

OCCC CASE NO. L19-00255

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NO.: 1800060999	§	OFFICE OF CONSUMER
ANTONIO ESPINOSA d/b/a	§	
SAN PEDRO AUTO SALES	§	CREDIT COMMISSIONER
5410 SAN PEDRO	§	
SAN ANTONIO, TEXAS 78212	§	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 Antonio Espinosa d/b/a San Pedro Auto Sales (“San Pedro Auto Sales”), based on the violations described below.¹

Statement of Facts and Law

A motor vehicle sales finance license is required 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

San Pedro Auto Sales is a motor vehicle dealer that does not hold a license with the OCCC. San Pedro Auto Sales is located at 5410 San Pedro, San Antonio, Texas 78212. San Pedro Auto Sales’ owner and compliance officer is Antonio Espinosa.

In November 2017, the OCCC received information from the Texas Department of Motor Vehicles, indicating that San Pedro Auto Sales had filed liens on motor vehicles. Based on this information, the OCCC conducted an investigation of San Pedro Auto Sales for unlicensed activity. The OCCC found that San Pedro Auto Sales entered at least 14 motor vehicle retail installment transactions from 2013 to 2017. In these transactions, San Pedro Auto Sales

¹ Tex. Fin. Code § 14.208.

² Tex. Fin. Code § 348.501.

³ Tex. Fin. Code § 348.001(3), (7), (8).

accepted the cash price of motor vehicles in one or more deferred installments without a motor vehicle sales finance license.

On October 14, 2018, San Pedro Auto Sales filed an application for a motor vehicle sales finance license with the OCCC. The application was assigned master file number 1800060999 and application ID number 36471. The OCCC requested items necessary to file a complete license application, including contract forms, a statement of experience, a business plan, and fingerprints for each principal party.⁴ San Pedro Auto Sales did not respond to the OCCC's requests. On December 31, 2018, the OCCC notified San Pedro Auto Sales that it had denied San Pedro Auto Sales' license application. San Pedro Auto Sales has not obtained a license with the OCCC.

By acting as a holder in motor vehicle retail installment transactions without a motor vehicle sales finance license, San Pedro Auto Sales has 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 San Pedro Auto Sales 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.

⁴ See 7 Tex. Admin. Code § 84.602 (listing information required for a motor vehicle sales finance license application).

⁵ Tex. Fin. Code § 14.208(a).

⁶ Tex. Fin. Code § 14.251(b).

Order

IT IS ORDERED that:

1. San Pedro Auto Sales 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. San Pedro Auto Sales 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. San Pedro Auto Sales must cease and desist from collecting payments on existing transactions that require a motor vehicle sales finance license.
4. **No later than December 9, 2019**, San Pedro Auto Sales must perform a self-review and identify each motor vehicle retail installment transaction that San Pedro Auto Sales has entered, including each sale of a motor vehicle in which:
 - a. San Pedro Auto Sales entered a retail installment contract;
 - b. San Pedro Auto Sales accepted payments in one or more deferred installments; or
 - c. San Pedro Auto Sales held a lien.
5. **No later than December 9, 2019**, San Pedro Auto Sales must refund any finance charges that it charged or received from any retail buyers.
6. **No later than December 9, 2019**, San Pedro Auto Sales must release any liens that are currently filed on any motor vehicles in San Pedro Auto Sales' name. San Pedro Auto Sales may not charge a fee to any buyer for releasing these liens.
7. **No later than December 9, 2019**, San Pedro Auto Sales 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. San Pedro Auto Sales 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. San Pedro Auto Sales 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 December 9, 2019**, San Pedro Auto Sales must create a spreadsheet labeled "L19-00255SanPedroAutoSales 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 San Pedro Auto Sales provided restitution or released a lien as described above, and each retail installment transaction that San Pedro Auto Sales 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 San Pedro Auto Sales released the lien, if applicable; and
 - ix. name of any creditor that San Pedro Auto Sales assigned the transaction to, if applicable.
- d. **No later than December 9, 2019**, San Pedro Auto Sales must provide the OCCC with a copy of the spreadsheet. The spreadsheet must be sent by e-mail to Audrey Spalding at

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

audrey.spalding@occc.texas.gov.

Administrative Penalty

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

Right to Request Hearing

You have the right to request a hearing regarding this Order.⁹ 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:

Audrey Spalding
Assistant 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.¹⁰ If you fail 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 Audrey Spalding, Assistant General Counsel. You may contact her by mail at 2601 N. Lamar Blvd., Austin, Texas 78705, by telephone at (512) 936-7659, or by email to audrey.spalding@occc.texas.gov.

Signed this 28 day of October, 2019.

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

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).

CERTIFICATE OF SERVICE

I certify that on October 28, 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 Antonio Espinosa d/b/a San Pedro Auto Sales by the following:

Antonio Espinosa d/b/a
San Pedro Auto Sales
Attn: Antonio Espinosa,
Compliance Officer
5410 San Pedro
San Antonio, TX 78212
sanpedroautosales@hotmail.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt
requested # 91 7199 9991 7037 4753
2611

Antonio Espinosa d/b/a
San Pedro Auto Sales
Attn: Antonio Espinosa,
Registered Agent
650 Heimer Rd.
San Antonio, TX 78232

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt
requested #91 7199 9991 7037 4753
2628

/s/ Audrey Spalding
Audrey Spalding
Assistant General Counsel
Office of Consumer Credit Commissioner
State Bar No. 24111055
2601 North Lamar Blvd.
Austin, Texas 78705
(512) 936-7659
(512) 936-7610 (fax)
audrey.spalding@occc.texas.gov