

OCCC CASE NO. L21-00112

IN THE MATTER OF: MASTER FILE NO.: 9869 LAMAR CAPITAL LTD. 6140 EASTEX FREEWAY BEAUMONT, TEXAS 77708	§ § § § § § §	BEFORE THE OFFICE OF CONSUMER CREDIT COMMISSIONER STATE OF TEXAS
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AGREED ORDER OF REVOCATION

The Office of Consumer Credit Commissioner (“OCCC”) and Lamar Capital Ltd. (“Lamar Capital”) enter this Agreed Order of Revocation under Sections 14.208 and 348.508 of the Texas Finance Code.

Lamar Capital agrees to the revocation of its motor vehicle sales finance license based on the criminal convictions of its principal parties and violations of law described below.¹ Lamar Capital also agrees to cease and desist certain actions, and to take certain affirmative actions, as described below.

Statement of Facts and Law

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.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 A person who does not hold a Chapter 348 license (or another authorization to act as a holder) may not collect payments on motor vehicle retail installment contracts, and may not indirectly collect payments by repossessing motor vehicles or selling repossessed motor vehicles.⁴

Lamar Capital is a motor vehicle acceptance company that holds a Chapter 348 license. The OCCC originally issued the license in October 2004.

¹ Tex. Fin. Code §§ 14.208, 348.508; 7 Tex. Admin. Code § 84.613.

² Tex. Fin. Code § 348.501.

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

⁴ See Tex. Fin. Code §§ 348.001(3), (7), (8), 348.501.

Lamar Capital operates under master file number 9869 at one licensed location, under license number 45143. Lamar Capital's designated contact address is 6140 Eastex Freeway, Beaumont, Texas 77708. Lamar Capital is owned by Larry Tillery and Judy Tillery (with Larry Tillery as its general partner), and its compliance officer is Judy Tillery. Larry Tillery and Judy Tillery are principal parties of Lamar Capital.⁵

Lamar Capital is affiliated with Daylight Motors Inc. ("Daylight Motors").⁶ Daylight Motors is a motor vehicle dealer that holds a motor vehicle sales finance license issued by the OCCC under Chapter 348. Daylight Motors operates under master file number 9516 at one licensed location (license number 44162), at 6140 Eastex Freeway, Beaumont, Texas 77708. Daylight Motors' president and owner is Larry Tillery, and its compliance officer is Judy Tillery. Lamar Capital takes assignment of motor vehicle retail installment contracts originated by Daylight Motors.

A. Larry Tillery's Conviction for Money Laundering and Tax Evasion

In 2019, a federal court convicted Larry Tillery of money laundering and tax evasion.⁷

Larry Tillery pleaded guilty to the two counts described in the federal government's amended information.⁸ The first count was engaging in monetary transactions in property derived from illegal gambling, in violation of 18 U.S.C. § 1957. This offense is a type of money laundering.⁹ The second count was tax evasion in violation of 26 U.S.C. § 7201.

In support of his guilty plea, Larry Tillery signed a factual stipulation that

⁵ See Tex. Admin. Code § 84.601(7) (defining "principal party" as an "individual with a substantial relationship to the proposed business").

⁶ See Tex. Bus. Orgs. Code § 1.002(1) (defining "affiliate" as a "person who controls, is controlled by, or is under common control with another person").

⁷ Order Adopting Findings of Fact and Recommendation on Defendant's Guilty Plea, *United States v. Larry Earnest Tillery*, Case No. 1:19-CR-00101-TH (E.D. Tex. July 22, 2019).

⁸ Plea Agreement, *United States v. Larry Earnest Tillery*, Case No. 1:19-CR-00101-TH (E.D. Tex. June 25, 2019); Amended Information, *United States v. Larry Earnest Tillery*, Case No. 1:19-CR-00101-TH (E.D. Tex. June 25, 2019).

