

ORDER NO. 2018-028

IN THE MATTER OF: § **BEFORE: THE BANKING**
ACCREDIT, LLC § **COMMISSIONER OF TEXAS**
DENVER, COLORADO § **AUSTIN, TRAVIS COUNTY, TEXAS**

CONSENT ORDER

On this day, in the matter of Accruit, LLC (“Accruit” or “Respondent”) was submitted to me, Charles G. Cooper, the Banking Commissioner (“Commissioner”) of the State of Texas, for consideration and action.

1. Accruit is a Delaware corporation with its principal office located in Denver, Colorado.
2. The Texas Department of Banking (“Department”) has jurisdiction over Accruit and the subject matter of this proceeding pursuant to *Texas Finance Code* (“Finance Code”) Chapter 151 (“Chapter 151”).
3. The Commissioner has the authority to issue this Consent Order (“Order”) and to assess administrative penalties pursuant to Finance Code §§151.706 and 151.707.
4. Accruit has been properly notified of its right to an administrative hearing under Chapter 151.
5. The undersigned representative of Accruit has full authority to enter into and bind Accruit to the terms and conditions of this Consent Order.
6. The statutory provisions at issue in this matter include, but are not limited to, Finance Code §§151.203, 151.301, 151.302, 151.306, 15.307, 151.702, 151.706, and 151.707.
7. Any violation of this Order could subject Accruit to additional regulatory or enforcement actions authorized by Chapter 151 and other provisions of Texas law. Nothing in this Order diminishes the regulatory or enforcement powers of the Department, the Commissioner, or the Finance Commission of Texas under Chapter 151 or other applicable law.

8. For purposes of this proceeding, Accruit knowingly and voluntarily waives:
 - a. Service of process upon Accruit of this Order;
 - b. The right to present defenses to the allegations in this proceeding;
 - c. Notice and hearing prior to imposition of this Order;
 - d. The filing of proposed findings of fact and conclusions of law;
 - e. The issuance of a proposal for decision by an administrative law judge;
 - f. The filing of exceptions and briefs with respect to such proposal for decision;
 - g. Any review of this Order by the Texas Finance Commission; and
 - h. Judicial review of this Order as provided by *Texas Government Code* §2001.171 et seq., and any other challenge to the validity of this Order.
9. Accruit and the Commissioner agree to this Order solely for the purpose of this proceeding, and without Accruit admitting or denying any violations of law or regulations. This Order does not constitute an admission by Accruit that Chapter 151 or a rule adopted or order issued under Chapter 151 has been violated.
10. Accruit has agreed to comply with the terms that are set out in the Order below. Additionally, Accruit has voluntarily ceased all transactions with Texas customers. Accruit agrees to obtain a license from the Department if a decision is made to resume business in Texas.
11. Nothing in this Order shall prohibit Accruit from obtaining a money transmission license from the Department in the future.
12. This Order does not restrict the Department with respect to any enforcement action or other recourse regarding any past, current, or future violations by Accruit that come to the

attention of the Department. However, nothing herein shall be construed to limit Accruit's right to contest any future finding or determination of non-compliance.

I. Findings of Fact

13. The Commissioner has considered this matter and finds as follows:

- a. Accruit is a financial technology company that offers PaySAFE branded escrow services to its customers. Buyers and sellers using the PaySAFE platform agree to the terms of use, complete a purchase agreement, and thereafter the buyer wires funds directly into a bank account owned and controlled by Accruit. Once the transaction between the buyer and seller has been successfully completed, Accruit deposits these escrow funds directly into the seller's bank account. Accruit receives a fee for performing these services.
- b. In 2018, the Department became aware that Accruit recently acquired PaySAFE, and has been offering its services to Texas residents since January of 2018.
- c. Under Finance Code §151.301(b)(4), money transmission means "the receipt of money or monetary value by any means in exchange for a promise to make the money or monetary value available at a later time or different location." The Finance Code defines engaging in the business of money transmission as receiving compensation or expecting to receive compensation, directly or indirectly, for conducting money transmission. Finance Code §151.302(b). In receiving customers' funds and compensation for a promise to make the funds available at a later time and/or location, Accruit is engaging in the business of money transmission.

- d. Finance Code §151.302(a) provides that “a person may not engage in the business of money transmission or advertise, solicit, or hold itself out as a person that engages in the business of money transmission” without a license unless it is an authorized delegate of a license holder, is excluded from licensure under Chapter 151, or has been granted an exemption under Chapter 151.
- e. As described above, Accruit is conducting money transmission in Texas. The Department has not licensed Accruit; Accruit is not an authorized delegate of a license holder; Accruit is not excluded from licensure under Chapter 151; and Accruit has not been granted an exemption under Chapter 151. Consequently, the Commissioner finds that Accruit is in violation of Finance Code §151.302.
- f. As required by Finance Code §151.707(d), the Commissioner has considered the seriousness of the violations, Accruit’s compliance history, and Accruit’s good faith in attempting to comply with Chapter 151. The Commissioner finds that Accruit’s violations were serious because Accruit conducted money transmission activities in Texas without a license and therefore did not provide Texas customers with the requisite protections or perform the required recordkeeping functions included with an anti-money laundering program of a licensee. Additionally, the Commissioner finds Accruit’s prior compliance history unacceptable because it conducted money transmission without a license.
- g. Based on these findings and based on the representations made by Accruit as to the volume of transactions and length of time it has been conducting an unlicensed money transmission business in Texas, the Commissioner finds that a penalty of \$9,875.28 is appropriate.

II. Order

It is hereby ORDERED, ADJUDGED and DECREED that:

14. By October 25, 2018, Accruit will have delivered to the Department either a check made payable to the Texas Department of Banking in the amount of \$9,875.28, or wired these funds per instructions from the Department, as payment in full of the administrative penalty assessed herein.
15. Accruit shall not conduct any future money transmission transactions with or on behalf of Texas customers without first obtaining a money transmission license from the Texas Department of Banking.

III. Effective Dates

16. This Order against Accruit is effective on the date signed by the Commissioner and is final and non-appealable as of that date.

Signed on this 10th day of October, 2018.

/s/ Stephanie Newberg for _____
Charles G. Cooper
Commissioner, Texas Department of Banking

AGREED AS TO FORM AND SUBSTANCE

Accruit, LLC,
a Delaware limited liability company

By: /s/ Karen Kemerling
Name: Karen Kemerling
Its: President & COO

Date: September 27, 2018

APPROVED AS TO FORM:

/s/ Jordan Born
Mr. Jordan Born
Accruit, LLC
Associate General Counsel

Date: September 27, 2018

/s/ Cristina M. Nahidi
Cristina M. Nahidi
Texas Department of Banking
Assistant General Counsel

Date: October 8, 2018