

OCCC CASE NO. L18-00050

IN THE MATTER OF:

MASTER FILE NO. 8981
HYATT IMPORTS, INC.
6116 SHADY CLIFF DR.
DALLAS, TEXAS 75240

§ BEFORE THE
§
§ OFFICE OF CONSUMER
§
§ CREDIT COMMISSIONER
§
§ STATE OF TEXAS

**ORDER ASSESSING ADMINISTRATIVE PENALTY
FOR VIOLATION OF INJUNCTIVE ORDER**

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order Assessing Administrative Penalty for Violation of Injunctive Order against Hyatt Imports, Inc. (“Hyatt Imports”).¹

Statement of Facts and Law

Hyatt Imports is a motor vehicle sales finance dealer licensed by the OCCC under Chapter 348 of the Texas Finance Code. Hyatt Imports operates under master file number 8981 at one licensed location (license number 42778, issued on January 21, 2004), located at 2707 E. Belt Line Rd., Carrollton, Texas 75006. Hyatt Imports also operates at two registered offices (license numbers 44773 and 55323, issued on June 29, 2004 and April 6, 2009, respectively). Hyatt Imports’ designated contact address is at 6116 Shady Cliff Dr., Dallas, Texas 75240, and its designated compliance officers are Mehri Kashi and Mo Heidari.

The Consumer Credit Commissioner (“Commissioner”) may issue an injunctive order to enforce compliance with Chapter 348 of the Texas Finance Code.² If a hearing is not timely requested, the injunctive order is considered final and becomes enforceable.³ The Commissioner, after giving notice, may impose an administrative penalty for violation of the injunctive order, in an amount not to exceed \$1,000 for each day of violation.⁴

¹ Tex. Fin. Code § 14.208.

² Tex. Fin. Code § 14.208(a).

³ Tex. Fin. Code § 14.208(c).

⁴ Tex. Fin. Code § 14.208(c).

On July 21, 2017, the OCCC issued an Order to Cease and Desist, to Take Affirmative Action, and to Make Restitution (“Order”) against Hyatt Imports for violating Chapter 348 of the Texas Finance Code. On July 24, 2017, the OCCC sent the Order to Hyatt Imports’ designated contact address by regular mail and by certified mail, return receipt requested. A copy of the Order is attached as **Exhibit A**.

The Order required Hyatt Imports to cease and desist from specific violations and to take affirmative actions to correct the violations. In particular, the Order required Hyatt Imports to:

- (1) perform a self-review of retail installment transactions entered from June 21, 2013 to the date of the Order;
- (2) make restitution of excessive public official fees, excessive state inspection fees, excessive finance charges, unauthorized and excessive late fees, unauthorized service contract fees, and unsubstantiated repossession costs; and
- (3) provide the OCCC with proof of restitution, as well as spreadsheets listing the restitution, no later than August 28, 2017.

The Order notified Hyatt Imports that it may be assessed an administrative penalty of up to \$1,000 per day for violating the Order. Hyatt Imports did not request a hearing on the Order. The Order became final and enforceable after 30 days pursuant to Section 14.208(c) of the Texas Finance Code.

Hyatt Imports sent partial restitution documentation to the OCCC. On August 9, 2017, the OCCC sent a letter to Hyatt Imports explaining that proof of certain refunds was missing from Hyatt Imports’ documentation. On September 27, the OCCC sent a final notice letter to Hyatt Imports. The final notice letter notified Hyatt Imports that the Order had become final, and that administrative penalties may be assessed if Hyatt Imports did not submit proof of all required restitution within 10 days of receiving the letter.

As of the date of this Order, Hyatt Imports has not provided the OCCC with sufficient proof of restitution as required by the 2017 Order.

Order

IT IS ORDERED that:

1. **No later than September 4, 2018**, Hyatt Imports must pay an administrative penalty of \$1,000 to the OCCC. A check made payable to “Office of Consumer Credit Commissioner” must be mailed to 2601 N. Lamar Blvd., Austin, Texas 78705.
2. **No later than September 4, 2018**, Hyatt Imports must send to the OCCC proof of compliance with the Order issued on July 21, 2017. The proof of compliance must include the spreadsheets and proof of restitution described in the Order. The proof of compliance must be sent by e-mail to Matthew Nance at matthew.nance@occc.texas.gov.

