

OCCC CASE NO. L18-00082

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NUMBER: 17142	§	OFFICE OF CONSUMER
JANUCO LLC	§	
d/b/a XPRESS TITLE LOANS	§	CREDIT COMMISSIONER
2241 NW MILITARY HWY. #104	§	
SAN ANTONIO, TEXAS 78213	§	STATE OF TEXAS

AGREED ORDER OF REVOCATION

The Office of Consumer Credit Commissioner (“OCCC”) and Januco LLC d/b/a Xpress Title Loans (“Xpress Title Loans”) enter this Agreed Order of Revocation under Sections 14.208 and 393.614 of the Texas Finance Code.

Xpress Title Loans agrees to the revocation of its credit access business license. Xpress Title Loans also agrees to cease and desist certain actions, and to take certain affirmative actions, as described below.

Statement of Facts and Law

1. Xpress Title Loans is a credit access business licensed by the OCCC under Chapter 393 of the Texas Finance Code. Xpress Title Loans has held a credit access business license since October 12, 2012.
2. Xpress Title Loans operates under master file number 17142 at one licensed location, under license number 63903. Xpress Title Loans’ business location is 2241 NW Military Hwy. #104, San Antonio, Texas 78213.
3. Xpress Title Loans’ designated compliance officer is Eric Sherer. Xpress Title Loans designated Eric Sherer as its compliance officer on January 31, 2019.
4. Between October 12, 2012, and January 31, 2019, Xpress Title Loans’ designated compliance officer was Luis Nunez.
5. Records of the OCCC reflect that Xpress Title Loans’ designated registered agent is Juan Cordoba at 6930 Abbey Falls, San Antonio, Texas 78279.

6. Records of the Texas Secretary of State reflect that Xpress Title Loans' designated registered agent is Humberto Jaidar at 6930 Abbey Falls, San Antonio, Texas 78279.
7. Xpress Title Loans is owned by Humberto Jaidar, Luis Nunez, and Juan Cordoba. Records of the Texas Secretary of State list Juan Cordoba as president, Luis Nunez as vice president, and Marina Polanco as a managing member.
8. The Credit Service Agreements used by Xpress Title Loans reflect that Xpress Title Loans' designated registered agent for service of process is Alicia Rodriguez at 2241 NW Military Hwy. #104, San Antonio, Texas 78213.

I. Repeated Failure to File Timely and Accurate Reports

A. Injunctive Order (Inaccurate and Late Reports in 2015 and 2016)

9. Under Chapter 393 of the Texas Finance Code and its implementing rules, a credit access business must file quarterly and annual reports with the OCCC.¹
10. All information provided on the reports must be accurate and calculated in accordance with the OCCC's instructions.²
11. A credit access business must file its reports in accordance with the following deadlines:
 - 1st quarter report – due by April 30;
 - 2nd quarter report – due by July 31;
 - 3rd quarter report – due by October 31; and
 - 4th quarter and annual reports – due by January 31.³
12. The OCCC aggregates quarterly and annual report data and makes the data available to the Texas Finance Commission and the Texas Legislature. The OCCC also posts the aggregate report data on its website for use by the general public. When a credit access business does not file its reports, or files

¹ Tex. Fin. Code § 393.627; 7 Tex. Admin. Code § 83.5001.

² 7 Tex. Admin. Code § 83.5001(a).

³ 7 Tex. Admin. Code § 83.5001(b).

a late or inaccurate report, the OCCC is prevented from publishing aggregate report data in a timely and accurate manner.

