

OCCC CASE NOS. L19-00050 AND L19-00254

IN THE MATTER OF:	§	BEFORE THE
MASTER FILE NO. 13356	§	
PYNE RV RENTALS, INC.		
d/b/a AUTO & RV WORLD OF TEXAS	§	OFFICE OF CONSUMER
26304 KATY FWY	§	
KATY, TEXAS 77494		
and	§	
PYNE RV RENTALS, INC.		
d/b/a AUTO WORLD OF TEXAS	§	CREDIT COMMISSIONER
8321 HEMPSTEAD RD		
HOUSTON, TEXAS 77008	§	
and		
TEXAN RV LTD.	§	
d/b/a AUTO & RV WORLD OF TEXAS		
TEXAS	§	STATE OF TEXAS
26304 KATY FWY		
KATY, TEXAS 77494		

**ORDER TO CEASE AND DESIST UNLICENSED ACTIVITY
AND TO MAKE RESTITUTION**

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order to Cease and Desist Unlicensed Activity and to Make Restitution against Pyne RV Rentals, Inc. d/b/a Auto & RV World of Texas and d/b/a Auto World of Texas (“Pyne RV”) and Texan RV Ltd. (“Texan RV”) based on the violations of law described below.¹

Statement of Facts and Law

A person is required to have a license issued under Chapter 348 of the Texas Finance Code in order to act as a holder of a motor vehicle retail installment contract.² A person is required to have a license issued under Chapter 342 of the Texas Finance Code in order to make, transact, or negotiate a loan.³

¹ Tex. Fin Code § 14.208.

² Tex. Fin. Code § 348.501; Tex. Fin. Code § 348.001(3), (7), (8) (defining a holder as 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 Tex. Fin. Code § 342.051.

Pyne RV Rentals, Inc. d/b/a Auto & RV World of Texas

Pyne RV Rentals, Inc. is a Texas corporation that is authorized to do business under the assumed name "Auto & RV World of Texas."⁴ Its principal place of business is 26304 Katy Freeway, Katy, Texas 77494. Pyne RV's President and registered agent is Neil Pyne.

Pyne RV holds a license issued by the Texas Department of Motor Vehicles authorizing it to act as a salvage vehicle dealer at 26304 Katy Freeway in Katy, Texas. Pyne RV operates as a salvage vehicle dealer under license number 079251761, dealer number 51761, and the assumed name of Auto & RV World of Texas.⁵ However, Pyne RV does not currently hold a dealer's license (general distinguishing number) issued by the Texas Department of Motor Vehicles authorizing it to sell motor vehicles.⁶

Pyne RV previously held a license issued by the OCCC to finance the sale of motor vehicles under master file number 13356 and license number 53595 at 26304 Katy Freeway, Katy, Texas from May 2, 2008, through August 13, 2015. Pyne RV does not currently hold an OCCC license.

In January 2018, an OCCC investigator visited the business located at 26304 Katy Freeway, Katy, Texas. The sign at the business advertised itself as Auto & RV World of Texas, advertised its website as "www.rvworldtexas.com", and advertised its telephone number as 281-392-7963. This name, address, and telephone number are identical to the information for Pyne RV's license number 53595 in the OCCC records.

⁴ Tex. Bus. & Com. Code § 71.002(2)(D) (defining assumed name for a corporation to be a name other than the name stated in its certificate of formation or comparable document); Tex. Bus. & Com. Code § 71.101 (requiring a corporation to file an assumed name certificate if it regularly conducts business under an assumed name).

⁵ Tex. Trans. Code § 501.091(17) (defining "salvage vehicle dealer" as a person engaged in the business of acquiring, selling, repairing, rebuilding, reconstructing, or otherwise dealing in nonrepairable motor vehicles, salvage motor vehicles, or used automotive parts); Tex. Trans. Code § 503.021 (prohibiting a person from engaging in the business of a dealer without a dealer general distinguishing number).

⁶ Tex. Trans. Code § 503.001(4) (defining "dealer" as a person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location); Tex. Trans. Code § 503.021 (prohibiting a person from engaging in the business of a dealer without a dealer general distinguishing number).