Right to Request Hearing

Hyatt Imports has the right to request a hearing regarding this Order. Hyatt Imports’ request must be made in writing and sent to the OCCC not later than 30 days after Hyatt Imports receives this Order. Hyatt Imports must send its request to:

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

If Hyatt Imports requests a hearing, a hearing on this matter will be set and conducted in accordance with Chapter 2001 of the Texas Government Code. If Hyatt Imports fails to request a hearing by this deadline, this Order is considered final and enforceable. The Commissioner on relation of the attorney general may institute in district court a suit for injunctive relief and to collect an administrative penalty.⁵

All communications with the OCCC concerning this matter must be through Matthew Nance, Deputy General Counsel, who may be contacted by

⁵ Tex. Fin. Code § 14.208(c).

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 20th day of July, 2018.

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

CERTIFICATE OF SERVICE

I certify that on July 23, 2018, a true and correct copy of this Order Assessing Administrative Penalty for Violation of Injunctive Order has been sent to Hyatt Imports, Inc. by regular mail and certified mail, return receipt requested, at:

CMRRR# 91 7199 9991 7038 3609 4488
Hyatt Imports, Inc.
Attn: Mehri Kashi and Mo Heidari
Compliance Officers and Statutory Agents
6116 Shady Cliff Dr.
Dallas, Texas 75420

CMRRR# 91 7199 9991 7038 3609 4495
Hyatt Imports, Inc.
Attn: Mehri Kashi and Mo Heidari
Compliance Officers and Statutory Agents
2707 E. Belt Line Rd.
Carrollton, Texas 75006

/s/ Matthew J. 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
(512) 936-7610 (fax)
matthew.nance@occc.texas.gov

EXHIBIT A

ORDER TO CEASE AND DESIST, TO TAKE AFFIRMATIVE ACTION,
AND TO MAKE RESTITUTION

OCCC CASE NO. L17-00372

IN THE MATTER OF:	§	BEFORE THE
	§	
	§	OFFICE OF CONSUMER
MASTER FILE NO. 8981	§	
HYATT IMPORTS INC	§	CREDIT COMMISSIONER
6116 SHADY CLIFF DR.	§	
DALLAS, TX 75240	§	STATE OF TEXAS

**ORDER TO CEASE AND DESIST, TO TAKE AFFIRMATIVE ACTION,
AND TO MAKE RESTITUTION**

The Office of the Consumer Credit Commissioner (“OCCC”) issues this Order to Cease and Desist, to Take Affirmative Action, and to Make Restitution against Hyatt Imports Inc (“Hyatt Imports”) based on the violations of law described below.¹

Statement of Facts and Law

Hyatt Imports is a motor vehicle sales finance dealer licensed by the OCCC under Chapter 348 of the Texas Finance Code. Hyatt Imports operates under master file number 8981 at three licensed locations. Hyatt Imports’ designated contact address is at 2707 E Belt Line Road, Carrollton, TX 75006.

The OCCC examined Hyatt Imports on June 21, 2016 and January 25, 2017. During the examinations, the OCCC discovered violations of Chapter 348 of the Texas Finance Code and Title 7, Chapter 84 of the Texas Administrative Code. Following each examination, the OCCC instructed Hyatt Imports to conduct a self-review and to make restitution of specified unlawful charges. Hyatt Imports has not responded to or complied with the OCCC’s instructions.

I. Excessive Public Official Fees

A motor vehicle sales finance dealer may include as an itemized charge the amount of fees for title, license and registration.² In several transactions,

¹ Tex. Fin. Code § 14.208.

² Tex. Fin. Code § 348.005(1).

Hyatt Imports violated Texas law by charging more for title, license, and registration fees than it disbursed on behalf of buyers.

II. Excessive State Inspection Fees

A motor vehicle sales finance dealer may include as an itemized charge the amount of fees or charges prescribed by law and connected with sale or inspection of a motor vehicle.³ In several transactions, Hyatt Imports violated Texas law by including charges for motor vehicle inspections that were not actually performed. Hyatt Imports also violated Texas law by charging buyers more for the inspections than it had paid on their behalf.

III. Excessive Finance Charges

A motor vehicle retail installment contract may not provide for a finance charge that exceeds the maximum authorized amount.⁴ Finance charge is the total amount added to the principal balance to determine the total balance of the buyer's indebtedness under a retail installment contract.⁵ When a retail installment contract that utilizes the scheduled installment earnings method of calculating the finance charge is paid off early, the creditor must refund the unearned finance charges unless the refund is less than \$1.00.⁶ In several transactions, Hyatt Imports violated the Texas Administrative Code by failing to rebate the unearned amount of finance charge in instances of early pay off.

IV. Unauthorized and Excessive Late Fees

A retail installment contract may contain a delinquency charge that does not exceed five percent of the amount of the installment.⁷ Alternatively, a retail installment contract can charge interest on the amount of the installment accruing after the maturity of the installment and until the installment is paid in full at a rate that does not exceed the maximum rate authorized for the contract.⁸ A retail installment contract can begin charging these fees after an installment

³ Tex. Fin. Code § 348.005(3).

