

OCCC CASE NO. L18-00196

IN THE MATTER OF:	§	BEFORE THE
	§	
	§	OFFICE OF CONSUMER
MASTER FILE NO.: 1500052122	§	
RKB LUXURY MOTORS INC.	§	CREDIT COMMISSIONER
5526 FIELDWOOD DRIVE	§	
HOUSTON, TEXAS 77056	§	STATE OF TEXAS

ORDER TO CEASE AND DESIST AND TO TAKE AFFIRMATIVE ACTION

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order to Cease and Desist and to Take Affirmative Action against RKB Luxury Motors Inc. (“RKB Luxury 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 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

RKB Luxury Motors is a motor vehicle sales finance dealer that was formerly licensed by the OCCC under Chapter 348 of the Texas Finance Code. RKB Luxury Motors operated under master file number 1500052122 at one licensed location, under license number 152548. The OCCC’s records reflect that RKB Luxury Motors’ compliance officer is Ruchdi Bakarar, and its designated contact address is 5526 Fieldwood Drive, Houston, Texas 77056.

RKB Luxury Motors most recently renewed its motor vehicle sales finance license on June 27, 2017. The license expired on July 31, 2018.

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

I. Failing to Maintain Records

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.⁴ A licensee must give the OCCC free access to the licensee's office and place of business.⁵ The OCCC may conduct an examination after advance notice and during normal business hours.⁶ If the OCCC has reasonable cause to believe that a person is violating Chapter 348, then the OCCC may conduct an investigation to discover a violation or obtain required information.⁷

Under Chapter 348 and its implementing rules, a dealer must maintain records of retail installment transactions, to enable the OCCC to determine whether the dealer is complying with Chapter 348.⁸ For each retail installment transaction, the dealer must maintain records until the later of: (1) the fourth anniversary of the date of the retail installment transaction, or (2) the second anniversary of the date on which the final entry is made in the record.⁹

In May 2018, the OCCC notified RKB Luxury Motors of a routine examination of RKB Luxury Motors' licensed location at 9108 Clarkcrest, Houston, TX 77063. Ruchidi Bakarar responded, informing the OCCC that Mr. Danny Elbezre was the current owner of RKB Luxury Motors. On May 16, 2018, Mr. Elbezre called the OCCC examiner and explained that all files and records for RKB Luxury Motors had been thrown away.

On May 17, 2018, the OCCC performed an examination of RKB Luxury Motors. RKB Luxury Motors was unable to provide any records or specific information regarding activity under Chapter 348 of the Finance Code. The examiner instructed RKB Luxury Motors to obtain copies of records, or otherwise send the OCCC a written statement explaining what steps were taken to ensure proper collection and servicing of accounts. The examiner instructed

⁴ Tex. Fin. Code § 348.514(a).

⁵ Tex. Fin. Code § 348.514(b).

⁶ Tex. Fin. Code § 348.514(f).

⁷ Tex. Fin. Code § 348.515.

⁸ Tex. Fin. Code § 348.517(a); 7 Tex. Admin. Code §§ 84.707, 84.708.

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

RKB Luxury Motors to respond by July 16, 2018. RKB Luxury Motors did not respond to this instruction.

By failing to maintain records of motor vehicle retail installment transactions, RKB Luxury Motors violated Chapter 348 of the Texas Finance Code and its implementing rules.

II. Failing to Safeguard Customer Information

The Commissioner issues licenses under Chapter 348 of the Finance Code based on an expectation that the business will be operated in compliance with state and federal law.¹⁰ Under the federal Gramm-Leach-Bliley Act, financial institutions have an affirmative and continuing obligation to protect the security and confidentiality of customer's nonpublic personal information.¹¹ This requirement is implemented by the Federal Trade Commission's Safeguards Rule, which requires financial institutions to develop, implement, and maintain an information security program, to ensure the security and confidentiality of customer information.¹² Under Chapter 348, federal statutes apply to retail installment transactions.¹³

During the May 2018 examination, the OCCC examiner found that RKB Luxury Motors had failed to maintain adequate safeguards for customer information, and that RKB Luxury Motors did not have knowledge of whether a written policy for safeguarding customer information had been created. The examiner instructed RKB Luxury Motors to notify buyers of unauthorized access to their nonpublic personal information, and to create a written policy for safeguarding customer information. The examiner instructed RKB Luxury Motors to respond by July 16, 2018. RKB Luxury Motors did not respond to this instruction.

By failing to implement and maintain an information security program to ensure the security and confidentiality of customer information, and by

¹⁰ Tex. Fin. Code § 348.504(a)(1); 7 Tex. Admin. Code § 84.104.

¹¹ Gramm-Leach-Bliley Act, 15 U.S.C. § 6801(a).

¹² FTC Safeguards Rule, 16 C.F.R. § 314.3.

¹³ Tex. Fin. Code § 348.008(b).

disposing of records in an unsecure manner, RKB Luxury Motors violated the Gramm-Leach-Bliley Act and the Safeguards Rule.