⁹ Internal Revenue Service, *Internal Revenue Manual* 9.5.5, "Money Laundering-Title 18 Violations," 9.5.5.2, (rev. Aug. 2007), https://www.irs.gov/irm/part9/irm_09-005-005

acknowledged the following facts.¹⁰ Larry Tillery engaged in the business of accepting illegal wagers on sporting events. This was his primary occupation since 1985. He used Daylight Motors and Lamar Capital as a front to launder illicit proceeds from his illegal gambling enterprise. He used a website, www.luckyducksports.com, to track wagers from betting clients, and managed the website from his home and Daylight Motors. He knew that he was required by federal law to register as a bookmaker with the Internal Revenue Service. He knew that he was required to file monthly excise tax returns to report total wagers accepted, and that he was required to pay excise taxes on these wagers. He intentionally chose not to report or pay taxes on the illegal wagers he accepted. He evaded the assessment of taxes by making false statements to his accountant about his sources of income. Between 2011 and 2016, he accepted at least \$52 million in illegal wagers on sporting events, and did not report these wagers to the IRS or pay excise taxes on these wagers. In 2014, he directed a bettor to transfer a \$200,000 payment, generated from illegal sports wagers, to a Lamar Capital bank account. The federal government's investigation traced 125 financial transactions in excess of \$10,000 derived from illegal gambling that used the United States banking system. These transactions totaled more than \$32 million and occurred between 2010 and 2016.

In his plea agreement, Larry Tillery agreed to the criminal forfeiture of more than \$1.9 million in assets that were proceeds of illegal gambling, including \$8,578 in currency seized from Daylight Motors. He also agreed to the forfeiture of more than \$32 million representing proceeds that he obtained from money laundering and tax evasion, and agreed to pay more than \$1 million in restitution to the Internal Revenue Service.

The federal district court accepted Larry Tillery's guilty plea and convicted him on both counts.¹¹ The court initially sentenced him to 33 months of imprisonment and two years of supervised release.¹² In November 2020, the court reduced this sentence to five years of probation without imprisonment.¹³

¹⁰ Factual Basis and Stipulation, *United States v. Larry Earnest Tillery*, Case No. 1:19-CR-00101-TH (E.D. Tex. June 25, 2019).

¹¹ Order Adopting Findings of Fact and Recommendation on Defendant's Guilty Plea, *United States v. Larry Earnest Tillery*, Case No. 1:19-CR-00101-TH (E.D. Tex. July 22, 2019).

¹² Judgment in a Criminal Case, *United States v. Larry Earnest Tillery*, Case No. 1:19-CR-00101-TH (E.D. Tex. June 15, 2020).

¹³ Amended Judgment in a Criminal Case, *United States v. Larry Earnest Tillery*, Case No. 1:19-CR-00101-TH (E.D. Tex. Nov. 10, 2020).

B. Judy Tillery's Conviction for Structuring

In 2019, a federal court convicted Judy Tillery of structuring financial transactions to evade reporting requirements.¹⁴

Judy Tillery pleaded guilty to the count of structuring financial transactions to evade reporting requirements, in violation of 31 U.S.C. § 5324, as described in the federal government's information.¹⁵ This offense is also known as "structuring."¹⁶

In support of her guilty plea, Judy Tillery signed a factual stipulation that acknowledged the following facts.¹⁷ Judy Tillery assisted Larry Tillery in laundering cash proceeds derived from illegal gambling activities. She did this by depositing cash into her personal bank account, and then writing checks to bank accounts that Larry Tillery controlled. She structured these cash deposits in amounts under \$10,000 in an attempt to evade federal currency transaction reporting requirements. She knew that a bank must file a currency transaction report if a transaction occurs that involves more than \$10,000 in currency. Between June 2015 and July 2016, she structured deposits totaling \$248,000 into the United States banking system in an attempt to evade federal currency reporting requirements.