13. If a credit access business fails to timely file its quarterly or annual reports, the OCCC may issue an injunctive order.⁴
14. Xpress Title Loans submitted its 4th quarter and 2015 annual reports with inaccurate data. Xpress Title Loans reported a different number of new loans on the four quarterly reports than on the annual report. The difference was greater than 10% and 40 total loans in both the single payment auto title loan transaction and installment payment deferred presentment transaction categories.
15. In correspondence dated March 10, 2016, the OCCC notified Xpress Title Loans of the errors in its reports and provided an opportunity for Xpress Title Loans to submit corrected reports by March 31, 2016.
16. Xpress Title Loans did not file corrected 2015 quarterly and annual reports with the OCCC by the deadline of March 31, 2016.
17. Additionally, Xpress Title Loans did not file its 2016 1st quarter report with the OCCC by the deadline of April 30, 2016.
18. The OCCC issued an Order to File Timely and Accurate Quarterly Reports against Xpress Title Loans on May 13, 2016 (Injunctive Order).
19. The Injunctive Order required Xpress Title Loans to: (1) file its corrected 2015 quarterly and annual reports within 30 days of receiving the order, (2) to file its 2016 1st quarter report within 30 days of receiving the order, and (3) to timely file complete and accurate future quarterly and annual reports.
20. The Injunctive Order notified Xpress Title Loans that violations of the order may result in the assessment of administrative penalties, and that multiple violations may result in the suspension or revocation of its license.

⁴ Tex. Fin. Code § 14.208; 7 Tex. Admin. Code § 83.5001(e)(1).

21. Xpress Title Loans did not request a hearing, and the Injunctive Order became final after 30 days.⁵ On June 27, 2016, the OCCC issued a Final Order, notifying Xpress Title Loans that the Injunctive Order had become final.
22. After receiving the Injunctive Order, Xpress Title Loans filed corrected 2015 quarterly and annual reports, and a 2016 1st quarter report.

B. First Administrative Penalty (Late Report for 2016 2nd Quarter)

23. If a credit access business fails to timely file its quarterly or annual reports within four quarters after failing to timely file a previous report, the OCCC may assess an administrative penalty of \$500.00 for each licensed location.⁶
24. Xpress Title Loans did not file its 2016 2nd quarter report with the OCCC by the deadline of July 31, 2016.
25. On August 26, 2016, the OCCC issued an Order Assessing Administrative Penalty for Violation of Injunctive Order against Xpress Title Loans (First Administrative Penalty Order).
26. The First Administrative Penalty Order ordered Xpress Title Loans to pay a \$500.00 penalty and file its 2016 2nd quarter report.
27. Xpress Title Loans did not request a hearing, and the First Administrative Penalty Order became final after 30 days.⁷
28. After receiving the First Administrative Penalty Order, Xpress Title Loans filed its 2016 2nd quarter report and paid the \$500.00 penalty.

C. Second Administrative Penalty (Inaccurate Report for 2016 4th Quarter)

29. If a credit access business fails to timely file its quarterly or annual reports within four quarters after a second or subsequent failure to timely file a report, the OCCC may assess an administrative penalty of \$1,000.00 for each licensed location.⁸

⁵ See Tex. Fin. Code § 14.208(b).

⁶ 7 Tex. Admin. Code § 83.5001(e)(2)(B).

⁷ See Tex. Fin. Code § 14.208(b).

⁸ 7 Tex. Admin. Code § 83.5001(e)(2)(C).

30. Xpress Title Loans filed its 2016 4th quarter report with inaccurate data. Xpress Title Loans inaccurately reported an average original term of 210 days for single payment title loans.
31. In correspondence dated February 28, 2017, the OCCC notified Xpress Title Loans of the error in its 2016 4th quarter report and provided Xpress Title Loans the opportunity to submit corrected report by March 10, 2017.
32. Xpress Loans did not file a corrected report by the deadline of March 10, 2017.
33. On April 21, 2017, the OCCC issued an Order Assessing Administrative Penalty for Violation of Injunctive Order against Xpress Title Loans (Second Administrative Penalty Order).
34. The Second Administrative Penalty Order ordered Xpress Title Loans to pay a \$1,000.00 penalty and to file a corrected 2016 4th quarter report.
35. Xpress Title Loans did not request a hearing, and the Second Administrative Penalty Order became final after 30 days.⁹
36. After receiving the Second Administrative Penalty Order, Xpress Title Loans filed a corrected 2016 4th quarter report and paid the \$1,000.00 penalty.

