

OCCC CASE NO. L18-00155

IN THE MATTER OF:	§	BEFORE THE
MASTER FILE 13866	§	OFFICE OF CONSUMER
TAX RESCUE II LLC	§	CREDIT COMMISSIONER
6101 SOUTHWEST FWY STE 400	§	
HOUSTON, TEXAS 77057	§	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 Tax Rescue II LLC (“Tax Rescue”), based on the violations of law described below.<sup>1</sup>

**Statement of Facts and Law**

Tax Rescue holds a property tax lender license issued by the OCCC.<sup>2</sup> Tax Rescue operates under master file number 13866 at one licensed location, under license number 54537. Tax Rescue’s Compliance Officer is Marisol Allgeier, and Tax Rescue’s designated contact address is 6101 Southwest Freeway, Suite 400, Houston, Texas 77057.

A property tax lender may loan money to a property owner to pay property taxes.<sup>3</sup> A property owner may authorize a property tax lender to pay property taxes on the owner’s behalf.<sup>4</sup> If the lender pays the taxes on the owner’s behalf, the tax collector will issue a certified statement to the lender.<sup>5</sup> The certified statement confirms that the lender paid the taxes, and that the taxing unit’s tax lien is transferred to the lender.<sup>6</sup>

---

<sup>1</sup> Tex. Fin. Code § 14.208 (authorizing the Commissioner to issue an order to cease and desist from a violation, to take affirmative action, or both, in order to enforce compliance with the Finance Code).

<sup>2</sup> Tex. Fin. Code § 351.051 (requiring a person to hold a property tax lender license to engage in the business of making, transacting, or negotiating property tax loans).

<sup>3</sup> Tex. Fin. Code § 351.002(2); Tex. Tax Code § 32.06(a-1).

<sup>4</sup> Tex. Tax Code § 32.06(a-1) (describing the sworn statement to be executed by a property owner); Tex. Fin. Code § 351.054 (requiring a lender to include certain information in the sworn document).

<sup>5</sup> Tex. Tax Code § 32.06(b) (requiring a tax collector to issue a certified statement); Tex. Tax Code § 32.06(a-4)(3) (authorizing the Finance Commission to prescribe the form and content of the certified statement); 7 Tex. Admin. Code § 89.702 (prescribing the form and content of the certified statement).

<sup>6</sup> Tex. Tax Code § 32.06(b).

If the loan is delinquent for 90 consecutive days then the lender must send a notice of the delinquency to any holder of a recorded preexisting lien on the property.<sup>7</sup> The notice must be sent by certified mail on or before the 120th day of delinquency.<sup>8</sup> The holder or mortgage servicer is entitled, within six months after the notice is sent, to obtain a release of the transferred tax lien by paying the lender the amount owed under the contract.<sup>9</sup> The lender must maintain a copy of the notice of delinquency.<sup>10</sup>

On April 20, 2017, the OCCC conducted an examination of Tax Rescue, finding that Tax Rescue was not providing required notices of 90-day delinquency required by Section 32.06(f) of the Texas Tax Code. On January 29, 2018, the OCCC instructed Tax Rescue to provide the notice of delinquency to the holder or mortgage servicer of one account. On April 18, 2018, Tax Rescue complied with the instructions.

### **Authority**

Section 14.208 of the Texas Finance Code authorizes the Consumer Credit Commissioner (“Commissioner”) to issue an order to cease and desist, to take affirmative action, or both to enforce compliance with Chapter 351.<sup>11</sup> The Commissioner has reasonable cause to believe that Tax Rescue will continue to violate Chapter 351 of the Texas Finance Code unless Tax Rescue is ordered to comply with the notice requirements of Texas Tax Code §32.06 as provided in §351.006 of the Texas Finance Code.

### **Order**

IT IS THEREFORE ORDERED that Tax Rescue II LLC:

1. cease and desist from violating Section 32.06(f) of the Texas Tax Code;
2. review all transactions from **January 1, 2015 to December 31, 2018**, and take the following actions no later than **February 15, 2019**:
  - a. notify any holder of a recorded preexisting lien on a property of a loan delinquency existing for 90 consecutive days if Tax Rescue failed to

---

<sup>7</sup> Tex. Tax Code § 32.06(f).

<sup>8</sup> Tex. Tax Code § 32.06(f).

<sup>9</sup> Tex. Tax Code § 32.06(f).

<sup>10</sup> Tex. Admin. Code § 89.207(3)(F).

<sup>11</sup> Tex. Fin. Code § 14.208.

provide the notice as required by Sections 32.06(f) of the Texas Tax Code;  
and

- b. submit to the OCCC a spreadsheet in Microsoft Excel format identifying the following for each notice given in compliance with (a) above:
  - i. Name of customer,
  - ii. Account number,
  - iii. Address of property,
  - iv. Name of holder of recorded preexisting lien,
  - v. Address of holder of recorded preexisting lien,
  - vi. Date the loan was delinquent for 90 consecutive days, and
  - vii. Current status of the loan.

### **Violation of Order**

Tax Rescue may be assessed an administrative penalty of up to \$1,000 for each day of violation of this Order.<sup>12</sup> Multiple violations of this Order may result in the revocation of Tax Rescue's license.<sup>13</sup>

### **Right to Request Hearing**

Tax Rescue has the right to request a hearing regarding this Order.<sup>14</sup> Tax Rescue's request must be made in writing and sent to the OCCC not later than 30 days after Tax Rescue receives this Order. Tax Rescue must send its request to:

Alexandra L. Gullett  
Office of Consumer Credit Commissioner  
2601 N. Lamar Blvd.  
Austin, Texas 78705

If Tax Rescue requests a hearing, a hearing on this matter will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.<sup>15</sup> If Tax Rescue fails to request a hearing by this deadline, this Order is considered final and enforceable.<sup>16</sup>

---

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

<sup>13</sup> Tex. Fin. Code § 348.508.

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

<sup>15</sup> Tex. Fin. Code § 14.208(b).

<sup>16</sup> Tex. Fin. Code § 14.208(c).

All communications with the OCCC concerning this matter must be through Alexandra L. Gullett, Assistant General Counsel, who may be contacted by mail at 2601 N. Lamar Blvd., Austin, Texas 78705, by telephone at (512) 936-7621, or by email to alexandra.gullett@occc.texas.gov.

Signed this 7th day of January, 2019.

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

## CERTIFICATE OF SERVICE

I certify that on 7th day of January, 2019, a true and correct copy of this Order To Cease And Desist and to Take Affirmative Action has been sent to Tax Rescue II LLC by regular mail and certified mail, return receipt requested, at:

Tax Rescue II LLC  
6101 Southwest Freeway, Ste. 400  
Houston, Texas 77057

Tax Rescue II LLC  
Attn: R. Gary Laws, Statutory Agent  
333 Camela Drive  
Corpus Christi, Texas 78404

Tax Rescue II LLC  
Attn: Marisol Allgeier, Compliance Officer  
P.O. Box 741109  
Houston, Texas 77274

/s/Alexandra Gullett  
Alexandra L. Gullett  
Assistant General Counsel  
Office of Consumer Credit Commissioner  
State Bar No. 24101840  
2601 North Lamar Blvd.  
Austin, Texas 78705  
(512) 936-7621  
(512) 936-7610 (fax)  
alexandra.gullett@occc.texas.gov