

<p>IN THE MATTER OF:</p> <p>MASTER FILE NO.: 2200071788</p> <p>DUCARS INVESTMENT LLC</p> <p>4108 E. UNIVERSITY DR.</p> <p>DENTON, TEXAS 76208</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>BEFORE THE</p> <p>OFFICE OF CONSUMER</p> <p>CREDIT COMMISSIONER</p> <p>STATE OF TEXAS</p>
---	---	--

AGREED ORDER

The Office of Consumer Credit Commissioner (“OCCC”) issues this Agreed Order against Ducars Investment LLC (“Ducars”), based on the violations of law described below.¹

Statement of Facts and Law

Ducars is a retail seller of motor vehicles and agreed to accept the cash price of motor vehicles in one or more deferred installments. Ducars’ business address is 4108 E. University Dr., Denton, Texas 76208, and its president is Freddy A. Perez Osorio.

A person who operates as a retail seller, or holds a contract in which the person agrees to accept the cash price of a motor vehicle in one or more deferred installments, is a “holder” as that term is defined under Chapter 348 of the Texas Finance Code.² A person who acts as a holder must possess a motor vehicle sales finance license issued by the OCCC, and otherwise comply with Texas law regarding retail installment transactions.³

Ducars does not have a motor vehicle sales finance license. On June 6, 2022, Ducars filed an application to obtain a license under master file number 2200071788 and application ID number 84838. In order to approve Ducars’ application, the OCCC must find that Ducars will operate its business lawfully and fairly, and will use forms and contracts appropriate and adequate to protect the

¹ Tex. Fin. Code § 14.208.
² Tex. Fin. Code § 348.001(3), (7), (8).
³ Tex. Fin. Code § 348.501.

interests of retail buyers.⁴ Ducars agrees to this order in order to satisfy these requirements.

Consumer Complaint

In April 2022, the OCCC received a complaint from a consumer against Ducars. The consumer made several allegations, including that Ducars financed the purchase of a motor vehicle, failed to correctly apply installment payments, failed to maintain payment records, assessed arbitrary fees, and wrongfully repossessed the vehicle.

The OCCC investigated the complaint and worked with Ducars and the consumer to address these allegations. In order to address the complaint, Ducars has returned the consumer's motor vehicle, released the lien, and waived the balance owed by the consumer.⁵

Failure to File Assumed Name

Texas law requires a limited liability company that regularly conducts business under an assumed name to file an assumed name certificate.⁶ Ducars conducts business under the assumed name of "Dallas Used Cars." Specifically, Ducars uses this assumed name on motor vehicle sales finance contracts,⁷ in its email address,⁸ and in its website.⁹ Ducars has not filed an assumed name certificate as required by Texas law.

⁴ Tex. Fin. Code § 348.504(a).

⁵ Tex. Fin. Code § 348.408 (requiring a holder to release a motor vehicle lien not later than the 10th day after a retail installment contract has been paid in full).

⁶ Tex. Bus. Org. Code § 5.051 (authorizing an entity to transact business under an assumed name by filing an assumed name certificate in accordance with Chapter 71 of the Business & Commerce Code); Tex. Bus. & Com. Code § 71.051 (requiring a limited liability company to file an assumed name certificate if the person regularly conducts business under an assumed name).

⁷ Ducars' credit sale agreements are printed with a letterhead stating "Ducars Investment LLC (Dallas Used Cars)."

⁸ Ducars communicates with customers through the email address dallasusedcarstexas@gmail.com, which is listed on its website here: <https://www.dallasusedcarstexas.com/contact-us/>.

⁹ Ducars' website is located at <https://www.dallasusedcarstexas.com>.

Failure to Maintain Records

Texas law requires a retail seller of motor vehicles that services or collects installments on retail installment sales contracts to maintain certain records.¹⁰ This includes the requirement to maintain records pertaining to a payment history information and repossession of a motor vehicle.¹¹ Ducars failed to maintain various records for financed motor vehicle sales transaction as required by Texas law.

Failure to Use Compliant Contracts

Texas law requires a retail installment contract for the sale of a motor vehicle to be written in plain language.¹² A non-standard contract that uses clauses other than the model contract provisions must be written in plain language, include the OCCC's contact information, and submitted to the OCCC for review.¹³ In addition, a retail installment contract must contain disclosures required under the federal Truth in Lending Act and Texas law.¹⁴ Ducars used non-standard contracts that failed to meet these requirements.

Unlicensed Activity

Beginning January 3, 2018, Ducars entered into at least 101 motor vehicle retail installment transactions without a license as required by Texas law.¹⁵ In order to resolve this violation, Ducars elected to pay a late filing fee of \$10,000, plus prior license fees of \$1,840.00.¹⁶

¹⁰ 7 Tex. Admin. Code § 84.708 (describing files and records required to be maintained by a retail seller collecting installments on retail installment sales contracts).

