

OCCC CASE NO. L21-00224

IN THE MATTER OF:	§	BEFORE THE
	§	
	§	OFFICE OF CONSUMER
MASTER FILE NO.: 1800061278	§	
GEARONE LLC	§	CREDIT COMMISSIONER
6815 HWY. BLVD.	§	
KATY, TEXAS 77494	§	STATE OF TEXAS

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

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

**Statement of Facts and Law**

Under Chapter 348 of the Texas Finance Code, a person must hold a motor vehicle sales finance license issued by the OCCC in order 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 person who does not hold a Chapter 348 license (or another authorization to act as a holder) may not collect payments on motor vehicle retail installment contracts, and may not indirectly collect payments by repossessing motor vehicles or selling repossessed motor vehicles.<sup>4</sup>

Gearone is a motor vehicle dealer that was formerly licensed by the OCCC under Chapter 348. Gearone operated under master file number 1800061278 at one licensed location, under license number 160361. Gearone’s designated contact address is 6815 Hwy. Blvd., Katy, Texas 77494, and its compliance officer is Nours Elmetni. Gearone’s license was issued on August 10, 2018. Gearone did not renew the license, and the license expired on July 31, 2019.<sup>5</sup>

<sup>1</sup> Tex. Fin. Code §§ 14.208, 14.251, 348.501.

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

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

<sup>4</sup> See Tex. Fin. Code §§ 348.001(3), (7), (8), 348.501.

<sup>5</sup> Tex. Fin. Code § 348.507.

In September 2020, the OCCC received a consumer complaint against Gearone (complaint ID no. 116551). The consumer disputed fee amounts on a motor vehicle retail installment contract, which the consumer entered with Gearone on July 6, 2020. This information suggests that Gearone continued entering motor vehicle retail installment transactions after July 2019, when Gearone's license expired.

As a result of this complaint, the OCCC attempted to conduct an investigation of Gearone. The OCCC found that the website at [www.gearoneauto.com](http://www.gearoneauto.com) contains information about Gearone. For each vehicle, the website includes a button labeled "Apply Credit." Clicking on this link allows a consumer to fill out a credit application. By offering credit in connection with the purchase of motor vehicles, Gearone has continued acting as a holder under Chapter 348, despite the expiration of its license in July 2019.

In January 2021, Gearone filed an application for a motor vehicle sales finance license with the OCCC. The application was assigned application ID number 71286. The application was denied due to Gearone's failure to provide necessary documents, and its failure to address its unlicensed activity. In addition, in February 2021, Nours Elmetni filed an application for a motor vehicle sales finance license. This application was assigned master file number 2000066925 and application ID number 60444. The OCCC denied this application for failure to provide necessary documents. Gearone has not obtained a license since its previous license expired in July 2019.

Gearone has violated Chapter 348 of the Texas Finance Code by acting as a holder without a motor vehicle sales finance license.

### **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>6</sup> 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.<sup>7</sup> In addition, if the

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<sup>6</sup> Tex. Fin. Code § 14.208(a).

<sup>7</sup> Tex. Fin. Code § 14.251(b).

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.<sup>8</sup>

The Commissioner has reasonable cause to believe that Gearone has violated Chapter 348 of the Texas Finance Code by acting as a holder without a motor vehicle sales finance license.

## Order

IT IS ORDERED that:

1. Gearone 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. Gearone must cease and desist 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. Gearone must cease and desist accepting credit applications, and must cease and desist including language on its website indicating that consumers may apply for credit.
4. Gearone must cease and desist collecting payments on existing transactions that require a motor vehicle sales finance license.
5. Gearone must cease and desist repossessing motor vehicles, and must cease and desist selling repossessed motor vehicles.
6. Gearone must allow the OCCC to conduct an investigation of the records of the business.
7. **No later than 30 days after the date of this Order**, Gearone must perform a self-review and identify each motor vehicle retail installment transaction that Gearone entered or accepted payments on or after August 1, 2019, including each sale of a motor vehicle in which:

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<sup>8</sup> Tex. Fin. Code § 348.515.

