

OCCC CASE NO. L20-00097

IN THE MATTER OF:	§	BEFORE THE
	§	
MASTER FILE NO.: 1700057605	§	OFFICE OF CONSUMER
BARROTERAN'S AUTOGROUP LLC	§	
d/b/a JAK'S B MOTORS	§	CREDIT COMMISSIONER
4601 MONTANA AVENUE	§	
EL PASO, TEXAS 79903	§	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 Barroteran's Auto Group LLC d/b/a Jak's B Motors ("Jak's B Motors"), 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

Jak's B Motors is a motor vehicle dealer that does not currently hold a license with the OCCC. Jak's B Motors is located at 4601 Montana Avenue, El Paso, Texas 79903. Jak's B Motors' compliance officer is Jesus Barroteran.

Jak's B Motors previously held a motor vehicle sales finance license with the OCCC, under master file number 1700057605 and license number 157202. This license expired on July 31, 2018. Jak's B Motors submitted a new application for a motor vehicle sales finance license on May 20, 2019 under application ID 48461. Due to the expired licenses, the OCCC conducted an unlicensed activity review of Jak's B Motors. In information provided by Jak's B Motors to the OCCC, Jak's B Motors stated that it had entered into at least 18 motor vehicle

¹ Tex. Fin. Code § 14.208.

² Tex. Fin. Code § 348.501.

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

retail installment transactions from October 13, 2018 through May 23, 2019. In these transactions, Jak's B Motors accepted the cash price of motor vehicles in one or more deferred installments without a motor vehicle sales finance license.

On July 25, 2019, the OCCC sent communications to Jak's B Motors regarding the unlicensed activity, and giving Jak's B Motors an opportunity to pay a late filing fee in order to cure the violation.⁴ Jak's B Motors failed to respond. Due to this failure, Jak's B Motors' license application was denied on September 5, 2019.

By acting as a holder in motor vehicle retail installment transactions without a motor vehicle sales finance license, Jak's B Motors 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 Jak's B Motors 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.

Order

IT IS ORDERED that:

1. Jak's B Motors 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.

⁴ Tex. Fin. Code § 349.301.

⁵ Tex. Fin. Code § 14.208(a).

⁶ Tex. Fin. Code § 14.251(b).

2. Jak's B Motors 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. Jak's B Motors must cease and desist from collecting payments on existing transactions that require a motor vehicle sales finance license.
4. No later than **February 28, 2020**, Jak's B Motors must perform a self-review and identify each motor vehicle retail installment transaction that Jak's B Motors has entered, including each sale of a motor vehicle in which:
 - a. Jak's B Motors entered a retail installment contract;
 - b. Jak's B Motors accepted payments in one or more deferred installments; or
 - c. Jak's B Motors held a lien.
5. No later than **February 28, 2020**, Jak's B Motors must refund any finance charges that it charged or received from any retail buyers after August 1, 2018.
6. No later than **February 28, 2020**, Jak's B Motors must release any liens that are currently filed on any motor vehicles in Jak's B Motors' name. Jak's B Motors may not charge a fee to any buyer for releasing these liens.
7. No later than **February 28, 2020**, Jak's B Motors must identify each retail installment transaction that it assigned to another creditor after August 1, 2018.
8. With respect to maintaining proof of refunds and release of liens:
 - a. Jak's B Motors 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

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

- b. Jak's B Motors 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 **February 28, 2020**, Jak's B Motors must create a spreadsheet labeled "L20-00097JaksBMotorsRestitution." 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 Jak's B Motors provided restitution or released a lien as described above, and each retail installment transaction that Jak's B Motors 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 Jak's B Motors released the lien, if applicable; and
 - ix. name of any creditor that Jak's B Motors assigned the transaction to, if applicable.
- d. No later than **February 28, 2020**, Jak's B Motors must provide the OCCC with a copy of the spreadsheet. The spreadsheet must be sent by e-mail to Audrey Spalding at 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

⁸ Tex. Fin. Code § 14.208(c).

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 17 day of January, 2020.

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

⁹ Tex. Fin. Code § 14.208(b).

¹⁰ Tex. Fin. Code § 14.208(b).

¹¹ Tex. Fin. Code § 14.208(c).

