

OCCC CASE NO. L19-00299

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE No. 1800061183	§	
	§	OFFICE OF CONSUMER
KAMKAD DALLAS LLC D/B/A	§	
ALFA ROMEO OF DALLAS	§	
2500 W. MOCKINGBIRD LN	§	CREDIT COMMISSIONER
DALLAS, TEXAS 75235	§	
	§	
	§	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 KamKad Dallas, LLC d/b/a Alfa Romeo of Dallas (“Alfa Romeo of Dallas”).<sup>1</sup>

**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.<sup>2</sup> 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.<sup>3</sup> A regulated lender license is required to make, transact, or negotiate a loan with an interest rate more than ten percent.<sup>4</sup>

Kamkad Dallas, LLC is a Texas limited liability company that is authorized to do business by the Texas Secretary of State under the assumed name “Alfa Romeo of Dallas”, as well as the following assumed names: “Kamkad Alfa Romeo,” “360 Smart Car,” and “Kamkad Direct.”<sup>5</sup> Its principal

<sup>1</sup> Tex. Fin. Code § 14.208.

<sup>2</sup> Tex. Fin. Code § 348.501.

<sup>3</sup> Tex. Fin. Code § 348.001(3), (7), (8).

<sup>4</sup> Tex. Fin. Code §§ 342.051, 342.004, 342.553, 341.404.

<sup>5</sup> 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).

place of business is 2500 W. Mockingbird Lane, Dallas, TX 75229 and its corporate office is located at 1903 Anson Rd, Dallas, TX 75235. Alfa Romeo of Dallas's owners are Kenneth Strickler and Chester K. Owens. Its registered agent is S. Gary Werley.

Alfa Romeo of Dallas does not hold a motor vehicle sales finance license or a regulated lender license. On December 28, 2018, Alfa Romeo of Dallas submitted an application under master file number 1800061183 for a motor vehicle sales finance license.<sup>6</sup> On April 18, 2019 the application for a motor vehicle sales finance license was denied due to Alfa Romeo of Dallas's failure to provide the required documentation.

Alfa Romeo of Dallas has violated Chapter 348 of the Texas Finance Code by entering into and advertising motor vehicle retail installment contracts without obtaining a license from the OCCC. Alfa Romeo of Dallas has violated Chapter 342 of the Texas Finance Code by making, transacting, or negotiating loans with an interest rate of more than ten percent.

### **Unlicensed Activity and False Advertisements**

Alfa Romeo of Dallas is advertising financing to consumers in connection with the sale of motor vehicles on their website located at "www.alfadallas.com." The website contain tabs labelled "New Inventory," "Used Inventory" and "Shopping Tools." The "New Inventory" and "Used Inventory" tabs are hyperlinks to a list of vehicles for sale. For each vehicle listed, there is a hyperlinked title/header in white lettering stating the year and make of the vehicle. If these hyperlinks are clicked, a showcase page for each car appears which displays that car's specifications. On this page, there is a white box with black lettering saying, "GET PRE-APPROVED." The white box is a hyperlink to a credit application.

The credit application header reads "Get Pre-Approved today!" 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 of Dallas, our agents, and/or our third party lenders to (i) begin a credit investigation, including obtaining your

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<sup>6</sup> OCCC Application ID No. 37140.

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.”<sup>7</sup>

With this statement, the credit application is an offer by Alfa Romeo of Dallas to finance the sale of motor vehicles on their website through a regulated loan or a retail installment transaction.

Under the “Shopping Tools” tab there is a hyperlink to “Finance.” The “Finance” section has a “Finance Calculator.” This section contains the following statement in blue lettering, “APPLY NOW! Click here to Fill Out the Easy to Use Online Application!”

Since Alfa Romeo of Dallas does not hold a Chapter 348 or Chapter 342 license issued by the OCCC to finance the sale of motor vehicles, it is engaging in unlicensed activity, and is placing false, misleading, and deceptive advertisements on its website.<sup>8</sup>

In addition, an e-Tag report from the Texas Department of Motor Vehicles shows that Alfa Romeo of Dallas placed liens on five vehicles during the month of November 2018 and four liens during the month of December 2018. Alfa Romeo of Dallas does not currently hold and has never held a Chapter 348 license issued by the OCCC. However, Alfa Romeo of Dallas has entered into retail installment contracts in connection with the sale of motor vehicles that require an OCCC motor vehicle sales finance license.<sup>9</sup> Therefore, Alfa Romeo of

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<sup>7</sup> [https://secure.vinmanagersites.com/FinanceApplication.aspx?websiteid=17055#page=ctl01\\_pnlFinanceApplication1&coap p=undefined](https://secure.vinmanagersites.com/FinanceApplication.aspx?websiteid=17055#page=ctl01_pnlFinanceApplication1&coap p=undefined)

<sup>8</sup> 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).