- a. Gearone entered a retail installment contract;
  - b. a buyer applied for credit through a credit application linked from Gearone's website;
  - c. Gearone accepted payments in one or more deferred installments; or
  - d. Gearone held a lien.
8. **No later than 30 days after the date of this Order**, Gearone must refund any finance charges that it charged or received from any retail buyer on or after August 1, 2019.
9. **No later than 30 days after the date of this Order**, Gearone must release any liens that are currently filed on any motor vehicles in Gearone's name. Gearone may not charge a fee to any buyer for releasing these liens.
10. **No later than 30 days after the date of this Order**, Gearone must identify each retail installment transaction that it assigned to another creditor on or after August 1, 2019.
11. **No later than 30 days after the date of this Order**, Gearone must provide the OCCC with all records relating to the consumer who filed a complaint against Gearone in September 2020. These records must be sent by email to Matthew Nance at [matthew.nance@occc.texas.gov](mailto:matthew.nance@occc.texas.gov).
12. With respect to maintaining proof of refunds and release of liens:
- a. Gearone 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.<sup>9</sup>
  - b. Gearone 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

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<sup>9</sup> See 7 Tex. Admin. Code § 84.704(b), (g).

- ii. the second anniversary of the date on which the final entry is made in the buyer's record.
- c. **No later than 30 days after the date of this Order**, Gearone create a spreadsheet labeled "L21-00224Gearone." 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 Gearone provided restitution or released a lien as described above, and each retail installment transaction that Gearone 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 Gearone released the lien, if applicable; and
  - ix. name of any creditor that Gearone assigned the transaction to, if applicable.

13. **No later than 30 days after the date of this Order**, Gearone must provide the OCCC with a copy of the spreadsheet. The spreadsheet must be sent by email to Matthew Nance at [matthew.nance@occc.texas.gov](mailto:matthew.nance@occc.texas.gov).

### **Violation of Order**

If Gearone violates this Order, the OCCC may impose an administrative penalty of up to \$1,000 per day.<sup>10</sup>

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<sup>10</sup> Tex. Fin. Code § 14.208(c).

## Right to Request Hearing

You have the right to request a hearing regarding this Order.<sup>11</sup> To request a hearing, you must send a written hearing request to the OCCC no later than 30 days after the date of this Order.<sup>12</sup> You must send your request to Matthew Nance, Deputy General Counsel, by mail to 2601 N. Lamar Blvd., Austin, Texas 78705, or by email to [matthew.nance@occc.texas.gov](mailto:matthew.nance@occc.texas.gov).

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>13</sup> If you fail to request a hearing by the deadline, this Order will be considered final and enforceable.<sup>14</sup>

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 at [matthew.nance@occc.texas.gov](mailto:matthew.nance@occc.texas.gov).

Signed this 28th day of September, 2021.

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

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

<sup>12</sup> Tex. Fin. Code § 14.208(b).

<sup>13</sup> Tex. Fin. Code § 14.208(b).

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

**CERTIFICATE OF SERVICE**

I certify that on September 28, 2021, a true and correct copy of this Order to Cease and Desist Unlicensed Activity, Take Affirmative Action, and Make Restitution has been sent to Gearone LLC by the following methods:

Gearone LLC  
Attn: Nours Elmetni, Compliance Officer  
6815 Hwy. Blvd.  
Katy, TX 77494  
nourselmetni@gmail.com

- hand delivery
- fax
- email
- regular mail
- certified mail, return receipt requested  
#9214 8901 9403 8300 0051 1159 29

Gearone LLC  
Attn: Nours Elmetni, Registered Agent  
4810 Jarl Ct.  
Katy, TX 77494  
nous@gearoneauto.com

- hand delivery
- fax
- email
- regular mail
- certified mail, return receipt requested  
#9214 8901 9403 8300 0051 1159 36

/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)  
512-936-7610 (fax)  
matthew.nance@occc.texas.gov