D. Third Administrative Penalty (Late Report for 2017 First Quarter)

37. Xpress Title Loans did not file its 2017 1st quarter report with the OCCC by the deadline of April 30, 2017.
38. On July 21, 2017, the OCCC issued an Order Assessing Administrative Penalty for Violation of Injunctive Order against Xpress Title Loans (Third Administrative Penalty Order).
39. The Third Administrative Penalty Order ordered Xpress Title Loans to pay a \$1,000.00 penalty and file its 2017 1st quarter report.

⁹ See Tex. Fin. Code § 14.208(b).

40. Xpress Title Loans did not request a hearing and the Third Administrative Penalty Order became final after 30 days.¹⁰
41. After receiving the Third Administrative Penalty Order, Xpress Title Loans filed its 2017 1st quarter report and paid the \$1,000.00 penalty.

E. Violations After Third Administrative Penalty

42. If a credit access business fails to timely file its quarterly or annual reports within four quarters after a third or subsequent failure to timely file a report, the OCCC may revoke the business's license.¹¹
43. Xpress Title Loans did not file its 2017 3rd quarter report with the OCCC by the deadline of October 31, 2017. Xpress Title Loans attempted to file the 2017 3rd quarter report on November 7, 2017. The OCCC notified Xpress Title Loans that the report was rejected because of invalid data in Column F of the submitted spreadsheet. Xpress Title Loans filed an amended 2017 3rd quarter report with the OCCC on February 11, 2019.
44. Xpress Title Loans did not file its 2017 4th quarter report with the OCCC by the deadline of January 31, 2018. Xpress Title Loans filed its 2017 4th quarter report on May 17, 2018.
45. Xpress Title Loans did not file its 2017 annual report with the OCCC by the deadline of January 31, 2018. Xpress Title Loans filed its 2017 annual report on May 17, 2018.
46. Xpress Title Loans did not file its 2018 2nd quarter report with the OCCC by the deadline of July 31, 2018. On August 9, 2018, the OCCC notified Xpress Title Loans that the OCCC had not received this report. Xpress Title Loans filed its 2018 2nd quarter report on February 14, 2019.
47. Xpress Title Loans did not file its 2018 3rd quarter report with the OCCC by the deadline of October 31, 2018. Xpress Title Loans filed its 2018 3rd quarter report on February 14, 2019.

¹⁰ See Tex. Fin. Code § 14.208(b).

¹¹ 7 Tex. Admin. Code § 83.5001(e)(3).

48. Xpress Title Loans attempted to file its 2018 4th quarter report on the deadline of January 31, 2019. The OCCC notified Xpress Title Loans that the report was rejected because of invalid data in Column F of the submitted spreadsheet. Xpress Title Loans filed an amended 2018 4th quarter report with the OCCC on February 1, 2019.
49. Xpress Title Loans attempted to file its 2018 annual report on the deadline of January 31, 2019. The OCCC notified Xpress Title Loans that the report was rejected because of invalid data in Columns E and F of the submitted spreadsheet. Xpress Title Loans filed an amended 2018 annual report with the OCCC on February 1, 2019.
50. Xpress Title Loans' 2017 quarterly and annual reports contain inconsistent information regarding the total number of loans paid in full (or otherwise closed for reduced payoff). The four 2017 quarterly reports show a total number of loans paid in full (or otherwise closed) that is significantly different from the total number shown on the 2017 annual report.
51. Xpress Title Loans' 2018 quarterly and annual reports contain inconsistent information regarding the total number of new loans obtained. The four 2018 quarterly reports show a total number of new loans obtained that is significantly different from the total number shown on the 2018 annual report.
52. Xpress Title Loans' 2018 quarterly and annual reports contain inconsistent information regarding the total number of loans paid in full (or otherwise closed for reduced payoff). The four 2018 quarterly reports show a total number of loans paid in full (or otherwise closed) that is significantly different from the total number shown on the 2018 annual report.
53. Xpress Title Loans failed to file timely and accurate quarterly and annual reports within four quarters of a third or subsequent failure to timely file a report.
54. By repeatedly failing to file timely and accurate reports, Xpress Title Loans has repeatedly violated Chapter 393, its implementing rules, and the Injunctive Order.