<sup>9</sup> 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).

Dallas's use of a retail installment contract without an OCCC license violates the Texas Finance Code.<sup>10</sup>

### **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.<sup>11</sup> The Commissioner may also order such a person to make restitution to persons injured by the violation.<sup>12</sup>

### **Order**

IT IS ORDERED that KamKad Dallas, LLC d/b/a Alfa Romeo of Dallas:

- (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;
- (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 to identify the transactions in which it financed the sale of a motor vehicle or placed a lien on the vehicle from January 1, 2018 to present, and refund all finance charges;
- (6) no later than February 24, 2020 provide the OCCC with a spreadsheet in

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<sup>10</sup> Tex. Fin. Code § 348.501.

<sup>11</sup> Tex. Fin. Code § 14.208(a).

<sup>12</sup> Tex. Fin. Code § 14.251(b).

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 loan, or the second anniversary of the date on which the final entry is made in the buyer’s record.<sup>13</sup>

### **Administrative Penalty**

You may be assessed an administrative penalty of up to \$1,000 for each day of violation of this Order.<sup>14</sup>

### **Right to Request Hearing**

Within 30 days of service of this Order, you may request a hearing

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<sup>13</sup> See 7 Tex. Admin. Code § 83.833(b), (g).

<sup>14</sup> Tex. Fin. Code § 14.208(c).

regarding this Order.<sup>15</sup> 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.<sup>16</sup> If you fail to request a hearing before this deadline, this Order will be considered final and enforceable.<sup>17</sup>

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 23<sup>rd</sup> day of January, 2019

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

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<sup>15</sup> Tex. Fin. Code § 14.208(b).

<sup>16</sup> Tex. Fin. Code § 14.208(b).

<sup>17</sup> Tex. Fin. Code § 14.208(c).

## CERTIFICATE OF SERVICE

I certify that on January 23, 2020 a true and correct copy of this Order to Order to Cease and Desist Unlicensed Activity and Make Restitution has been sent to KamKad Dallas, LLC d/b/a Alfa Romeo of Dallas by the following methods:

KamKad Dallas, LLC d/b/a  
Alfa Romeo of Dallas  
Attn: Kenneth Strickler,  
Registered Agent  
1903 Anson Road  
Dallas, TX 75235  
ken@c4k4.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested  
# 9214 8901 9403 8300 0004 8117 24

KamKad Dallas, LLC d/b/a  
Alfa Romeo of Dallas  
Attn: Haleigh Oliver  
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 8117 31

KamKad Dallas, LLC d/b/a  
Alfa Romeo of Dallas  
Attn: Kenneth Strickler, Owner  
2500 W. Mockingbird Lane  
Dallas, TX 75229

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested  
# 9214 8901 9403 8300 0004 8117 48

KamKad Dallas, LLC d/b/a  
Alfa Romeo of Dallas  
Attn: S. Gary Werley,  
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 8117 55

KamKad Dallas, LLC d/b/a  
Alfa Romeo of Dallas  
Attn: S. Gary Werley  
2931 Ridge Rd. Ste. 101 #55  
Rockwall, TX 75032

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested  
# 9214 8901 9403 8300 0004 8117 62

KamKad Dallas, LLC d/b/a  
Alfa Romeo of Dallas  
Attn: Kenneth J. Strickler,  
Managing Member  
2287 Lafayette Landing  
Heath, TX 75032

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested  
# 9214 8901 9403 8300 0004 8117 79



KamKad Dallas, LLC d/b/a  
Alfa Romeo of Dallas  
Attn: Chester K. Owens,  
Managing Member  
6001 Golf Dr.  
Plano, TX 75024

hand-delivery

facsimile

electronic mail

regular mail

certified mail, return receipt requested  
# 9214 8901 9403 8300 0004 8132 23

/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