

OCCC CASE NO. L19-00227

<p>IN THE MATTER OF:</p> <p>MASTER FILE NUMBER: 13714</p> <p>ADNOH INC. d/b/a HOWDY HONDA</p> <p>5519 E. BEN WHITE BLVD.</p> <p>AUSTIN, TEXAS 78741</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>BEFORE THE</p> <p>OFFICE OF CONSUMER</p> <p>CREDIT COMMISSIONER</p> <p>STATE OF TEXAS</p>
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AGREED ORDER

The Office of Consumer Credit Commissioner (“OCCC”) and Adnoh Inc. d/b/a Howdy Honda (“Adnoh”) enter this Agreed Order under Section 14.208 of the Texas Finance Code.

Statement of Facts and Law

Under Chapter 348 of the Texas Finance Code, a person must hold a motor vehicle sales finance license in order to act as a holder of a motor vehicle retail installment contract.¹ 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.²

Adnoh is a motor vehicle sales finance dealer licensed by the OCCC to operate as a holder under Chapter 348 of the Texas Finance Code. Adnoh operates under master file number 13714 at one licensed location, license number 34384. Adnoh was originally licensed with the OCCC on September 26, 2008. Adnoh’s designated contact address is 5519 E. Ben White Blvd., Austin, Texas 78741, and its compliance officer is Cliff Collier.

In May 2018, Adnoh entered an agreement to sell the dealership’s assets to John Eagle Lincoln-Mercury, LLP, which assigned its interest to Automobiles of Austin, LP. The sale of assets was effective September 1, 2018. Currently, Automobiles of Austin, LP d/b/a Howdy Honda holds a motor vehicle sales finance license under master file number 1800061291, license number 160208, located at 5519 E. Ben White Blvd., Austin, Texas 78741.

¹ Tex. Fin. Code § 348.501.
² Tex. Fin. Code § 348.001(3), (7), (8).

Under Chapter 348 of the Texas Finance Code, a motor vehicle retail installment contract may include itemized charges for registration, certificate of title, and license fees paid to a public official.³ 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.⁴

The OCCC examined Adnoh on October 16, 2018. The examination revealed that Adnoh violated Chapter 348 by including itemized charges for registration, certificate of title, and license in excess of the amount actually paid to public officials for these items. For example, the OCCC's examination report describes three transactions where Adnoh charged \$188.00 for license, title, and registration fees, but the title application receipt shows only \$186.00 actually paid for these fees.

After receiving the examination report, Adnoh found that its software contained an error. As a result of this error, Adnoh overcharged each new-vehicle buyer \$2.00 for some part of the tax, title, and license fees, and overcharged each used-vehicle buyer \$1.00 for these fees. Adnoh represented that the error occurred in approximately 7,783 motor vehicle retail installment transactions that Adnoh entered in 2017 and 2018.

Authority

If the Consumer Credit Commissioner ("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.⁵

The Commissioner has reasonable cause to believe that Adnoh has violated Chapter 348 of the Texas Finance Code by including itemized charges for registration, certificate of title, and license in excess of the amount actually paid to public officials for these items.

³ Tex. Fin. Code § 348.005(1).

⁴ 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").

⁵ Tex. Fin. Code § 14.208(a).

Order & Agreement

In lieu of ordering Adnoh to make restitution of all excessive public official fees charged in 2017 and 2018, the OCCC and Adnoh enter this Agreed Order.

By signing below, Adnoh acknowledges the violations described above, waives all rights to any hearing or appeal, agrees to pay the administrative penalty identified below, and otherwise agrees to comply with this Agreed Order and Texas law.

IT IS ORDERED that:

1. **No later than April 20, 2019**, Adnoh Inc. d/b/a Howdy Honda must pay an administrative penalty of \$20,000.00 to the OCCC.
2. In motor vehicle retail installment transactions, Adnoh must cease and desist including itemized charges for registration, certificate of title, or license in excess of the amounts actually paid to public officials for these items.

Signed this 20th day of March, 2019.

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

AGREED:

/s/ Danny L. Dunn
Danny L. Dunn
Treasurer
Adnoh Inc. d/b/a Howdy Honda
(signed electronically with permission)

CERTIFICATE OF SERVICE

I certify that on March 20, 2019, a true and correct copy of this Agreed Order has been sent to Adnoh Inc. d/b/a Howdy Honda through its attorney, William R. Crocker, by:

William R. Crocker
807 Brazos St., Suite 1014
Austin, TX 78701
512-478-5611 (p)
512-474-2540 (f)
crockerlaw@earthlink.net

*ATTORNEY FOR ADNOH INC. d/b/a
HOWDY HONDA*

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
CMRRR: #91 7199 9991 7037 5163 9979

/s/ Matthew Nance
Matthew J. Nance
Deputy General Counsel
Office of Consumer Credit Commissioner
State Bar No. 24074794
2601 North Lamar Blvd.
Austin, Texas 78705
512-936-7660 (phone)
512-936-7610 (fax)
matthew.nance@occc.texas.gov