

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NUMBERS:	§	
1600057110, 1700057568 &	§	
1800062645	§	
	§	OFFICE OF CONSUMER
C4K4, LLP D/B/A	§	
ALFA ROMEO FIAT OF MCKINNEY	§	
AND D/B/A FIAT OF MCKINNEY	§	
1903 ANSON ROAD	§	
DALLAS, TEXAS 75235	§	CREDIT COMMISSIONER
and	§	
2931 RIDGE RD., STE. 101 #176	§	
ROCKWALL, TEXAS 75032	§	
and	§	
800 N. CENTRAL EXPRESSWAY	§	
MCKINNEY, TEXAS 75070	§	STATE OF TEXAS

**ORDER TO CEASE AND DESIST UNLICENSED
ACTIVITY, AND MAKE RESTITUTION**

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order to Cease and Desist Unlicensed Activity, and Make Restitution against C4K4, LLP d/b/a Alfa Romeo Fiat of McKinney and d/b/a Fiat of McKinney (“C4K4”).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 regulated lender license is required to make, transact, or negotiate a loan with an interest rate more than ten percent.⁴

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 §§ 342.051, 342.004, 342.553, 341.404.

C4K4, LLP is a Texas limited liability partnership created on September 21, 2016 that is authorized to do business under the assumed names of “Alfa Romeo Fiat of McKinney” and “Fiat of McKinney.”⁵ Its owners are Kenneth Strickler and Chester K. Owens, and its principal office is 2931 Ridge Road, Suite 101 #176, Rockwall, Texas 75032. It does business at 1903 Anson Road, Dallas, Texas 75235 and 800 North Central Expressway, McKinney, Texas 75070.

C4K4 does not hold a motor vehicle sales finance license or a regulated lender license. C4K4 created three separate accounts in the OCCC’s online licensing system and used three different Federal Employer Identification Numbers (FEIN): **1330625, **4055431 and **4055432. The first account was created in 2016 under OCCC master file number 1600057110, the second in 2017 under OCCC master file number 1700051568, and the third in 2018 under OCCC master file number 1800062645.

On December 11, 2018, under master file number 1800062645, C4K4 did submit an application for a motor vehicle sales finance license.⁶ On February 22, 2019, the OCCC denied this application for a motor vehicle sales finance license due to C4K4’s failure to provide the required documentation.⁷ C4K4 did not submit an application for a motor vehicle sales finance license under master file number 1600057110 or 1700051568. Therefore, C4K4 has never held a motor vehicle sales finance license or a regulated lender license.

Unlicensed Activity and False Advertisements

C4K4 advertised financing to consumers in connection with the sale of motor vehicles on websites located at:

www.alfaromeousaofmckinney.com and
www.fiatalfaromeousaofmckinney.com

⁵ Tex. Bus. & Com. Code § 71.002(2)(D) (defining assumed name for a corporation to be a name other than the name stated in its certificate of formation or comparable document); Tex. Bus. & Com. Code § 71.101 (requiring a corporation to file an assumed name certificate if it regularly conducts business under an assumed name).

⁶ OCCC Application ID No. 46356.

⁷ Prior to February 22, 2019, on January 28, 2019, the OCCC received a buyer’s complaint (OCCC complaint no. 113611) against Alfa Romeo Fiat of McKinney. The buyer purchased a new vehicle from Alfa Romeo Fiat of McKinney on November 30, 2018. At the time of the purchase, the buyer traded in a vehicle with an outstanding balance of \$17,093.82. Alfa Romeo Fiat of McKinney failed to timely pay off the balance owed on the trade-in vehicle within 25 days in violation of TFC § 348.408(c). After receiving the complaint, Alfa Romeo Fiat of McKinney paid the outstanding balance of the trade-in vehicle on January 29, 2019, which was 60 days after the retail installment transaction.

The websites contain tabs labelled “New Vehicles,” “Pre-Owned/Used Vehicles” and “Shopping Tools.” The “New Vehicles” and “Pre-Owned/Used Vehicles” tabs are hyperlinks to a list of vehicles for sale. For each vehicle listed, there is a hyperlinked title/header in red lettering stating the year and make of the vehicle. By clicking on each of these hyperlinks, it takes you to a showcase page for each car, which displays that car’s specifications. On this page, there is a black box with white lettering saying, “Financing Options.” The black box is a hyperlink to a “Finance Application.”