⁴ See Tex. Fin. Code § 348.103; 7 Tex. Admin. Code § 84.201.

⁵ Tex. Fin. Code § 348.001(9).

⁶ 7 Tex. Admin. Code § 84.102(6).

⁷ Tex. Fin. Code § 348.107(a).

⁸ Tex. Fin. Code § 348.107(a).

remains unpaid after the 15th day after the maturity of the installment.⁹ Only one delinquency charge may be collected on an installment.¹⁰

In several transactions, Hyatt Imports charged a late fee the day after a customer failed to pay, violating the 15-day requirement, and continued charging \$10.00 each day that the installment remained unpaid, violating the requirement of a single delinquency fee. Therefore, Hyatt Imports violated Texas law by charging unauthorized and excessive late fees.

V. Unauthorized Service Contracts

A retail installment contract may include as a separate charge an amount for a service contract.¹¹ However, a person may not operate as a provider of service contracts unless that person is registered with the Texas Department of Licensing and Registration.¹²

Hyatt Imports did not register with the Texas Department of Licensing and Registration prior to or during its offering of service contracts. In several transactions, Hyatt Imports violated Texas law by charging buyers for service contracts that it was not authorized to provide.

VI. Unsubstantiated Repossession Charges

A retail installment contract can provide for a charge of reasonable out-of-pocket expenses incurred in connection with the repossession or sequestration of a motor vehicle.¹³ However, a licensee must be able to access or produce a list of all retail installment sales transactions involving repossession by the licensee.¹⁴

In several transactions, Hyatt Imports charged repossession fees, but it either failed to actually perform the repossession or it failed to retain or provide proof of the costs incurred in repossession, in violation of the Texas Administrative Code.

⁹ Tex. Fin. Code § 348.107(a).

¹⁰ Tex. Fin. Code § 348.107(c).

¹¹ Tex. Fin. Code § 348.208(b).

¹² Texas Occ. Code § 1304.101(a).

¹³ Tex. Fin. Code § 348.108(3).

¹⁴ Tex. Admin. Code § 84.708(f)(2)(B).

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.¹⁵ Additionally, the Commissioner may order a person who violates Chapter 348 or a rule adopted under Chapter 348 to make restitution to an identifiable person injured by the violation.¹⁶

The Commissioner has reasonable cause to believe that Hyatt Imports is violating Chapter 348 of the Texas Finance Code, and Title 7, Chapter 84 of the Texas Administrative Code.

Order

IT IS ORDERED that Hyatt Imports Inc:

1. with respect to excessive public official fees:
 - a. cease and desist from including an itemized charge for, certificate of title, license and registration that exceeds the amount actually paid to public officials for these items;
 - b. perform a self-review of all installment contracts, both open and closed accounts from June 21, 2013 to the present to identify any title, license and registration fees;
 - c. make a spreadsheet titled “Public Official Fees” with the following columns:
 - i. name of buyer,
 - ii. date of retail installment contract,
 - iii. amount of fees for certificate of title, license, and registration collected from the buyer,
 - iv. amount of fees for certificate of title, license, and registration paid to a government entity as shown on the receipt,
 - v. the calculated difference between the amount collected

¹⁵ Tex. Fin. Code § 14.208(a).

¹⁶ Tex. Fin. Code § 14.251(b).

- and the amount paid;
 - d. make restitution to each buyer in the amount of the calculated difference as shown on the spreadsheet; and
 - e. provide the OCCC with a copy of the spreadsheet and proof of restitution no later than August 28, 2017;
- 2. with respect to excessive state inspection fees:
 - a. cease and desist from including an itemized charge for a state inspection in excess of the amount actually charged;
 - b. cease and desist from including an itemized charge for a motor vehicle inspection that was not actually performed;
 - c. conduct a self-review of all retail installment contracts from June 21, 2013 to the present;
 - d. make a spread sheet titled "State Inspection Fees" with the following columns:
 - i. name of buyer,
 - ii. date of retail installment contract,
 - iii. amount of fees for government vehicle inspection collected from buyer,
 - iv. amount actually paid, if any, for the government vehicle inspection on behalf of the buyer in the referenced retail installment contract,
 - v. the calculated difference between the amount calculated and the amount paid for the government vehicle inspection;
 - e. make restitution to each buyer to the amount calculated on the spreadsheet; and
 - f. provide the OCCC with a copy of the spreadsheet and proof of restitution no later than August 28, 2017;
- 3. with respect to excessive finance charges:
 - a. cease and desist from withholding unearned finance charges;
 - b. conduct a self-review of all retail installment contracts from June 21, 2013 to present;
 - c. make a spreadsheet titled "Excessive Finance Charges" with the following columns:
 - i. name of buyer,

