

SOAH DOCKET NO. 466-19-1553

OCCC CASE NO. L19-00199

IN THE MATTER OF:	§	BEFORE THE
	§	
	§	OFFICE OF CONSUMER
MASTER FILE NUMBER: 1800061300	§	
CALEXICO MOTORS, INC.	§	CREDIT COMMISSIONER
1301 E. PAISANO	§	
EL PASO, TEXAS 79901	§	STATE OF TEXAS

FINAL ORDER

On November 2, 2018, Calexico Motors, Inc. (“Calexico Motors”) requested a hearing on the denial of its motor vehicle sales finance license application. The Office of Consumer Credit Commissioner (“OCCC”) issued a Notice of Hearing on Denial of Motor Vehicle Sales Finance License Application, and a hearing was held on December 20, 2018. Calexico Motors failed to appear at the hearing. Therefore, the OCCC issues this Final Order after default under Title 7, Section 9.12 of the Texas Administrative Code.

Findings of Fact

1. The OCCC received Calexico Motors’ application for a motor vehicle sales finance license on June 7, 2018.
2. Calexico Motors’ application was assigned application ID number 37307 and master file number 1800061300.
3. According to the application, Calexico Motors is located at 1301 E. Paisano, El Paso, Texas 79901.
4. The application lists Jose De La Cruz as president of Calexico Motors, and includes a personal questionnaire for Mr. De La Cruz.
5. In his personal questionnaire, Mr. De La Cruz answered “No” to the question “Have you ever been arrested?”

6. In his personal questionnaire, Mr. De La Cruz answered “No” to the question “Have you ever been charged, indicated [sic] or convicted regarding a violation of any law?”
7. On July 10, 2018, Calexico Motors provided a Disclosure of Owners and Principal Parties to the OCCC. This document lists two owners: Jose De La Cruz (listed as having 50% ownership) and Jorge Renteria (listed as having 50% ownership). This document also lists two principal parties: Jose De La Cruz (listed as president) and Jorge Renteria (listed as vice president).
8. On July 10, Calexico Motors provided an Appointment of Statutory Agent and Consent to Service to the OCCC. This document lists Jorge Renteria as the registered agent authorized to receive service.
9. As principal parties of a license applicant, Mr. De La Cruz and Mr. Renteria submitted their fingerprints for an investigation into their criminal history.
10. On July 19, the OCCC requested additional information from Mr. De La Cruz regarding charges from his criminal history.
11. For reference, this Order will refer to the charges from Mr. De La Cruz’s criminal history using the following Incident Numbers:

Incident Number	El Paso County Case No.	Date Disposed	Offense	Outcome
1	950C10217	10/13/1995	Burglary of Vehicle	Convicted
2	950C14267	12/6/1996	Failure to Identify	Convicted

Incident Number	El Paso County Case No.	Date Disposed	Offense	Outcome
3	20010C03296	12/5/2001	Assault Causes Bodily Injury Family Member	Dismissed
4	20020C11830	6/2/2004	Deceptive Trade Practice	Dismissed
5	20090D03616	2/22/2010	Assault Causes Bodily Injury	Convicted
6	20140C05463	1/5/2015	Driving While Intoxicated	Convicted
7	20150C04936	4/12/2016	Driving While Intoxicated	Convicted
8	960C21061	1/29/1997	Probation Violation	Convicted
9	20010C04585	9/25/2002	Deceptive Trade Practice	Dismissed
10	20040C06696	8/30/2005	Assault Causes Bodily Injury Family Violence	Dismissed

12. In the OCCC's July 19 letter, the OCCC requested additional information regarding Incidents 1, 2, 3, 4, 5, 6, and 7 in the table included above.

13. For each of Incidents 1, 2, 3, 4, 5, 6, and 7, the OCCC's July 19 letter requested a detailed statement of specific events for each arrest, charge, conviction, or deferral, and requested court documents showing the final disposition of each charge or conviction. The OCCC's letter also asked Mr.

