

OCCC CASE NO. L22-00071

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NO.: 1900065681	§	OFFICE OF CONSUMER
BRIAN ANTHONY JOHNSON JR.	§	
d/b/a XC MOTORS	§	CREDIT COMMISSIONER
231 W. HIGHWAY 67	§	
DUNCANVILLE, TEXAS 75137	§	STATE OF TEXAS

ORDER OF REVOCATION

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order of Revocation against Brian Anthony Johnson Jr. d/b/a XC Motors (“XC Motors”), based on the violations of law described below.¹

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.² 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.³ 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.⁴

XC Motors is a motor vehicle dealer that holds a motor vehicle sales finance license issued by the OCCC. XC Motors operates under master file number 1900065681 at one licensed location, under license number 164375. XC Motors’ compliance officer is Brian Johnson, and its designated contact address is 231 W. Highway 67, Duncanville, Texas 75137.

¹ Tex. Fin. Code §§ 14.208, 348.508.

² Tex. Fin. Code § 348.501.

³ Tex. Fin. Code § 348.001(3), (7), (8).

⁴ See Tex. Fin. Code §§ 348.001(3), (7), (8), 348.501.

Under Chapters 14 and 348 of the Texas Finance Code, if the OCCC receives a complaint or other reasonable cause to believe that a person is violating Chapter 348, then the OCCC may require the person to furnish information, and may conduct an investigation to discover a violation or obtain required information.⁵ At times the OCCC considers necessary, the OCCC will examine each place of business of each licensee, and will investigate the licensee's transactions and records.⁶ A licensee must give the OCCC free access to the licensee's office and place of business.⁷ A licensee must maintain a record of each retail installment transaction as necessary to enable the OCCC to determine whether the licensee is complying with Chapter 348.⁸ A licensee must maintain each record until the later of the fourth anniversary of the date of the retail installment transaction, or the second anniversary of the date of the final entry in the record.⁹

In September 2021, a consumer filed a complaint with the OCCC against XC Motors, alleging wrongful repossession of a motor vehicle.¹⁰ In October and December 2021, the OCCC sent requests for information to XC Motors, requesting all documents relating to the consumer's transaction. XC Motors did not provide the requested information to the OCCC.

As a result of this complaint, the OCCC conducted an investigation in order to obtain more information from XC Motors, and to determine whether XC Motors violated Texas law. The OCCC attempted to investigate XC Motors' licensed location at 231 W. Highway 67, Duncanville, Texas 75137. The OCCC was not able to investigate the licensed location because no one was present at the location, the building was not open to the public, and the location contained signs for a different dealership. Other attempts to contact XC Motors were not returned. On March 14, 2022, the OCCC sent a final request for information to XC Motors, requesting information about the consumer's transaction. XC Motors did not respond to this request for information.

On June 10, 2022, the OCCC issued an Order to Furnish Information and Allow Investigation against XC Motors.¹¹ The Order required XC Motors to send a letter to the OCCC stating the complete address of any location where XC Motors may

⁵ Tex. Fin. Code §§ 14.202, 348.515.

⁶ Tex. Fin. Code § 348.514(a).

⁷ Tex. Fin. Code § 348.514(b).

⁸ Tex. Fin. Code § 348.517(a).

⁹ Tex. Fin. Code § 348.517(b); 7 Tex. Admin. Code §§ 84.707(d)(7), 84.708(e)(10).

¹⁰ OCCC Complaint ID No. 118430.

¹¹ OCCC Case No. L22-00056.

be investigated and examined, and to provide the OCCC with all records relating to the consumer who filed a complaint against XC Motors in September 2021. XC Motors did not provide the information required by the OCCC's order. XC Motors responded to the order by stating that its records had been destroyed and it could not comply with the order.

Authority

If the Consumer Credit Commissioner ("Commissioner") has reasonable cause to believe that a person is violating Chapter 14 or 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.¹²

Under Chapter 348 of the Texas Finance Code, the Commissioner may revoke a motor vehicle sales finance license if: (1) the license holder, knowingly or without exercise of due care, violates Chapter 348, a rule adopted under Chapter 348, or an order issued under Chapter 348; or (2) a fact or condition exists that, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the Commissioner's denial of the application.¹³

The Commissioner has reasonable cause to believe that XC Motors has violated Chapters 14 and 348 of the Texas Finance Code and Chapter 348's implementing rules by failing to respond to the OCCC's requests for information, by failing to allow the OCCC to conduct an investigation, and by failing to maintain required records. XC Motors also violated the OCCC's June 2022 order by failing to furnish required information. These violations were committed knowingly or without exercise of due care. These violations would have justified denial of XC Motors' original license application, if these violations had existed or been known to exist at the time of the license application.

