

OCCC CASE NO. L20-00075

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NO.: 1900064309	§	OFFICE OF CONSUMER
CARLOS RAMIREZ GODINEZ	§	
D/B/A BCS SALVAGE YARD	§	CREDIT COMMISSIONER
1008 NEW YORK ST.	§	
BRYAN, TX 77803	§	STATE OF TEXAS

**ORDER TO CEASE AND DESIST, TO TAKE AFFIRMATIVE ACTION,
AND TO MAKE RESTITUTION**

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order to Cease and Desist, to Take Affirmative Action, and to Make Restitution, against Carlos Ramirez Godinez d/b/a BCS Salvage Yard (“BCS Salvage Yard”), based on the violations described below.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

BCS Salvage Yard is a motor vehicle dealer that does not currently hold a license with the OCCC. BCS Salvage Yard is located at 911 San Jacinto Lane, Bryan, Texas 77803.

Due to a consumer complaint, the OCCC conducted an investigation of BCS Salvage Yard for unlicensed activity. In a witness statement, Jose Ramirez of BCS Salvage Yard admitted that BCS Salvage Yard had entered at least 20 motor vehicle retail installment transactions at the time of the investigation. In these transactions, BCS Salvage Yard accepted the cash price of motor vehicles in one or more deferred installments without a motor vehicle sales finance license.

¹ Tex. Fin. Code § 14.208.
² Tex. Fin. Code § 348.501.
³ Tex. Fin. Code § 348.001(3), (7), (8).

On August 4, 2019, BCS Salvage Yard applied for a motor vehicle sales finance license under master file number 1900064309 and application ID number 53685. The OCCC requested items necessary to file a complete license application, including contract forms, a statement regarding previous motor vehicle retail installment transactions, a business plan, and fingerprints for each principal party.⁴ BCS Salvage Yard did not respond to the OCCC's requests. On September 18, 2019, the OCCC notified BCS Salvage Yard that it had denied BCS Salvage Yard's license application. BCS Salvage Yard has not obtained a license with the OCCC.

By acting as a holder in motor vehicle retail installment transactions without a motor vehicle sales finance license, BCS Salvage Yard has 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.⁵ 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.⁶

The Commissioner has reasonable cause to believe that BCS Salvage Yard 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.

Order

IT IS ORDERED that:

1. BCS Salvage Yard 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.

⁴ See 7 Tex. Admin. Code § 84.602.

⁵ Tex. Fin. Code § 14.208(a).

⁶ Tex. Fin. Code § 14.251(b).

2. BCS Salvage Yard 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. BCS Salvage Yard must cease and desist from collecting payments on existing transactions that require a motor vehicle sales finance license.
4. **No later than February 28, 2020**, BCS Salvage Yard must perform a self-review and identify each motor vehicle retail installment transaction that BCS Salvage Yard has entered, including each sale of a motor vehicle in which:
 - a. BCS Salvage Yard entered a retail installment contract;
 - b. BCS Salvage Yard accepted payments in one or more deferred installments; or
 - c. BCS Salvage Yard held a lien.
5. **No later than February 28, 2020**, BCS Salvage Yard must refund any finance charges that it has charged or received from any retail buyers.
6. **No later than February 28, 2020**, BCS Salvage Yard must release any liens that are currently filed on any motor vehicles in BCS Salvage Yard's name. BCS Salvage Yard may not charge a fee to any buyer for releasing these liens.
7. **No later than February 28, 2020**, BCS Salvage Yard must identify each retail installment transaction that it has assigned to another creditor.
8. With respect to maintaining proof of refunds and release of liens:
 - a. BCS Salvage Yard 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.⁷
 - b. BCS Salvage Yard must maintain documentation of the release of any liens until the later of the following:

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

- 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 February 28, 2020**, BCS Salvage Yard must create a spreadsheet labeled "L20-00075BCSSalvageYard." 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 BCS Salvage Yard provided restitution or released a lien as described above, and each retail installment transaction that BCS Salvage Yard 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 BCS Salvage Yard released the lien, if applicable; and
 - ix. name of any creditor that BCS Salvage Yard assigned the transaction to, if applicable.
- d. **No later than February 28, 2020**, BCS Salvage Yard must provide the OCCC with a copy of the spreadsheet. The spreadsheet must be sent by e-mail to Audrey Spalding at audrey.spalding@occc.texas.gov.

Administrative Penalty

You may be assessed an administrative penalty of up to \$1,000 for each day of violation of this Order.⁸

⁸ Tex. Fin. Code § 14.208(c).

Right to Request Hearing

You have the right to request a hearing regarding this Order.⁹ Your request must be made in writing and sent to the OCCC not later than 30 days after you receive this Order. You must send your request to:

Audrey Spalding
Assistant General Counsel
Office of Consumer Credit Commissioner
2601 N. Lamar Blvd.
Austin, Texas 78705

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.¹⁰ If you fail to request a hearing by this deadline, this Order is considered final and enforceable.¹¹

All communications with the OCCC concerning this matter must be through Audrey Spalding, Assistant General Counsel. You may contact her by mail at 2601 N. Lamar Blvd., Austin, Texas 78705, by telephone at (512) 936-7659, or by email to audrey.spalding@occc.texas.gov.

Signed this 17 day of January, 2020.

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

⁹ Tex. Fin. Code § 14.208(b).

¹⁰ Tex. Fin. Code § 14.208(b).

¹¹ Tex. Fin. Code § 14.208(c).

CERTIFICATE OF SERVICE

I certify that on January 17, 2020, a true and correct copy of this Order to Cease and Desist, to Take Affirmative Action, and to Make Restitution has been sent to BCS Salvage Yard by the following:

Carlos Ramirez Godinez
d/b/a BCS Salvage Yard
Attn: Carlos Ramirez Godinez,
Compliance Officer
1008 New York St.
Bryan, TX 77803
carlosramirez1123@gmail.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested #91 7199 9991 7037 4753 3007

Carlos Ramirez Godinez
d/b/a BCS Salvage Yard
Attn: Carlos Ramirez, Registered
Agent
1008 New York St.
Bryan, TX 77803
carlosramirez1123@gmail.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested # 91 7199 9991 7037 4753 2994

/s/Audrey Spalding
Audrey Spalding
Assistant General Counsel
Office of Consumer Credit Commissioner
State Bar No. 24111055
2601 North Lamar Blvd.
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(512) 936-7659
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