- De La Cruz to explain why he had not disclosed any of these incidents.
14. On August 2, 2018, Mr. De La Cruz sent a response to the OCCC, including a letter and documents that he had previously sent to the Texas Department of Motor Vehicles (TxDMV).
 15. Mr. De La Cruz's August 2 response did not address Incidents 3 and 4, and did not include court documents showing the final disposition for Incidents 1, 2, 3, 4, 5, or 6.
 16. On August 24, the OCCC requested additional information from Mr. De La Cruz regarding his criminal history.
 17. On September 10, Mr. De La Cruz sent a second response addressing the incidents. Mr. De La Cruz's September 10 response includes the following statement: "I didn't disclose any of the incidents of my background because I had no idea this was going to hunt me for the rest of my life."
 18. Records of El Paso County reflect that Mr. De La Cruz was convicted of burglary of a vehicle on October 13, 1995. This Order will refer to this incident as "Incident 1."
 19. The judgment and sentence for Incident 1, entered on October 13, 1995, reflects that Mr. De La Cruz pleaded guilty, and that he was sentenced to 60 days' confinement in El Paso County Jail, a fine of \$300, costs of \$205, and restitution.
 20. The El Paso County register sheet for Incident 1 reflects that Mr. De La Cruz's probation was revoked on December 6, 1996.
 21. Regarding Incident 1, Mr. De La Cruz responded to the OCCC on August 2, 2018, by sending the OCCC a criminal history form that he had previously sent to TxDMV.
 22. On the criminal history form regarding Incident 1, Mr. De La Cruz stated: "In this incident I was just at the wrong place at the wrong time my cousin had bought a car that had been report stolen which we didn't even know it had a report that why we were charge."

23. On the criminal history form regarding Incident 1, in a field labeled "Sentence or action imposed by the court:", Mr. De La Cruz wrote: "Dismiss."
24. The El Paso County register sheet for Incident 1 does not reflect that Mr. De La Cruz's conviction was dismissed.
25. Records of El Paso County reflect that Mr. De La Cruz was convicted of failure to identify on December 6, 1996. This Order will refer to this incident as "Incident 2."
26. The judgment and sentence for Incident 2, entered on December 6, 1996, reflects that Mr. De La Cruz pleaded guilty, and that he was sentenced to 30 days' confinement in El Paso County Jail and a fine of \$205.
27. Records of El Paso County reflect that Mr. De La Cruz was convicted of a probation violation on January 29, 1997. This Order will refer to this incident as "Incident 8."
28. Regarding Incident 2, Mr. De La Cruz responded to the OCCC on August 2, 2018, by sending the OCCC a criminal history form that he had previously sent to TxDMV.
29. On the criminal history form regarding Incident 2, Mr. De La Cruz stated: "I was pulled over by an officer and didn't had any I.D. with me because had warrants (traffic) I use my brothers name"
30. Records of El Paso County reflect that Mr. De La Cruz was charged with assault causing bodily injury to a family member, and that this charge was dismissed on December 5, 2001. This Order will refer to this incident as "Incident 3."
31. Records of El Paso County reflect that Mr. De La Cruz was charged with deceptive trade practice, and that this charge was dismissed on June 2, 2004. This Order will refer to this incident as "Incident 4."

32. Records of El Paso County reflect that Mr. De La Cruz was charged with deceptive trade practice, and that this charge was dismissed on September 25, 2002. This Order will refer to this incident as "Incident 9."
33. Records of El Paso County reflect that Mr. De La Cruz was charged with assault causing bodily injury (family violence), and that this charge was dismissed on August 30, 2005. This Order will refer to this incident as "Incident 10."
34. In the OCCC's July 19 and August 24 letters, the OCCC requested that Mr. De La Cruz provide an explanation for Incidents 3 and 4, and requested court documents showing the disposition of the case.
35. In his September 10 response, Mr. De La Cruz provided court documents showing that Incidents 3 and 10 were dismissed, and that Incident 9 was dismissed after Mr. De La Cruz provided \$1,500 in restitution to the complainant. However, Mr. De La Cruz's response did not include court documents for Incident 4.
36. Records of El Paso County reflect that Mr. De La Cruz was convicted of assault causing bodily injury on February 22, 2010. This Order will refer to this incident as "Incident 5."
37. The judgment of conviction for Incident 5, entered on March 4, 2010, reflects that Mr. De La Cruz pleaded guilty, and that he was sentenced to one day of confinement in El Paso County Jail and court costs of \$227.
38. Regarding Incident 5, Mr. De La Cruz responded to the OCCC on August 2, 2018, by sending the OCCC a criminal history form that he had previously sent to TxDMV.
39. On the criminal history form regarding Incident 5, Mr. De La Cruz states: "This incident was that I was doing a repo of a vehicle on my tow truck as I was backing into the vehicle to hook it up. the owner got in between the two vehicles when I stopped and got off the truck rolled back a little and hit him in the knee it was nothing serious."

