

|                             |   |                     |
|-----------------------------|---|---------------------|
| IN THE MATTER OF:           | § | BEFORE THE          |
|                             | § |                     |
| MASTER FILE NO.: 2000067399 | § | OFFICE OF CONSUMER  |
| FS & V, LLC                 | § |                     |
| d/b/a KING AUTO SALES       | § | CREDIT COMMISSIONER |
| 1810 W. US HWY. 77          | § |                     |
| SAN BENITO, TEXAS 78586     | § | STATE OF TEXAS      |

**ORDER TO CEASE AND DESIST UNLICENCED ACTIVITY, TAKE AFFIRMATIVE ACTION, AND MAKE RESTITUTION**

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order to Cease and Desist Unlicensed Activity, Take Affirmative Action, and Make Restitution against FS & V, LLC d/b/a King Auto Sales (“King Auto Sales”), based on the violations of law described below.<sup>1</sup>

**Statement of Facts and Law**

Under Chapter 348 of the Texas Finance Code, a person must hold a motor vehicle sales finance license issued by the OCCC in order to act as a holder of a motor vehicle retail installment contract.<sup>2</sup> A holder is a person who operates as a retail seller, or holds and collects on a contract in which the person agrees to accept the cash price of a motor vehicle in one or more deferred installments.<sup>3</sup> A person who does not hold a Chapter 348 license (or another authorization to act as a holder) may not collect payments on motor vehicle retail installment contracts, and may not indirectly collect payments by repossessing motor vehicles or selling repossessed motor vehicles.<sup>4</sup>

King Auto Sales is a motor vehicle dealer that does not hold a license with the OCCC. King Auto Sales is located at 1810 W. US Hwy. 77, San Benito, Texas 78586.

In September 2020, King Auto Sales filed an application for a motor vehicle sales finance license with the OCCC. The application was assigned master file number

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<sup>1</sup> Tex. Fin. Code §§ 14.208, 14.251.  
<sup>2</sup> Tex. Fin. Code § 348.501.  
<sup>3</sup> Tex. Fin. Code § 348.001(3), (7), (8).  
<sup>4</sup> Tex. Fin. Code §§ 348.001(3), (7), (8), 348.501.

2000067399 and application ID number 61493. The OCCC denied the application due to King Auto Sales' failure to provide necessary documents.<sup>5</sup>

In February 2021, King Auto Sales filed another application for a motor vehicle sales finance license with the OCCC. The application was assigned application ID number 71188, under master file number 2000067399. In its application, King Auto Sales listed Fayez Rafidi as its compliance officer and Fernando Villarreal as a principal party. King Auto Sales disclosed that it had collected on retail installment contracts or collected the price of a vehicle in multiple payments. King Auto Sales provided a list showing 29 retail installment transactions that it had entered between August 2020 and March 2021, and provided copies of 10 retail installment contracts that it had entered during this period. OCCC licensing staff sent a letter to King Auto Sales, instructing King Auto Sales to address the unlicensed activity by paying a late filing fee and previous annual license fees.<sup>6</sup> King Auto Sales requested to pay the required fees in installments. OCCC licensing staff responded with a proposed payment schedule to pay the required fees in four installments, and requested a written response from King Auto Sales. King Auto Sales did not respond to this communication, and did not pay the required fees. The OCCC denied King Auto Sales' license application because King Auto Sales failed to pay the required fees to address its unlicensed activity, and because King Auto Sales failed to respond to the OCCC's communication.

King Auto Sales acted as a holder under Chapter 348 of the Texas Finance Code by entering motor vehicle retail installment transactions. By acting as a holder without a license, King Auto Sales violated Chapter 348.

### **Authority**

If the Consumer Credit Commissioner ("Commissioner") has reasonable cause to believe that a person is violating Chapter 348 of the Texas Finance Code, the Commissioner may issue an order to cease and desist from the violation, to take affirmative action, or both to ensure compliance.<sup>7</sup> The Commissioner may order a person who violates Chapter 348 or its implementing rules to make restitution to an identifiable person.<sup>8</sup> In addition, if the OCCC has reasonable cause to believe

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<sup>5</sup> 7 Tex. Admin. Code § 84.602.

<sup>6</sup> Tex. Fin. Code §§ 349.303, 349.304.

<sup>7</sup> Tex. Fin. Code § 14.208(a).

<sup>8</sup> Tex. Fin. Code § 14.251(b).

that a person is violating Chapter 348, then the OCCC may conduct an investigation to discover a violation or obtain required information.<sup>9</sup>

The Commissioner has reasonable cause to believe that King Auto Sales has violated Chapter 348 of the Texas Finance Code by acting as a holder without a motor vehicle sales finance license.

## **Order**

IT IS ORDERED that:

1. King Auto Sales must comply with, and cease and desist from violating, the motor vehicle sales finance license requirement found in Section 348.501 of the Texas Finance Code.
2. King Auto Sales must cease and desist entering into new transactions in which it agrees to accept the cash price of a motor vehicle in one or more deferred installments. King Auto Sales must cease and desist accepting credit applications.
3. King Auto Sales must cease and desist advertising motor vehicle retail installment transactions. King Auto Sales must remove any advertisements (including any physical signs and any material on a website) suggesting that King Auto Sales will finance vehicles, that consumers may apply for credit, or that consumers may pay for vehicles in more than one payment.
4. King Auto Sales must cease and desist collecting payments on existing motor vehicle retail installment transactions. King Auto Sales must cease and desist repossessing vehicles, and must cease and desist selling repossessed motor vehicles.
5. King Auto Sales must allow the OCCC to conduct an investigation of the records of the business.
6. **No later than 30 days after the date of this Order**, King Auto Sales must perform a self-review and identify each motor vehicle retail installment transaction that King Auto Sales entered or accepted payments on, including each sale of a motor vehicle in which:

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<sup>9</sup> Tex. Fin. Code §§ 14.202, 348.515.