The OCCC investigator observed that the business was displaying a printed OCCC motor vehicle sales finance license bearing license number 13356-53595. The displayed license indicated the license was active, even though this license had expired more than two years earlier, on August 13, 2015. Pyne RV's display of a printed OCCC license when Pyne RV did not in fact possess an active license constitutes a false, misleading, and deceptive representation in violation of the Texas Finance Code.⁷ In addition, Pyne RV's display of a printed OCCC license when Pyne RV did not in fact possess an active license constitutes a device, subterfuge, and pretense to evade the application of the requirement to hold a license to engage in retail installment transactions.⁸

Pyne RV has continued to engage in unlicensed activity under Chapter 348 of the Texas Finance Code by continuing to sell and finance cars without a valid license from the OCCC.⁹ Pyne RV may have engaged in the financing of motor vehicle sales in 42 transactions, where the retail installment contracts were thereafter sold to Westlake Services for collection.

Pyne RV Rentals, Inc. d/b/a Auto World of Texas

Pyne RV Rentals, Inc. has also filed an assumed name certificate with the Texas Secretary of State to operate as Auto World of Texas. Pyne RV is selling motor vehicles at 8321 Hempstead Road in Houston, Texas under the assumed name of "Auto World of Texas." A Google maps image of this location shop signs identifying the business as "Auto World of Texas." In February 2018, an OCCC investigator visited the business located at 8321 Hempstead Road in Houston, Texas. The sign at the business advertised itself as Auto World of Texas.

An advertisement on a website that purports to offer credit must disclose the legal or registered name of the advertiser, and the street address of the advertiser's place of business.¹⁰ The records of the Texas Secretary of state reflect Pyne RV is the only person authorized to conduct business under the assumed name of "Auto World of Texas."¹¹ As described below, Pyne RV doing business

⁷ Tex. Fin. Code § 341.403 (prohibiting false, misleading, and deceptive representations); Tex. Fin. Code § 348.501 (requiring a person to hold a license); 7 Tex. Admin. Code § 84.616 (requiring a licensee to prominently display a license in the licensee's office in a conspicuous location visible to the general public).

⁸ Tex. Fin. Code § 348.501(d).

⁹ Tex. Fin. Code § 348.501(b).

¹⁰ Tex. Fin. Code § 341.301.

¹¹ Tex. Bus. & Com. Code § 71.002(2)(D) (defining assumed name for a corporation to be a name other than

under the name “Auto World of Texas” is advertising on two websites that purport to offer credit to consumers in connection with the sale of motor vehicles.

The website located at “www.autoworldoftexas.com” contains information about a business named Auto World of Texas located at 8321 Hempsted (sic) Rd. in Houston, Texas. The website contains a tab labelled “Financing” which is a hyperlink to a “Retail Motor Credit Application.” The “Retail Motor Credit Application” has two options - one for a “Credit Sale”¹² and the other for a “Lease.” The website also contains a tab labelled “Inventory” which is a hyperlink to a list of vehicles for sale. For each listed vehicle, there is a green box with the words “AUTO FINANCE IT’S EASY TO APPLY TODAY!” The green box is a hyperlink to a “Retail Motor Credit Application” with a “Credit Sale” option. This application contains a statement reading:

The words "you" and "your" refer to each person or business submitting this application. The words "we", "us" and "our" refer to the seller and the financial companies to which your application is submitted....

You authorize us to obtain consumer credit reports from time to time as we want, for any legitimate purpose, in connection with the transaction that is proposed by this application or any future update, renewal, or extension of that transaction. Upon request, you will be informed whether or not a consumer report was ordered. If a report was requested, you will be informed of the name and address of the consumer credit reporting agency that furnished the report. We may keep this application whether or not it is approved. You authorize us to check your credit and employment history and to answer questions others may ask us about your credit record with us.

You agree that your telephone communications with us and any financial company that reviews this credit application may be monitored and/or recorded to assure the quality of service. You give your consent to receive calls and text messages from the creditor or its third party debt collector at any number you have given us, including calls and messages made using

the name stated in its certificate of formation or comparable document); Tex. Bus. & Com. Code § 71.101 (requiring a corporation to file an assumed name certificate if it regularly conducts business under an assumed name).

¹² See 12 C.F.R. § 1026.2(a)(16) (defining “credit sale” to mean a sale in which the seller is a creditor).

an autodialer or prerecorded message. You agree that we can send disclosures or other communications to you electronically at the e-mail address you have given us.

