).

¹² Tex. Fin. Code § 14.208(b).

¹³ Tex. Fin. Code § 14.208(c).

CERTIFICATE OF SERVICE

I certify that on December 18, 2024, a true and correct copy of this Order Disapproving Plain Language Contract Submission has been sent to Covington Credit of Texas, Inc. d/b/a Heights Finance by the following:

Covington Credit of Texas, Inc.
Attn: Kerry Palombo, Compliance
Officer
101 North Main St., Suite 600
Greenville, SC 29601
kerrypalombo@curo.com

- email
- eFileTexas.gov electronic service
- regular mail
- certified mail, return receipt requested
9214 8901 9403 8300 0092 0664 26

Covington Credit of Texas, Inc.
Attn: Katherine Bodnar, Plain Language
Contact Person
101 North Main St., Suite 600
Greenville, SC 29601
katherine.bodnar@heightsfinance.com

- email
- eFileTexas.gov electronic service
- regular mail
- certified mail, return receipt requested
9214 8901 9403 8300 0092 0940 61

Covington Credit of Texas, Inc.
Attn: CT Corporation Systems,
Registered Agent
1999 Bryan St., Suite 900
Dallas, TX 75201
southteam2@wolterskluwer.com

- email
- eFileTexas.gov electronic service
- regular mail
- certified mail, return receipt requested
9214 8901 9403 8300 0092 0664 33

/s/Audrey Spalding
Audrey Spalding
Assistant General Counsel
Office of Consumer Credit Commissioner
State Bar No. 24111055
2601 North Lamar Blvd.
Austin, Texas 78705
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audrey.spalding@occc.texas.gov