40. On the criminal history form regarding Incident 5, in a field labeled "Sentence or action imposed by the court:" Mr. De La Cruz wrote: "Dismiss."
41. The El Paso County register sheet for Incident 5 does not reflect that Mr. De La Cruz's conviction was dismissed.
42. Records of El Paso County reflect that Mr. De La Cruz was convicted of driving while intoxicated on January 5, 2015. This Order will refer to this incident as "Incident 6."
43. The judgment and sentence for Incident 6, entered on January 5, 2015, reflects that Mr. De La Cruz pleaded guilty, and that he was sentenced to 30 days' confinement in El Paso County Jail and court costs of \$377.
44. Records of El Paso County reflect that Mr. De La Cruz was convicted of driving while intoxicated a second time on April 12, 2016. This Order will refer to this incident as "Incident 7."
45. The El Paso County register sheet for case number Incident 7 reflects that Mr. De La Cruz received a probation discharge on November 2, 2017.
46. Mr. De La Cruz has been charged with multiple alleged criminal offenses, in connection with Incidents 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10.
47. Mr. De La Cruz has been convicted of multiple criminal offenses, in connection with Incidents 1, 2, 5, 6, 7, and 8. These offenses occurred between 1995 (when Mr. De La Cruz was 19 years old) and 2015 (when Mr. De La Cruz was 39 years old).
48. On October 11, 2018, the OCCC sent a Notice of Motor Vehicle Sales Finance Application Denial letter to Calexico Motors, citing its failure to demonstrate character and general fitness as a reason for denial of its application.
49. On November 2, 2018, Calexico Motors timely requested a hearing on the denial of its motor vehicle sales finance application.

50. On December 7, 2018, the OCCC sent a Notice of Hearing on Denial of Motor Vehicle Sales Finance License Application to Calexico Motors.
51. On December 20, 2018, a hearing was held before the State Office of Administrative Hearings. Calexico Motors did not appear and was not represented at the hearing.
52. On December 21, 2018, the State Office of Administrative Hearings issued a Conditional Order of Default Dismissal and Remand, dismissing and remanding the case to the OCCC.

Conclusions of Law

1. Under Section 348.501 of the Texas Finance Code, a person must hold a motor vehicle sales finance license in order to act as a holder of motor vehicle retail installment contracts. A holder is a person who operates as a retail seller or holds a contract in which the person agrees to accept the cash price of a motor vehicle in one or more deferred installments.
2. Under Section 348.504 of the Texas Finance Code, the Consumer Credit Commissioner (“Commissioner”) may not issue a motor vehicle sales finance license unless the Commissioner determines that the applicant demonstrates the financial responsibility, experience, character, and general fitness sufficient to command the confidence of the public and to warrant a belief that the business will be operated lawfully and fairly.
3. Under Section 348.502 of the Texas Finance Code, an application for motor vehicle sales finance license must be under oath.
4. Under Title 7, Section 84.602 of the Texas Administrative Code, an applicant for a motor vehicle sales finance license must answer all questions on the license application in accordance with the OCCC’s instructions.
5. Under Title 7, Section 84.602 of the Texas Administrative Code, each individual who is a principal party of a license applicant must provide a personal questionnaire to the OCCC. For a corporation, a principal party includes the president and those with substantial responsibility for

operations or compliance.

6. Under Section 14.151 of the Texas Finance Code and Section 411.095 of the Texas Government Code, the OCCC is authorized to obtain criminal history record information relating to an applicant for a motor vehicle sales finance license. For a business entity, this authority applies to criminal history record information for an officer, director, or owner.
7. Under Title 7, Section 84.613 of the Texas Administrative Code, the OCCC considers the criminal history of the applicant's principal parties in conducting its review of character and fitness.
8. Under Title 7, Section 84.613 of the Texas Administrative Code, the following offenses relate directly to the licensed occupation of a motor vehicle sales finance licensee: theft; assault; or any offense that involves misrepresentation, deceptive practices, or making a false or misleading statement (including fraud or forgery). A conviction of a principal party for any of these offenses reflects negatively on the character and fitness of the applicant.
9. Under Title 7, Section 84.613 of the Texas Administrative Code, in its review of character and fitness, the OCCC considers the following factors:
 - (a) the nature and seriousness of the crime;
 - (b) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
 - (c) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;
 - (d) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a licensee;
 - (e) the extent and nature of the person's past criminal activity;
 - (f) the age of the person when the crime was committed;
 - (g) the amount of time that has elapsed since the person's last criminal activity;
 - (h) the conduct and work activity of the person before and after the criminal activity;
 - (i) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release, or following the criminal activity if no time was served; and
 - (j) evidence of the person's current circumstances relating to fitness to hold a license, which may include letters of recommendation.

