

OCCC CASE NO. L23-00071

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NO.: 12312	§	OFFICE OF CONSUMER
FIDEL E. OROSCO III d/b/a	§	
ABOVE ALL AFFORDABLE AUTOS	§	CREDIT COMMISSIONER
459 W. SOUTHCROSS	§	
SAN ANTONIO, TEXAS 78221	§	STATE OF TEXAS

ORDER OF REVOCATION

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order of Revocation against Fidel E. Orosco III d/b/a Above All Affordable Autos (“Above All Affordable Autos”), 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>

Above All Affordable Autos is a motor vehicle dealer that holds a motor vehicle sales finance license issued by the OCCC. Above All Affordable Autos operates under master file number 12312 at one licensed location, under license number 51453. Above All Affordable Autos’ compliance officer is Fidel E. Orosco III, and its designated contact address is 459 W. Southcross, San Antonio, Texas 78221.

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<sup>1</sup> Tex. Fin. Code §§ 14.208, 348.508.  
<sup>2</sup> Tex. Fin. Code § 348.501.  
<sup>3</sup> Tex. Fin. Code § 348.001(3), (7), (8).  
<sup>4</sup> See Tex. Fin. Code §§ 348.001(3), (7), (8), 348.501.

Under Chapter 348 of the Texas Finance Code, 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.<sup>5</sup> A licensee must give the OCCC free access to the licensee's office and place of business.<sup>6</sup> The OCCC may conduct an examination after advance notice and during normal business hours.<sup>7</sup> If the OCCC has 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.<sup>8</sup> Under Chapter 348's implementing rules, a licensee is responsible for ensuring that all contact information on file with the OCCC is current and correct.<sup>9</sup>

On July 26, 2021, after advance notice, the OCCC attempted to examine Above All Affordable Autos' licensed location at 2038 Pleasanton Rd., San Antonio, Texas 78221. The OCCC was not able to examine the licensed location, because different businesses were located at the address instead of Above All Affordable Autos. Above All Affordable Autos did not respond to the OCCC's other communication attempts regarding the examination.

On March 21, 2023, the OCCC issued an Order to Allow Examination and Investigation against Above All Affordable Autos.<sup>10</sup> The Order required Above All Affordable Autos to send a letter to the OCCC stating the complete address of any location where it may be examined and investigated, and to ensure that all contact information for Above All Affordable Autos is current and correct in the OCCC's online licensing system. Above All Affordable Autos did not request a hearing, and the Order became final and enforceable. Above All Affordable Autos sent a letter to the OCCC stating that it has not conducted business in 10 or 12 years. In response, the OCCC sent a letter to Above All Affordable Autos with instructions for inactivating the license and providing correct contact information.<sup>11</sup> Above All Affordable Autos did not respond to this follow-up communication, and has not taken the actions required by the OCCC's March 2023 Order.

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<sup>5</sup> Tex. Fin. Code § 348.514(a).

<sup>6</sup> Tex. Fin. Code § 348.514(b).

<sup>7</sup> Tex. Fin. Code § 348.514(f).

<sup>8</sup> Tex. Fin. Code §§ 14.202, 348.515.

<sup>9</sup> 7 Tex. Admin. Code § 84.607(c).

<sup>10</sup> OCCC Case No. L23-00039.

<sup>11</sup> See 7 Tex. Admin. Code § 84.610(a).

By failing to allow the OCCC to examine its licensed location, records, and transactions, Above All Affordable Autos violated Chapter 348 of the Texas Finance Code. By failing to ensure that its contact information is current and correct in the OCCC's online licensing system, Above All Affordable Autos violated Chapter 348's implementing rules and the OCCC's March 2023 Order.

### **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>12</sup>

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.<sup>13</sup>

The Commissioner has reasonable cause to believe that Above All Affordable Autos has violated Chapter 348 of the Texas Finance Code by failing to allow the OCCC to examine its licensed location, records, and transactions. Above All Affordable Autos also violated Chapter 348's implementing rules and the OCCC's March 2023 Order by failing to ensure that its contact information is current and correct in the OCCC's online licensing system. These violations were committed knowingly or without exercise of due care. These violations would have justified denial of Above All Affordable Autos' 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.

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

<sup>13</sup> Tex. Fin. Code § 348.508.

## Order

IT IS ORDERED that:

1. The motor vehicle sales finance license of Fidel E. Orosco III d/b/a Above All Affordable Autos, master file number 12312, license number 51453, is REVOKED.
2. Above All Affordable Autos must cease and desist entering or taking assignment of motor vehicle retail installment transactions. Above All Affordable Autos must cease and desist accepting credit applications.
3. Above All Affordable Autos must cease and desist advertising motor vehicle retail installment transactions. Above All Affordable Autos must remove any advertisements (including any physical signs and any material on a website) suggesting that Above All Affordable Autos will finance vehicles, that consumers may apply for credit, or that consumers may pay for vehicles in more than one payment.
4. Above All Affordable Autos must cease and desist collecting any payments on motor vehicle retail installment transactions. Above All Affordable Autos must cease and desist repossessing motor vehicles, and must cease and desist selling any motor vehicles that it has repossessed.
5. Above All Affordable Autos 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**, Above All Affordable Autos must perform a self-review and identify each outstanding motor vehicle retail installment transaction, including each sale of a motor vehicle for which Above All Affordable Autos 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, Above All Affordable Autos 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**, Above All Affordable Autos must create a spreadsheet labeled "L23-00071AboveAllAffordable Autos." The spreadsheet must list each transaction that Above All Affordable Autos assigned to another person, and each transaction for which Above All Affordable Autos 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 Above All Affordable Autos assigned the transaction to, if applicable.
  9. **No later than 30 days after the date of this Order**, Above All Affordable Autos 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](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>14</sup>

### **Right to Request Hearing**

You have the right to request a hearing regarding this Order.<sup>15</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>16</sup> 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](mailto:matthew.nance@occc.texas.gov).

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

<sup>15</sup> Tex. Fin. Code §§ 14.208(b), 348.508.

<sup>16</sup> Tex. Fin. Code § 14.208(b).

If you request a hearing, a hearing will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.<sup>17</sup> If you fail to request a hearing by this deadline, the Order will be considered final and enforceable.<sup>18</sup>

All communications with the OCCC concerning this matter must be through Matthew Nance, 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 27th day of July, 2023.

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

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<sup>17</sup> Tex. Fin. Code § 14.208(b).

<sup>18</sup> Tex. Fin. Code §§ 14.208(c), 348.508.

**CERTIFICATE OF SERVICE**

I certify that on July 27, 2023, a true and correct copy of this Order of Revocation has been sent to Fidel E. Orosco III d/b/a Above All Affordable Autos by the following:

Fidel E. Orosco III d/b/a  
Above All Affordable Autos  
Attn: Fidel E. Orosco III, Compliance  
Officer & Registered Agent  
459 W. Southcross  
San Antonio, TX 78221

- email
- eFileTexas.gov electronic service
- regular mail
- certified mail, return receipt requested  
# 9214 8901 9403 8300 0023 7510 94

Fidel E. Orosco III d/b/a  
Above All Affordable Autos  
Attn: Fidel E. Orosco III,  
Compliance Officer  
2038 Pleasanton Rd.  
San Antonio, TX 78221

- email
- eFileTexas.gov electronic service
- regular mail
- certified mail, return receipt requested  
# 9214 8901 9403 8300 0023 7522 75

/s/Matthew Nance  
Matthew J. Nance  
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