

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
Austin Division

Kristen Michael, an individual on behalf of
herself and all persons similarly situated,

Plaintiff,

v.

Opportunity Financial, LLC, a limited
liability company,

Defendant.

Case No. 1:22cv529

Class Action Complaint

Demand for Jury Trial

TABLE OF CONTENTS

I. Introduction 3

II. Parties 5

III. Jurisdiction and Venue 5

IV. Facts..... 6

 A. Texas law caps the interest rate on unlicensed lenders like Opportunity Financial at no more than 30% per year, and loans with a higher interest rate are void. 6

 B. Opportunity Financial devised a rent-a-bank scheme in an unsuccessful attempt to evade Texas law. 7

 1. Opportunity Financial is the true lender because it holds the predominant economic interest and bears the risk of loss 7

 2. Opportunity Financial is the true lender because it handles all acquisition, all marketing, all underwriting, and all servicing. 9

 3. Opportunity Financial is the true lender because it bears all responsibilities under the loan contracts. 11

 C. Opportunity Financial’s loan contracts are forms prepared by Opportunity Financial and forced on the borrowers. 13

 D. The loans’ arbitration clauses are void and unenforceable..... 13

 E. Ms. Michael’s loans are over 130% APR, with a duration of 19 months. 15

V. Class Action..... 16

VI. Causes of Action..... 18

VII. Prayer for Relief 24

I. INTRODUCTION

1. 160% APR. That's the interest rate on Defendant Opportunity Financial's loans to millions of borrowers in Texas and in over 30 other states.

2. The interest rate is high everywhere. And in Texas, it's also illegal. Here the max rate caps out at 30%.

3. Yet Opportunity Financial continues loaning money at 160% APR, both in states where it's legal and in states where it's not.

4. Opportunity Financial's conduct in both sets of states is identical. It markets the same loan product, at the same 160% interest rate, under the same trademarked "OppLoans" name. It underwrites the loans. It originates the loans. It services the loans. It enforces the loans. It even claims the loans on its financial reports.

5. The one difference? In states where 160% APR is legal, Opportunity Financial names itself as the lender in the loan contracts.

6. But in states where it's illegal, Opportunity Financial names two entities in those contracts: Opportunity Financial as the loan servicer and Utah state-chartered or FinWise Bank (or another Utah bank) as the purported lender. Then, after the loans are signed, Opportunity Financial buys 95% of the loan from the bank and goes about business as usual.

7. This is a sham. Opportunity Financial is the true lender on these loans. It bears all risk of loss, and it holds the predominant economic interest. Not FinWise. And not any other Utah bank.

8. Opportunity Financial can't use this rent-a-bank scheme to immunize itself from Texas law. Courts have repeatedly held that rent-a-bank schemes and similar rent-a-tribe schemes are illegal and can't circumvent state law. *E.g.*, *Consumer Fin. Prot. Bureau v. CashCall, Inc.*, No. 15-cv-7522, 2016 WL 4820635, at *6 (C.D. Cal. Aug. 31, 2016); *see, e.g.*, *D.C. v. Elevate Credit, Inc.*, No. 20-cv-1809, 2021 WL 2982143, at *6–9 (D.D.C. July 15, 2021). These schemes have even landed folks in federal prison on racketeering charges. *E.g.*,

U.S. Department of Justice, Scott Tucker Sentenced To More Than 16 Years In Prison For Running \$3.5 Billion Unlawful Internet Payday Lending Enterprise, <https://www.justice.gov/usao-sdny/pr/scott-tucker-sentenced-more-16-years-prison-running-35-billion-unlawful-internet-payday> (Jan. 5, 2018).

9. For these reasons, Texas law applies to these loans and invalidates them.

10. This conclusion is not controversial. Opportunity Financial has virtually conceded as much in a case over its loans in DC. There, the DC Attorney General sued Opportunity Financial over the same rent-a-bank scheme. That lawsuit ended with Opportunity Financial agreeing to:

- pay \$1.75 million;
- forgive \$640,000 in past due interest; and
- not offer, provide, advertise, or service any loans over the maximum DC interest rate of 24% APR.

11. Opportunity Financial's own SEC filings concede that it may be the true lender on these loans and that the loans may therefore be invalid. As it tells the SEC and prospective investors:

If loans facilitated through our platform for one or more bank partners were subject to successful challenge that *the bank partner was not the 'true lender,' such loans may be unenforceable* or otherwise impaired, we or other program participants may be subject to, among other things, fines, judgments and penalties

(emphasis partly omitted).

12. This action seeks to hold Opportunity Financial accountable for its racketeering and illegal loans in Texas. It seeks damages and restitution. It also seeks a judicial determination that Opportunity Financial is the true lender on the loans, that Texas law applies to these loans, and that the loan contracts and arbitration clauses are void and unenforceable.

II. PARTIES

13. Plaintiff Kristen Michael is a natural person domiciled in Texas. This is true as of both today's date and the dates when Ms. Michael entered her loan contracts with Opportunity Financial.

14. Defendant Opportunity Financial, LLC is a limited liability company. Its principal place of business is in Chicago, Illinois.

15. Opportunity Financial's members are: DAV 513 Revocable Trust, JSK Management Holdings, LLC, LTHS Capital Group LP, MCS 2017 Trust FBO Tracy Ward, MCS 2017 Trust FBO Todd Schwartz, Ward Capital Group LP, OppFi Management Holdings, LLC, ACM OppLoans Warrants VII LLC, Bruce Hammersley, Ray Chay, Jessica LaForte, Inoh Choe, Jeremiah Kaye, and CJ Newton.

16. Opportunity Financial's natural person members are all domiciled in Illinois.

17. Opportunity Financial's trust members comprise persons who are all domiciled in Illinois.

18. Opportunity Financial's limited liability company members comprise natural-person members who are all domiciled in either Illinois or Texas.

19. Opportunity Financial's limited partnership member comprises natural-person partners who are all domiciled in Illinois.

III. JURISDICTION AND VENUE

20. This Court has subject matter jurisdiction over this action for two reasons. First, it has federal question jurisdiction over the RICO claims and supplemental jurisdiction over the state law claims.

21. Second, the amount in controversy—the aggregate amount sought by the Class—exceeds \$5 million, and at least one Plaintiff is diverse from at least one Defendant. Therefore, the Court has subject matter jurisdiction under the Class Action Fairness Act.

22. This Court has specific personal jurisdiction over Opportunity Financial because it has intentionally availed itself of and purposefully directed its activities towards the State of Texas by doing business here.

23. Opportunity Financial solicited and entered loans with Ms. Michael and the Class, all of whom were Texas residents and citizens at the time of entering the loans. Opportunity Financial knew this. Ms. Michael and the Class' loan applications listed Texas addresses for their residence.

24. Opportunity Financial spearheaded the rent-a-bank scheme and implemented that scheme in Texas. It knew the scheme would affect Texas.

25. Venue is proper in the Austin Division of the Western District of Texas because a substantial part of the events giving rise to the claim occurred here. When Opportunity Financial entered the loan with Ms. Michael, she lived in Travis County.

IV. FACTS

A. Texas law caps the interest rate on unlicensed lenders like Opportunity Financial at no more than 30% per year, and loans with a higher interest rate are void.

26. Texas law caps the interest rate on consumer loans at 10% per year. Tex. Fin. Code § 302.001(b).

27. To issue loans at a higher interest rate, an entity must obtain a Texas lending license. *Id.* § 342.051(a). An entity “may not use any device, subterfuge, or pretense to evade” this requirement. *Id.* § 342.051(b).

28. With such a license, the maximum interest rate on a loan not secured by real property is no greater than 30% per year. *Id.* § 342.201(e).

29. Opportunity Financial has that Texas lending license. Therefore, the maximum interest it may charge on a loan is no more than 30% per year.

30. Any entity who contracts for, charges, or receives more than the maximum interest rate is liable for (1) twice the amount of the interest contracted for, charged, or received,

and (2) legal fees. *Id.* § 349.001(a); *see also id.* §§ 305.001(a), 305.005. Additionally, it is liable for three times the economic loss. *Id.* § 349.003(a). Texas law allows grants additional recoverable penalties in class actions, including penalties of \$100,000 per violation, as well as legal fees and costs. *Id.* § 349.403.

31. If the entity also contracted for, charged, or received interest more than double the legal rate, it is liable for (1) all principal, (2) all interest, and (3) legal fees. *Id.* § 349.002; *see also id.* § 305.002(a). This conduct is also a crime under Texas law. *Id.* § 349.501.

B. Opportunity Financial devised a rent-a-bank scheme in an unsuccessful attempt to evade Texas law.

32. In 2012, Opportunity Financial started its business as a storefront lender. The next year it moved its business online and focused on nonprime consumers.

33. Opportunity Financial now issues loans in around 35 states.

34. In four states, Opportunity Financial closes subprime loans (its OppLoans product) in its own name and does not engage in a rent-a-bank scheme. Those states do not have usury laws prohibiting those loans, so Opportunity Financial's conduct in those states is lawful.

35. Opportunity Financial's loans to Texas are normally around 160% per year, but sometimes they are around 130% per year. The total principal ranges from \$500 to \$4,000. Typically the repayment term is around 11 months, but it can range from 9 to 18 months.

36. Opportunity Financial's loans to Texans are personal loans. They are not for business purposes.

37. Opportunity Financial has also expanded into the near-prime market and may have at least some lawful operations in that segment.

