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November 6, 2017

DELIVERY VIA FEDEX

Commissioner Leslie Pettijohn  
Texas Office of Consumer Credit Commissioner  
Finance Commission Building  
2601 N. Lamar Blvd.  
Austin, Texas 78705

2017 NOV - 7 PM 1:54  
OFFICE OF CONSUMER  
CREDIT COMMISSIONER  
RECEIVED

RE: 7 TX Admin. Code § 1.201 Request for Official Interpretation: Recordkeeping Requirements for Privacy Notices

Dear Commissioner:

Please accept this letter as a request for a formal interpretation by the Texas Office of Consumer Credit Commissioner ("Commissioner") pursuant to 7 TX Admin. Code § 1.201. This opinion is respectfully requested on behalf of my client, a company which provides training and training materials to licensed motor vehicle dealerships regulated by the Commissioner. There is no pending litigation regarding the issue to be considered. Pursuant to 7 TX Admin. Code § 1.201(b)(4), a check for the \$500.00 fee is enclosed with this request.

The issue for consideration by the Commissioner is whether the department requires, pursuant to Texas law or otherwise, a motor vehicle dealership to include a paper or electronic copy of the privacy policy notice in the transaction file as part of a retail installment sales contract, in addition to providing a copy of the privacy policy notice to the customer. We are not aware of any federal or Texas law, nor have we been able to locate such law, that would require a motor vehicle dealership to include a copy of the notice in the transaction file.

Pursuant to the Gramm-Leach-Bliley Act, federal law requires financial institutions to provide a privacy policy notice to customers regarding use of non-public information. 15 U.S.C. §§ 6801-6809; 16 C.F.R. §§ 313.1-313.8. Pursuant to 16 C.F.R. § 313.2, providing the model privacy form to the customer, as contained in the federal privacy rule, constitutes compliance with privacy policy notice requirements.

Texas law provides that a licensed motor vehicle seller must maintain a transaction file in connection with a retail installment sales contract. 7 Tex. Admin. Code § 84.707(d)(2). Such transaction file may be maintained in paper or electronic form. Section 84.707 contains a list of documents required as part of a retail installment sales contract transaction file, including copies of records "where separate disclosures are required by federal or state law". 7 Tex. Admin. Code § 84.707(d)(2)(L). The specific disclosures included under Section 84.707 are disclosures under the Truth in Lending Act and the Federal Trade Commission's Credit Practices Trade Regulation. The privacy policy notice under Gramm-Leach-Bliley is not a type of disclosure specifically listed in the transaction file requirements under Texas law.

Accordingly, at issue in this request are the privacy policy notice training and training materials utilized by my client. In accordance with federal law, my client provides training and training materials which state that a motor vehicle dealership must provide a copy of the privacy policy notice, as required under federal law, to a customer in connection with a retail installment sales contract. Further, the training provides a copy of the federal "safe harbor" form, which standardized form outlines the dealership's privacy policy and the way a customer's non-public information may be shared. The training instructs that use of such model privacy form constitutes compliance with the notice and content requirements under federal law. In summary, the training indicates that it is sufficient under federal law for a motor vehicle dealership to provide a copy of the model privacy policy form to all customers in connection with a retail installment sales contract.

Based on a review of its privacy policy notice training and training materials, my client believes its training to be compliant under the law, inclusive of federal privacy law. As such, my client respectfully requests clarification as to the Commissioner's position on the privacy policy notice requirements. Specifically, my client requests clarification as to whether compliance under federal law, by delivering a paper copy of the privacy policy notice to the customer, is sufficient to comply with Texas law and the audit requirements of the Commissioner.

We appreciate your consideration of this matter. Should you have any questions, please contact me at [rmowrey@lockelord.com](mailto:rmowrey@lockelord.com) or (214) 740-8505.

Sincerely,



Robert T. Mowrey

RTM:cac

Enc. Check for \$500.00

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OFFICE OF THE  
CREDIT COMMISSIONER