II. Failure to Maintain Credit Services Organization Registration

55. Under Chapter 393 of the Texas Finance Code, a credit services organization must register with the Texas Secretary of State before conducting business in the state.¹²
56. A credit access business is a type of credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan.¹³
57. Xpress Title Loans has been operating as a credit services organization and credit access business since 2012.
58. Xpress Title Loans obtained a registration as a credit services organization from the Texas Secretary of State on June 12, 2012. This registration expired on June 11, 2016.
59. Xpress Title Loans obtained a new credit services organization registration on February 21, 2019.
60. Between June 11, 2016, and February 21, 2019, Xpress Title Loans conducted business without a valid credit services organization registration.
61. By conducting business without a credit services organization registration, Xpress Title Loans violated Chapter 393 of the Texas Finance Code.

III. Failure to Post Correct In-Store OCCC Notice

62. Under Chapter 393 of the Texas Finance Code, a credit access business must post notices in a conspicuous location in an area of the business accessible to consumers, including a notice of the name and address of the OCCC and the telephone number of the office's consumer helpline.¹⁴
63. Under Chapter 393's implementing rules, the in-store notice of the OCCC's

¹² Tex. Fin. Code § 393.101.

¹³ Tex. Fin. Code § 393.601(2).

¹⁴ Tex. Fin. Code § 393.222(a)(2).

name and address must state: "This business is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the business, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: occc.texas.gov. Email: consumer.complaints@occc.texas.gov."¹⁵ A credit access business must prominently display this notice in a conspicuous location visible to the general public.¹⁶

64. The OCCC examined Xpress Title Loans on December 19, 2017, and issued an examination report in connection with the examination.
65. During the December 2017 examination, the OCCC found that the OCCC notice displayed at Xpress Title Loans did not contain the text required by Chapter 393's implementing rules. The examination report instructed Xpress Title Loans to display the updated OCCC notice.
66. The OCCC examined Xpress Title Loans on March 14, 2018, and issued an examination report in connection with the examination.
67. During the March 2018 examination, the OCCC found that the OCCC notice still had not been updated to the text required by Chapter 393's implementing rules. The examination report instructed Xpress Title Loans to display the current OCCC notice and send the OCCC a confirmation letter when the updated notice has been posted.
68. By failing to post the required in-store notice of the OCCC's name and address, Xpress Title Loans violated Chapter 393's implementing rules.

IV. Failure to Provide and Maintain Consumer Disclosures

69. Under Chapter 393 of the Texas Finance Code, before performing services, a credit access business must provide a disclosure to the consumer.¹⁷ The consumer disclosure must include the interest, fees, annual percentage rate,

¹⁵ 7 Tex. Admin. Code § 83.6003(a)(2).

¹⁶ 7 Tex. Admin. Code §§ 83.6003(a)(2) .

¹⁷ Tex. Fin. Code § 393.223(a).

the amount of accumulated fees a consumer would incur by renewing or refinancing a transaction, and information regarding the typical pattern of repayment.¹⁸ Chapter 393's implementing rules contain the model form for the consumer disclosure.¹⁹

70. A credit access business must maintain a consumer transaction file for each individual transaction under Chapter 393.²⁰ The transaction file must include a copy of the legally required consumer disclosure.²¹
71. During the December 2017 examination, the OCCC found that Xpress Title Loans was not providing the consumer disclosure to consumers before performing credit access business services. The examination report instructed Xpress Title Loans to begin providing the disclosure to consumers.
72. During the March 2018 examination, the OCCC found that Xpress Title Loans was still not providing the required consumer disclosure, and that certain transaction files did not contain a copy of the consumer disclosure. The examination report instructed Xpress Title Loans to provide the consumer disclosure.
73. By failing to provide the required consumer disclosure, and by failing to maintain copies of the required consumer disclosure in consumer transaction files, Xpress Title Loans violated Chapter 393 of the Texas Finance Code and its implementing rules.

V. Misleading Representations Regarding Payment Terms

74. Under Chapter 393 of the Texas Finance Code, each contract for the purchase of services from a credit access business must contain the payment terms for the transaction.²²
75. A credit access business may not make or use a false or misleading representation in the offer or sale of services.²³

¹⁸ Tex. Fin. Code § 393.223(a).