In her plea agreement, Judy Tillery agreed to the criminal forfeiture of more than more than \$1.9 million in currency and other assets, including \$8,578 seized from Daylight Motors. The federal district court accepted her guilty plea and convicted her of structuring.¹⁸ The court sentenced her to two years of probation.¹⁹

¹⁴ Order Adopting Findings of Fact and Recommendation on Defendant's Guilty Plea, *United States v. Judy Kay Tillery*, Case No. 1:19-CR-00100-TH (E.D. Tex. July 22, 2019).

¹⁵ Plea Agreement, *United States v. Judy Kay Tillery*, Case No. 1:19-CR-00100-TH (E.D. Tex. June 25, 2019); Information, *United States v. Judy Kay Tillery*, Case No. 1:19-CR-00100-TH (E.D. Tex. June 17, 2019).

¹⁶ Internal Revenue Service, *Internal Revenue Manual* 4.26.13, "Structuring Defined," 4.26.13.3.1, (rev. Apr. 2020), https://www.irs.gov/irm/part4/irm_04-026-013#idm140139512123504

¹⁷ Factual Basis and Stipulation, *United States v. Judy Kay Tillery*, Case No. 1:19-CR-00100-TH (E.D. Tex. June 25, 2019).

¹⁸ Order Adopting Findings of Fact and Recommendation on Defendant's Guilty Plea, *United States v. Judy Kay Tillery*, Case No. 1:19-CR-00100-TH (E.D. Tex. July 22, 2019).

¹⁹ Judgment in a Criminal Case, *United States v. Judy Kay Tillery*, Case No. 1:19-CR-00100-TH (E.D. Tex. June 15, 2020).

C. Failure to Report Convictions to OCCC

Under Chapter 348's implementing rules, a license applicant must disclose all criminal history information required to file a complete license application with the OCCC.²⁰ A licensee must report to the OCCC any criminal history information that would require a different answer than that given in the original license application within 30 calendar days after the licensee has knowledge of the information.²¹

Lamar Capital's original motor vehicle sales finance license application, filed in 2004, required Lamar Capital to disclose all convictions of its principal parties, and to provide a full statement of facts for each conviction.

Larry Tillery and Judy Tillery were adjudicated guilty of the offenses described above on July 22, 2019. Lamar Capital was required to report these convictions to the OCCC and provide a full statement of facts within 30 calendar days (*i.e.*, no later than August 21, 2019). Lamar Capital did not report the convictions or provide a full statement of facts to the OCCC by August 21, 2019.

By failing to report changes to the criminal history information of its principal parties to the OCCC within 30 calendar days, Lamar Capital violated Chapter 348's implementing rules.

D. Authority and Grounds for Revocation

Under Chapter 348 of the Texas Finance Code, the Consumer Credit Commissioner ("Commissioner") may revoke a motor vehicle sales finance license if: (1) the license holder, knowingly or without exercise of due care, violates a rule adopted under Chapter 348; or (2) a fact or condition exists that, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the Commissioner's denial of the application.²²

To approve a motor vehicle sales finance license application, the

²⁰ 7 Tex. Admin. Code § 84.613(b).

²¹ 7 Tex. Admin. Code § 84.607(b)(2).

²² Tex. Fin. Code § 348.508(2)-(3); 7 Tex. Admin. Code § 84.613(f).

Commissioner must find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public, and warrant the belief that the business will be operated lawfully and fairly.²³ If an applicant or a principal party has been convicted of a crime that directly relates to the licensed occupation, then the conviction reflects negatively on the character and fitness of the applicant, and is a basis for denying the license application.²⁴ Crimes involving misrepresentation or deceptive practices, or involving failure to file a government report, are directly related to the licensed occupation of motor vehicle sales finance.²⁵

The criminal convictions of Larry Tillery and Judy Tillery for money laundering, tax evasion, and structuring render Lamar Capital unfit to hold a motor vehicle sales finance license. These crimes directly relate to the licensed occupation of motor vehicle sales finance. These crimes clearly would have justified denial of Lamar Capital's original license application, if they had existed or been known to exist at the time of the license application. These crimes show that the financial responsibility, experience, character, and general fitness of Lamar Capital are not sufficient to command the confidence of the public, or to warrant the belief that the business will be operated lawfully and fairly.

