

OCCC CASE NO. L19-00298

IN THE MATTER OF: MASTER FILE NO.: 1800060673 ROAD RUNNER AUTO SALES, LLC 180 WESTERN LAKE DR. WEATHERFORD, TEXAS 76087	§ § § § § § §	BEFORE THE OFFICE OF CONSUMER CREDIT COMMISSIONER STATE OF TEXAS
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**ORDER TO CEASE AND DESIST UNLICENSED ACTIVITY,
TO TAKE AFFIRMATIVE ACTION, AND TO MAKE RESTITUTION**

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order to Cease and Desist Unlicensed Activity, to Take Affirmative Action, and to Make Restitution against Road Runner Auto Sales, LLC (“Road Runner Auto Sales”), based on the violations of law described below.¹

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.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 If the OCCC has reasonable cause to believe that a person is violating Chapter 348, then the OCCC may conduct an investigation to discover a violation or obtain required information.⁴

Road Runner Auto Sales is a motor vehicle dealer that does not hold a license with the OCCC. Road Runner Auto Sales is located at 1612 Weatherford Hwy., Ste. 800, Granbury, Texas 76048.

On January 18, 2019, Road Runner Auto Sales filed an application for a motor vehicle sales finance license with the OCCC, under master file number

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 § 348.515.

1800060673 and application ID number 36384. The application lists Benjamin Johnson as the compliance officer for Road Runner Auto Sales. The OCCC requested items necessary to file a complete license application, including a personal affidavit, personal employment history, personal questionnaire, and fingerprints for each principal party.⁵ Road Runner Auto Sales did not provide these items for all principal parties. In March 2019, the OCCC denied Road Runner Auto Sales' license application. Road Runner Auto Sales has not obtained a license with the OCCC.

On January 23, 2019, the OCCC received information from the Hood County Sheriff's Office, indicating that Road Runner Auto Sales had financed vehicles without a motor vehicle sales finance license. The records obtained by the sheriff's office show that in 2018, Road Runner Auto Sales entered at least 20 transactions where it sold a motor vehicle and agreed to accept the cash price in deferred installments.

By acting as a holder in motor vehicle retail installment transactions without a motor vehicle sales finance license, Road Runner Auto Sales violated Chapter 348 of the Texas Finance Code.

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.⁶ Additionally, the Commissioner may order 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

The Commissioner has reasonable cause to believe that Road Runner Auto Sales has violated Chapter 348 of the Texas Finance Code by acting as a holder in motor vehicle retail installment transactions without a motor vehicle sales finance license.

⁵ See 7 Tex. Admin. Code § 84.602 (listing information required for a motor vehicle sales finance license application).

⁶ Tex. Fin. Code § 14.208(a).

⁷ Tex. Fin. Code § 14.251(b).

Order

IT IS ORDERED that:

1. Road Runner Auto Sales must 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. Road Runner Auto Sales must cease and desist from advertising or entering into new transactions in which it agrees to accept the cash price of a motor vehicle in one or more deferred installments.
3. Road Runner Auto Sales must cease and desist from collecting payments on existing transactions that require a motor vehicle sales finance license.
4. **No later than December 2, 2019**, Road Runner Auto Sales must perform a self-review and identify each motor vehicle retail installment transaction that Road Runner Auto Sales has entered, including each sale of a motor vehicle in which:
 - a. Road Runner Auto Sales entered a retail installment contract;
 - b. Road Runner Auto Sales accepted payments in one or more deferred installments; or
 - c. Road Runner Auto Sales held a lien.
5. **No later than December 2, 2019**, Road Runner Auto Sales must refund any finance charges that it charged or received from any retail buyers.
6. **No later than December 2, 2019**, Road Runner Auto Sales must release any liens that are currently filed on any motor vehicles in Road Runner Auto Sales' name. Road Runner Auto Sales may not charge a fee to any buyer for releasing these liens.
7. **No later than December 2, 2019**, Road Runner Auto Sales must identify each retail installment transaction that it assigned to another creditor.

