

OCCC CASE NO. L19-00160

IN THE MATTER OF:

INDALECIO FLORES
d/b/a EL TEJANO MOTORS
13211 DESSAU ROAD
AUSTIN, TEXAS 78754

§ BEFORE THE
§
§ OFFICE OF CONSUMER
§ CREDIT COMMISSIONER
§
§ 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 Indalecio Flores d/b/a El Tejano Motors (“El Tejano Motors”).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

A person who is required to hold a motor vehicle sales finance license must ensure that each office at which retail installment transactions are made, serviced, held, or collected is licensed or otherwise authorized to make, service, hold, or collect retail installment transactions.⁴ A person may not use any device, subterfuge, or pretense to evade the application of this section.⁵

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.⁶ Additionally, the Commissioner may order a

¹ Tex. Fin. Code § 14.208.
² Tex. Fin. Code § 348.501.
³ Tex. Fin. Code § 348.001(3), (7), (8).
⁴ Tex. Fin. Code § 348.501(b).
⁵ Tex. Fin. Code § 348.501(d).
⁶ Tex. Fin. Code § 14.208(a).

person who violates Chapter 348 or a rule adopted under Chapter 348 to make restitution to an identifiable person injured by the violation.⁷

On March 23, 2015, El Tejano Motors applied for a motor vehicle sales finance license. During the course of processing the application, the OCCC discovered that El Tejano Motors was engaging in motor vehicle financing. On September 6, 2016, and September 22, 2016, the OCCC requested additional information from El Tejano Motors. El Tejano Motors did not respond to the first request. On October 14, 2016, El Tejano Motors responded to the second request but its response was incomplete.

On January 12, 2017, the OCCC notified El Tejano Motors that its application for a motor vehicle sales license had been denied. El Tejano Motors failed to obtain a Chapter 348 license and operated as a retail seller and to hold and collect on contracts in which El Tejano Motors agrees to accept the cash price of motor vehicles in one or more deferred installments.

The Commissioner issued an Order to Cease and Desist, to Take Affirmative Action, and to Make Restitution on March 31, 2017. El Tejano Motors requested a hearing, and the OCCC docketed a hearing at the State Office of Administrative Hearings.

The OCCC and El Tejano Motors agreed to resolve that matter without the necessity of a hearing. The Commissioner issued an Agreed Order regarding El Tejano Motors on August 20, 2018. The agreed order required El Tejano Motors to pay an administrative penalty in the amount \$900.00 no later than October 15, 2018. However, El Tejano Motors failed to timely pay the administrative penalty and is in violation the Agreed Order.

The Commissioner has reasonable cause to believe that El Tejano Motors financed the sale of motor vehicles without a license, in violation of Section 348.501 of the Texas Finance Code.

⁷ Tex. Fin. Code § 14.251(b).

Order

IT IS ORDERED that Indalecio Flores d/b/a El Tejano Motors:

- (1) comply with, and cease and desist from violating, the motor vehicle sales finance license requirement, found in Section 348.501 of the Texas Finance Code;
- (2) cease and desist from advertising or engaging in transactions in which it agrees to accept the cash price of a motor vehicle in one or more deferred installments; and
- (3) cease and desist from collecting payments on existing transactions or entering into new transactions that require a motor vehicle sales finance license.
- (4) review all motor vehicle sales transactions to identify the transactions in which it financed the sale of a motor vehicle, and refund all finance charges;
- (5) no later than January 16, 2019, provide the OCCC with a spreadsheet in Microsoft Excel format labeled "Motor Vehicle Sales Financed" with the following data:
 - a. name of buyer,
 - b. date of retail installment contract,
 - c. amount of finance charge,
 - d. amount of finance charge refunded to the buyer,
 - e. date of refund,
 - f. method of refund (check or account credit);
- (6) review all motor vehicle sales transactions to identify the transactions in which it claimed a security interest by placing a lien on the vehicle, and release the lien; and
- (7) no later than January 16, 2019, provide the OCCC with a spreadsheet in Microsoft Excel format labeled "Security Interest Released" including the following data:

- a. name of the buyer,
- b. date the lien was placed,
- c. date the lien was released.

Administrative Penalty

You may be assessed an administrative penalty of up to \$1,000 for each day of violation of this Order.⁸

Right to Request Hearing

Within 30 days of service of this Order, you may request a hearing regarding this Order.⁹ If you request a hearing, a hearing on this matter will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.¹⁰ If you fail to request a hearing before this deadline, this Order will be considered final and enforceable.¹¹

All communications with the OCCC concerning this matter must be through Michael Rigby, General Counsel, who may be contacted by mail at 2601 N. Lamar Blvd., Austin, Texas 78705, by telephone at (512) 936-7623, or by email to michael.rigby@occc.texas.gov.

Signed this 12th day of December, 2018.

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

⁸ Tex. Fin. Code § 14.208(c).

⁹ Tex. Fin. Code § 14.208(b).

¹⁰ Tex. Fin. Code § 14.208(b).

¹¹ Tex. Fin. Code § 14.208(c).

CERTIFICATE OF SERVICE

I certify that on December 12, 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 Indalecio Flores d/b/a El Tejano Motors by regular mail and certified mail, return receipt requested, at:

CMRRR #: 91 7199 9991 7037 5230 8362
Indalecio Flores
d/b/a El Tejano Motors
13211 Dessau Road
Austin, Texas 78754
tejanomotoraustin@att.net

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested

CMRRR #: 91 7199 9991 7037 5230 8355
Hermes Flores
Hermes E. Flores Law Firm
1901 Ranch Road 620 N.
Lakeway, Texas 78734
hermeseflorespllc@gmail.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested

ATTORNEY FOR IDALECIO FLORES

/s/ Michael Rigby
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