The “Finance Application” header reads “Get Pre-Approved today!” At the bottom of this page is a fillable credit application. The application contains a statement reading:

By clicking Submit, you certify that all of the statements are true and accurate and are made for the purpose of pre-qualifying you for automotive credit. Actual financing with approved credit only. You further acknowledge that you have read and understand our Consumer Privacy Notice and Electronic Disclosure. You authorize Alfa Romeo FIAT of McKinney, our agents, and/or our third party lenders to (i) begin a credit investigation, including obtaining your consumer credit reports from one or more credit reporting agencies, now and with any update, renewal, refinancing, modification, or extension of any credit transaction with you; (ii) forward or otherwise allow access to your application {including your credit report and any updates or additions} to potential lenders, financial institutions, or other third parties in order to process your application; (iii) store securely the information we collect for evaluation of your application and for use in making additional offers to you in the future; and (iv) contact you via mail, mobile, or home phone, text, or email, including by auto dialer or pre-recorded message. If you do not qualify for financing on terms acceptable to you at this time, you authorize us and our agents to re-access your credit data as needed so that we can pre-screen you for future financing and other offers. To receive credit, you may be required to submit a further completed loan application to us or to a third-party lender.⁸

Therefore, the “Finance Application” is an offer by C4K4 to finance the sale of motor vehicles through a loan or a retail installment transaction on both their websites.

Under the “Shopping Tools” tab there is a hyperlink to the “Finance Center.” The “Finance Center” section header reads “Welcome to Our Financing Department.” This section contains the following statement:

Welcome to Alfa Romeo of McKinney's Finance Department, your auto loan and car lease resource. We're eager to provide financing for your new car, or we can assist in used car financing. Check out our online car loan calculator for an instant car loan rate. Then, proceed to our online finance application. All

⁸ <https://www.alfaromeousaofmckinney.com/financing/application.htm>

types of credit, from good to bad, can qualify for an auto loan. No credit, no problem! We will work with you to secure a no credit car loan if your situation demands it. Alfa Romeo of McKinney has strong relationships and is committed to finding you the perfect car loan company to suit your car finance needs. Low interest car loans are available for customers with existing loans. We can help you refinance your car loan or adjust the term of the contract. You're just a step away from approved car financing!⁹

Since C4K4 does not hold a license to finance the sale of motor vehicles under either Chapter 342 or Chapter 348, it is engaging in unlicensed activity, and is placing false, misleading, and deceptive advertisements on its websites.¹⁰

In addition, an e-Tag report from the Texas Department of Motor Vehicles shows that C4K4 placed liens on nine vehicles during the month of March 2018 and one lien during the month of December 2017. C4K4 does not currently hold and has never held a Chapter 342 or Chapter 348 license issued by the OCCC. However, C4K4 has entered into retail installment contracts in connection with the sale of motor vehicles that require an OCCC motor vehicle sales finance license.¹¹ Therefore, C4K4's use of a retail installment contract without an OCCC license violates the Texas Finance Code.¹²

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.¹³ The Commissioner may also order such a person to make restitution to persons injured by the violation.¹⁴

⁹ <https://www.alfaromeousaofmckinney.com/financing/index.htm>

¹⁰ Tex. Fin. Code § 342.051 (requiring a person to hold a license to make, transact, or negotiate loans of more than ten percent); Tex. Fin. Code § 348.501 (requiring a person to hold a license to act as a holder of a retail installment contract); Tex. Fin. Code § 341.403 (prohibiting false, misleading, and deceptive representations).

¹¹ Tex. Fin. Code § 348.501 (requiring a person to hold a license under Chapter 348 to act as a "holder"); Tex. Fin. Code § 348.001(3) (defining "holder" to include a "retail seller"); Tex. Fin. Code § 348.001(8) (defining "retail seller" as a person in the business of selling motor vehicles to retail buyers in retail installment transactions); Tex. Fin. Code § 348.001(7) (defining "retail installment transaction" as a transaction in which a retail buyer purchases a motor vehicle from a retail seller and agrees to pay part or all of the cash price in one or more deferred installments).

¹² Tex. Fin. Code § 348.501.

