

OCCC CASE NO. L19-00231

IN THE MATTER OF: AFFORDABLE KAR KARE PROPERTIES INC. d/b/a AFFORDABLE USED KARS 222 S. GALLOWAY AVE. MEQUITE, TEXAS 75149	§ § § § § §	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 Affordable Kar Kare Properties Inc. d/b/a Affordable Used Kars (“Affordable Used Kars”), 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

Affordable Used Kars is a motor vehicle dealer that does not hold a license with the OCCC. Affordable Used Kars is located at 222 S. Galloway Ave., Mesquite, Texas 75149. According to records filed with the Texas Secretary of State, Affordable Used Kars’ president is Perry Dunn, and its registered agent is Joyce Dunn, 222 S. Galaway, Mesquite, Texas 75149.

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.

In May 2018, the OCCC received a complaint about Affordable Used Kars from a consumer. Based on information obtained with the complaint, the OCCC conducted an investigation of Affordable Used Kars for unlicensed activity. On August 17, 2018, the OCCC obtained records of transactions from Affordable Used Kars. These records show that in 2017 and 2018, Affordable Used Kars entered at least three transactions where it sold a motor vehicle and agreed to accept the cash price in deferred installments.

In January 2019, the OCCC sent a letter requesting that Affordable Used Kars complete a license application no later than January 31, 2019. Affordable Used Kars has not filed a license application with the OCCC or obtained a license.

By acting as a holder in a motor vehicle retail installment transaction without a motor vehicle sales finance license, Affordable Used Kars 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 Affordable Used Kars 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 Tex. Fin. Code § 14.208(a).

⁶ Tex. Fin. Code § 14.251(b).

Order

IT IS ORDERED that:

1. Affordable Used Kars 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. Affordable Used Kars 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. Affordable Used Kars must cease and desist from collecting payments on existing transactions that require a motor vehicle sales finance license.
4. **No later than November 15, 2019**, Affordable Used Kars must perform a self-review and identify each motor vehicle retail installment transaction that Affordable Used Kars has entered, including each sale of a motor vehicle in which:
 - a. Affordable Used Kars entered a retail installment contract;
 - b. Affordable Used Kars accepted payments in one or more deferred installments; or
 - c. Affordable Used Kars held a lien.
5. **No later than November 15, 2019**, Affordable Used Kars must refund any finance charges that it charged or received from any retail buyers.
6. **No later than November 15, 2019**, Affordable Used Kars must release any liens that are currently filed on any motor vehicles in Affordable Used Kars' name. Affordable Used Kars may not charge a fee to any buyer for releasing these liens.
7. **No later than November 15, 2019**, Affordable Used Kars 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. Affordable Used Kars 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. Affordable Used Kars 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 November 15, 2019**, Affordable Used Kars must create a spreadsheet labeled "L19-00231AffordableUsedKars 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 Affordable Used Kars provided restitution or released a lien as described above, and each retail installment transaction that Affordable Used Kars 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 Affordable Used Kars released the lien, if applicable; and
 - ix. name of any creditor that Affordable Used Kars assigned the transaction to, if applicable.

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

- d. **No later than November 15, 2019**, Affordable Used Kars 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

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

Right to Request Hearing

Affordable Used Kars has the right to request a hearing regarding this Order.⁹ Affordable Used Kars request must be made in writing and sent to the OCCC not later than 30 days after Affordable Used Kars receives this Order. Affordable Used Kars must send its request to:

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

If Affordable Used Kars requests a hearing, a hearing on this matter will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.¹⁰ If Affordable Used Kars fails 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 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.

⁸ Tex. Fin. Code § 14.208(c).

⁹ Tex. Fin. Code § 14.208(b).

¹⁰ Tex. Fin. Code § 14.208(b).

¹¹ 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, 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 Affordable Kar Kare Properties Inc. d/b/a Affordable Used Kars by the following:

Affordable Kar Kare Properties Inc.
d/b/a Affordable Used Kars
Attn: Perry Dunn, Owner and President
222 S. Galloway Ave.
Mesquite, TX 75149

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7037 5193 4258

Affordable Kar Kare Properties Inc.
d/b/a Affordable Used Kars
Attn: Joyce Dunn, Registered Agent
222 S. Galaway
Mesquite, TX 75149

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7037 5193 4265

/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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matthew.nance@occc.texas.gov