¹¹ 7 Tex. Admin. Code § 84.708(e)(3) (describing required payment history records); 7 Tex. Admin. Code § 84.708(f) (describing required repossession records); Tex. Bus. & Com. Code Chapter 9 (regarding secured transactions, security interests, and collateral).

¹² Tex. Fin. Code § 341.502 (requiring a contract for a retail installment transaction under Chapter 348 to be written in plain language).

¹³ 7 Tex. Admin. Code § 90.104.

¹⁴ 7 Tex. Admin. Code § 84.803 (requiring the inclusion of disclosures mandated by federal law in a retail installment contract); 7 Tex. Admin. Code § 84.804 (requiring the inclusion of disclosures mandated by Texas rule); 7 Tex. Admin. Code § 84.805 (requiring the inclusion of disclosures mandated by Texas law); Tex. Fin. Code § 348.009 (applying disclosures required under the federal Truth in Lending Act to retail installment transactions).

¹⁵ Tex. Fin. Code § 349.501 (requiring a holder to possess a motor vehicle sales finance license to engage in retail installment transactions).

¹⁶ Tex. Fin. Code §§ 349.301, 349.303(b).

Because Ducars paid the late filing fee, Ducars is considered for all purposes to have had held a license for the period during which it was required.¹⁷ Because Ducars is considered to have held a license, and is not subject to any liability, forfeiture, or penalty, other than as provided by subchapter D, chapter 349 of the Finance Code, relating to not holding a license during the period for which the license fees and late filing fee are paid.¹⁸

Agreement

Ducars agrees to operate lawfully and fairly, comply with this agreed order, and comply with Texas law in its retail installment transactions, payment collection and servicing, record keeping, and business operations.

After this Order is signed and issued, the OCCC will grant Ducars' license application currently pending under ID number 84838.

Order

By signing below, Ducars acknowledges these violations, waives all rights to any hearing or appeal, and agrees to comply with this Order and Texas law.

IT IS ORDERED that Ducars must:

1. file an assumed name certificate for any name under which it conducts business other than Ducars Investment LLC, and disclose the assumed name to the OCCC;
2. allow the OCCC to investigate and examine its transactions and business practices;
3. maintain all records required under Texas law;
4. use retail installment contracts that comply with Texas law;
5. maintain an active motor vehicle sales finance license if it engages in retail installment transactions;
6. comply with this order; and

¹⁷ Tex. Fin. Code § 349.304(c).

¹⁸ Tex. Fin. Code § 349.304(d).

7. comply with, and cease and desist from violating, Chapter 5 of the Texas Business Organization Code, Chapters 9 and 71 of the Texas Business & Commerce Code, and Chapters 14, 341, and 348 of the Texas Finance Code, as well as related rules found in the Texas Administrative Code.

Violation of Order

If Ducars violates this Order, this may result in one or more of the following actions by the OCCC: (1) an administrative penalty of up to \$1,000 for each day of violation of this Order, (2) an order to refund any finance charges contracted for, charged, or received at unlicensed locations, or (3) denial, suspension, or revocation of Ducars' motor vehicle sales finance license.¹⁹

If prior to the entry of this order, Ducars has engaged in any activity in violation of Texas law other than the activity identified above, then the OCCC may order Ducars to take one or more of the following actions: (1) pay an administrative penalty, (2) refund any finance charges contracted for, charged, or received at in violation of Texas law, (3) revoke Ducars' motor vehicle sales finance license, or (4) take any other action authorized by Texas law.²⁰

Signed this 21st day of February 2023.

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

¹⁹ Tex. Fin. Code §§ 14.208, 14.251(b), 348.504, 348.508.

²⁰ Tex. Fin. Code §§ 14.208, 14.251.

AGREED:

/s/ Freddy A. Perez Osorio
Freddy A. Perez Osorio, President
Ducars Investment LLC
(signed electronically with permission)

CERTIFICATE OF SERVICE

I certify that on February 21, 2023, a true and correct copy of this Agreed Order has been sent to Ducars Investment LLC by the following:

Ducars Investment LLC
Attn: Freddy A. Perez Osorio,
President
4108 E. University Drive
Denton, Texas 76208

- email
- eFileTexas.gov electronic service
- regular mail
- certified mail, return receipt requested
#

Alan Abergel
600 W. 6th St. Fl. 4
Fort Worth, Texas 76102
alan@abergellaw.com
Attorney for Ducars Investment LLC

- email
- eFileTexas.gov electronic service
- regular mail
- certified mail, return receipt requested
#

/s/ Michael Rigby
Michael Rigby
General Counsel
Office of Consumer Credit Commissioner
State Bar No. 50511925
2601 N. Lamar Blvd.
Austin, Texas 78705
512-936-7623 (phone)
michael.rigby@occc.texas.gov