

OCCC CASE NO. L22-00091

|                                 |   |                     |
|---------------------------------|---|---------------------|
| IN THE MATTER OF:               | § | BEFORE THE          |
|                                 | § |                     |
| MASTER FILE NO.: 1900064870     | § | OFFICE OF CONSUMER  |
| VIVAFINANCEINC                  | § |                     |
| 100 PEACHTREE ST. NW, SUITE 320 | § | CREDIT COMMISSIONER |
| ATLANTA, GEORGIA 30303          | § |                     |
|                                 | § | STATE OF TEXAS      |

**ORDER TO FILE TIMELY AND ACCURATE ANNUAL REPORTS**

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order to File Timely and Accurate Annual Reports against VivaFinanceInc (“VivaFinance”).<sup>1</sup>

**Statement of Facts and Law**

VivaFinance is a regulated lender licensed by the OCCC under Chapter 342 of the Texas Finance Code. VivaFinance operates under master file number 1900064870 at one licensed location, under license number 163173. VivaFinance’s compliance officer is John Markwalter, and its designated contact address is 100 Peachtree St. NW, Suite 320, Atlanta, Georgia, 30303.

A regulated lender must file annual reports with the Consumer Credit Commissioner (“Commissioner”).<sup>2</sup> A regulated lender must comply with all instructions from the OCCC relating to submitting the report.<sup>3</sup> The report is due by May 1 of each year for the prior calendar year’s loan activity.<sup>4</sup>

VivaFinance did not file its 2021 annual report with the OCCC on or before May 1, 2022.

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<sup>1</sup> Tex. Fin. Code § 14.208.

<sup>2</sup> Tex. Fin. Code § 342.559.

<sup>3</sup> 7 Tex. Admin. Code § 83.835.

<sup>4</sup> Tex. Fin. Code § 342.559; 7 Tex. Admin. Code § 83.835; [https://occc.texas.gov/industry/regulated-lenders/annual\\_reports](https://occc.texas.gov/industry/regulated-lenders/annual_reports)

The Commissioner may issue an injunction ordering a regulated lender to file one or more complete, accurate, and timely annual reports if the Commissioner has reasonable cause to believe that the regulated lender is violating Chapter 342 of the Texas Finance Code.<sup>5</sup>

The Commissioner has reasonable cause to believe that VivaFinance is violating Chapter 342 of the Texas Finance Code, and therefore issues this Order, because VivaFinance failed to timely file its 2021 annual report.

## **Order**

IT IS ORDERED that VivaFinanceInc:

1. comply with, and cease and desist from violating, the reporting requirements set forth in Section 342.559 of the Texas Finance Code and Title 7, Section 83.835 of the Texas Administrative Code;
2. file its 2021 annual report within 30 days after the date of this Order, if it has not already done so; and
3. timely file complete and accurate future annual reports.

Regulated lender annual reports must be submitted through the OCCC's Application Licensing Examination and Compliance System (ALECS): [alecs.occc.texas.gov](http://alecs.occc.texas.gov). Instructions are available by clicking the "File Annual Report" button on the OCCC's home page, [occc.texas.gov](http://occc.texas.gov).

## **Violation of Order**

If you violate this Order, the OCCC may impose an administrative penalty of up to \$1,000 per day.<sup>6</sup> Multiple violations may also result in the suspension or revocation of your license.<sup>7</sup>

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<sup>5</sup> Tex. Fin. Code § 14.208.

<sup>6</sup> Tex. Fin. Code § 14.208(c).

<sup>7</sup> Tex. Fin. Code § 342.156.

## Right to Request Hearing

You have the right to request a hearing regarding this Order.<sup>8</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>9</sup> You must send your request to Matthew Nance, Deputy General Counsel, by mail to 2601 N. Lamar Blvd., Austin, Texas 78705, or by email to [matthew.nance@occc.texas.gov](mailto:matthew.nance@occc.texas.gov).

If you request a hearing, a hearing on this matter will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.<sup>10</sup> If you fail to request a hearing by the deadline, this Order will be considered final and enforceable.<sup>11</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, Texas 78705, by telephone at 512-936-7660, or by email at [matthew.nance@occc.texas.gov](mailto:matthew.nance@occc.texas.gov).

Signed this 7th day of September, 2022.

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

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<sup>8</sup> Tex. Fin. Code § 14.208(b).

<sup>9</sup> Tex. Fin. Code § 14.208(b).

<sup>10</sup> Tex. Fin. Code § 14.208(b).

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

## CERTIFICATE OF SERVICE

I certify that on September 7, 2022, a true and correct copy of this Order to File Timely and Accurate Annual Reports has been sent to VivaFinanceInc by regular mail and certified mail, return receipt requested, at:

CMRRR # 9214 8901 9403 8300 0086 9268 59

VivaFinanceInc  
Attn: John Markwalter, Compliance Officer  
100 Peachtree St. NW, Suite 320  
Atlanta, GA 30303

CMRRR # 9214 8901 9403 8300 0086 9268 66

VivaFinanceInc  
Attn: National Registered Agents Inc., Registered Agent  
1999 Bryan Street, Suite 900  
Dallas, TX 75201

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