1. Opportunity Financial is the true lender because it holds the predominant economic interest and bears the risk of loss

38. To create a veneer of legitimacy, Opportunity Financial has implemented a rent-a-bank scheme. It crafts the loan contract as purportedly between one of three Utah state-chartered banks (generally FinWise Bank, but sometimes other banks such as First Electronic)

and the Texas consumer. These banks are wholly located in the State of Utah and have no branches outside that state.

39. But what Opportunity Financial puts on paper does not change the reality: it is the true lender on these loans. Opportunity Financial holds the predominant economic interest. It bears the risk of loss and poor performance. And it funds the expenses for the provision of the loans.

40. Shortly after every loan is entered, Opportunity Financial buys 95% of each loan from the rented Utah-chartered bank, such as FinWise. It makes these purchases daily.

41. Opportunity Financial takes the risk of poorly performing loans. Its accounting statements include provisions for losses on the loans, costs related to its funding of the purchases of the loans, and the costs of loan origination.

42. By comparison, FinWise and the other rented banks' risk and reward on these loans is virtually nil. Their fees and expenses are capped under its agreements with Opportunity Financial. And Opportunity Financial's assumption of the risk and purchase of the loans is guaranteed through their agreements with the rented bank (such as FinWise), including a requirement that Opportunity Financial hold cash in blocked accounts at each rented bank.

43. Opportunity Financial provides the rented banks (such as FinWise) with three more layers of security to guarantee Opportunity Financial's purchase of the loans: a cash collateral account, an alternate collateral account (both with defined minimum balances), and letters of credit for the benefit of each bank.

44. Driving home the point that Opportunity Financial is the true lender on these loans is its own financial statements. These statements identify Opportunity Financial's "Key Performance Metrics." The lead metric is "Total Net Originations." That number "includes both originations by bank partners on the OppFi platform, as well as direct originations by OppFi." Other key metrics are the charge-off percentages, auto-approval rates, and marketing costs—all things handled by Opportunity Financial.

2. Opportunity Financial is the true lender because it handles all acquisition, all marketing, all underwriting, and all servicing.

45. Opportunity Financial handles all acquisition, all marketing, all underwriting, and all servicing of the loans. For this reason as well, Opportunity Financial is the true lender.

46. Opportunity Financial pays for all the marketing of the loans. To that end, it pays tens of millions of dollars each year on marketing.

47. Opportunity Financial uses several methods to find potential borrowers. It sends prescreened direct mail. It employs email campaigns directed at borrowers. It uses search engine optimization, online lead generators, social media, and multimedia.

48. Opportunity Financial also targets consumers through other digital channels, as well as through its website, opploans.com.

49. Opportunity Financial markets the loans as “OppLoans.” This is a trademarked product of Opportunity Financial’s and the name that Opportunity Financial does business under. They are not named “FinWiseLoans.” Nor “FirstElectronicLoans.” Nor on behalf of any other rented bank.

50. Opportunity Financial creates the marketing materials and product offerings to promote the loans. Both the program guidelines used to operate the OppLoans program and the advertising materials that Opportunity Financial uses to promote OppLoans are Opportunity Financial’s intellectual property.

51. Opportunity Financial is also the servicer for the loans. It has the exclusive license to use customer information and the right to contact and communicate with borrowers about potential loans.

52. Consumers who wish to obtain a loan must do so through Opportunity Financial’s website, opploans.com. There is no other way to obtain the loans.

53. Consumers cannot obtain a loan through FinWise, First Electronic, or any other rented bank.

54. FinWise’s website contains a page about loans offered by FinWise. That page markets FinWise’s own lending products, none of which are the OppLoans product or anything remotely similar.

55. That page also contains a notice trumpeting products by FinWise’s partners: “If you have received offers from our other Partners, please click the button below. Our Partners include American First Finance, Liberty Lending, Lendingpoint, OppLoans, Mulligan Funding, Behalf and rise.” FinWise itself recognizes these are offers *from* OppLoans, not from FinWise.

56. Clicking that button then leads to a page showing 11 “partners”—i.e., the loans’ true lenders. One of these is Opportunity Financial. The FinWise website contains a three sentence description of Opportunity Financial’s loans, and directs visitors to Opportunity Financial’s website to “Learn More.”

57. First Electronic’s website does not contain any information in any way about the loans or obtaining the loans. First Electronic does not reference Opportunity Financial or OppLoans in any way, and nobody visiting First Electronic’s website could determine how to take out such a loan.

58. First Electronic’s website references its “strategic partnership program” that “is custom-tailored to an individual partner’s products and customer base in order to provide consumer and commercial financing solutions.” Thus, First Electronic itself recognizes that these are loans from Opportunity Financial and to Opportunity Financial’s customers.

59. Opportunity Financial’s duties include finding and identifying eligible borrowers, processing the loan applications, maintaining the originals or copies of all loan documents, performing underwriting on the loan, establishing the account into which the proceeds from the loans are deposited, servicing the loans, collecting on the loans, and instituting collections and legal proceedings against borrowers who have defaulted.

60. Opportunity Financial executes all notices to consumers about the legal status of the loans and has the authority to grant loan modifications to borrowers.

61. Opportunity Financial screens potential borrowers based on its own proprietary lending criteria. Nearly all the lending decisions for the loans are made by Opportunity Financial and its proprietary credit-decision-making algorithms. In total, the application and approval process takes around five minutes and is handled solely by Opportunity Financial.

62. After a loan is approved, Opportunity Financial closely monitors the borrowers' bank account balances. They are looking for cash. If they see a relatively large balance, Opportunity Financial emails these borrowers and tells them they can get more money in their pocket if they refinance. That email then directs them to Opportunity Financial's website to complete the refinance application, which will ultimately refinance them into a new loan at the same 160% interest rate.

63. Opportunity Financial sends these unsolicited refinance offers for one purpose: to get Opportunity Financial more money, at the cost of forcing its borrowers into deeper and deeper debt spirals. Opportunity Financial has found their marks, and it will bleed them dry.

64. Opportunity Financial spends millions of dollars each year to support its national provision of the OppLoans product. This money is spent on advertisements, loan origination, collection, and technology costs.

3. Opportunity Financial is the true lender because it bears all responsibilities under the loan contracts.

65. Opportunity Financial bears all responsibilities under the loan contracts with the borrowers. FinWise, First Electronic, and the rented banks bear none. For this reason too, Opportunity Financial is the loans' true lender.

66. The loans don't provide any address or contact information for FinWise, First Electronic, or any other rented bank. Instead, they provide Opportunity Financial's address, phone number, and email address. And the loans direct that all communications go through Opportunity Financial.

67. The loans mention Opportunity Financial at least fifteen times. These references include:

- a statement identifying Opportunity Financial and its address and phone number as the address for FinWise;
- “If the amount actually owing on the Maturity Date is more than the amount shown on the above Payment Schedule, then: (i) by contacting our servicer Opportunity Financial, LLC (‘OppLoans’) at (855) 990-9500 or info@opploans.com”;
- “If you wish to change your payment method, you may contact us by communicating with Opploans at (855) 990-9500 or info@opploans.com”;
- “You understand and acknowledge that you may terminate this authorization by notifying us at (855) 990-9500 or info@opploans.com or by mail to OppLoans, ATTN: Compliance Department, One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601”;
- “You may elect to receive advance notice of the date and amount of each regularly recurring Automated Payment that varies from the scheduled payments if you notify us by communicating with OppLoans at (855) 990-9500, or at One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601”;
- “If you believe we have initiated a payment in a manner not contemplated by this authorization, then please contact OppLoans at (855) 990-9500, or One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601”;
- “You understand and acknowledge that you may terminate our authority to create and submit Remotely Created Checks by notifying us at (855) 990-9500 or info@opploans.com or by mail to OppLoans, ATTN: Compliance Department, One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601”;
- “You may elect to receive advance notice of the date and amount of each regularly recurring Remotely Created Check that varies from the scheduled payments if you notify us by communicating with OppLoans at (855) 990-9500, or at One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601”;
- “If you believe we have presented a Remotely Created Check in a manner not contemplated by this authorization, then please contact OppLoans at (855) 990-9500, or One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601”;
- “For questions, please contact: (855) 990-9500”; and
- “We may assign this Note at any time without your permission. Our transfer may be made by causing a registration of transfer in the record of ownership as described below, without providing you with any other notice

Ownership of this Note (and rights hereunder, including with respect to principal and interest) shall be registered in a record of ownership maintained by an entity specifically designated for such purposes. You hereby irrevocably appoint Opportunity Financial, LLC as your agent acting solely for the purpose of maintaining such record of ownership.”

C. Opportunity Financial’s loan contracts are forms prepared by Opportunity Financial and forced on the borrowers.

68. Opportunity Financial uses identical loan contracts (other than the principal amounts) for all loans to the Class.

69. The loan contracts are forms prepared by Opportunity Financial and are contracts of adhesion. The terms are forced on the borrowers, and the borrowers have no ability to negotiate them.

70. The loans, written in size 4.5 font, are practically illegible.

71. The only persons who sign the loan contracts are the borrowers.

72. Opportunity Financial does not sign them.

73. Nobody signs the loans on behalf of Opportunity Financial. Nobody signs the loans on behalf of First Electronic, FinWise, or any other rented bank.

74. After the loan contracts are purportedly consummated, the borrowers receive a copy of the loan contract. That contract is signed only by the borrower—nobody else.

D. The loans’ arbitration clauses are void and unenforceable.

75. Opportunity Financial’s loans contain arbitration clauses. Within that clause is also a class action and jury trial waiver.

76. Any issues related “validity, enforceability, coverage, or scope” of the arbitration clause “shall be determined by a court.”

