

OCCC CASE NO. L18-00083

<p><b>IN THE MATTER OF:</b></p> <p><b>EZWAY AUTO FINANCE, LLC</b>  <b>1901 NORTH MAIN STREET</b>  <b>HOUSTON, TEXAS 77009</b></p>	<p>§ § § § § § §</p>	<p><b>BEFORE THE</b></p> <p><b>OFFICE OF CONSUMER</b></p> <p><b>CREDIT COMMISSIONER</b></p> <p><b>STATE OF TEXAS</b></p>
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**ORDER TO CEASE AND DESIST, TO TAKE AFFIRMATIVE ACTION, AND TO MAKE RESTITUTION**

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order to Cease and Desist, to Take Affirmative Action, and to Make Restitution against EZWay Auto Finance, LLC (“EZWay Auto”) based on the violations of law described below.<sup>1</sup>

**Statement of Facts and Law**

A motor vehicle sales finance license is required 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>

On April 10, 2017, the OCCC received a consumer complaint against EZWay Auto. The complaint alleged that EZWay Auto sold the person a motor vehicle and agreed to accept the price of the vehicle in one or more deferred installments. The complainant alleged that EZWay Auto sold the consumer a vehicle, obtained a down payment, but never delivered the vehicle.

An e-Tag report from the Texas Department of Motor Vehicles shows that EZWay Auto placed liens on at least four vehicles during the month of August 2017. At the time, EZWay Auto did not have an active motor vehicle sales finance license with the OCCC. EZWay Auto financed the sale of a motor vehicle without a motor vehicle sales finance license, in violation of Section 348.501 of

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

the Texas Finance Code.

### **Authority**

If the 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.<sup>4</sup> 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.<sup>5</sup>

### **Order**

IT IS ORDERED that EZWay Auto Finance LLC:

- (1) comply with the motor vehicle sales finance license requirement, found in Section 348.501 of the Texas Finance Code;
- (2) review all motor vehicle sales transactions from **May 15, 2014 to the present** to identify the transactions in which it financed the sale of a motor vehicle without a license;
- (3) regarding undelivered motor vehicles:
  - a. for each retail installment transaction entered without a license in which EZWay Auto did not deliver the vehicle to the retail buyer, make a full refund to the buyer of all payments;
  - b. no later than **June 15, 2018**, provide the OCCC with a spreadsheet labeled "UndelivVehicles" with the following data:
    - i. name of the retail buyer,
    - ii. date of retail installment contract,
    - iii. amount collected from the buyer,
    - iv. amount refunded to the buyer,
    - v. date of refund,
    - vi. method of refund (check or account credit);
  - c. attach to the "UndelivVehicles" spreadsheet a copy of each refund check or other proof of completed refunds;

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<sup>4</sup> Tex. Fin. Code § 14.208(a).

<sup>5</sup> Tex. Fin. Code § 14.251(b).

- (4) regarding finance charges:
- a. for each retail installment transaction entered without a license in which EZWay Auto delivered the vehicle to the retail buyer, refund any finance charges collected and waive any finance charges that remain collectible;
  - b. no later than **June 15, 2018**, provide the OCCC with a spreadsheet labeled "FinanceCharges" with the following data:
    - i. name of the retail buyer,
    - ii. date of retail installment contract,
    - iii. amount of finance charge,
    - iv. amount of finance charge refunded to the buyer,
    - v. date of refund,
    - vi. method of refund (check or account credit);
  - c. attach to the "FinanceCharges" spreadsheet a copy of each refund check or other proof of completed refunds;
- (5) no later than **June 15, 2018**, provide the OCCC with a list of any assignees or transferees to a retail installment transaction that EZWay Auto entered without a license;
- (6) regarding security interests in financed vehicles:
- a. release any lien or other security interest held in a motor vehicle it sold in a retail installment transaction without a license; and
  - b. no later than **June 15, 2018**, provide the OCCC with a spreadsheet labeled "SecurityInterest" including the following data:
    - i. name of the retail buyer,
    - ii. date of retail installment contract,
    - iii. date the lien or other security interest was placed,
    - iv. date the lien or other security interest was released;
  - c. attach to the "SecurityInterest" spreadsheet a copy of each release of lien or other proof of released security interest; and
- (7) maintain complete and accurate records of all items and information required under this Order for the full record retention period.<sup>6</sup>

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<sup>6</sup> See 7 Tex. Admin. Code § 84.704(b), (g).

## **Violation of Order**

You may be assessed an administrative penalty of up to \$1,000 for each day of violation of this Order.<sup>7</sup>

## **Right to Request Hearing**

EZWay Auto has the right to request a hearing regarding this Order.<sup>8</sup> EZWay Auto's request must be made in writing and sent to the OCCC not later than 30 days after EZWay Auto receives this Order. EZWay Auto must send its request to:

Laurie B. Hobbs  
Office of Consumer Credit Commissioner  
2601 N. Lamar Blvd.  
Austin, Texas 78705

If EZWay Auto requests a hearing, a hearing on this matter will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.<sup>9</sup> If EZWay Auto fails to request a hearing by this deadline, this Order is considered final and enforceable.<sup>10</sup>

All communications with the OCCC concerning this matter must be through Laurie B. Hobbs, Assistant General Counsel, who may be contacted by mail at 2601 N. Lamar Blvd., Austin, Texas 78705, by telephone at (512) 936-7621, or by email to [laurie.hobbs@occc.texas.gov](mailto:laurie.hobbs@occc.texas.gov).

Signed this 9 day of May, 2018.

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

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<sup>7</sup> Tex. Fin. Code § 14.208(c).

<sup>8</sup> Tex. Fin. Code § 14.208(b).

<sup>9</sup> Tex. Fin. Code § 14.208(b).

<sup>10</sup> Tex. Fin. Code § 14.208(c).

## CERTIFICATE OF SERVICE

I certify that on May 10, 2018, a true and correct copy of this Order to Cease and Desist, to Take Affirmative Action, and to Make Restitution has been sent to EZWay Auto Finance, LLC by regular mail and certified mail, return receipt requested, at:

EZWay Auto Finance, LLC	CMRR# 91 7108 2133 3938 9958 1235
Attn: David D. "Marcus" Alex	
1901 North Main Street	
Houston, Texas 77009	

EZWay Auto Finance, LLC	CMRR# 91 7108 2133 3938 9958 1242
Attn: Debra Lewis, Member	
12315 Green Trails Drive	
Stafford, Texas 77477	

EZWay Auto Finance, LLC	CMRR# 91 7108 2133 3938 9958 1259
Attn: Erica Collins, Registered Agent	
3217 Jeanetta	
Houston, Texas 77063	

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/s/ Laurie B. Hobbs  
Laurie B. Hobbs  
Assistant General Counsel  
Office of Consumer Credit Commissioner  
State Bar No. 24002296  
2601 North Lamar Blvd.  
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(512) 936-7610 (fax)  
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