¹⁹ 7 Tex. Admin. Code § 83.6007(a)-(d); *see* Tex. Fin. Code § 393.223(a), (c) (authorizing the Texas Finance Commission to adopt rules containing the model form for the disclosure).

²⁰ 7 Tex. Admin. Code § 83.5004(2).

²¹ 7 Tex. Admin. Code § 83.5004(2)(A)(iv)(I).

²² Tex. Fin. Code § 393.201(b)(1).

76. During the December 2017 examination, the OCCC found that Xpress Title Loans' Credit Service Agreement included example payment terms that were different from actual payment terms. In one transaction, the Credit Service Agreement lists an annual percentage rate of 162.96%, a finance charge of \$461.31, an amount financed of \$3,333.00, and a total of payments of \$3,794.11. Before disclosing these amounts, the Credit Service Agreement for this transaction includes the following statement: "I understand that your fee needs to be disclosed by a lender as prepaid finance charge resulting in a higher FINANCE CHARGE and ANNUAL PERCENTAGE RATE. For example, on a loan of \$230.38 of principal (itemized as including your fee of \$30.38, and remaining funds of \$200.00), bearing interest at 9.90% per annum, with a disclosed Amount Financed of \$200.00 and a total of payments of \$230.38 payable in one payment of \$230.38 each, the FINANCE CHARGE would be \$30.38 and the ANNUAL PERCENTAGE RATE would be 792.05%."
77. This statement of example payment terms is misleading. This statement suggests that the consumer may obtain payment terms that are different from the actual payment terms that the consumer is obtaining.
78. The December 2017 examination report instructed Xpress Title Loans to conduct a review of all active title loan accounts and provide each consumer with a letter disclosing the actual payment terms for the transactions, and to provide the OCCC with a list of the affected accounts. Finally, Xpress Title Loans was instructed to amend its Credit Service Agreements to reflect the actual payment terms for each transaction going forward.
79. During the March 2018 examination, the OCCC found that Xpress Title Loans still had not amended its Credit Service Agreement to reflect the actual payment terms for each transaction. Xpress Title Loans was again instructed to amend its Credit Service Agreement to reflect actual payment terms. Xpress Title Loans was again instructed to complete a review of all affected customers, and to respond to the OCCC's instructions no later than May 13, 2018. The OCCC did not receive this information from Xpress Title Loans.

²³ Tex. Fin. Code § 393.304(1).

80. By making false or misleading representations about payment terms, Xpress Title Loans violated Chapter 393 of the Texas Finance Code.

VI. False and Misleading Disclosures Regarding Surety Bond

81. Under Chapter 393 of the Texas Finance Code, before executing a contract with a consumer or receiving valuable consideration from a consumer, a credit access business must provide a disclosure statement to the consumer.²⁴

82. The disclosure statement must contain an explanation of the consumer's right to proceed against a surety bond or account obtained under Chapter 393.²⁵ In addition, the disclosure statement must contain the name and address of the surety company that issued the surety bond or the name and address of the depository and the trustee and the account number of the surety account, as appropriate.²⁶

83. Xpress Title Loans' Credit Services Disclosure Statement includes the following statement: "Your Rights to Make a Claim against our Surety Bond: We have filed a \$10,000 surety bond with the Texas Secretary of State under Chapter 393 of the Texas Finance Code with respect to our store referenced above."

84. Xpress Title Loans' Credit Services Disclosure Statement includes the following statement: "Surety Bond Company and address: , , -"

85. Xpress Title Loans' Credit Service Agreement includes the following statement: "Claims against surety account: I understand that you have filed a credit services organization surety account in the amount of \$10,000 with the Secretary of State of Texas under Chapter 393 of the Texas Finance Code. The surety account is held as account number by , , -."

86. Xpress Title Loans' Credit Services Disclosure Statement and Credit Service Agreement list blank spaces instead of the actual name, address, and account number for the surety bond or surety account.

²⁴ Tex. Fin. Code § 393.105.

²⁵ Tex. Fin. Code § 393.105(2).

²⁶ Tex. Fin. Code § 393.105(3).