77. Arbitration clauses are invalid if the contract is void under generally applicable state law. 9 U.S.C. § 2; *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 339, 343 (2011) (“This saving clause permits agreements to arbitrate to be invalidated by ‘generally applicable contract defenses, such as fraud, duress, or unconscionability,’ but not by defenses that apply

only to arbitration or that derive their meaning from the fact that an agreement to arbitrate is at issue.”).

78. The arbitration clause here is void under both state law and federal law.

79. First, the arbitration clause is invalid and unenforceable because it is unconscionable and unenforceable under public policy. The arbitration clause is procedurally unconscionable. They are Opportunity Financial’s form contracts offered on a take-it-or-leave-it basis to financially desperate borrowers. They are contracts of adhesion, and Opportunity Financial had all the bargaining power.

80. The arbitration clause is also substantively unconscionable and separately unenforceable under public policy. It requires applying Utah law to the dispute. Utah law does not have any caps on interest rate. So by requiring that the arbitrator apply Utah law, the arbitration clause waives all the borrowers’ claims and deprives them of any remedy for Opportunity Financial’s misconduct. An arbitrator could not apply Texas law to determine whether the contract is unconscionable and could not even limit the application of the choice of law clause to the extent necessary to prevent substantial injustice, as Texas requires. Thus, the clause is overly harsh, unduly oppressive, and so one sided as to shock the conscience, as well as separately unenforceable under Texas public policy.

81. The arbitration clause requires that the “Arbiter must enforce your agreements with us, as they are written.” “Any rules that conflict with” that “don’t apply.” Thus, the arbitration agreement compels the arbitrator to enter judgment for Opportunity Financial and gives her no choice otherwise.

82. The arbitration clause provides that “No arbitration award under this Agreement will affect any dispute involving any other party. No arbitration award under another party’s agreement will affect any arbitration under this Agreement.” This is unlawful and void because it violates fundamental principles of res judicata, collateral estoppel, and issue preclusion.

83. Imagine if a borrower gets an order declaring the loans unlawful or a violation of RICO. That order becomes final. Fundamental offensive issue preclusion would treat that point as established against Opportunity Financial in all cases. If other borrowers sued, the only question remaining would be damages because liability is established.

84. The arbitration clause effectively bars the arbitrator from applying any state or federal law on res judicata, collateral estoppel, or issue preclusion and bars the arbitrator from affording relief that would be required in a court of law.

85. For all those reasons, the arbitration clause is both substantively unconscionable and unenforceable as a violation of public policy.

86. Second, the arbitration clause is void as a prospective waiver of the Ms. Michael's rights under federal law by prospectively waiving her right to bring a RICO claim under Texas law.

87. With the arbitration clause invalidated, the jury trial and class action waivers are also invalidated and unenforceable.

E. Ms. Michael's loans are over 130% APR, with a duration of 19 months.

88. Ms. Michael has taken out multiple loans with Opportunity Financial.

89. She took out a loan from Opportunity Financial after January 2020 for an unlawful interest rate at more than double Texas' statutory maximum.

90. She made payments on this loan.

91. Opportunity Financial later contacted her about refinancing the loan and borrowing more money. This was entirely unsolicited.

92. Ms. Michael accepted Opportunity Financial's offer and entered a new loan contract with Opportunity Financial. In June 2021, she borrowed \$1,400 at an interest rate of 130.54% APR), with a 16 month term. The majority of the money went to paying off her old loan. Attached as Exhibit A is a true and correct copy of that loan contract, with certain personal information redacted.

93. Ms. Michael has made payments on this June 2021 loan.

94. Ms. Michael's loan contracts are pre-printed form contracts. The terms were dictated by Opportunity Financial, and she had no opportunity for negotiation or modification.

95. At no point has Ms. Michael ever communicated with any person employed by First Electronic or FinWise. All her communications were with Opportunity Financial.

V. CLASS ACTION

96. Ms. Michael brings this lawsuit as a class action under Federal Rule of Civil Procedure 23. The putative class is defined as follows:

All individuals in Texas who obtained a loan from, through, by way of, or with the assistance of Opportunity Financial on or after June 2, 2018, with an interest rate over 30% per year.

Excluded from the Class are all employees of Opportunity Financial and any judicial officer assigned to this case.

97. The Class has one sub-class: the RICO Sub-Class.

98. The RICO Sub-Class is defined as follows:

All individuals in Texas who obtained a loan from, through, by way of, or with the assistance of Opportunity Financial on or after June 2, 2018, with an interest rate over 60% per year.

Excluded from this sub-class are all employees of Opportunity Financial and any judicial officer assigned to this case.

99. Ms. Michael is a member of the Class and the RICO Sub-Class.

100. Because all of Opportunity Financial's loans are over 130% per year, every borrower is a member of the Class and the Rico Sub-Class.

101. *Numerosity.* The size of the Class and the RICO Sub-Class each comprise at least 15,000 persons. The size of the Class and the RICO Sub-Class grows daily.

102. *Ascertainability.* The members of the Class and the RICO Sub-Class can be ascertained from Opportunity Financial's business records.

103. *Common Questions of Fact or Law.* The lawsuit is suitable for class treatment because questions of law and fact have common answers that are the same for the Class and the

RICO Sub-Class, and those questions predominate over questions affecting only individual members. These common questions of law and fact include:

- Whether Opportunity Financial is the true lender on the loans;
- Whether the loans are governed by Texas law;
- Whether Opportunity Financial charged an interest rate in excess of what's allowed under Texas law;
- Whether the loans violate Texas law;
- Whether the arbitration clause is void;
- Whether the loans are void; and
- The appropriate remedies for Opportunity Financial's misconduct.

104. *Typicality and Adequacy.* Ms. Michael's claims are typical of the claims of the members of the Class and the RICO Sub-Class. The evidence and the legal theories about Opportunity Financial's alleged wrongful conduct are substantially the same for Ms. Michael and all members of the Class and the RICO Sub-Class. Ms. Michael will fairly and adequately represent and protect the interests of the Class and the RICO Sub-Class and has no interests adverse to them.

105. *Superiority.* This action is superior to other available methods for fairly and efficiently adjudicating the issues. Class certification will not present any significant management difficulties. Class certification would also conserve judicial resources and avoid the possibility of inconsistent judgments, incompatible standards, or impeding or impairing non-parties' interests. The expense and burden of individual litigation would make it very difficult or impossible for individual Class members to redress the wrongs done to them without a class action.

106. *Conduct on Grounds that Apply to the Class.* Defendant has acted or refused to act on grounds that apply generally to the Class and the RICO Sub-Class, so that final injunctive

relief or corresponding declaratory relief is appropriate respecting the Class and the RICO Sub-Class as a whole.

VI. CAUSES OF ACTION

107. Ms. Michael re-alleges and incorporates by reference all the preceding paragraphs and allegations in each of the following causes of action.

FIRST CAUSE OF ACTION

Violation of Texas Usury Laws (e.g., Tex. Fin. Code §§ 342.001 *et seq.*, 349.001 *et seq.*, and 302.001 *et seq.*) by Michael, on behalf of herself and the Class, against Defendant

108. Opportunity Financial engaged in the business of making loans for personal, family, household, and other nonbusiness purposes with Ms. Michael and the Class.

109. Opportunity Financial engaged in this activity in the State of Texas.

110. The loans that Opportunity Financial transacted with Ms. Michael and the Class had an interest rate over 30% per year.

111. While Opportunity Financial listed FinWise (and other Utah-chartered banks) as the lenders in the loan contracts, the true lender is Opportunity Financial.

112. The loans to Ms. Michael and the Class violate Texas usury law because their interest rate is over of 30% interest per year. Texas Fin. Code § 342.201.

113. As a result, Ms. Michael and the Class are entitled to recover twice the total amount of interest paid, legal fees, and costs. *Id.* §§ 349.001(a), 349.003(a), 349.403(e).

114. The Class is also entitled to an award of no more than \$100,000 per violation. *Id.* § 349.403(d). Opportunity Financial committed over 15,000 violations.

SECOND CAUSE OF ACTION

Violation of Texas Usury Laws (e.g., Tex. Fin. Code §§ 342.001 *et seq.*, 349.001 *et seq.*, and 302.001 *et seq.*) by Michael, on behalf of herself and the RICO Sub-Class, against Defendant

115. Opportunity Financial engaged in the business of making loans for personal, family, household, and other nonbusiness purposes with Ms. Michael and the RICO Sub-Class.

116. Opportunity Financial engaged in this activity in the State of Texas.

117. The loans that Opportunity Financial transacted with Ms. Michael and the RICO Sub-Class had an interest rate over 60% per year.

118. While Opportunity Financial listed FinWise (and other Utah-chartered banks) as the lenders in the loan contracts, the true lender is Opportunity Financial.

119. The loans to Ms. Michael and the RICO Sub-Class violate Texas usury law because their interest rate is over of 60% interest per year. *Id.* § 342.201.

120. As a result, Ms. Michael and the RICO Sub-Class are entitled to recover (1) all principal payments, (2) twice the amount of interest payments, and (3) legal fees and costs. *Id.* §§ 349.001(a), 349.002, 349.003(a), 349.403(e).

121. The RICO Sub-Class is also entitled to an award of no more than \$100,000 per violation. *Id.* § 349.403(d). Opportunity Financial committed over 15,000 violations.

