

OCCC CASE NO. L18-00189

IN THE MATTER OF:	§	BEFORE THE
	§	
	§	OFFICE OF CONSUMER
MASTER FILE NO. 1500054365	§	
JLRM 15, INC. d/b/a CASA KIA	§	CREDIT COMMISSIONER
5815 MONTANA AVE.	§	
EL PASO, TEXAS 79925	§	STATE OF TEXAS

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

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order to Cease and Desist, to Take Affirmative Action, and to Make Restitution against JLRM 15, Inc. d/b/a Casa Kia (“Casa Kia”), based on the violations of law described below.<sup>1</sup>

**Statement of Facts and Law**

Casa Kia is a motor vehicle sales finance dealer licensed by the OCCC under Chapter 348 of the Texas Finance Code. Casa Kia operates under master file number 1500054365 at one licensed location, under license number 154565. Casa Kia was originally licensed with the OCCC on February 16, 2016. Casa Kia’s designated contact address is 5815 Montana Ave., El Paso, Texas 79925, and its compliance officer is Ronald Lowenfield.

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.<sup>2</sup> A holder is a person who is a retail seller or the assignee of a retail installment contract.<sup>3</sup> A retail installment contract is an agreement in which the seller agrees to accept the cash price of a motor vehicle in one or more deferred installments.<sup>4</sup> A retail installment contract may not be conditioned on the subsequent assignment of the contract to a holder.<sup>5</sup>

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<sup>1</sup> Tex. Fin. Code § 14.208.  
<sup>2</sup> Tex. Fin. Code § 348.501.  
<sup>3</sup> Tex. Fin. Code § 348.001(3).  
<sup>4</sup> Tex. Fin. Code § 348.001(6), (7).  
<sup>5</sup> Tex. Fin. Code § 348.1015.

In October 2016, the OCCC received a complaint against Casa Kia from a consumer. The consumer traded in a vehicle and signed a retail installment contract to purchase a motor vehicle from Casa Kia. Casa Kia required the consumer to sign another retail installment contract when the first contract could not be assigned to another holder. In this transaction, Casa Kia violated Chapter 348 of the Texas Finance Code by conditioning a retail installment contract on subsequent assignment to another holder. In a letter dated January 12, 2017, Casa Kia's manager Luke Lowenfield stated that he and Casa Kia's management staff understood Section 348.1015 of the Texas Finance Code.

In May 2018, the OCCC received a complaint against Casa Kia from another consumer on a similar issue. The consumer and her husband paid a \$2,500.00 down payment to Casa Kia, signed a retail installment contract to purchase a motor vehicle, and took possession of the vehicle. The contract identified Casa Kia as the seller and Capital One Auto Finance as the company to whom the seller would assign the contract. Capital One declined to accept assignment of the contract. Casa Kia refused to honor the retail installment contract. After the consumer hired an attorney and filed a complaint with the OCCC, Casa Kia agreed to rescind the contract and return the \$2,500.00 down payment. In this transaction, Casa Kia violated Chapter 348 of the Texas Finance Code by conditioning a retail installment contract on subsequent assignment to another holder.

### **Authority**

If the Consumer Credit Commissioner ("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>

The Commissioner has reasonable cause to believe that Casa Kia is violating Chapter 348 of the Texas Finance Code by conditioning retail installment contracts on assignment to another holder.

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

## Order

IT IS ORDERED that:

1. Casa Kia must cease and desist conditioning motor vehicle retail installment contracts on subsequent assignment to another holder.
2. **No later than July 29, 2019**, Casa Kia must perform a self-review of transactions from May 4, 2014, to the present, and identify each transaction where:
  - a. a prospective buyer signed a retail installment contract to purchase a motor vehicle from Casa Kia, and
  - b. because of failure to assign the retail installment contract to another holder, Casa Kia repossessed the vehicle or otherwise failed to honor the retail installment contract.
3. **No later than July 29, 2019**, for each of these transactions, Casa Kia must make restitution to the prospective buyer in the amount of any down payment or other consideration provided to Casa Kia, including the value of any trade-in vehicle, if these amounts have not already been refunded or credited to the prospective buyer.
4. **No later than July 29, 2019**, Casa Kia must create a spreadsheet titled "L18-00189CasaKiaRestitution." The spreadsheet must list each buyer who received restitution as described above. The spreadsheet must include a row for each prospective buyer and the following columns:
  - a. account number;
  - b. name of prospective buyer;
  - c. date of the retail installment contract;
  - d. amount of consideration collected from the prospective buyer;
  - e. form of consideration collected from the prospective buyer (e.g., down payment, trade-in);
  - f. amount refunded to the prospective buyer;
  - g. date of the refund.
5. **No later than July 29, 2019**, Casa Kia must send a copy of the spreadsheet by e-mail to Matthew Nance at [matthew.nance@occc.texas.gov](mailto:matthew.nance@occc.texas.gov).

6. Casa Kia must maintain complete and accurate records of all refunds, including copies of refund checks, until the latest of the following:
  - a. the OCCC's next examination of Casa Kia,
  - b. the fourth anniversary of the date of the retail installment contract,  
or
  - c. the second anniversary of the date on which the final entry is made in the buyer's record.<sup>7</sup>

### **Violation of Order**

If you violate this Order, the OCCC may impose an administrative penalty of up to \$1,000 per day.<sup>8</sup> Multiple violations may also result in the suspension or revocation of your license.<sup>9</sup>

### **Right to Request Hearing**

You have the right to request a hearing regarding this Order.<sup>10</sup> 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:

Matthew Nance  
Deputy 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.<sup>11</sup> If you fail to request a hearing by this deadline, this Order is considered final and enforceable.<sup>12</sup>

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<sup>7</sup> See 7 Tex. Admin. Code § 84.704(b). The recordkeeping requirement includes transactions that were subsequently voided or canceled after the seller regained possession of the vehicle. 7 Tex. Admin. Code § 84.707(b).

<sup>8</sup> Tex. Fin. Code § 14.208(c).

<sup>9</sup> Tex. Fin. Code § 348.508.

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

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

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

All communications with the OCCC concerning this matter must be through Matthew Nance, Deputy General Counsel. You may contact him 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](mailto:matthew.nance@occc.texas.gov).

Signed this 17th day of June, 2019.

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

**CERTIFICATE OF SERVICE**

I certify that on June 17, 2019, a true and correct copy of this Order to Cease and Desist, to Take Affirmative Action, and to Make Restitution has been sent to against JLRM 15, Inc. d/b/a Casa Kia by the following:

JLRM 15, Inc. d/b/a Casa Kia  
Attn: Ronald Lowenfield, Compliance Officer  
5815 Montana Ave.  
El Paso, TX 79925  
ronnie@teamcasa.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested  
#91 7199 9991 7036 0790 5432

JLRM 15, Inc. d/b/a Casa Kia  
Attn: Nancy Bentley, Registered Agent  
5815 Montana Ave.  
El Paso, TX 79925  
nancy@casaford.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested  
#91 7199 9991 7036 0790 5449

/s/Matthew Nance  
Matthew 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