Therefore, the “Retail Motor Credit Application” is an offer by Pyne RV to finance the sale of the motor vehicles advertised on its website through a retail installment transaction.¹³

The website located at “www.autoworldoftx.com” also contains information about a business named Auto World of Texas located at 8321 Hempstead Rd. in Houston, Texas. The website contains a tab labelled “Financing” which is a hyperlink to a “Secure Loan Application.” The website also contains a tab labelled “Inventory” which is a hyperlink to a list of vehicles for sale. For each listed vehicle, there is a box with the words “Loan Application.” The box is a hyperlink to a “Secure Loan Application.” This application contains a statement reading:

By submitting this application, I am applying for credit with this dealership or a designated financing source...I authorize this dealership and any potential financing source to retain this application, to check and verify my credit, employment, and salary history. By using the dealers website, I authorize them to provide reports on the status of my credit application, including information concerning whether I pre-qualify for a loan, which lender's loan offer (if any) I choose to accept, whether my application for credit is denied, and whether I accept a loan from the specified lender.

Therefore, the “Secure Loan Application” is an offer by Pyne RV to finance the sale of the motor vehicles advertised on its website through a loan.¹⁴

¹³ Tex. Fin. Code § 348.501 (requiring a person to hold a license under Chapter 348 to act as a “holder”); Tex. Fin. Code § 348.001(3) (defining “holder” to include a “retail seller”); Tex. Fin. Code § 348.001(8) (defining “retail seller” as a person in the business of selling motor vehicles to retail buyers in retail installment transactions); Tex. Fin. Code § 348.001(7) (defining “retail installment transaction” as a transaction in which a retail buyer purchases a motor vehicle from a retail seller and agrees to pay part or all of the cash price in one or more deferred installments).

¹⁴ Tex. Fin. Code § 348.501 (requiring a person to hold a license under Chapter 348 to act as a “holder”); Tex. Fin. Code § 348.001(3) (defining “holder” to include a “retail seller”); Tex. Fin. Code § 348.001(8) (defining “retail seller” as a person in the business of selling motor vehicles to retail buyers in retail installment transactions); Tex. Fin. Code § 348.001(7) (defining “retail installment transaction” as a transaction in which a retail buyer purchases a motor vehicle from a retail seller and agrees to pay part or all of the cash price in one or more deferred installments).

Pyne RV does not currently hold a dealer's license (general distinguishing number) issued by the Texas Department of Motor Vehicles authorizing it to sell motor vehicles under its own name or under the name Auto World of Texas.¹⁵ The only dealer licensed to operate at 8321 Hempstead Road in Houston, Texas is R.V. Suppliers, Inc., whose license number is P17887. R.V. Suppliers, Inc. is not licensed to sell motor vehicles under the name Auto World of Texas. R.V. Suppliers, Inc. has not filed an assumed name certificate with the Texas Secretary of State to do business under the name Auto World of Texas.

Pyne RV does not currently hold an OCCC license to finance the sale of motor vehicles through a retail installment transaction under Chapter 348 under its own name or under the name Auto World of Texas. Pyne RV previously held a Chapter 348 license issued by the OCCC under the assumed name "Auto World of Texas" for the business located at 3233 West 11th Street in Houston, Texas. The OCCC license number was 64266 under master file number 13356, and was active from September 11, 2012, through August 13, 2015. Since Pyne RV does not hold an OCCC license to finance the sale of motor vehicles, it is engaging in unlicensed activity, and is placing false, misleading, and deceptive advertisements on its website.¹⁶

Pyne RV has never, and does not currently, hold an OCCC license to make, transact, or negotiate a loan subject to Chapter 342 under its own name or under the name Auto World of Texas. Transacting a loan includes the act of arranging a loan.¹⁷ Negotiating a loan includes the act of passing information between a borrower and a lender in order to reach agreement on the terms of a loan.¹⁸ Since Pyne RV does not hold a Chapter 342 OCCC license, it is engaging in unlicensed activity, and is placing false, misleading, and deceptive advertisements on its website.¹⁹

¹⁵ Tex. Trans. Code § 503.001(4) (defining "dealer" as a person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location); Tex. Trans. Code § 503.021 (prohibiting a person from engaging in the business of a dealer without a dealer general distinguishing number).