THIRD CAUSE OF ACTION
Unjust Enrichment
by Michael, on behalf of herself and the Class, against Defendant

122. All Opportunity Financial's loans made to the Class are void and unenforceable.

123. Ms. Michael and the Class conferred a benefit on Opportunity Financial when they repaid the loans. Opportunity Financial knew or should have known of the benefit. And Opportunity Financial has been unjustly enriched through their receipt of those payments.

124. Accordingly, Plaintiff and the Class seek to recover all amounts paid on the loans from Opportunity Financial.

FOURTH CAUSE OF ACTION
Declaratory Relief
by Michael, on behalf of herself and the Class, against Defendant

125. The law allows a party to obtain a judicial declaration on rights or duties under a written contract. An actual and present controversy has arisen on the rights and duties of the respective parties under the loan contracts.

126. Ms. Michael and the Class contend that Opportunity Financial is the true lender on the loans; that the loan agreements are governed by Texas law; the arbitration clause, jury

waiver, class waiver, and prohibition of res judicata, collateral estoppel, and issue preclusion are void, and unenforceable; and the loan contracts are unconscionable, void, and unenforceable.

127. On the other hand, Defendant contends the Utah bank is the true lender on the loans at issue; that the loan agreements are governed by Utah law; and that the loan contracts and arbitration clauses are valid and enforceable.

128. Accordingly, Ms. Michael and the Class seek a judicial declaration pursuant to 28 U.S.C. § 2201 and Tex. Civ. Prac. & Rem. Code §§ 37.001 *et seq.* that:

- Opportunity Financial is the true lender on the loans;
- the loans are governed by Texas law;
- the loan contracts are void and unenforceable;
- the loan contracts are unconscionable, void, and unenforceable
- the loan contracts' arbitration clause is unconscionable, void, and unenforceable;
- the arbitration clause's class waiver is unconscionable, void, and unenforceable in light of the invalidated arbitration clause;
- the arbitration clause's jury waiver is unconscionable, void, and unenforceable in light of the invalidated arbitration clause; and
- the arbitration clause's prohibition of res judicata, collateral estoppel, and issue preclusion is unconscionable, void, and unenforceable.

FIFTH CAUSE OF ACTION
for Violation of 18 U.S.C. § 1962(c) (RICO Association-in-Fact Enterprise)
by Michael, on behalf of herself and the RICO Sub-Class, against Defendant

129. Opportunity Financial violated 18 U.S.C. § 1962(c).

130. *Association in-fact enterprise.* The Illegal Loans Enterprise engaged in activities that affected interstate commerce.

131. The following persons, and others presently unknown, have been members of and constitute an association-in-fact enterprise within the meaning of RICO, and will be referred to collectively as the Illegal Loans Enterprise:

- Opportunity Financial: the creator, director, funder, implementer, orchestrator, and operator of the rent-a-bank scheme; and

- FinWise: the bank that agreed to be rented by allowing Opportunity Financial to purportedly close loans in FinWise's name, while Opportunity Financial maintains all risk of loss and holds the predominant economic interest.

132. Each of these entities holds uniquely distinct roles.

133. The Illegal Loans Enterprise is an association-in-fact enterprise of corporate entities and individuals. It comprises persons associated together for a common purpose.

134. The Illegal Loans Enterprise has an ongoing organization with an ascertainable structure and functions as continuing unit with separate roles and responsibilities.

135. While the members of the Illegal Loans Enterprise participate in the conduct of that enterprise, they each have an existence separate and distinct from the enterprise.

136. *Operation and control of the Illegal Loans Enterprise.* At all relevant times, Opportunity Financial knowingly conducted the Illegal Loans Enterprise's affairs or knowingly participated, directly or indirectly, in the conduct of the enterprise's affairs.

137. At all relevant times, Opportunity Financial operated, controlled, or managed the Illegal Loans Enterprise through various actions.

138. Opportunity Financial directed, operated, and managed the affairs of the Illegal Loans Enterprise.

139. Opportunity Financial could not accomplish the enterprise's affairs on its own. To succeed in states with interest rate caps, Opportunity Financial needed to rent a bank that Opportunity Financial could claim as the purported lender on the loans.

140. Opportunity Financial rented at least three Utah state-chartered banks, primarily FinWise but also others such as First Electronic. Opportunity Financial entered contracts with those banks to effect the rent-a-bank scheme and the Illegal Loans Enterprise. The Illegal Loans Enterprise and rent-a-bank scheme could not proceed without those banks.

141. *Common purpose of the Illegal Loans Enterprise.* The common purpose of the Illegal Loans Enterprise is to enter loan transactions with the Class at interests rates of over 60% interest per year.

142. *Collection of unlawful debt.* It is unlawful for a RICO enterprise to engage in the collection of an “unlawful debt.” 18 U.S.C. § 1962(c).

143. An “unlawful debt” is a debt (A) “which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury” and (B) “which was incurred in connection with ... the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate.” 18 U.S.C. § 1961(6).

144. The loans that Opportunity Financial issued to Ms. Michael and the RICO Sub-Class are unlawful debts under RICO.

145. The loans issued to Ms. Michael and the RICO Sub-Class are more than two times the amount permitted by Texas laws relating to usury.

146. The loans issued to Ms. Michael and the RICO Sub-Class were incurred in connection with the business of lending money at a rate usurious under Texas law, where the usurious rate is at least twice the enforceable rate.

147. Texas law caps the interest rates on loans by licensed lenders at no more than 30% per year.

148. Opportunity Financial’s loans are unenforceable under Texas’ laws relating to usury.

149. The loans to Ms. Michael and the RICO Sub-Class are void. Ms. Michael and the Class are entitled to recover: (1) all principal payments, (2) twice the amount of interest payments, (3) an award of no more than \$100,000 per violation (and there are over 15,000 violations), and (4) legal fees and costs. Texas Fin. Code §§ 349.001(a), 349.002, 349.003(a), 349.403(d).

150. A single instance of a collection of an unlawful debt violates RICO. That said, Opportunity Financial engaged in widespread misconduct and issued over 15,000 loans to the RICO Sub-Class. All of these loans are unlawful debts under RICO.

151. *Longevity.* The Illegal Loans Enterprise has a longevity sufficient to permit Opportunity Financial to pursue the enterprise's purpose. Opportunity Financial spent years, material amounts of money, and significant time and resources to develop the rent-a-bank scheme. It has been operating that scheme for at least five years.

152. *Injury.* Ms. Michael and the RICO Sub-Class were injured as a direct result of Opportunity Financial's violations of 18 U.S.C. § 1962(c), by the payment of unlawful and usurious interest rates on loans made by Opportunity Financial which would not have been made but for Opportunity Financial's conduct.

153. Ms. Michael and the RICO Sub-Class were also injured because they made payments repaying principal. Opportunity Financial was not entitled to the return of principal.

154. Opportunity Financial is liable for actual damages, treble damages, and legal fees pursuant to 18 U.S.C. § 1964(c).

**SIXTH CAUSE OF ACTION
for Violation of 18 U.S.C. § 1962(d) (RICO Conspiracy)
by Michael, on behalf of herself and the RICO Sub-Class, against Defendant**

155. Ms. Michael re-alleges and incorporates paragraphs 129–154.

156. Opportunity Financial violated 18 U.S.C. § 1962(d) by conspiring to violate § 1962(c).

157. Opportunity Financial knowingly agreed to facilitate the Illegal Loans Enterprise, which allowed the enterprise to make and collect unlawful debt at more than twice the lawful rate of interest under Texas usury law.

158. This knowledge is evidenced in part by Opportunity Financial's spearheading the creation of the rent-a-bank scheme.

159. Ms. Michael and the RICO Sub-Class were injured as a direct result of Opportunity Financial's violations of 18 U.S.C. § 1962(d), by the payment of unlawful and usurious interest rates on loans made by Opportunity Financial which would not have been made but for Opportunity Financial's conduct.

160. Ms. Michael and the RICO Sub-Class were also injured because they made payments repaying principal. Opportunity Financial was not entitled to the return of principal.

161. Opportunity Financial is liable for actual damages, treble damages, and legal fees pursuant to 18 U.S.C. § 1964(c).

VII. PRAYER FOR RELIEF

162. Ms. Michael requests that the Court enter the following relief against Defendant as follows:

- An order certifying the Class and the RICO Sub-Class;
- Judgement against Defendant;
- Compensatory damages, including all payments of principal, twice the amount of all interest payments, and twice the amount of all owed interest payments in an amount yet to be ascertained;
- An award of no more than \$100,000 per violation;
- Treble and punitive damages, in an amount yet to be ascertained;
- An order declaring that: (1) Opportunity Financial is the true lender on the loans; (2) the loans are governed by Texas law; (3) the loan contracts are void and unenforceable against Ms. Michael and the Class members; (4) the loan contracts' arbitration clause is unconscionable, void, and unenforceable; (5) the loan contracts' class waiver is unconscionable, void, and unenforceable; (6) the loan contracts' jury waiver is unconscionable, void, and unenforceable; (7) the loan contracts' prohibition of res judicata, collateral estoppel, and issue preclusion is unconscionable, void, and unenforceable; and (8) the loan contracts are unconscionable, void, and unenforceable;
- Prejudgment interest;
- An injunction that that (1) bars Defendant from directly or indirectly offering, providing, advertising, or acting as a service provider for any loans over the maximum interest rate; (2) requiring Defendant to give individualized notice to all Class members of their rights under all applicable laws; (3) requiring Defendant to provide individualized notice to each such consumer of the procedures available for enforcing the consumer's rights under applicable Texas laws; (4) voiding the loans and barring Opportunity Financial from enforcing them, and (5) establishing an effective monitoring mechanism to ensure Defendant's continued compliance with the terms of the injunction
- Restitution of all money paid to Defendant, in an amount yet to be ascertained;

- Legal fees and costs pursuant to 18 U.S.C. § 1964(c) and Texas Financial Code §§ 349.001(a), 349.002, 349.403(e);
- Costs and expert witness fees; and
- For such other relief that the Court deems just and proper.