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, an order to take affirmative action, or both to enforce compliance.¹⁴

The Commissioner has reasonable cause to believe that RKB Luxury Motors has violated Chapter 348 of the Texas Finance Code by failing to maintain records of motor vehicle retail installment transactions, and by failing to implement and maintain an information security program to ensure the security and confidentiality of customer information.

Order

IT IS ORDERED that:

1. RKB Luxury Motors must cease and desist failing to maintain records of retail installment transactions.
2. RKB Luxury Motors must cease and desist failing to implement and maintain an information security program to ensure the security and confidentiality of customer information.
3. **No later than October 15, 2019**, RKB Luxury Motors must locate and obtain all records available for retail installment transactions from May 17, 2014, to the present, including copies of the following records, to the extent available:
 - a. retail installment contract;
 - b. payment history, including the retail buyer’s name, address, and telephone number; the date of the contract; and records of any payments made by or on behalf of the buyer, including any down payment;

¹⁴ Tex. Fin. Code § 14.208(a).

- c. certificate of title;
 - d. title application receipt;
 - e. vehicle inspection receipt;
 - f. documentation of any insurance or ancillary products sold; and
 - g. documentation of any repossession of a motor vehicle.
4. RKB Luxury Motors must make these records available for the OCCC to examine and investigate.
5. **No later than October 15, 2019**, RKB Luxury Motors must perform a self-review of all retail installment transactions from May 17, 2014, to the present, and identify each transaction where RKB Luxury Motors disposed of records without safeguarding the retail buyer's nonpublic personal information.
6. **No later than October 15, 2019**, RKB Luxury Motors must send a letter to each of these retail buyers explaining how the records were disposed of, and explaining that this may have resulted in unauthorized access to the retail buyer's nonpublic personal information.
7. **No later than October 15, 2019**, RKB Luxury Motors must create a spreadsheet titled "L18-00196RKB LuxuryMotors." The spreadsheet must list each retail installment transaction from May 17, 2014, to the present. 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 the retail installment contract; and
 - d. date of any letter sent to the retail buyer regarding nonpublic personal information.
8. **No later than October 15, 2019**, RKB Luxury Motors must provide a copy of the spreadsheet described above to the OCCC. The spreadsheet must be sent by e-mail to Matthew Nance at matthew.nance@occc.texas.gov.

Violation of Order

RKB Luxury Motors may be assessed an administrative penalty of up to \$1,000 for each day of violation of this Order.¹⁵

Right to Request Hearing

RKB Luxury Motors has the right to request a hearing regarding this Order.¹⁶ RKB Luxury Motors' request must be made in writing and sent to the OCCC not later than 30 days after RKB Luxury Motors receives this Order. RKB Luxury Motors must send its request to:

Matthew Nance
Office of Consumer Credit Commissioner
2601 N. Lamar Blvd.
Austin, Texas 78705

If RKB Luxury Motors requests a hearing, a hearing on this matter will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.¹⁷ If RKB Luxury Motors fails to request a hearing by this deadline, this Order is considered final and enforceable.¹⁸

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 to matthew.nance@occc.texas.gov.

Signed this 28th day of August, 2019.

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

¹⁵ Tex. Fin. Code § 14.208(c).

¹⁶ Tex. Fin. Code § 14.208(b).

¹⁷ Tex. Fin. Code § 14.208(b).

¹⁸ Tex. Fin. Code § 14.208(c).

CERTIFICATE OF SERVICE

I certify that on August 28th, 2019, a true and correct copy of this Order to Cease and Desist and to Take Affirmative Action has been sent to RKB Luxury Motors Inc. by the following:

J. Nathan Overstreet
J. Nathan Overstreet & Assoc., P.C.
8711 Highway 6, North, Suite #230
Houston, TX 77095
281-855-1000 (p)
281-855-4580 (f)
overstreetlawfirm@gmail.com

hand-delivery

facsimile

electronic mail

regular mail

*ATTORNEY FOR RKB LUXURY
MOTORS INC.*

certified mail, return receipt requested
#91 7199 9991 7037 5165 2961

RKB Luxury Motors Inc.
Attn: Ruchdi Barakat, Compliance
Officer and Registered Agent
5526 Fieldwood Drive
Houston, TX 77056
713-785-0286 (p)
713-785-1925 (f)
ruchdi.barakat@gmail.com

hand-delivery

facsimile

electronic mail

regular mail

certified mail, return receipt requested
#91 7199 9991 7037 5165 2978

RKB Luxury Motors Inc.
Attn: Khaldoun Elbezre, Registered
Agent
2330 Gentryside Dr.
Houston, TX 77077

hand-delivery

facsimile

electronic mail

regular mail

certified mail, return receipt requested
#91 7199 9991 7037 5165 2985

/s/ Matthew Nance

Matthew J. Nance
Deputy General Counsel
Office of Consumer Credit Commissioner
State Bar No. 24074794
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