87. During the December 2017 examination, the OCCC found that Xpress Title Loans had not obtained a surety bond. The examination report instructed Xpress Title Loans to either obtain a surety bond or provide proof that a surety bond was not required.
88. During the March 2018 examination, the OCCC found that Xpress Title Loans still had not obtained a surety bond. The examination report instructed Xpress Title Loans to either obtain a surety bond or provide proof that a surety bond was not required.
89. By failing to disclose the name, address, and account number of a surety bond or surety account, Xpress Title Loans violated Chapter 393 of the Texas Finance Code.
90. By making false and misleading representations that it had obtained a surety bond and surety account, Xpress Title Loans violated Chapter 393 of the Texas Finance Code.

VII. Failure to Provide and Maintain Notification of Disposition of Collateral

91. Chapter 9 of the Texas Business and Commerce Code allows two methods for a creditor to dispose of collateral after repossession: (1) disposition through a public or private sale, and (2) acceptance in full satisfaction.²⁷
92. In order to dispose of collateral through a public or private sale, the creditor must provide a notification of disposition to the debtor before the sale, conduct the sale in a commercially reasonable manner, and comply with requirements for calculating the surplus or deficiency after the sale.²⁸
93. In order to accept the collateral in full satisfaction of the debt, the creditor must provide the debtor with a proposal to accept the collateral in full satisfaction of the debt, and may only do so if the debtor consents, or does not make a timely objection to the proposal.²⁹

²⁷ Tex. Bus. & Comm. Code §§ 9.610-9.622.

²⁸ Tex. Bus. & Comm. Code §§ 9.610, 9.611, 9.612, 9.614, 9.615, 9.616, 9.617.

²⁹ Tex. Bus. & Comm. Code §§ 9.620, 9.621, 9.622.

94. In a consumer transaction, if a creditor disposes of collateral without complying with the requirements for disposition in a public or private sale, then the creditor is prohibited from seeking a deficiency from the debtor.³⁰
95. Under Chapter 393's implementing rules, a credit access business must maintain complete documentation of any repossession of a motor vehicle and any subsequent disposition.³¹ This documentation includes any notification of disposition, any waiver of the notice of disposition, and any proposal to accept the collateral in full satisfaction.³²
96. During the December 2017 examination, the OCCC found that Xpress Title Loans had initiated repossessions but had not maintained any documentation evidencing compliance with the requirements of Chapter 9 of the Texas Business & Commerce Code. The examination report instructed Xpress Title Loans to conduct a self-review of all repossession accounts from April 10, 2013 to December 17, 2017, and waive the deficiency balance for each repossession account discovered on which notice of disposition was not provide prior to the disposition of the repossessed collateral. Xpress Title Loans was also instructed to provide a spreadsheet to the OCCC detailing all accounts on which the deficiency balance was waived.
97. During the March 2018 examination, the OCCC found that Xpress Title Loans had not completed certain instructions following the December 2017 examination report. In the March 2018 examination report, Xpress Title Loan was instructed to waive the deficiency balances on all accounts where there was no notification of disposition. Xpress Title Loan was further instructed to maintain written proof that the deficiency balances were waived. Xpress Title Loan was instructed to create, and submit to the OCCC, a spreadsheet detailing all accounts on which the deficiency balances were waived. Xpress Title Loans was instructed to respond to the OCCC's instructions no later than May 13, 2018. The OCCC did not receive this information from Xpress Title Loans.

³⁰ *Tanenbaum v. Econ. Lab., Inc.*, 628 S.W.2d 769, 772 (Tex. 1982); *see also* State Bar Committee Comment to Tex. Bus. & Comm. Code § 9.626 (explaining that Texas law continues to follow the "absolute bar" rule barring a noncomplying creditor from collecting any deficiency in a consumer transaction, despite statutory amendments that partially supersede *Tanenbaum*).

³¹ 7 Tex. Admin. Code § 83.5004(2)(B)(iv).

³² 7 Tex. Admin. Code § 83.5004(2)(B)(iv)(III)-(IV).

