

OCCC CASE NO. L18-00083

IN THE MATTER OF:	§	BEFORE THE
	§	
	§	OFFICE OF CONSUMER
	§	
EZWAY AUTO FINANCE, LLC	§	CREDIT COMMISSIONER
1901 NORTH MAIN STREET	§	
HOUSTON, TEXAS 77009	§	STATE OF TEXAS

**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.¹

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.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

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

¹ Tex. Fin. Code § 14.208.
² Tex. Fin. Code § 348.501.
³ 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.⁴ 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.⁵

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;

⁴ Tex. Fin. Code § 14.208(a).

⁵ 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.⁶

⁶ See 7 Tex. Admin. Code § 84.704(b), (g).