Dated: June 1, 2022

/s/ John R. Davis

John Davis (Texas Bar # 24099518)
jdavis@slackdavis.com
SLACK DAVIS SANGER LLP
6001 Bold Ruler Way, Suite 100
Austin, TX 78746
(703) 910-5062



Dan Terzian (*pro hac vice* application
forthcoming)
dan.terzian@warrenterzian.com
WARREN TERZIAN LLP
222 N. Pacific Coast Highway,
Suite 2000
Los Angeles, CA 90245
(213) 410-2620

Counsel for Plaintiff Kristen Michael

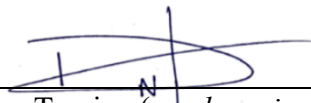
DEMAND FOR JURY TRIAL

Plaintiff Kristen Michael and the Class demand a trial by jury on all issues so triable.

Dated: June 1, 2022

/s/ John R. Davis

John Davis (Texas Bar # 24099518)
jdavis@slackdavis.com
SLACK DAVIS SANGER LLP
6001 Bold Ruler Way, Suite 100
Austin, TX 78746
(703) 910-5062



Dan Terzian (*pro hac vice* application
forthcoming)
dan.terzian@warrenterzian.com
WARREN TERZIAN LLP
222 N. Pacific Coast Highway,
Suite 2000
Los Angeles, CA 90245
(213) 410-2620

Counsel for Plaintiff Kristen Michael

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 310 Airplane, 365 Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Exhibit A

Promissory Note and Disclosure Statement

Loan Effective Date: 06/22/2021

Loan #: [REDACTED] 5555
Customer #: [REDACTED] 5244

LENDER: FinWise Bank	ADDRESS: C/O Opportunity Financial, LLC 130 E Randolph St, Suite 3400	CITY: Chicago	STATE: IL	ZIP CODE: 60601	PHONE: (855) 990-9500
BORROWER: Kristen Michael	MAIN PHONE: 720 [REDACTED]	WORK PHONE:	MOBILE PHONE: 720 [REDACTED]		
ADDRESS: [REDACTED]		CITY: Cedar Park	STATE: TX	ZIP CODE: [REDACTED]	

FEDERAL TRUTH-IN LENDING DISCLOSURE STATEMENT

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. 130.54%	FINANCE CHARGE The dollar amount the credit will cost you. \$864.80	AMOUNT FINANCED The amount of credit provided to you or on your behalf. \$1,400.00	TOTAL OF PAYMENTS The amount you will have paid after you have made all payments as scheduled. \$2,264.80
---	--	---	--

Your payment schedule will be:

No. of Payments:	Amount of Payments:	Payment Due Dates:
1	\$119.20	07/05/2021
1	\$119.20	07/20/2021
1	\$119.20	08/05/2021
1	\$119.20	08/20/2021
1	\$119.20	09/05/2021
1	\$119.20	09/20/2021
1	\$119.20	10/05/2021
1	\$119.20	10/20/2021
1	\$119.20	11/05/2021
1	\$119.20	11/20/2021
1	\$119.20	12/05/2021
1	\$119.20	12/20/2021
1	\$119.20	01/05/2022
1	\$119.20	01/20/2022
1	\$119.20	02/05/2022
1	\$119.20	02/20/2022
1	\$119.20	03/05/2022
1	\$119.20	03/20/2022
1	\$119.20	04/05/2022

SECURITY: This loan includes a security interest in the Payment Authorization.

PREPAYMENT: If you prepay in full or in part, you will not have to pay a penalty.

See your contract terms below for additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

Itemization of Amount Financed:

- Amount provided directly to you: \$500.56
- Amount paid on your existing loan (Existing Payoff Amount): # [REDACTED] 0325: \$899.44

HIGH COST CREDIT DISCLOSURE: This is an expensive form of credit. Our loans are designed to help consumers meet short-term borrowing needs and NOT intended as a long-term credit solution. Alternative forms of credit may be less expensive and more suitable for your financial needs. You should compare the cost of other options with this loan before executing this Note. Paying late or making partial payments may increase the amount of the finance charges that you pay and could increase the term of your loan.

ARBITRATION DISCLOSURE: This Promissory Note includes an Arbitration Clause (the "Arbitration Clause"). In the event of a dispute related to this loan, your ability to have the dispute resolved in court is limited. You can "opt out" of the Arbitration Clause as set forth below. Please review the Arbitration Clause carefully before signing this Note.

PROMISSORY NOTE

In this Promissory Note and Disclosure Statement ("Note"), the words "Borrower", "you", and "your" mean the person signing as borrower. The words "Lender", "we" and "us" mean FinWise Bank, an FDIC-insured bank located in Utah, or any of its direct or indirect assignees. We have not yet committed to extend credit and will only be committed to extend credit if and when we initiate a transfer of funds to the bank account you have identified for this purpose in the process of applying for credit or to an another account in paying any Existing Payoff Amount referenced above. The Federal Truth in Lending Disclosure Statement ("Disclosure Statement") above is part of the terms and conditions of this Note. This Note is not a negotiable instrument.

- LOAN TRANSACTION.** To complete your loan transaction, you must electronically sign this Note below. If and when we verify your information and approve the loan, we will use commercially reasonable efforts to transfer the loan proceeds to your bank account you identified or pay off the Existing Payoff Amount on or before the next business day. However, delays may result from verification of information late in a business day or on a non-business day, processing errors and/or "acts of God".
- CREDIT AUTHORIZATION.** You authorize us to transfer loan proceeds directly to your banking account: **Account type:** Checking Account; **Bank routing and transit number:** [REDACTED]; **and Account Number:** [REDACTED]. You authorize us to make debits from this bank account to correct any crediting errors.
- PROMISE TO PAY.** You promise to pay us the principal sum of \$1,400.00 plus interest until the loan is fully paid. Please note that any returned or unpaid installments shall be added to the principal of this loan. Simple interest will accrue from day to day on the outstanding principal balance at a "Daily Rate" equal to 1/365 of the agreed annual rate of (130.0%), rounded to two decimal places. The agreed annual rate may be different than the disclosed Annual Percentage Rate in the Disclosure Statement. The Annual Percentage Rate in the Disclosure Statement shown above is calculated in accordance with equations set forth in Regulation Z, which implements the Federal Truth in Lending Act. We will begin charging interest on the later of the Loan Effective Date referenced above or the date funds are disbursed to your bank account on record. All payments received shall be applied first to any outstanding charges or fees, then to accrued interest, and then to the reduction of the unpaid principal.
- PAYMENTS.** You promise to make a payment on each Payment Due Date in the amount shown on the Payment Schedule above, as it may be modified by agreement of the parties. The unpaid debt on the final scheduled Payment Due Date (the "Maturity Date") will likely vary somewhat from prior required payments. This is due, among other things, to any early or late payments and/or any payments higher or lower than the scheduled amount. If the amount actually owing on the Maturity Date is less than the Maturity Date payment shown on the Payment Schedule, we will adjust your final payment to reflect such decrease. If the amount actually owing on the Maturity Date is more than the amount shown on the above Payment Schedule, then: (i) by contacting our servicer Opportunity Financial, LLC ("OppLoans") at (855) 990-9500 or info@opploans.com, you may instruct us to adjust your final payoff payment to reflect such increase; or (ii) until the loan is paid in full, interest will continue to accrue at the Daily Rate and you must continue to make payments beyond the Maturity Date, on the same schedule, in amounts equal to the lesser of the Maturity Date payment or the outstanding balance on the payment date. You understand and agree that if at any time you pay more than the required scheduled payment you will still be required to make the next scheduled payment when due (see "Prepayment" below for additional information). If any payment is due on a day other than a banking business day and is made on the first banking business day after the Payment Due Date, such payment will be credited as if received on the scheduled Payment Due Date.
- PAYMENT AUTHORIZATION.**

The optional payment method checked below is based on your previous selection during the application process. However, you may choose to repay by any other reasonable method of payment that we permit, including paper check. If you wish to change your payment method, you may contact us by communicating with Opploans at (855) 990-9500 or info@opploans.com and you will be provided instructions on how to make your payment or payments. Please be advised that all non-automated payments by mail should be sent in time for receipt by 5 pm Central Time on the applicable Payment Due Date.

Automated Payments. If the box to the left has been checked, then you authorized us during the application process to initiate Automated Payments by debiting the banking account identified in the "Credit Authorization" section above, or any substitute account you later specify (the "Bank Account"). You direct us to initiate an Automated Payment on each Payment Due Date in the amount shown on the Payment Schedule, as it may be modified by agreement of the parties. You understand that, until the loan

is paid in full, the amount of any Automated Payment will not be affected by any prepayment you make or any other amount you pay on the loan in addition to the amount of scheduled payments.

Bank Account Information. You authorize us to verify, correct and update any missing, erroneous or outdated information you have provided or subsequently provide regarding the Bank Account. You promise that the Bank Account is a legitimate, open and active bank account and that you have the right to initiate (and to authorize us to initiate) Automated Payments from the Bank Account.

Changes to Payment Schedule. You authorize us to initiate Automated Payments in accordance with any modified payment arrangement to which you and we agree. We may adjust the Maturity Date Automated Payment for any decreased amount you owe, based on your payment history, or for any increased amount you instruct us to debit.