- ii. date of retail installment contract,
 - iii. amount of unearned finance charges withheld;
 - d. make restitution to each buyer for the amount of finance charges improperly withheld that is in excess of \$1.00;
 - e. provide the OCCC with a copy of the spreadsheet and proof of restitution no later than August 28, 2017;
- 4. with respect to unauthorized and excessive late fees:
 - a. cease and desist charging unauthorized and excessive late fees;
 - b. conduct a self-review of all retail installment contracts from June 21, 2013 to present;
 - c. make a spreadsheet titled "Late Fees" with the following columns:
 - i. name of buyer,
 - ii. date of retail installment contract,
 - iii. amount of fees that were charged for delinquency in excess of authorized amount or that were charged prior to the authorized date;
 - d. make restitution to each buyer for the amount of excessive late fees charged;
 - e. provide the OCCC with a copy of this spreadsheet and proof of restitution no later than August 28, 2017;
- 5. with respect to unauthorized service contracts:
 - a. cease and desist charging fees for service contracts it is not authorized to provide;
 - b. conduct a self-review of all retail installment contracts from June 21, 2013 to present;
 - c. make a spreadsheet titled "Service Contracts" with the following columns:
 - i. name of buyer,
 - ii. date of retail installment contract,
 - iii. amount of fees charged for service contracts;
 - d. make restitution to each buyer for the amount of unauthorized service fees disclosed in the spreadsheet;
 - e. provide the OCCC with a copy of this spreadsheet and proof of restitution no later than August 28, 2017;

6. With respect to unsubstantiated repossession charges:
 - a. retain proof of actual costs/charges involved in the repossession of vehicles;
 - b. conduct a self-review of all retail installment contracts from June 21, 2013 to present;
 - c. make a spreadsheet titled "Repossession Charges" with the following columns:
 - i. name of buyer,
 - ii. date of retail installment contract,
 - iii. amount of repossession charges,
 - iv. presence of documentation in transaction file (Y/N);
 - d. make restitution to affected buyers for the amount of repossession charges for which it does not have documentation;
 - e. provide the OCCC with a copy of this spreadsheet and proof of restitution no later than August 28, 2017; and

7. maintain complete and accurate records of all refunds.¹⁷

Violation of Order

You may be assessed an administrative penalty of up to \$1,000 for each day of violation of this Order.¹⁸ Multiple violations may also result in the suspension or revocation of your license.¹⁹

Right to Request Hearing

Hyatt Imports has the right to request a hearing regarding this Order.²⁰ Hyatt Imports' request must be made in writing and sent to the OCCC not later than 30 days after Hyatt Imports receives this Order. Hyatt Imports must send its request to:

Eamon Briggs
Office of Consumer Credit Commissioner
2601 N. Lamar Blvd.
Austin, Texas 78705

¹⁷ See 7 Tex. Admin. Code § 84.704(b), (g).

¹⁸ Tex. Fin. Code § 14.208(c).

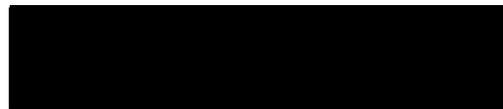
¹⁹ Tex. Fin. Code § 348.508.

²⁰ Tex. Fin. Code § 14.208(b).

If Hyatt Imports requests a hearing, a hearing on this matter will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.²¹ If Hyatt Imports fails to request a hearing by this deadline, this Order is considered final and enforceable.²²

All communications with the OCCC concerning this matter must be through Eamon Briggs, Assistant General Counsel, who may be contacted by mail at 2601 N. Lamar Blvd., Austin, Texas 78705, by telephone at (512) 936-7659, or by email to eamon.briggs@occc.texas.gov.

Signed this 21st day of July, 2017.



Leslie L. Pettijohn
Consumer Credit Commissioner
State of Texas

²¹ Tex. Fin. Code § 14.208(b).

²² Tex. Fin. Code § 14.208(c).

CERTIFICATE OF SERVICE

I certify that on July 24, 2017, a true and correct copy of this Order to Cease and Desist, to Take Affirmative Action, and to Make Restitution has been sent to Hyatt Imports Inc by regular mail and certified mail, return receipt requested, at:

Hyatt Imports Inc 91 7199 9991 7031 6468 1596
Attn: Mahri Kashi / Mo Heidari
Compliance Officer and Registered Agent
6116 Shady Cliff Dr.
Dallas, TX 75240



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Assistant General Counsel
Office of Consumer Credit Commissioner
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