8. With respect to maintaining proof of refunds and release of liens:
 - a. Road Runner Auto Sales must 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 following:
 - i. the fourth anniversary of the date of the retail installment transaction, or
 - ii. the second anniversary of the date on which the final entry is made in the buyer's record.⁸
 - b. Road Runner Auto Sales must maintain documentation of the release of any liens until the later of the following:
 - i. the fourth anniversary of the date of the retail installment transaction, or
 - ii. the second anniversary of the date on which the final entry is made in the buyer's record.
 - c. **No later than December 2, 2019**, Road Runner Auto Sales must create a spreadsheet labeled "L19-00298RoadRunnerAutoSales Restitution." The spreadsheet must clearly list the total amount of refunds provided to buyers. In addition, the spreadsheet must list each retail installment transaction for which Road Runner Auto Sales provided restitution or released a lien as described above, and each retail installment transaction that Road Runner Auto Sales assigned to another creditor. The spreadsheet must include a row for each buyer and the following columns:
 - i. account number;
 - ii. name of the retail buyer;
 - iii. date of retail installment contract;
 - iv. amount of finance charge;
 - v. amount of finance charge refunded to the buyer;
 - vi. date of the refund;
 - vii. form of the refund (i.e. check for closed account, and credit on open account);
 - viii. date on which Road Runner Auto Sales released the lien,

⁸ See 7 Tex. Admin. Code § 84.704(b), (g).

- if applicable; and
- ix. name of any creditor that Road Runner Auto Sales assigned the transaction to, if applicable.
 - d. **No later than December 2, 2019**, Road Runner Auto Sales must provide the OCCC with a copy of the spreadsheet. The spreadsheet must be sent by e-mail to Matthew Nance at matthew.nance@occc.texas.gov.

Violation of Order

Road Runner Auto Sales may be assessed an administrative penalty of up to \$1,000 for each day of violation of this Order.⁹

Right to Request Hearing

Road Runner Auto Sales has the right to request a hearing regarding this Order.¹⁰ Road Runner Auto Sales request must be made in writing and sent to the OCCC not later than 30 days after Road Runner Auto Sales receives this Order. Road Runner Auto Sales must send its request to:

Matthew Nance
Office of Consumer Credit Commissioner
2601 N. Lamar Blvd.
Austin, Texas 78705

If Road Runner Auto Sales requests a hearing, a hearing on this matter will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.¹¹ If Road Runner Auto Sales fails to request a hearing by this deadline, this Order is considered final and enforceable.¹²

All communications with the OCCC concerning this matter must be through Matthew Nance, Deputy General Counsel, who may be contacted by mail at 2601 N. Lamar Blvd., Austin, Texas 78705, by telephone at (512) 936-7660, or by email to matthew.nance@occc.texas.gov.

⁹ Tex. Fin. Code § 14.208(c).

¹⁰ Tex. Fin. Code § 14.208(b).

¹¹ Tex. Fin. Code § 14.208(b).

¹² Tex. Fin. Code § 14.208(c).

Signed this 23rd day of October, 2019.

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

CERTIFICATE OF SERVICE

I certify that on October 23, 2019, a true and correct copy of this Order to Cease and Desist Unlicensed Activity, to Take Affirmative Action, and to Make Restitution has been sent to Road Runner Auto Sales, LLC by the following:

Road Runner Auto Sales, LLC
Attn: Benjamin Johnson, Compliance
Officer and Registered Agent
180 Western Lake Dr.
Weatherford, TX 76087
roadrunnerauto51@yahoo.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7037 5165 3005

Road Runner Auto Sales, LLC
Attn: Benjamin Johnson, Compliance
Officer
1612 Weatherford Hwy., Ste. 800
Granbury, TX 76048

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7036 0669 8014

Road Runner Auto Sales, LLC
Attn: Benjamin Johnson, Registered
Agent
1612 Weatherford Highway, Suite 800
Weatherford, TX 76087

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7036 0669 8021

/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)
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