- a. King Auto Sales entered a retail installment contract;
  - b. a buyer applied for credit through an application provided by King Auto Sales;
  - c. King Auto Sales accepted payments in one or more deferred installments; or
  - d. King Auto Sales held a lien.
7. **No later than 30 days after the date of this Order**, King Auto Sales must refund any finance charges that it charged or received from any retail buyer.
8. **No later than 30 days after the date of this Order**, King Auto Sales must release any liens that are currently filed on any motor vehicles in King Auto Sales' name. King Auto Sales may not charge a fee to any buyer for releasing these liens.
9. **No later than 30 days after the date of this Order**, King Auto Sales must identify each retail installment transaction that it assigned to another creditor.
10. With respect to maintaining proof of required refunds:
- a. King Auto Sales must maintain complete and accurate records of all refunds, including copies of refund checks for closed accounts and ledgers showing account credits for open accounts, until the later of the following:
    - i. the fourth anniversary of the date of the retail installment transaction; or
    - ii. the second anniversary of the date on which the final entry is made in the buyer's record.<sup>10</sup>
  - b. King Auto Sales must maintain documentation of the release of any liens until the later of the following:
    - i. the fourth anniversary of the date of the retail installment transaction; or
    - ii. the second anniversary of the date on which the final entry is made in the buyer's record.

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<sup>10</sup> 7 Tex. Admin. Code § 84.704(b), (g).

11. **No later than 30 days after the date of this Order**, King Auto Sales must create a Microsoft Excel spreadsheet named "L22-00048\_KingAutoSales." The spreadsheet must clearly list the total amount of refunds provided to buyers. In addition, the spreadsheet must list each retail installment transaction for which King Auto Sales provided restitution or released a lien as described above, and each retail installment transaction that King Auto Sales assigned to another creditor. The spreadsheet must include a row for each buyer and the following columns:
- a. account number;
  - b. name of the retail buyer;
  - c. date of retail installment contract;
  - d. amount of finance charge;
  - e. amount of finance charge refunded to the buyer;
  - f. date of the refund;
  - g. form of the refund (i.e., check for closed account, and credit for open account);
  - h. date on which King Auto Sales released the lien, if applicable; and
  - i. name of any creditor that King Auto Sales assigned the transaction to, if applicable.
12. **No later than 30 days after the date of this Order**, King Auto Sales must provide a copy of the spreadsheet to the OCCC. The spreadsheet must be sent by email to Matthew Nance at [matthew.nance@occc.texas.gov](mailto:matthew.nance@occc.texas.gov).

### **Violation of Order**

If you violate this Order, the OCCC may impose an administrative penalty of up to \$1,000 for each day.<sup>11</sup>

### **Right to Request Hearing**

You have the right to request a hearing regarding this Order.<sup>12</sup> To request a hearing, you must send a written hearing request to the OCCC no later than 30 days after the date of this Order.<sup>13</sup> You must send your request to Matthew Nance,

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<sup>11</sup> Tex. Fin. Code § 14.208(c).

<sup>12</sup> Tex. Fin. Code § 14.208(b).

<sup>13</sup> Tex. Fin. Code § 14.208(b).

Deputy General Counsel, by mail to 2601 N. Lamar Blvd., Austin, TX 78705, or by email to [matthew.nance@occc.texas.gov](mailto:matthew.nance@occc.texas.gov).

If you request a hearing, a hearing will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.<sup>14</sup> If you fail to request a hearing by this deadline, the Order will be considered final and enforceable.<sup>15</sup>

All communications with the OCCC concerning this matter must be through Matthew Nance, Deputy General Counsel, who may be contacted by mail at 2601 N. Lamar Blvd., Austin, TX 78705, by telephone at 512-936-7660, or by email to [matthew.nance@occc.texas.gov](mailto:matthew.nance@occc.texas.gov).

Signed this 6th day of April, 2022.

/s/ Leslie Pettijohn

Leslie L. Pettijohn  
Consumer Credit Commissioner  
State of Texas

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<sup>14</sup> Tex. Fin. Code § 14.208(b).

<sup>15</sup> Tex. Fin. Code § 14.208(c).

**CERTIFICATE OF SERVICE**

I certify that on April 6, 2022, a true and correct copy of this Order to Cease and Desist Unlicensed Activity, Take Affirmative Action, and Make Restitution has been sent to FS & V, LLC d/b/a King Auto Sales by the following:

FS & V, LLC  
Attn: Fayez Rafidi, Compliance Officer  
1810 W. US Hwy. 77  
San Benito, TX 78586  
fadirafidi@yahoo.com

- email
- eFileTexas.gov electronic service
- regular mail
- certified mail, return receipt requested  
# 9214 8901 9403 8300 0071 8160 59

FS & V, LLC  
Attn: Fernando Villarreal,  
Registered Agent  
5715 Houston Rd.  
Brownsville, TX 78521  
fernando18.fv@gmail.com

- email
- eFileTexas.gov electronic service
- regular mail
- certified mail, return receipt requested  
# 9214 8901 9403 8300 0071 8169 67

/s/Matthew Nance  
Matthew J. Nance  
Deputy General Counsel  
Office of Consumer Credit Commissioner  
State Bar No. 24074794  
2601 N. Lamar Blvd.  
Austin, TX 78705  
512-936-7660 (phone)  
matthew.nance@occc.texas.gov