

OCCC CASE NO. L23-00113

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NO.: 13457	§	OFFICE OF CONSUMER
AUTOSMART ACCEPTANCE	§	CREDIT COMMISSIONER
CORPORATION	§	
4545 N. STATELINE AVE.	§	
TEXARKANA, TEXAS 75503	§	STATE OF TEXAS

AGREED ORDER OF REVOCATION

The Office of Consumer Credit Commissioner (“OCCC”) issues this Agreed Order of Revocation against AutoSmart Acceptance Corporation (“AutoSmart Acceptance”), based on the violations of law described below.¹

Statement of Facts and Law

Under Chapter 342 of the Texas Finance Code, a person must hold a regulated lender license issued by the OCCC in order to make, transact, or negotiate consumer loans at interest rates greater than 10%.²

AutoSmart Acceptance is a regulated lender licensed by the OCCC under Chapter 342. AutoSmart Acceptance operates under master file number 13457 at three locations with regulated lender licenses, under license numbers 53769, 53770, and 162944. AutoSmart Acceptance also holds a motor vehicle sales finance license under Chapter 348 of the Finance Code, under license number 169147. AutoSmart Acceptance’s compliance officer is Andy McEntire, and its designated contact address is 4545 N. Stateline Ave., Texarkana, Texas 75503.

Under Chapter 342 and its implementing rules, a regulated lender must file annual reports with the OCCC.³ A regulated lender must comply with all instructions

¹ Tex. Fin. Code §§ 14.208, 342.156.

² Tex. Fin. Code §§ 342.005, 342.051.

³ Tex. Fin. Code § 342.559; 7 Tex. Admin. Code § 83.835.

from the OCCC relating to submitting the report.⁴ The report is due by May 1 of each year for the prior calendar year's loan activity.⁵

AutoSmart Acceptance did not file its 2018 annual report by the deadline of May 1, 2019. On August 21, 2019, the OCCC issued an Order to File Timely and Accurate Annual Reports against AutoSmart Acceptance for failing to timely file its 2018 annual report. The order became final and enforceable. The order required AutoSmart Acceptance to file its 2018 annual report, and to timely file complete and accurate annual future reports. AutoSmart Acceptance ultimately filed its 2018 annual report.

AutoSmart Acceptance did not file its 2019 annual report by the extended deadline of June 1, 2020. On October 12, 2020, the OCCC issued an Order Imposing Administrative Penalty against AutoSmart Acceptance for failing to timely file its 2019 annual report. The order required AutoSmart Acceptance to pay a \$1,000 administrative penalty and file its 2019 annual report. AutoSmart Acceptance ultimately paid the \$1,000 administrative penalty and filed its 2019 annual report.

AutoSmart Acceptance did not file its 2020 annual report by the deadline of May 1, 2021. On September 23, 2021, the OCCC issued an Amended Order Imposing Administrative Penalty against AutoSmart Acceptance for failing to timely file its 2020 annual report. The order required AutoSmart Acceptance to pay a \$3,000 administrative penalty and file its 2020 annual report. AutoSmart Acceptance ultimately paid the \$3,000 administrative penalty and filed its 2020 annual report.

AutoSmart Acceptance did not file its 2022 annual report with the OCCC by the deadline of May 1, 2023. As of the date of this Order, AutoSmart Acceptance has not filed its 2022 annual report.

Authority

If the Consumer Credit Commissioner ("Commissioner") has reasonable cause to believe that a person is violating Chapter 342 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.⁶ If a regulated lender violates an

⁴ 7 Tex. Admin. Code § 83.835.

⁵ 7 Tex. Admin. Code § 83.835; https://occc.texas.gov/industry/regulated-lenders/annual_reports

⁶ Tex. Fin. Code § 14.208(a).

injunction, then the Commissioner may impose an administrative penalty up to \$1,000 per day of the violation.⁷

The Commissioner may revoke a regulated lender license if: (1) the license holder, knowingly or without exercise of due care, violates Chapter 342, a rule adopted under Chapter 342, or an order issued under Chapter 342; 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.⁸

By failing to timely file its 2018, 2019, 2020, and 2022 annual reports, AutoSmart Acceptance violated Chapter 342 of the Texas Finance Code and its implementing rules. By failing to timely file its 2019, 2020, and 2022 annual reports, AutoSmart Acceptance violated the OCC's Order to File Timely and Accurate Annual Reports issued on August 21, 2019. These violations were committed knowingly or without exercise of due care. These violations would have justified denial of AutoSmart Acceptance's 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 Agreed Order of Revocation.