For these reasons, the Commissioner issues this Order of Revocation.

¹² Tex. Fin. Code § 14.208(a).

¹³ Tex. Fin. Code § 348.508.

Order

IT IS ORDERED that:

1. The motor vehicle sales finance license of Brian Anthony Johnson Jr. d/b/a XC Motors, master file number 1900065681, license number 164375, is REVOKED.
2. XC Motors must cease and desist entering or taking assignment of motor vehicle retail installment transactions. XC Motors must cease and desist accepting credit applications.
3. XC Motors must cease and desist advertising motor vehicle retail installment transactions. XC Motors must remove any advertisements (including any physical signs and any material on a website) suggesting that XC Motors will finance vehicles, that consumers may apply for credit, or that consumers may pay for vehicles in more than one payment.
4. XC Motors must cease and desist collecting any payments on motor vehicle retail installment transactions. XC Motors must cease and desist repossessing motor vehicles, and must cease and desist selling any motor vehicles that it has repossessed.
5. XC Motors must cease and desist failing to allow the OCCC to investigate its location, records, and transactions.
6. **No later than 30 days after the date of this Order**, XC Motors must perform a self-review and identify each outstanding motor vehicle retail installment transaction, including each sale of a motor vehicle for which XC Motors is accepting payments, holds a lien, or has repossessed a motor vehicle that it has not sold.
7. **No later than 30 days after the date of this Order**, for each outstanding motor vehicle retail installment transaction, XC Motors must do one of the following:
 - a. assign the transaction to another person who holds a license under Chapter 348 or is otherwise authorized to hold retail installment contracts under Chapter 348; or
 - b. cease collecting any payments and return any unsold repossessed vehicle to the retail buyer.

8. **No later than 30 days after the date of this Order**, XC Motors must create a spreadsheet labeled "L22-00071XCMotors." The spreadsheet must list each transaction that XC Motors assigned to another person, and each transaction for which XC Motors ceased collecting payments. The spreadsheet must include a row for each retail buyer and the following columns:
 - a. account number;
 - b. name of the retail buyer;
 - c. date of retail installment transaction; and
 - d. name of any person that XC Motors assigned the transaction to, if applicable.

9. **No later than 30 days after the date of this Order**, XC Motors must provide the OCCC with a copy of the spreadsheet. The spreadsheet must be sent by email to Matthew Nance at 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.¹⁴

Right to Request Hearing

You have the right to request a hearing regarding this Order.¹⁵ 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.¹⁶ You must send your request to Matthew Nance, Deputy General Counsel, by mail to 2601 N. Lamar Blvd., Austin, TX 78705, or by email to 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.¹⁷ If you fail to request a hearing by this deadline, the Order will be considered final and enforceable.¹⁸

¹⁴ Tex. Fin. Code § 14.208(c).

¹⁵ Tex. Fin. Code §§ 14.208(b), 348.508.

¹⁶ Tex. Fin. Code § 14.208(b).

¹⁷ Tex. Fin. Code § 14.208(b).

¹⁸ Tex. Fin. Code §§ 14.208(c), 348.508.

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.

Signed this 16th day of August, 2022.

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

CERTIFICATE OF SERVICE

I certify that on August 16, 2022, a true and correct copy of this Order of Revocation has been sent to Brian Anthony Johnson Jr. d/b/a XC Motors by the following:

Brian Anthony Johnson Jr. email
d/b/a XC Motors
Attn: Brian Johnson, Compliance Officer eFileTexas.gov electronic service
231 W. Highway 67 regular mail
Duncanville, TX 75137 certified mail, return receipt requested
xcmotorsdeal@gmail.com # 9214 8901 9403 8300 0086 4893 30

Brian Anthony Johnson Jr. email
d/b/a XC Motors eFileTexas.gov electronic service
Attn: Brian Johnson DBA XC Motors, Registered Agent regular mail
1817 N. Riverside Dr. certified mail, return receipt requested
Fort Worth, TX 76111 # 9214 8901 9403 8300 0086 4894 22
xcmotorsdeal@gmail.com

/s/ Matthew Nance
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