10. Under Title 7, Section 84.613 of the Texas Administrative Code, an applicant must disclose all criminal history information required to file a complete application with the OCCC. An applicant's failure to provide any information required as part of the application or requested by the OCCC reflects negatively on the belief that the business will be operated lawfully and fairly.
11. Under Title 7, Section 84.613 of the Texas Administrative Code, the OCCC may deny a license application for errors or incomplete information in the application.
12. Mr. De La Cruz's conviction for burglary of a vehicle (Incident 1) relates directly to the licensed occupation, because the offense involved theft. This conviction reflects negatively on Calexico Motors' character and fitness, and reflects negatively on the belief that Calexico Motors will be operated lawfully and fairly.
13. Mr. De La Cruz's conviction for failure to identify (Incident 2) relates directly to the licensed occupation, because the offense involved a misrepresentation to law enforcement. This conviction reflects negatively on Calexico Motors' character and fitness, and reflects negatively on the belief that Calexico Motors will be operated lawfully and fairly.
14. Mr. De La Cruz's conviction for assault (Incident 5) relates directly to the licensed occupation, because the offense involved assault and occurred during the repossession of a motor vehicle. This conviction reflects negatively on Calexico Motors' character and fitness, and reflects negatively on the belief that Calexico Motors will be operated lawfully and fairly. In particular, this conviction reflects negatively on the belief that Calexico Motors will operate in compliance with Section 9.609 of the Texas Business & Commerce Code, which prohibits a creditor from breaching the peace while repossessing collateral.
15. In Mr. De La Cruz's personal questionnaire, Mr. De La Cruz falsely stated that he had never been charged or convicted regarding a violation of any law. This false statement reflects negatively on Calexico Motors' character and fitness, and reflects negatively on the belief that Calexico Motors will be operated lawfully and fairly.

16. In his August 2 response, Mr. De La Cruz falsely stated that his convictions in connection with Incidents 1 and 5 had been dismissed. These false statements reflect negatively on Calexico Motors' character and fitness, and reflect negatively on the belief that Calexico Motors will be operated lawfully and fairly.
17. Calexico Motors failed to respond to the OCCC's questions regarding Incident 4. Calexico Motors' failure to respond to these questions reflects negatively on Calexico Motors' character and fitness, and reflects negatively on the belief that Calexico Motors will be operated lawfully and fairly.
18. Mr. De La Cruz's convictions, false statements, and failure to respond are grounds for denial of Calexico Motors' license application.
19. The OCCC provided adequate notice of the hearing to Calexico Motors.
20. Calexico Motors defaulted as a matter of law under Title 1, Section 155.501 of the Texas Administrative Code and Title 7, Section 9.12 of the Texas Administrative Code.
21. The allegations in the Notice of Hearing are deemed admitted as true under Title 1, Section 155.501 of the Texas Administrative Code and Title 7, Section 9.12 of the Texas Administrative Code.
22. On March 4, 2015, the Commissioner issued a Delegation Order on contested case decision-making authority. The Order delegates the Commissioner's authority to issue a final order after a hearing to Juan V. Garcia, who is employed by the OCCC as Director of Strategic Communications, Administration and Planning.

Order

After review and due consideration, I hereby adopt the above-stated findings of fact and conclusions of law.

IT IS ORDERED that the motor vehicle sales finance license application of Calexico Motors, Inc., application ID number 37307, is DENIED.

SIGNED and ENTERED this 5th day of February, 2019.

By: /s/ Juan V Garcia
Juan V. Garcia
Office of Consumer Credit Commissioner
Pursuant to Delegation Order of March 4, 2015

SERVICE LIST

On February 5, 2019, Juan V. Garcia, Director of Strategic Communications, Administration and Planning, Office of Consumer Credit Commissioner, sent this Final Order to:

Calexico Motors, Inc.
ATTN: Jorge Renteria, Compliance Officer
1301 E. Paisano
El Paso, TX 79901
(p) 915-303-0190
jorgerenteria615@gmail.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested #91 7108 2133 3939 0802 8249

Calexico Motors, Inc.
ATTN: Jorge Renteria, Registered Agent
1824 Marlys Larson
El Paso, TX 79936

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested #91 7108 2133 3939 0802 8256

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- electronic mail
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- certified mail, return receipt requested