¹³ Tex. Fin. Code § 14.208(a)

¹⁴ Tex. Fin. Code § 14.251(b)

Order

IT IS ORDERED that C4K4, LLP d/b/a Alfa Romeo Fiat of McKinney and d/b/a Fiat of McKinney:

- (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) comply with, and cease and desist from violating, the regulated lender license requirement, found in Section 342.051 of the Texas Finance Code;
- (3) 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, or make, transact, or negotiate loans;
- (4) cease and desist from collecting payments on existing transactions or entering into new transactions that require a regulated lender license or a motor vehicle sales finance license;
- (5) review all motor vehicle sales transactions and loans to identify the transactions in which it financed the sale of a motor vehicle or placed a lien on the vehicle from September 1, 2016 to the present, and refund all finance charges;
- (6) no later than February 24, 2020 provide the OCCC with a spreadsheet in Microsoft Excel format labeled "Motor Vehicle Sales Financed" with the following data for each transaction:
 - a. name of buyer,
 - b. date of retail installment contract or loan,
 - 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);
- (7) review all motor vehicle sales transactions and loans to identify the transactions in which it claimed a security interest by placing a lien on

the vehicle, and release the lien; and

(8) no later than March 2, 2020 provide the OCCC with a spreadsheet in Microsoft Excel format labeled "Security Interest Released" including the following data for each transaction:

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

(9) maintain complete and accurate records of all refunds, including copies of refund checks for closed accounts and ledgers showing account credits for open accounts until the later of the fourth anniversary of the date of the retail installment transaction, or the second anniversary of the date on which the final entry is made in the buyer's record.¹⁵

Administrative Penalty

You may be assessed an administrative penalty of up to \$1,000 for each day of violation of this Order.¹⁶

Right to Request Hearing

Within 30 days of service of this Order, you may request a hearing regarding this Order.¹⁷ 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.¹⁸ If you fail to request a hearing before this deadline, this Order will be considered final and enforceable.¹⁹

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.

¹⁵ See 7 Tex. Admin. Code § 84.704(b), (g).

¹⁶ Tex. Fin. Code § 14.208(c).

¹⁷ Tex. Fin. Code § 14.208(b).

¹⁸ Tex. Fin. Code § 14.208(b).

¹⁹ Tex. Fin. Code § 14.208(c).

Signed this 24th day of January, 2020

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

CERTIFICATE OF SERVICE

I certify that on January 24, 2020 a true and correct copy of this Order to Order to Cease and Desist Unlicensed Activity and Make Restitution has been sent to C4K4, LLP. d/b/a Alfa Romeo Fiat of McKinney by the following methods:

C4K4, LLP d/b/a
Alfa Romeo Fiat of McKinney
Attn: Kenneth Strickler
2931 Ridge Rd. Ste. 101 #176
Rockwall, TX 75032
ken@kamkadllc.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
9214 8901 9403 8300 0004 8116 49

C4K4, LLP d/b/a
Alfa Romeo Fiat of McKinney
Attn: Kenneth Strickler
800 N. Central Expressway
McKinney, TX 75070

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
9214 8901 9403 8300 0004 8116 56

C4K4, LLP d/b/a
Alfa Romeo Fiat of McKinney
Attn: Ken Strickler
Compliance Officer
2931 Ridge Rd. Ste. 101 #176
Rockwall, TX 75032
ken@c4k4.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
9214 8901 9403 8300 0004 8116 63

C4K4, LLP d/b/a
Alfa Romeo Fiat of McKinney
Attn: Werley Law
Registered Agent
1840 Acton Hwy., Suite 102
Granbury, TX 76049
sgwerley@werleylaw.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
9214 8901 9403 8300 0004 8116 70

C4K4, LLP d/b/a
Alfa Romeo Fiat of McKinney
Attn: Samuel Gary Werley
3205 Boynton Ave.
Granbury, TX 76049

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
9214 8901 9403 8300 0004 8116 87

C4K4, LLP d/b/a
Alfa Romeo Fiat of McKinney
Attn: Haleigh Oliver
Registered Agent and
Compliance Officer
1903 Anson Road
Dallas, TX 75235
holiver@c4k4.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
9214 8901 9403 8300 0004 8116 94

C4K4, LLP d/b/a
Alfa Romeo Fiat of McKinney
Attn: Haleigh Oliver
Registered Agent and
Compliance Officer
800 N. Central Expy.
McKinney, TX 75070

hand-delivery

facsimile

electronic mail

regular mail

certified mail, return receipt requested#
9214 8901 9403 8300 0004 8116 00

C4K4, LLP d/b/a
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Attn: Haleigh Oliver
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2931 Ridge Rd. Ste. 101 #176
Rockwall, TX 75032

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certified mail, return receipt requested
9214 8901 9403 8300 0004 8116 17

/s/Michael Rigby

Michael Rigby

General Counsel

Office of Consumer Credit Commissioner

State Bar No. 50511925

2601 North Lamar Blvd.

Austin, Texas 78705

(512) 936-7623

(512) 936-7610 (fax)

michael.rigby@occc.texas.gov