By failing to report these convictions to the OCCC and failing to provide a full statement of facts within 30 days of the convictions, Lamar Capital violated Chapter 348's implementing rules.²⁶ Lamar Capital committed these violations without exercise of due care.

For these reasons, the OCCC and Lamar Capital have entered this Agreed Order of Revocation.

Order

By signing below, Lamar Capital waives all rights to any hearing or appeal, and otherwise agrees to comply with this Agreed Order of Revocation and Texas law.

²³ Tex. Fin. Code § 348.504(a)(1).

²⁴ Tex. Fin. Code § 84.613(d).

²⁵ Tex. Fin. Code § 84.613(c)(1).

²⁶ 7 Tex. Admin. Code § 84.607(b)(2).

IT IS ORDERED that:

1. **Effective October 1, 2021**, the motor vehicle sales finance license of Lamar Capital Ltd., master file number 9869, license number 45143, will be **REVOKED**.
2. **No later than October 1, 2021**, Lamar Capital must cease and desist entering or taking assignment of motor vehicle retail installment transactions.
3. **No later than October 1, 2021**, Lamar Capital must cease and desist all of the following:
 - a. collecting any payments on motor vehicle retail installment transactions;
 - b. repossessing motor vehicles;
 - c. selling any motor vehicles that it has repossessed; and
 - d. selling, assigning, or transferring any retail installment transactions to Daylight Motors Inc.
4. **No later than October 1, 2021**, Lamar Capital must perform a self-review and identify each outstanding motor vehicle retail installment transaction, including each sale of a motor vehicle for which Lamar Capital is accepting payments, holds a lien, or has repossessed a motor vehicle that it has not sold.
5. **No later than October 1, 2021**, for each outstanding motor vehicle retail installment transaction, Lamar Capital must do one of the following:
 - a. assign the transaction to another person who holds a license under Chapter 348 or is otherwise authorized to hold retail installment contracts under Chapter 348; or
 - b. cease collecting any payments and return any unsold repossessed vehicle to the retail buyer.
6. **From June 1, 2021, until September 15, 2021, no later than the 15th day of each month**, Daylight Motors must send the OCCC a monthly report of outstanding transactions. Each monthly report must list

each transaction that was outstanding during the previous month, including new transactions entered during the previous month and transactions assigned to another person during the previous month.

7. **No later than October 1, 2021**, after it has ceased doing business, Daylight Motors must send the OCCC a final report of transactions. The final report must list each transaction that Daylight Motors assigned to another person on or after May 1, 2021, and each transaction for which Daylight Motors ceased collecting payments on or after May 1, 2021.

8. The final report and each monthly report must be a spreadsheet, and must be sent by email to Matthew Nance at matthew.nance@occc.texas.gov no later than the deadlines described above. Each spreadsheet must include a row for each retail buyer and the following columns:
 - a. account number;
 - b. name of the retail buyer;
 - c. date of retail installment transaction; and
 - d. name of any person that Daylight Motors assigned the transaction to, if applicable.

9. The Amended Order of Revocation issued by the OCCC against Lamar Capital on January 14, 2021, is withdrawn and replaced by this Agreed Order of Revocation.

Signed this 20th day of May, 2021.

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

AGREED:

/s/ Larry Tillery _____

Larry Tillery

General Partner

Lamar Capital Ltd.

(signed electronically with permission)

CERTIFICATE OF SERVICE

I certify that on May 20, 2021, a true and correct copy of this Agreed Order of Revocation has been sent to Lamar Capital Ltd. by the following:

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/s/ Matthew Nance _____

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