Additional Payments. If any amount under this Note remains outstanding after the Automated Payment on the Maturity Date, and you do not instruct us to debit such amount on the Maturity Date, then you authorize us to initiate one or more additional Automated Payments after the Maturity Date and until your obligations are paid in full at the same payment frequency as reflected in your Payment Schedule. No such Automated Payment shall exceed the lesser of (a) the final scheduled payment amount set forth in your Payment Schedule, or (b) the remaining balance, including fees, charges, and interest. You further authorize us to initiate separate electronic payments from the Bank Account for any other amounts due under this Note, including any applicable Returned Payment Fee.

Termination. You understand and acknowledge that you may terminate this authorization by notifying us at (855) 990-9500 or info@opploans.com or by mail to OppLoans, ATTN: Compliance Department, One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601 at least three (3) business days before you wish to terminate this authorization.

Range of Debits and Notice of Variation. You have the right to receive notice of all regularly recurring and varying Automated Payments. Unless otherwise instructed by you, each regularly recurring Automated Payment will be in an amount ranging from \$0.01 to one-and-a-half (1.5) times the scheduled payment amount set forth in the Payment Schedule. You may elect to receive advance notice of the date and amount of each regularly recurring Automated Payment that varies from the scheduled payments if you notify us by communicating with OppLoans at (855) 990-9500, or at One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601. If an Automated Payment will fall outside the specified range above, then we will electronically notify you of the amount of the Automated Payment and the date on or after which the Automated Payment will be initiated, at least ten (10) calendar days in advance.

Other Payment Arrangements. If we agree, you may enter into a modified payment arrangement that may change certain terms of this authorization. If you and we agree to change any terms of this authorization, we will send you written confirmation of such change, and all provisions of this authorization not changed will remain in full force and effect. To the extent you and we agree to a modified payment arrangement, your obligations under this authorization will remain in full force and effect as applicable to such payment arrangement. Unless otherwise specified in the terms of your modified payment arrangement, if you default on your obligations under any payment arrangement, you complete your obligations, or we terminate a modified payment arrangement, then you authorize us to initiate Automated Payments from the Bank Account on the dates and in the amounts set forth in your original Payment Schedule in accordance with this authorization and if needed, extending beyond your original Payment Schedule.

Error Correction. In the event we make an error in processing any payment, you authorize us to initiate a payment to or from the Bank Account to correct the error. If you believe we have initiated a payment in a manner not contemplated by this authorization, then please contact OppLoans at (855) 990-9500, or One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601.

Re-Initiation. If any Automated Payment is dishonored, you authorize us to re-initiate such Automated Payment up to two (2) more times (if necessary). You understand that your bank may charge you non-sufficient funds fees for any dishonored payment, including any re-initiated Automated Payment attempt. You agree that we are not liable for such fees.

Applicable Law. You acknowledge that Automated Payments must comply with the provisions of U.S. law.

Optional Authorization. YOU ARE NOT REQUIRED (AND WERE NOT REQUIRED) TO AGREE TO MAKE AUTOMATED PAYMENTS TO OBTAIN A LOAN FROM US. IF YOU ELECTED TO MAKE AUTOMATED PAYMENTS, THEN YOU ACKNOWLEDGE THAT YOU ARE VOLUNTARILY CHOOSING TO PAY BY AUTOMATED PAYMENTS. YOU MAY CHANGE YOUR DESIRED PAYMENT METHOD AT ANY TIME.

Remotely Created Checks. If the box to the left is checked, then you authorized us during the application process to create "Remotely Created Checks" on the checking or savings account you elected for this purpose during the application process (or any substitute account you later specify) (your "Bank Account"). These are paper checks, bearing, instead of your handwritten signature: (1) the legend "As Authorized by Drawer No Signature Required," or a similar legend, (2) your typed name and/or (3) other information as may be required under applicable law. You direct us to create and submit to your bank on or after each Payment Due Date a Remotely Created Check in the amount shown on the Payment Schedule, as it may be modified by agreement of the parties. You understand that, until the loan is paid in full, the amount of any Remotely Created Check will not be affected by any prepayment you make or any other amount you pay on the loan in addition to the amount of the scheduled payments.

Bank Account Information. You authorize us to verify, correct and update any missing, erroneous or outdated information you have provided or subsequently provide regarding the Bank Account. You promise that the Bank Account is a legitimate, open and active bank account and that you have the right to write checks (and authorize us to write Remotely Created Checks) on the Bank Account.

Changes to Payment Schedule. You authorize us to write and submit for payment Remotely Created Checks in accordance with any modified payment arrangement to which you and we agree. We may adjust the Remotely Created Check we write and submit on or after the Maturity Date for any decreased amount you owe, based on your payment history, or for any increased amount you instruct us to write.

Additional Payments. If any amount under this Note remains outstanding after the Remotely Created Check on the Maturity Date, and you do not instruct us to create and submit a Remotely Created Check for such full amount on the Maturity Date, then you authorize us to create and submit Remotely Created Checks from your Bank Account extending beyond the Maturity Date until your obligations are paid in full at the same payment frequency as reflected in your Payment Schedule. No such Remotely Created Check shall exceed the lesser of (a) the final scheduled payment amount set forth in your Payment Schedule, or (b) the remaining balance, including fees, charges, and interest. You further authorize us to create and submit separate Remotely Created Checks from your Bank Account for any other amounts due under this Note, including any applicable Returned Payment Fee.

Termination. You understand and acknowledge that you may terminate our authority to create and submit Remotely Created Checks by notifying us at (855) 990-9500 or info@opploans.com or by mail to OppLoans, ATTN: Compliance Department, One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601 in such time as to afford us and your bank a reasonable opportunity to act on your request.

Partial Prepayments. If you make any partial prepayments, then you authorize us to vary the amount of any Remotely Created Check needed to reflect those partial prepayments.

Range of Varying Amounts. Each regularly recurring Remotely Created Check will be in an amount ranging from \$0.01 to one-and-a-half (1.5) times the scheduled payment amount set forth in the Payment Schedule. You may elect to receive advance notice of the date and amount of each regularly recurring Remotely Created Check that varies from the scheduled payments if you notify us by communicating with OppLoans at (855) 990-9500, or at One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601. If a Remotely Created Check will fall outside the specified range above, then we will electronically notify you of the amount of the Remotely Created Check and the date on or after which the Remotely Created Check will be generated and submitted, at least ten (10) calendar days in advance.

Other Payment Arrangements. If we agree, you may enter into a modified payment arrangement that may change certain terms of this authorization. If you and we agree to change any terms of this authorization, we will send you written confirmation of such change, and all provisions of this authorization not changed will remain in full force and effect. To the extent you and we agree to a modified payment arrangement, your obligations under this authorization will remain in full force and effect as applicable to such payment arrangement. Unless otherwise specified in the terms of your modified payment arrangement, if you default on your obligations under any payment arrangement, you complete your obligations, or we terminate a modified payment arrangement, then you authorize us to create and submit Remotely Created Checks from your Bank Account on the dates and in the amounts set forth in your original Payment Schedule in accordance with this authorization and if needed, extending beyond your original Payment Schedule.

Error Correction. In the event we make an error in creating and submitting Remotely Created Checks from your Bank Account, you authorize us to initiate an electronic payment to or from the Bank Account (or write and submit a Remotely Created Check) to correct the error. If you believe we have presented a Remotely Created Check in a manner not contemplated by this authorization, then please contact OppLoans at (855) 990-9500, or One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601.

Re-Initiation. You agree that we may present for payment to Your Bank Account up to two times any Remotely Created Check that is dishonored, including any Remotely Created Check submitted for any applicable Returned Payment Fee. You understand that your bank may charge you non-sufficient funds fees for any dishonored payment. You agree that we are not liable for such fees.

Paper Checks. If the box to the left is checked, you agree to tender paper checks on or before each Payment Due Date in the amount shown on the Payment Schedule, as it may be modified by agreement of the parties. You understand that, until the loan is paid in full, the amount of your payment made by paper check will not be affected by any prepayment you make or any other amount you pay on the loan in addition to the amount of the scheduled payments.

Additional Payments. If any amount under this Note remains outstanding after the Maturity Date, then you agree to continue tendering paper checks beyond the Maturity Date until your obligations are paid in full at the same payment frequency as reflected in your Payment Schedule.

Other Payment Arrangements. If we agree, you may enter into a modified payment arrangement that may change certain terms of this authorization. If you and we agree to change any terms of this authorization, we will send you written confirmation of such change, and all provisions of this authorization not changed will remain in full force and effect. To the extent you and we agree to a modified payment arrangement, your obligations under this authorization will remain in full force and effect as applicable to such payment arrangement. Unless otherwise specified in the terms of your modified payment arrangement, if you default on your obligations under any payment arrangement, you complete your obligations, or we terminate a modified payment arrangement, then you agree to continue tendering paper checks on the dates and in the amounts set forth in your original Payment Schedule in accordance with this authorization and if needed, extending beyond your original Payment Schedule.

6. RETURNED PAYMENT ON REFINANCED LOAN: If this loan refinances a prior loan you had through us, and on or after the date of this Note, a payment on your prior loan is returned unpaid, you agree that we may (i) add the amount of such returned payment to the outstanding principal balance of this loan and (ii) charge interest on such amount at the rate specified in the PROMISE TO PAY section above from the date of this Note.