¹⁶ Tex. Fin. Code § 348.501 (requiring a person to hold a license); Tex. Fin. Code § 341.403 (prohibiting false, misleading, and deceptive representations).

¹⁷ 7 Tex. Admin. Code § 83.102(28).

¹⁸ 7 Tex. Admin. Code § 83.102(16).

¹⁹ Tex. Fin. Code § 342.051 (requiring a person to hold a license); Tex. Fin. Code § 341.403 (prohibiting false, misleading, and deceptive representations).

Texan RV Ltd. d/b/a Auto & RV World of Texas

Pyne RV Rentals, Inc. is the general partner in a limited partnership named Texan RV Ltd. (Texan RV). Texan RV held licenses to sell motor vehicles issued by the Texas Department of Motor Vehicles under license (general distinguishing) numbers P51402 and P5586X.²⁰ Both licenses listed 26304 Katy Freeway in Katy, Texas as their business address. Neither license authorized Texan RV to conduct business at 8321 Hempstead Road in Houston, Texas.²¹

License number P5586X listed an assumed name of "Auto & RV World of Texas" while license number P51402 listed no assumed name. Records of the Texas Secretary of State reflect that Texan RV was authorized from October 4, 2006 to October 4, 2016, and July 16, 2019 to July 16, 2029, to conduct business under the assumed name of "Auto & RV World of Texas."²²

Texan RV does not currently, and has never, held a license issued by the OCCC. Nevertheless, Texan RV has entered into retail installment contracts in connection with the sale of a motor vehicle without an OCCC motor vehicle sales finance license.²³ Specifically, an e-TAG report from the Texas Department of Motor Vehicles shows that Texan RV placed liens on at least three vehicles since May 2017. Texan RV's placement of the lien necessarily reflects that it has accepted part or all of the cash price of the vehicle in one or more deferred

²⁰ Tex. Trans. Code § 503.001(4) (defining "dealer" as a person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location); Tex. Trans. Code § 503.021 (prohibiting a person from engaging in the business of a dealer without a dealer general distinguishing number).

²¹ Tex. Trans. Code § 503.027 (requiring a dealer to hold a general distinguishing number for each location where it conducts business); 43 Tex. Admin. Code § 215.132(5) (defining "license" to mean a dealer's GDN assigned by the Department of Motor Vehicles identifying the type of business for a specified location from which the person engages in business); 43 Tex. Admin. Code § 215.133(a) (prohibiting a person from engaging in business as a dealer unless the person has a current valid general distinguishing number assigned by the Department of Motor Vehicles for each location from which the person engages in business).

²² Tex. Bus. & Com. Code § 71.002(2)(D) (defining assumed name for a limited partnership to be a name other than the name stated in its certificate of formation); Tex. Bus. & Com. Code § 71.101 (requiring a limited partnership to file an assumed name certificate if it regularly conducts business under an assumed name).

²³ Tex. Fin. Code § 348.501 (requiring a person to hold a license under Chapter 348 to act as a "holder"); Tex. Fin. Code § 348.001(3) (defining "holder" to include a "retail seller"); Tex. Fin. Code § 348.001(8) (defining "retail seller" as a person in the business of selling motor vehicles to retail buyers in retail installment transactions); Tex. Fin. Code § 348.001(7) (defining "retail installment transaction" as a transaction in which a retail buyer purchases a motor vehicle from a retail seller and agrees to pay part or all of the cash price in one or more deferred installments).

installments,²⁴ which requires an OCCC motor vehicle sales finance license.²⁵ In addition, Texan RV appears to have engaged in the financing of motor vehicle sales in 42 transactions where the retail installment contracts were transferred and assigned to Westlake Services. Therefore, Texan RV has violated Section 348.501 of the Texas Finance Code.²⁶

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.²⁷ 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.²⁸

Order

IT IS ORDERED that Pyne RV Rentals, Inc. d/b/a Auto & RV World of Texas, Texan RV Ltd. d/b/a Auto & RV World of Texas, and Pyne RV Rentals, Inc. d/b/a Auto World of Texas:

1. comply with the motor vehicle sales finance license requirement, found in Sections 342.051 and 348.501 of the Texas Finance Code;
2. cease any and all unlicensed activity under Chapters 342 and 348 of the Texas Finance Code;
3. review all motor vehicle sales transactions from **August 13, 2015 to October 1, 2019** to identify each retail installment transaction in

²⁴ If the buyer had paid the entire amount of the cash price, then Pyne RV would have no right to place the lien. *See, e.g.* Tex. Fin. Code 348.408(b) (requiring a holder to release the holder's lien against a motor vehicle if the retail buyer tenders to the holder payment in full on a retail installment contract).

