

OCCC CASE NOS. L19-00203 & L19-00407

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NO.: 16726	§	OFFICE OF CONSUMER
K3 SPECIALTY FINANCE, LLC	§	
d/b/a TASK FORCE FINANCIAL	§	CREDIT COMMISSIONER
707 JEFFERSON AVE.	§	
WHARTON, TX 77488	§	STATE OF TEXAS

ORDER TO CEASE AND DESIST AND TO TAKE AFFIRMATIVE ACTION

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order to Cease and Desist and to Take Affirmative Action against K3 Specialty Finance, LLC d/b/a Task Force Financial (“Task Force Financial”).¹

Statement of Facts and Law

Task Force Financial is a credit access business licensed by the OCCC under Chapter 393 of the Texas Finance Code. Task Force Financial operates under master file number 16726 at one licensed location, under license number 152279. Task Force Financial’s compliance officer is Kenneth W. Allen Jr., and its designated contact address is 707 Jefferson Ave., Wharton, Texas 77488.

A credit access business is a type of credit services organization that obtains for consumers, or assists consumers in obtaining, extensions of consumer credit in the form of a deferred presentment transaction or motor vehicle title loan.² The OCCC has enforcement authority regarding violations of Chapter 393 by a credit access business.³ Under Chapter 393’s implementing rules, the OCCC may periodically examine a credit access business’s place of business.⁴ A credit access business must maintain records for each transaction, and must make records available to the OCCC for examination.⁵ A credit access business must allow the OCCC to examine the business and make copies of records.⁶

¹ Tex. Fin. Code § 14.208.

² Tex. Fin. Code § 393.601(2).

³ Tex. Fin. Code § 14.201.

⁴ Tex. Fin. Code § 393.622; 7 Tex. Admin. Code § 83.5003(a).

⁵ 7 Tex. Admin. Code § 83.5004.

⁶ 7 Tex. Admin. Code § 83.5003(b).

The OCCC examined Task Force Financial on April 20, 2018. The examination revealed that Task Force Financial engaged in activity that violated Chapter 393 and its implementing rules. In a subsequent examination on August 31, 2018, as well as a follow-up examination conducted on March 29, 2019, the OCCC discovered that Task Force Financial had not corrected its previous violations.

I. Failure to Maintain and Provide Transaction Register

Under Chapter 393's implementing rules, a credit access business must maintain a transaction register, or must be able to produce a transaction register within a reasonable period of time.⁷ Each record in the register must contain the transaction number, the date of the transaction, the last name of the consumer, the total fees payable to the licensee, the total of payments, and the type of transaction.⁸ Each record in the transaction register must be retained for four years from the date of the transaction, or two years from the date of the final entry made on the consumer's account, whichever is later.⁹

During the March 2019 examination, the OCCC examiner requested a transaction register from Kenneth Allen Jr., who is Task Force Financial's compliance officer. Mr. Allen stated that the software program in use at Task Force Financial was unable to produce a transaction register with a list of active accounts. By failing to maintain and provide a transaction register with an active list of accounts, Task Force Financial violated Chapter 393's implementing rules.

II. Failure to Provide Third-Party Lender Agreement

The Commissioner may review any agreements between a credit access businesses and a third-party with which the licensee contracts to provide services.¹⁰ Under Chapter 393's implementing rules, a credit access business must maintain all documentation of its current agreements with third-party lenders, including copies of the agreement, any guarantees or letters of credit, and underwriting guidelines issued by the lender.¹¹

⁷ 7 Tex. Admin. Code § 83.5004(1).

⁸ 7 Tex. Admin. Code § 83.5004(1).

⁹ 7 Tex. Admin. Code § 83.5004(1).

¹⁰ Tex. Fin. Code § 393.622(b).

¹¹ 7 Tex. Admin. Code § 83.5004(3).

During the April 2018 and March 2019 examinations, the OCCC examiner requested a copy of Task Force Financial's third-party lender agreement from Mr. Allen. Mr. Allen did not provide a copy of the agreement. By failing to provide a copy of its third-party lender agreement to the OCCC, Task Force Financial violated Chapter 393's implementing rules.

III. Failure to Use Credit Access Business Contracts and Obtain Consumers' Signatures

Under Chapter 393, each contract for the purchase of services of a credit services organization by a consumer must be in writing, dated, and signed by the consumer.¹² Chapter 393 requires the contract between a credit access business and a consumer to contain required elements, including all of the following:

- payment terms (including the total of payments to be made by the consumer);
- a full description of the services the credit services organization is to perform for the consumer (including each guarantee and promise of refund, and the estimated period of performance);
- the name and address of the statutory agent for service of process;
- a statement that the credit access business must comply with the federal Fair Debt Collection Practices Act;
- a statement that the credit access business may not threaten or pursue criminal charges against the consumer related to checks or debit authorizations provided by the consumer in the absence of criminal conduct;
- a statement that the business must comply with 10 U.S.C. Section 987 and its implementing rules;
- the name, address, and consumer helpline of the OCCC;
- a statement in bold type that the consumer may cancel the contract at any time before midnight of the third day after the date of the transaction; and two detachable copies of a cancellation notice.¹³

¹² Tex. Fin. Code § 393.201(a).