7. DEFAULT AND ACCELERATION. Your account will be in default for your failure to pay any payment on or before the specified payment due date or in the event the return or rejection of any automated payment, remotely created check, or paper check. In case of your default in the payment of any installment, or institution of any proceeding by or against you under any bankruptcy or insolvency law, or assignment by you for the benefit of creditors, or any execution, attachment, warrant or other process being served on you, or your admission of your inability to pay your debts as they mature, or in case any information provided by you to us shall be false or misleading at the time made, all your obligations under this Note shall, at our option and in accordance with applicable law, be immediately due and payable. We may pursue any and all legal remedies to collect this debt in full if you default.

8. PREPAYMENT. You may prepay this loan in full or in part at any time without penalty. Early payments will reduce the amount of interest you must pay. Late payments will increase the amount of interest you must pay. If you prepay in full, the amount due on prepayment will vary depending upon the unpaid principal balance at the time of prepayment and any other fees or charges due. Any prepayment will not reduce the amount of subsequent installments you must pay until the loan is paid in full.

9. ELECTRONIC CHECK RE-PRESENTMENT POLICY. In the event a check is returned unpaid for insufficient or uncollected funds, we may re-present the check electronically. In the ordinary course of business, the check will not be provided to you with your bank statement, but a copy can be retrieved by contacting your financial institution.

10. CHECK CONVERSION NOTIFICATION. If you provide a check as payment, you authorize us and our servicers or agents either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic funds transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution. For questions, please contact: (855) 990-9500.

11. RETURNED PAYMENTS. If any Remotely Created Check, paper check or electronic debit is not honored by your financial institution because of insufficient or uncollected funds or account closure, or because no such account exists, we will charge you a Returned Payment Fee of \$20. You authorize us and our agents to make a one-time withdrawal from the Bank Account to collect this Returned Payment Fee. We may only impose this fee once per scheduled installment payment.

12. SECURITY. In the Disclosure Statement, we have disclosed our interest in the Payment Authorization as a security interest for Truth-in-Lending Act purposes only, because federal and applicable state law do not clearly address whether our interest in such payment method is a "security interest". However, we do not intend to create a security interest under applicable state law.

13. COLLECTION COSTS. To the extent not prohibited by law, you agree to pay all costs of collection and reasonable attorneys' fees we incur in collecting this loan.

14. CREDIT REPORTS. You understand and agree that we may obtain credit reports on you on an ongoing basis until this Note is paid in full. You also understand that we may report your performance under this Note to credit reporting agencies. Late payments, missed payments, or other defaults on your loan may be reflected in your credit report.

15. VERIFICATION OF BANK ACCOUNT AND OTHER INFORMATION. You certify that the information you have given in connection with this Note and your application for credit is true and correct. You authorize us to verify all of the information that you gave us, such as any past and/or present employment history, income and bank account details as may be necessary to process your application for a loan, determine payment due dates and administer your account with us. You specifically authorize us to use information you provided us, including your social security number, bank account number and other access credentials, to obtain and verify information concerning the Bank Account, whether by telephone or through other electronic means, and whether initiated by you or by us or our servicers or agents. This may include obtaining information directly from your financial institution about the Bank Account.

16. IMPORTANT INFORMATION ABOUT OPENING A NEW ACCOUNT OR ESTABLISHING A NEW RELATIONSHIP. To help the U.S. government fight the funding of terrorism and money laundering activities, Federal law requires all U.S. financial institutions to obtain, verify and record information that identifies each individual or institution that opens an account or establishes a customer relationship. What this means: If you enter into a new customer relationship with us, we will ask for your name, address, date of birth, and other identification information. This information will be used to verify your identity. As appropriate, we may, in our discretion, ask for additional documentation or information. If all required documentation or information is not provided, we may be unable to open an account or establish a relationship with you.

17. GOVERNING LAW; SEVERABILITY; INTERSTATE COMMERCE. This Note is governed by federal law and the laws of the State of Utah, except that the Arbitration Clause is governed by the Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 1-9. If any provision of this Note is held unenforceable, the remainder of this Note will remain in full force and effect, except as provided otherwise in the Arbitration Clause. You and we agree that the transaction represented by this Note involves interstate commerce for all purposes.

18. CHANGES, DELAY IN ENFORCEMENT, AND WAIVER. This Note is the final and complete expression of the agreement between you and us. This Note cannot be changed unless both you and we agree to the changes in writing or as evidenced by a recording. You acknowledge and agree that no failure or delay on our part in exercising any right, power or remedy under this Note shall affect or operate as a waiver of such right, power or remedy. No single or partial exercise of any such right, power or remedy shall preclude, waive or otherwise affect any other or further exercise of that right, power or remedy under this Note. You agree that we may waive or delay our rights under this Note without losing them. You waive notice of acceptance, presentment, demand for payment, protest, notice of dishonor and any other notices, except as required by this Note or other law.

19. ASSIGNMENT. You may not assign any of your obligations under this Note without our written permission, which we are not required to give. We may assign this Note at any time without your permission. Our transfer may be made by causing a registration of transfer in the record of ownership as described below, without providing you with any other notice (except where such notice is required by applicable law). Your obligations under this Note apply to all of your heirs, successors and permitted assigns, if any. Our rights under this Note apply to us and each of our successors and assigns. Ownership of this Note (and rights hereunder, including with respect to principal and interest) shall be registered in a record of ownership maintained by an entity specifically designated for such purposes. You hereby irrevocably appoint Opportunity Financial, LLC as your agent acting solely for the purpose of maintaining such record of ownership. Any assignment or transfer of, or participation in, this Note (or rights hereunder) will be valid only if and when it is registered in such record of ownership. You shall treat each person whose name is registered in the record of ownership as the owner, assignee or participant, as applicable, for all purposes of this Note, including, but not limited to, the rights to payments of principal and interest. The record of ownership shall be made available to you in a form and manner determined by the agent maintaining it from time to time upon reasonable prior written notice.

20. TCPA CONSENT AND PRIVACY: Notwithstanding any current or prior election to opt in or opt out of receiving telemarketing calls of SMS messages (including text messages) from us, our agents, representatives, affiliates, or anyone calling on our behalf, you expressly consent to be contacted by us, our agents, representatives, affiliates, or anyone calling on our behalf for any and all purposes arising out of or relating to your loan and/or account, at any telephone number or physical or electronic address you provide or at which you may be reached. You agree we may contact you in any way, including SMS messages (including text messages), calls using prerecorded messages or artificial voice, and calls and messages delivered using an auto-telephone dialing system or an automatic texting system. Automated messages may be played when the telephone is answered, whether by you or someone else. In the event that an agent or representative calls, he or she may also leave a message on your answering machine, voice mail, or send one via text.

You consent to receive SMS messages (including text messages), calls, and messages (including prerecorded and artificial voice and autodialed) from us, our agents, representatives, affiliates, or anyone calling on our behalf at the specific number(s) you have provided to us with information or questions about your application, loan, and/or account. You certify, warrant, and represent that you are permitted to receive calls at each of the telephone numbers you have provided to us. You agree to promptly alert us whenever you stop using a particular telephone number.

Your cellular or mobile telephone provider will charge you according to the type of plan you carry. You also agree that we may contact you by email, using any email address you have provided to us or that you provide to us in the future. We may listen to and/or record phone calls between you and our representatives without notice to you as permitted by applicable law. For example, we listen to and record calls for quality monitoring purposes.

21. ARBITRATION CLAUSE.

By signing the Note below, you agree to this Arbitration Clause ("Clause"):

Background and Scope.

What is arbitration?	An alternative to court.	In arbitration, a third party ("Arbiter") resolves disputes informally. You, related third parties (including but not limited to OppLoans), and we waive the right to go to court. Such "parties" waive jury trials.
Is it different from court and jury trials?	Yes.	Any required hearing is private and less formal than court. Arbiters may limit pre-hearing fact finding, called "discovery". The decision is usually final. Courts rarely overturn Arbiters.
Who does the Clause cover?	You, Us, and Others.	This Clause governs you and us; your heirs; our successors, assigns, affiliates and controlling parties; and "related parties" who have provided services in connection with any loan to you, including OppLoans.
Which Claims are covered?	Almost All Claims.	This Clause governs all "Claims" of one party against another. In this Clause, the word "Claims" has the broadest reasonable meaning consistent with this Clause. It includes all claims even indirectly related to your application, the loan, this Note and your agreements with us. It includes claims related to information you previously gave us. It includes all past agreements. It includes extensions, renewals, refinancings or payment plans. It includes claims related to collections, privacy and customer information. However, it DOES NOT include claims related to the validity, enforceability, coverage or scope of this Clause. Those claims shall be determined by a court.
Are you waiving rights?	Yes.	You waive your rights to: <ol style="list-style-type: none"> 1. Have juries resolve Claims. 2. Have courts, other than small-claims courts, resolve Claims. 3. Bring Claims as a private attorney general or representative. 4. Have Claims decided in a class action.
Are you waiving class action and similar rights?	Yes.	THIS CLAUSE DOES NOT ALLOW CLASS ACTIONS. You waive your right to be in a <u>class action or a class arbitration</u> , either as a representative or a member. Only individual arbitration, or small-claims courts, will resolve Claims. You waive your right to bring representative Claims. Unless reversed on appeal, if a court invalidates this waiver, the Clause will be void.
Are you waiving your right to seek a public injunction?	Yes, if permitted under the FAA.	You also waive your right to seek a public injunction if such a waiver is permitted by the FAA. If a court decides that such a waiver is not permitted, and that decision is not reversed on appeal, your Claim for a public injunction will be decided in court and all other Claims will be decided in arbitration under this Clause. In such a case the parties will request that the court stay the Claim for a public injunction until the arbitration award regarding individual relief has been entered in court. In no event will a claim for public injunctive relief be arbitrated.
What law applies?	The FAA.	This transaction involves interstate commerce, so the FAA governs. The Arbiter must apply substantive law consistent with the FAA. The Arbiter must follow statutes of limitation and privilege rules.