²⁵ Tex. Fin. Code § 348.501 (requiring a person to hold a license under Chapter 348 to act as a "holder"); Tex. Fin. Code § 348.001(3) (defining "holder" to include a "retail seller"); Tex. Fin. Code § 348.001(8) (defining "retail seller" as a person in the business of selling motor vehicles to retail buyers in retail installment transactions); Tex. Fin. Code § 348.001(7) (defining "retail installment transaction" as a transaction in which a retail buyer purchases a motor vehicle from a retail seller and agrees to pay part or all of the cash price in one or more deferred installments).

²⁶ Tex. Fin. Code § 348.501.

²⁷ Tex. Fin. Code § 14.208(a).

²⁸ Tex. Fin. Code § 14.251(b).

which it acted as a holder without a license under Chapter 348;

4. review all motor vehicle sales transactions from **August 13, 2015 to October 1, 2019** to identify each transaction it made, transacted, or negotiated, or charged or received a charge, subject to Chapter 342 of the Texas Finance Code without the required license;
5. no later than **December 1, 2019**, refund all finance charges that you collected or that remain collectible in the transactions you identified above;
6. no later than **December 1, 2019**, provide the OCCC with a spreadsheet of all transactions you identified and all buyers that you gave a refund. This list must include the buyer's name, account number, transaction date, amount financed, amount of finance charges, and refund amount; and
7. keep a copy of each customer's refund check or payment history showing an account credit until the expiration of the required retention period.²⁹

Violation of Order

You may be assessed an administrative penalty of up to \$1,000 for each day of violation of this Order.³⁰

Right to Request Hearing

Pyne RV and Texan RV have the right to request a hearing regarding this Order.³¹ Either party's request must be made in writing and sent to the OCCC not later than 30 days after each party receives this Order. The requesting party must send its request to:

Michael Rigby
Office of Consumer Credit Commissioner
2601 N. Lamar Blvd.
Austin, Texas 78705

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

³⁰ Tex. Fin. Code § 14.208(c).

³¹ Tex. Fin. Code § 14.208(b).

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.³² If you fail to request a hearing by this deadline, this Order is considered final and enforceable.³³

All communications with the OCCC concerning this matter must be through Michael Rigby, General Counsel, who may be contacted by mail at 2601 N. Lamar Blvd., Austin, Texas 78705, by telephone at (512) 936-7623 or by email to michael.rigby@occc.texas.gov.

Signed this 23rd day of October 2019.

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

³² Tex. Fin. Code § 14.208(b).

³³ Tex. Fin. Code § 14.208(c).

CERTIFICATE OF SERVICE

I certify that on October 23, 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 Auto & Pyne RV Rentals, Inc. d/b/a Auto & RV World of Texas and Auto World of Texas by fax, email, regular mail and certified mail, return receipt requested, at:

Pyne RV Rentals, Inc. d/b/a
Auto & RV World of Texas
Attn: Neil Pyne, Compliance Officer &
Registered Agent
26304 Katy Fwy.
Katy, TX 77494
mpyne@msn.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7036 0669 8038

Pyne RV Rentals, Inc.
d/b/a Auto World of Texas
8321 Hempstead Rd.
Houston, Texas 77008
mpyne@msn.com

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7036 0669 8045

Texan RV Ltd.
d/b/a Auto & RV World of Texas
26304 Katy Fwy.
Katy, Texas 77494

- hand-delivery
- facsimile
- electronic mail
- regular mail
- certified mail, return receipt requested
#91 7199 9991 7036 0669 8076

/s/ Michael Rigby _____

Michael Rigby

General Counsel

Office of Consumer Credit Commissioner

State Bar No. 505119125

2601 North Lamar Blvd.

Austin, Texas 78705

(512) 956-7623

(512) 936-7610 (fax)

michael.rigby@occc.texas.gov