¹³ Tex. Fin. Code §§ 393.201(b)-(c), 393.202.

Under Chapter 393's implementing rules, a credit access business must maintain a copy of the contract between the credit access business and the consumer, including all required elements, in each transaction file.¹⁴

During the April 2018 examination, the examiner identified transaction files where there was no contract between the credit access business and the consumer. The examiner also found that Task Force Financial had not obtained the consumer's signature in connection with its credit access business transactions. During the August 2018 and March 2019 examinations, the examiner found that Task Force Financial had not corrected this violation.

During the March 2019 examination, Mr. Allen explained that a credit access business contract for Task Force Financial did not exist. Mr. Allen contended that the required information is contained in the promissory note. However, the promissory note used by Task Force Financial is a contract between the third-party lender and the consumer, and is not a contract between Task Force Financial and the consumer. In addition, the promissory note lacks elements required for a credit access business contract. The promissory note does not:

- fully describe the services that Task Force Financial is to perform;
- contain any reference to Task Force Financial's statutory agent;
- contain a statement that Task Force Financial must comply with the federal Fair Debt Collection Practices Act or with 10 U.S.C. Section 987;
- contain a statement regarding criminal charges;
- include the address of the OCCC or the telephone number of its consumer helpline;
- conspicuously state that the buyer may cancel the contract within the required time; or
- include detachable cancellation notices.

By failing to use credit access business contracts containing required elements, and by failing to obtain consumers' signatures, Task Force Financial violated Chapter 393. By failing to maintain credit access business contracts and failing to provide copies to the OCCC, Task Force Financial violated Chapter 393's implementing rules.

¹⁴ 7 Tex. Admin. Code § 83.5004(2)(A)(i).

Authority

If the Consumer Credit Commissioner (“Commissioner”) has reasonable cause to believe that a credit access business is violating Chapter 393 of the Texas Finance Code, the Commissioner may issue an order to cease and desist from the violation, to take affirmative action, or both.¹⁵

The Commissioner has reasonable cause to believe that Task Force Financial is violating Chapter 393 of the Texas Finance Code and Chapter 393’s implementing rules at Title 7, Chapter 83 of the Texas Administrative Code.

Order

IT IS ORDERED that K3 Specialty Finance, LLC d/b/a Task Force Financial:

1. cease and desist from failing to maintain required records in accordance with Title 7, Chapter 83 of the Texas Administrative Code, including a transaction register, a third-party lender agreement, and credit access business contracts;
2. cease and desist from failing to provide required records to the OCCC in examinations, including a transaction register, a third-party lender agreement, and credit access business contracts;
3. cease and desist from failing to use written credit access business contracts between itself and consumers, including all elements required by Sections 393.201 and 393.202 of the Texas Finance Code;
4. **no later than November 18, 2019**, send a copy of its complete transaction register by email to Audrey Spalding at audrey.spalding@occc.texas.gov;
5. **no later than November 18, 2019**, send a copy of all agreements with third-party lenders by email to Audrey Spalding at

¹⁵ Tex. Fin. Code § 14.208(a).

audrey.spalding@occc.texas.gov;

6. **no later than November 18, 2019**, send a copy of its credit access business contract by email to Audrey Spalding at audrey.spalding@occc.texas.gov.

Violation of Order

If Task Force Financial violates this Order, the OCCC may impose an administrative penalty of up to \$1,000 per day.¹⁶ Violations may also result in the suspension or revocation of Task Force Financial's credit access business license.¹⁷

Right to Request Hearing

You have the right to request a hearing regarding this Order.¹⁸ 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.¹⁹ If you fail to request a hearing by this deadline, this Order is considered final and enforceable.²⁰

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.

¹⁶ Tex. Fin. Code § 14.208(c).

¹⁷ Tex. Fin. Code § 393.614.

¹⁸ Tex. Fin. Code § 14.208(b).

¹⁹ Tex. Fin. Code § 14.208(b).

²⁰ Tex. Fin. Code § 14.208(c).

Signed this 7th day of October, 2019.

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

CERTIFICATE OF SERVICE

I certify that on October 7, a true and correct copy of this Order to Cease and Desist and to Take Affirmative Action has been sent to K3 Specialty Finance, LLC by the following:

K3 Specialty Finance, LLC
d/b/a Task Force Financial
Attn: Kenneth W. Allen Jr.,
Compliance Officer
707 Jefferson Ave.
Wharton, TX 77488
kwallenjr@hotmail.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7036 0720 1350

K3 Specialty Finance, LLC
d/b/a Task Force Financial
Attn: Kenneth W. Allen Jr.,
Registered Agent
1404 Bailey St.
Wharton, TX 77488

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7036 0720 1343

/s/Audrey Spalding
Audrey Spalding
Assistant General Counsel
Office of Consumer Credit Commissioner
State Bar No. 24111055
2601 North Lamar Blvd.
Austin, Texas 78705
(512) 936-7659
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audrey.spalding@occc.texas.gov