How should you contact us?	By mail.	You must send any mail or notice regarding arbitration to Opploans at 130 E Randolph St, Suite 3400, Chicago, IL 60601, Attn: Arbitration Notice. You can call us at (855) 990-9500 or use certified mail to confirm receipt.
Can a small-claims court resolve any Claims?	Yes.	We will not require you to arbitrate a Claim you bring on an individual basis in small-claims court. However, if there is an appeal from small-claims court, or if a Claim changes so that the small-claims court loses the power to hear it, then the Claim will only be heard by an Arbitrator.
Will this Clause continue to govern?	Yes, unless otherwise agreed.	The Clause stays effective unless the parties sign an agreement stating it doesn't. The Clause governs if you rescind the transaction. It governs if you default, renew, prepay or pay. It governs if the Note is discharged through bankruptcy. The Clause remains effective, despite a transaction's termination, amendment, expiration or performance.
Process.		
What must a party do before starting a lawsuit or arbitration?	Send a written Claim notice and work to resolve the Claim	Before starting a lawsuit or arbitration, the complaining party ("Claimant") must give the other party (the "Responding Party") written notice of the Claim. The notice must explain in reasonable detail the nature of the Claim and any supporting facts. You or an attorney you have personally hired must sign the notice and must provide your full name and a phone number where you (or your attorney) can be reached. A collections letter from us to you will serve as our written notice of a Claim. Once a Claim notice is sent, the Claimant must give the Responding Party a reasonable opportunity over the next 30 days to resolve the Claim on an individual basis.
Who manages arbitrations?	AAA, JAMS, or an agreed Arbitrator.	The Claimant selects the company to manage the arbitration - either the American Arbitration Association ("AAA") (1-800-778-7879), www.adr.org , or JAMS (1-800-352-5267), www.jamsadr.com . The parties may also agree in writing to a local attorney, retired judge or Arbitrator in good standing with another arbitration group. The Arbitrator must arbitrate under AAA or JAMS consumer rules. You may get a copy of these rules from such group. Any rules that conflict with this Clause don't apply. If these options aren't available, a court may choose the Arbitrator. Such Arbitrator must enforce your agreements with us, as they are written.
How does a Claimant start an arbitration?	By following the arbitration company's rules.	To start an arbitration, the Claimant must follow the rules of the arbitration company the Claimant selects.
How is arbitration demanded?	By written notice or motion to compel arbitration.	To require arbitration, the Responding Party may mail the Claimant a demand to arbitrate or file a motion to compel arbitration. The Responding Party does not waive the right to require arbitration by bringing a different Claim against the Claimant in court. Once the Respondent demands arbitration, it is up to the Claimant to start an arbitration.
Will the hearing be held nearby?	Yes.	The Arbitrator will order any hearing near your home.
What about appeals?	Appeals are limited.	The Arbitrator's decision is generally final. However, if the amount in controversy exceeds \$ 10,000.00, a party may appeal the Arbitrator's finding. Such appeal will be to a three-Arbitrator panel from the same arbitration group. The appeal will be <u>de novo</u> , and resolved by majority vote. The appealing party bears appeal costs, despite the outcome. Also, a party may appeal under the FAA. A party may file the Arbitrator's award with the proper court.
Does an arbitration award affect other arbitrations?	No.	No arbitration award under this Agreement will affect any dispute involving any other party. No arbitration award under another party's agreement will affect any arbitration under this Agreement.

Arbitration Fees and Awards.		
Will we advance Arbitration Fees?	Yes.	We will advance the arbitration fees if you ask us to in good faith. This includes filing, administrative, hearing and Arbitrator's fees.
When do we cover your attorneys' fees?	If you win.	We will cover your reasonable attorneys' fees and costs if you win.
Will you ever have to pay Arbitration Fees?	Sometimes, but only if you lose.	If the Arbitrator awards you funds, you don't need to repay us the Arbitration Fees. Also, you don't need to repay us if the Arbitrator decides it would be unfair to make you repay us. Unless you act in bad faith, you never have to repay us more than the amount of state court costs.
What happens if you win?	You could get more than the Arbitrator awarded.	If you follow the steps set forth in response to the question "What must a party do before starting a lawsuit or arbitration?" and an Arbitrator awards you more than our final settlement offer or we don't make a settlement offer, we will pay three amounts. We will pay (1) the award, excluding attorneys' fees and costs, plus (2) the "bonus payment", plus (3) the "attorney payment". The bonus payment is 10% of the award. The attorney payment is 110% of your reasonable attorneys' fees and costs.
Can an award be explained?	Yes.	A party may request details from the Arbitrator, within 14 days of the ruling. Upon such request, the Arbitrator will explain the ruling in writing.
Other Options.		
If you don't want to arbitrate, can you opt-out of the Clause?	Yes. Within 60 days.	Write us within 60 calendar days of signing this Note to opt-out of this Clause via email at compliance@opploans.com or by mail to OppLoans, ATTN: Compliance Department, One Prudential Plaza, 130 E Randolph St, Suite 3400, Chicago, IL 60601. List your name, address, loan number and date. This is the only way you can opt out.

Customer Representations. By signing this Note:

1. You acknowledge that this Note was filled in before you did so, and that you have received a completed copy of it. You agree that the information you provided to us prior to entering into this Note is accurate;
2. You warrant that you are not a debtor under any proceeding in bankruptcy and have no current intention to file a petition for relief under any chapter of the United States Bankruptcy Code;
3. You agree that you are over 18 years of age;
4. You acknowledge that you have read, understand, and agree to all of the terms of the Privacy Policy.
5. You acknowledge that you have read, understand, and agree to all of the terms of this Note, including the **Arbitration Clause**.

Disclosures:

All Borrowers.

You authorize us to obtain your consumer report(s) and other information from consumer reporting agencies and/or other third party sources now and on an ongoing basis for use in: (1) servicing, monitoring, collecting or enforcing this loan or any other loan that you may receive from us; (2) providing your credit data to you; (3) evaluating you for and offering you other financial products and services; and/or (4) other related purposes. Upon your request, you will be informed of whether or not a consumer credit report was ordered, and if it was, you will be given the name and address of the consumer reporting agency that furnished the report. As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

Oral agreements or commitments to loan money, extend credit, or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable. To protect you (borrower(s)) and us (creditor) from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between us, except as we may later agree in writing to modify it.

Florida Transactions. Florida documentary stamp tax required by law in the amount of \$0.00 has been paid or will be paid directly to the Department of Revenue. Certificate of Registration No.78-8017329571-2.

Kansas Residents. 1. Do not sign this Note before you read it because only those terms in writing are enforceable - No other terms or oral promises not contained in this Note may be legally enforced 2. You are entitled to a copy of this Note. 3. You may prepay the unpaid balance at any time without penalty.

Ohio Residents. The Ohio laws against discrimination require that all creditors make credit equally available to all creditworthy customers, and that credit reporting agencies maintain separate credit histories on each individual upon request. The Ohio Civil Rights Commission administers compliance with this law.

Texas Residents. If you are in default, we may require you to repay the entire unpaid principal balance and any accrued interest at once. We don't have to give you notice that we are demanding or intend to demand immediate payment of all that you owe.

Utah Residents. As required by Utah law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations. **BY ENTERING INTO THIS AGREEMENT, YOU ARE WAIVING CERTAIN RIGHTS RELATED TO BRINGING A LAWSUIT OR SIMILAR PROCEEDING ON A CLASS, REPRESENTATIVE OR COLLECTIVE BASIS.** You will pay any collection cost we incur, including reasonable attorney fees and court costs, as the law allows. If we hire an attorney or a third-party collection agency to collect what you owe, you will also pay the lesser of: (i) the actual amount we are required to pay to the third-party collection agency or the attorney, regardless of whether that amount is a specific dollar amount or a percentage of the amount owed to us; or (ii) 40% of the amount owed to us. This Agreement is the final expression of the agreement between you (the debtor) and us (the creditor). NO evidence of any alleged oral agreement may contradict the written agreement.

Wisconsin Residents. If you are married: (1) You confirm that the Loan is being incurred in the interest of your marriage or family. (2) No provision of any marital property agreement, unilateral agreement, or court decree under Wisconsin's Marital Property Act will adversely affect a creditor's interest unless prior to the time credit is granted, the creditor is furnished a copy of that agreement or decree or is given complete information about the agreement or decree. (3) You understand and agree that we will provide a copy of this Agreement to your spouse for his or her information.

NOTICE TO BORROWER

- (a) DO NOT SIGN THIS AGREEMENT IF IT CONTAINS ANY BLANK SPACES.
- (b) YOU ARE ENTITLED TO AN EXACT COPY OF ANY AGREEMENT YOU SIGN.
- (c) YOU HAVE THE RIGHT AT ANY TIME TO PAY IN ADVANCE THE UNPAID BALANCE DUE UNDER THIS AGREEMENT.

CAUTION - IT IS IMPORTANT THAT YOU THOROUGHLY READ THE CONTRACT BEFORE YOU SIGN IT.

Borrower: Kristen Michael (IP: 70.116.120.215) Date: 06/20/21
Kristen Michael

Signed electronically by Kristen Michael from IP 70.116.120.215 at June 20th, 2021 20:50 CST