98. Xpress Title Loans violated Chapter 9 of the Texas Business & Commerce Code by disposing of collateral without complying with the requirements for disposition through a public or private sale, and without complying with the requirements for accepting collateral in full satisfaction.
99. Xpress Title Loans violated Chapter 393's implementing rules by failing to maintain documentation of the disposition of collateral.

VIII. Authority and Grounds for License Revocation

100. The Commissioner may revoke a credit access business license if the license holder knowingly or without the exercise of due care violates Chapter 393 of the Texas Finance Code, a rule adopted under Chapter 393, or an order issued under Chapter 393.³³
101. The Commissioner may revoke a credit access business license if a fact or condition exists that, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the Commissioner's denial of the application.³⁴
102. The Commissioner may revoke a credit access business license if the licensee fails to timely file a quarterly or annual report within four quarters after a third or subsequent failure to timely file a report.³⁵
103. To approve a credit access business license application, the Commissioner must find the financial responsibility, experience, character, and general fitness of the applicant are sufficient to: (A) command the confidence of the public, and (B) warrant the belief that the business will be operated lawfully and fairly.³⁶
104. The OCCC issued Xpress Title Loans' license, and permitted its continuation, based on an expectation that the business would be operated in compliance with state and federal law.

³³ Tex. Fin. Code § 393.614(a)(2).

³⁴ Tex. Fin. Code § 393.614(a)(3).

³⁵ 7 Tex. Admin. Code § 83.5001(e)(3).

³⁶ Tex. Fin. Code § 393.607(a).

105. As part of the license application process, Xpress Title Loans' owners and principal parties each signed a personal questionnaire stating they were "familiar with the statutes and regulations applicable to the business to be licensed."
106. The statement of experience submitted with Xpress Title Loans' license application states that "the principals of Januco LLC dba Xpress Title Loans have already made the commitment to operating correctly, lawfully, and fairly," and that there is "a level of familiarity with the laws, licensing, procedures, and disclosures."
107. Xpress Title Loans has repeatedly violated Chapter 393 of the Texas Finance Code, Chapter 393's implementing rules, and the Injunctive Order.
108. Xpress Title Loans failed to file timely and accurate quarterly and annual reports within four quarters after a third or subsequent failure to timely file a report.
109. In its enforcement orders, examination reports, and reporting correspondence, the OCCC repeatedly notified Xpress Title Loans of legal requirements and repeatedly provided Xpress Title Loans with opportunities to comply with the law.
110. Xpress Title Loans' repeated violations were committed knowingly or without exercise of due care.
111. Xpress Title Loans' repeated violations show that its financial responsibility, experience, character, and general fitness are not sufficient to command the confidence of the public, or to warrant the belief that the business will be operated lawfully and fairly.
112. Xpress Title Loans' repeated violations clearly would have justified denial of Xpress Title Loans' license application, if the violations had existed or been known to exist at the time of the license application.
113. Xpress Title Loans' repeated violations are contrary to the statements and affirmations it made in its license application. If the OCCC had known at the time of application that Xpress Title Loans would not operate in

accordance with the representations made in its license application, then the OCCC would not have issued a license to Xpress Title Loans. The OCCC would have denied Xpress Title Loans' license application for lack of character and fitness necessary to warrant the belief that the business will be operated lawfully.

114. If the OCCC had known that Xpress Title Loans would repeatedly violate Chapter 393, Chapter 393's implementing rules, and an order issued under Chapter 393, then the OCCC would not have issued a license to Xpress Title Loans. The OCCC would have denied Xpress Title Loans' license application for lack of character and fitness necessary to warrant the belief that the business will be operated lawfully.
115. Because Xpress Title Loans knowingly or without exercise of due care violated Chapter 393, Chapter 393's implementing rules, and an order issued under Chapter 393, Xpress Title Loans' credit access business license should be revoked.
116. Because Xpress Title Loans failed to file timely and accurate quarterly and annual reports within four quarters after a third or subsequent failure to timely file a report, Xpress Title Loans' credit access business license should be revoked.
117. Based on the facts and conditions described above, which clearly would have justified denial of Xpress Title Loans' license application, Xpress Title Loans' credit access business license should be revoked.
118. If the 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, an order to take affirmative action, or both to enforce compliance.³⁷
119. The Commissioner has reasonable cause to believe that Xpress Title Loans has violated Chapter 393 and its implementing rules.