Order

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

IT IS ORDERED that:

1. The regulated lender licenses of AutoSmart Acceptance Corporation, master file number 13457, license numbers 53769, 53770, and 162944, are REVOKED.
2. AutoSmart Acceptance must cease and desist making, transacting, or negotiating loans under Chapter 342 of the Texas Finance Code.
3. AutoSmart Acceptance must cease and desist contracting for, charging, or receiving, directly or indirectly, in connection with a loan under Chapter

⁷ Tex. Fin. Code § 14.208(c).

⁸ Tex. Fin. Code § 342.156.

342 of the Finance Code, any charge, including interest, compensation, consideration, or another expense.

4. **No later than November 10, 2023**, AutoSmart Acceptance must perform a self-review and identify each outstanding loan under Chapter 342 of the Texas Finance Code.
5. **No later than November 10, 2023**, for each outstanding loan under Chapter 342, AutoSmart Acceptance must do one of the following:
 - a. assign the loan to another person who holds a license under Chapter 342 or is otherwise authorized to make loans under Chapter 342; or
 - b. refund all interest on the loan down to an effective annual interest rate of 10%.
6. **No later than November 10, 2023**, if AutoSmart Acceptance has identified any outstanding loans under Chapter 342, then AutoSmart Acceptance must create a spreadsheet labeled "L23-00113AutoSmartAcceptance." The spreadsheet must list each transaction for which AutoSmart Acceptance provided refunds, and each transaction that AutoSmart Acceptance assigned to another person. The spreadsheet must include a row for each consumer and the following columns:
 - a. Account number
 - b. First and last name of consumer
 - c. Date of loan
 - d. Dollar amount of interest
 - e. Dollar amount of interest refunded to the consumer
 - f. Date of the refund
 - g. Name of any person that AutoSmart Acceptance assigned the transaction to, if applicable
7. **No later than November 10, 2023**, if AutoSmart has identified any outstanding loans under Chapter 342, then AutoSmart Acceptance must send a copy of the spreadsheet to the OCCC. Alternatively, if there are no outstanding loans under Chapter 342, then AutoSmart Acceptance must send a written statement explaining that there are no outstanding loans under Chapter 342. The spreadsheet or written statement must be sent by email to Matthew Nance at matthew.nance@occc.texas.gov.

8. AutoSmart Acceptance must retain any transaction records for consumer loans under Chapter 342, including copies of any refund checks and any ledgers showing account credits, until the later of the following:
 - a. the fourth anniversary of the date of the transaction; or
 - b. the second anniversary of the date on which the final entry is made in the record.
9. AutoSmart Acceptance must allow the OCCC to investigate its records to verify compliance with this Order. If the OCCC requests any information regarding a loan or credit transaction, AutoSmart Acceptance must provide the requested information within five days.
10. The Order of Revocation issued by the OCCC against AutoSmart Acceptance on September 22, 2023, is withdrawn and replaced by this Agreed Order of Revocation.

Violation of Order

If AutoSmart Acceptance violates this Order, the OCCC may impose an administrative penalty of up to \$1,000 for each day of violation.⁹

Signed this 17th day of October, 2023.

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

AGREED:

/s/ Lucas Ponder
Lucas Ponder
Chief Executive Officer
AutoSmart Acceptance Corporation
(signed electronically with permission)

⁹ Tex. Fin. Code § 14.208(c).

CERTIFICATE OF SERVICE

I certify that on October 17, 2023, a true and correct copy of this Order of Revocation has been sent to AutoSmart Acceptance Corporation by the following:

AutoSmart Acceptance Corporation
Attn: Andy McEntire, Compliance
Officer
4545 N. Stateline Ave.
Texarkana, TX 75503
andy.mcentire@shopautosmart.com
lucas.ponder@shopautosmart.com

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

/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