

OCCC CASE NO. L18-00086

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NUMBER: 14276	§	OFFICE OF CONSUMER
NABEELCO ENTERPRISES LLC	§	
d/b/a HOUSTON DIRECT AUTO	§	CREDIT COMMISSIONER
4011 JEANETTA ST	§	
HOUSTON, TEXAS 77063	§	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 Nabeelco Enterprises LLC d/b/a Houston Direct Auto (“Houston Direct Auto”), based on the violations of law described below.¹

Statement of Facts and Law

The OCCC may direct a motor vehicle sales finance dealer to review records and make appropriate changes to bring the dealer’s records into compliance with the law.² The appropriate changes may include restitution to customers for unlawful charges or unlawful amounts.³

Houston Direct Auto is a motor vehicle sales finance dealer licensed by the OCCC under Chapter 348 of the Texas Finance Code. Houston Direct Auto operates under master file number 14276 at one licensed location, under license number 55313, issued on May 19, 2009. Houston Direct Auto’s designated contact address is 4011 Jeanetta Street, Houston, Texas 77063, and its compliance officer is Nabeel Amin Hussain.

The OCCC examined Houston Direct Auto three times between July 2015 and November 2017. The examinations revealed several violations of Chapter 348 of the Texas Finance Code, and Title 7, Chapter 84 of the Texas Administrative Code. The OCCC instructed Houston Direct Auto to perform a self-review of motor vehicle retail installment contracts from July 2, 2011 to

¹ Tex. Fin. Code § 14.208.
² 7 Tex. Admin. Code § 84.703.
³ 7 Tex. Admin. Code § 84.703.

November 8, 2016, and to make restitution of specified unlawful charges. Houston Direct Auto did not complete instructed self-review and restitution.

I. Excessive Public Official Fees

A motor vehicle retail installment contract may include an itemized charge for registration, certificate of title, and license fees paid to a public official.⁴ If the retail installment contract includes itemized charges for these items, then the licensee must maintain a copy of records reflecting the amount paid for each item.⁵

In several retail installment contracts, Houston Direct Auto charged retail buyers an itemized charge for registration, certificate of title, and license in excess of the amount actually paid to public officials for these items. Additionally, Houston Direct Auto did not maintain required records such as the Title Application Receipt, evidencing payment to public officials of title, license, and registration fees.

II. Excessive Inspection Fees

A motor vehicle retail installment contract may include an itemized charge for fees prescribed by law and connected with the sale or inspection of the motor vehicle.⁶ If the licensee includes an itemized charge for performing a state inspection, the licensee must maintain a copy of the work order, inspection receipt, or other evidence reflecting that the inspection was performed, including the date and cost of the inspection.⁷

In several retail installment contracts, Houston Direct Auto included itemized charges for motor vehicle inspections but could not produce work orders, inspection receipts, or other verifiable evidence reflecting the cost, date, and occurrence of specific inspections. Houston Direct Auto was unable to prove that inspections had been performed in these transactions or that the itemized charge for inspection reflects the cost of the inspection.

⁴ Tex. Fin. Code § 348.005(1).

⁵ 7 Tex. Admin. Code §§ 84.707(d)(2)(A)(iv), 84.708(e)(2)(A)(v) (requiring a licensee to maintain documents evidencing “fees for license, title, and registration of the vehicle”).

⁶ Tex. Fin. Code § 348.005(3).

⁷ 7 Tex. Admin. Code §§ 84.707(d)(2)(M), 84.708(e)(2)(H).

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.⁸ 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.⁹

Order

IT IS ORDERED that Nabeelco Enterprises LLC d/b/a Houston Direct Auto:

1. with respect to excessive public official fees:
 - a. cease and desist from including an itemized charge for title, license, or registration that exceeds the amount actually paid to public officials for these items;
 - b. maintain in each retail installment sales transaction file a copy of or access to a title application receipt or other verifiable evidence that reflects amounts actually paid to a public official for title, license, and registration;
 - c. review all retail installment contracts it made with buyers from July 2, 2011 to November 8, 2016 for any transactions where the amount charged for title, license, and registration fees exceeds the amount actually paid to a public official, including transactions where it did not maintain verifiable evidence of the amount paid the public official;
 - d. make restitution to each of these buyers in the amount of the excessive portion of the public official fees;

2. with respect to excessive motor vehicle inspection fees:
 - a. cease and desist from including an itemized charge for a motor vehicle inspection in an amount in excess of the actual cost of the motor vehicle inspection;
 - b. maintain in each retail installment sales transaction file a copy

⁸ Tex. Fin. Code § 14.208(a).

⁹ Tex. Fin. Code § 14.251(b).

- of or access to the work order, inspection receipt, or other verifiable evidence that reflects that the inspection was performed, including the date and cost of the inspection;
 - c. review all retail installment contracts it made with buyers from July 2, 2011 to November 8, 2016 for any transactions including a motor vehicle inspection fee;
 - d. determine which of these transactions include an excessive motor vehicle inspection fee, including all transactions where the amount charged exceeds the amount actually paid for the inspection, and all transactions where Houston Direct Auto is unable to produce verifiable evidence showing the amount actually paid;
 - e. make restitution to each of these buyers in the amount of the excessive portion of the motor vehicle inspection fee;
3. with respect to proof of refunds:
- a. create a spreadsheet labeled "L18-00086HDARestitution" listing each buyer who received restitution as described above with the following columns:
 - i. name of the retail buyer,
 - ii. date of retail installment contract,
 - iii. amount of registration, certificate of title, and license fees charged to the buyer,
 - iv. amount of registration, certificate of title, and license fees refunded to the buyer,
 - v. amount of inspection fee charged to the buyer,
 - vi. amount of inspection fee refunded to the buyer,
 - vii. total amount refunded to the buyer,
 - viii. date of the refund,
 - ix. form of the refund (*e.g.*, check for closed account, and credit on open account);
 - b. provide the OCCC with a copy of the spreadsheet and proof of restitution no later than **June 15, 2018**. Proof of restitution must contain a copy of refund checks for closed accounts and ledgers showing account credits for open accounts; and
 - c. maintain complete and accurate records of all refunds.¹⁰

¹⁰ See 7 Tex. Admin. Code § 84.704(b), (g).