³⁷ Tex. Fin. Code § 14.208(a).

Order & Agreement

By signing below, Xpress Title Loans waives all rights to any hearing or appeal, and otherwise agrees to comply with this Agreed Order and Texas law.

IT IS ORDERED that:

1. The credit access business license of Januco LLC d/b/a Xpress Title Loans, license number 17142-63903, is REVOKED.
2. Xpress Title Loans must cease and desist entering new transactions where it obtains for a consumer, or assists a consumer in obtaining, a payday or title loan.
3. Xpress Title Loans must cease and desist collecting any fee in connection with a payday or title loan, including any fee for services as a credit access business or credit services organization.
4. Xpress Title Loans must cease and desist entering transactions where it obtains for a consumer, or assists a consumer in obtaining, a refinance or renewal that satisfies and replaces a payday or title loan. (However, Xpress Title Loans may enter one or more modifications or deferments to extend a transaction's due date.)
5. Xpress Title Loans must cease and desist repossessing motor vehicles in connection with any loan. For all transactions with an outstanding repossession, Xpress Title Loans must stop the repossession immediately.
6. Xpress Title Loans must cease and desist selling or transferring any repossessed motor vehicle. If Xpress Title Loans possesses any repossessed motor vehicles, it must immediately return each of these motor vehicles to the consumer.
7. **No later than 60 days after the date of this Order**, Xpress Title Loans must assign any outstanding credit service agreement, any outstanding loan, and any other right or obligation in connection with a credit access business transaction to another credit access

business that holds an active license with the OCCC under Chapter 393 of the Texas Finance Code.

8. If Xpress Title Loans is unable to assign an agreement, loan, or other right or obligation described in the previous paragraph within 60 days after the date of this Order, then **no later than 70 days after the date of this Order**, Xpress Title Loans will waive all rights in these transactions, including any amount owed to Xpress Title Loans, and will release any liens held by Xpress Title Loans on motor vehicles. Xpress Title Loans will send a letter to each of these consumers stating that the balance has been waived and the lien has been released.
9. **No later than 70 days after the date of this Order**, Xpress Title Loans must send the OCCC a spreadsheet identifying each right assigned. For each transaction or loan, the list must include the consumer name, the account number, and the name of the credit access business that took the assignment. The spreadsheet must be sent by email to Matthew Nance at matthew.nance@occc.texas.gov.
10. **No later than 70 days after the date of this Order**, Xpress Title Loans must file accurate and complete quarterly and annual reports of all activity for calendar year 2019 as described by Texas Finance Code Section 393.627 and 7 Texas Administrative Code Section 83.5001.

Signed this 12th day of March, 2019.

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

AGREED:

/s/ Eric D. Sherer
Eric D. Sherer
Compliance Officer
Januco LLC d/b/a Xpress Title Loans
(signed electronically with permission)

CERTIFICATE OF SERVICE

I certify that on March 12, 2019, a true and correct copy of this Agreed Order has been sent to Januco LLC d/b/a Xpress Title Loans by and through:

Eric D. Sherer
Sherer & Associates, PLLC
18756 Stone Oak Parkway, Suite 200
San Antonio, TX 78258
210-696-6645 (p)
866-305-5823 (f)
esherer@sherer.legal

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7037 5228 6974

*ATTORNEY FOR JANUCO LLC d/b/a
XPRESS TITLE LOANS*

Januco LLC dba Xpress Title Loans
Attn: Eric Sherer, Compliance Officer;
Alicia Rodriguez, Registered Agent
2241 NW Military Hwy. #104
San Antonio, TX 78213
210-388-2958 (p)
januco.llc@gmail.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7037 5228 6981

Januco LLC dba Xpress Title Loans
Attn: Juan Cordoba and Humberto
Jaidar, Registered Agents; Luis Nunez,
Vice President
6930 Abbey Falls
San Antonio, TX 78279

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7037 5228 6998

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