

IN THE COURT OF COMMON PLEAS OF SCIOTO COUNTY, OHIO

STATE OF OHIO, ex rel.
MICHAEL DEWINE
ATTORNEY GENERAL OF OHIO
30 East Broad St., 14th Floor
Columbus, Ohio 43215

Plaintiff,

v.

OHIO VALLEY AUTO SALES
c/o Don A. Rice III
Statutory Agent
5515 Guyan River Rd.
Huntington, WV 25702

and

DON A. RICE III, Individually,
5515 Guyan River Rd.
Huntington, WV 25702

CASE NO. 15 CIH 082

JUDGE

Marshall

COMPLAINT FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF,
RESTITUTION, CIVIL
PENALTIES, AND OTHER
APPROPRIATE RELIEF

2015 MAY 11 AM 7:58
FILED
SCIOTO COUNTY
OHIO
Dana Young
CLERK OF COURTS

JURISDICTION

1. Plaintiff, State of Ohio, by and through Counsel, the Attorney General of Ohio, Michael DeWine, having reasonable cause to believe that violations of Ohio's consumer protection laws have occurred, brings this action in the public interest and on behalf of the State of Ohio under the authority vested in him by the Ohio Consumer Sales Practices Act, R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*
2. The actions of Defendants, hereinafter described, have occurred in the State of Ohio, Scioto County and, as set forth below, are in violation of the Consumer Sales Practices Act, R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*

3. Defendants, as described below, are “supplier[s]” as that term is defined in R.C. 1345.01(C) as Defendants were, at all times relevant herein, engaged in the business of effecting or soliciting “consumer transactions” as that term is defined in R.C. 1345.01(A).
4. Defendants, as described below, engaged in “consumer transactions” by offering for sale, selling or financing the purchase of used motor vehicles to individuals for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
5. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and Scioto County.
6. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
7. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3), in that Defendants reside in, operated their business from, and engaged in the transactions complained of herein in Scioto County.

STATEMENT OF FACTS

8. Defendant Ohio Valley Auto Sales is an Ohio limited liability company last operating at 619 3rd Ave., Chesapeake, OH 45619.
9. On information and belief, Defendant Don A. Rice III (hereinafter “Rice”) is an individual whose address is 5515 Guyan River Rd., Huntington, WV 25702.
10. Defendant Rice had an ownership interest in and operated Defendant Ohio Valley Auto Sales and dominated, controlled and directed the business activities and sales conduct of Ohio Valley Auto Sales, and exercised the authority to establish, implement or alter the

policies of Ohio Valley Auto Sales, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.

11. Defendants were at all times relevant to this action engaged in the business of soliciting, promoting, purchasing, selling, financing and collecting the proceeds of the sales of used motor vehicles from their location in Chesapeake to consumers residing in Scioto and other Ohio counties.
12. Defendants, operating under the name Ohio Valley Auto Sales, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
13. At all relevant times hereto, Defendant Ohio Valley Auto Sales held license #UD0020241 issued by the State of Ohio under R.C. 4517.01 *et seq.*, allowing it to engage in the business of displaying or selling at retail or wholesale used motor vehicles.
14. At all relevant times hereto, the Defendants were displaying or selling used motor vehicles at the Ohio Valley Auto Sales location.
15. The Defendants failed to file applications for certificate of title within Thirty (30) days after the assignment or delivery of a motor vehicle.
16. The Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
17. Title Defect Rescission consumer claims totaling \$12,063.00 thus far were paid from the Title Defect Rescission Fund, administered by the Ohio Attorney General's Office, after the Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.

CAUSE OF ACTION
VIOLATIONS OF THE CERTIFICATE OF MOTOR VEHICLE TITLE ACT

18. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Seventeen (1-17) of this Complaint.
19. The Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02 by failing to file applications for certificates of title within Thirty (30) days after the assignment of delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b).
20. The Defendants committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A), by selling motor vehicles to consumers, in the ordinary course of business, and then failing to obtain certificates of title on or before the Fortieth (40th) day of sale of the motor vehicles as required by R.C. 4505.181(B)(1).
21. Such acts or practices have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. The Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court:

- A. ISSUE A DECLARATORY JUDGMENT declaring that each act or practice described in Plaintiff's Complaint violates the Consumer Sales Practices Act, R.C. 1345.01 et seq., and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 et seq. in the manner set forth in this Complaint.

- B. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants and their officers, agents, servants, representatives, salespeople, employees, successors and assigns and all persons acting in concert or participating with them, directly or indirectly, from engaging in the acts or practices of which Plaintiff complains and from further violating the Consumer Sales Practices Act, R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*
- C. ORDER Defendants jointly and severally liable for reimbursement to all consumers found to have been damaged by the Defendants' unfair and deceptive, acts and practices, and motor vehicle title violations.
- D. ORDER Defendants jointly and severally liable for reimbursement to the Title Defect Recision Fund ("TDR") for funds expended to resolve title defects caused by Defendants motor vehicle title violations.
- E. ASSESS, FINE, AND IMPOSE upon Defendants, jointly and severally, a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each of the appropriate unfair or deceptive acts alleged in the Complaint, pursuant to R.C. 1345.07(D).
- F. ASSESS, FINE, AND IMPOSE upon Defendants, jointly and severally, an additional civil penalty of not more than Two Hundred Dollars (\$200.00) for each violation of the Certificate of Motor Vehicle Title Act, pursuant to R.C. 4505.99.
- G. ORDER, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, Defendants to maintain in their possession and control for a period of Five (5) years all business records relating to the Defendants' solicitation and sale of used motor vehicles in Ohio and to permit the Ohio Attorney General or his

representative, upon reasonable twenty-four (24) hour notice, to inspect and/or copy any and all records.

- H. Order that the Defendants be enjoined from engaging in consumer transactions as a supplier until they have satisfied all restitution, civil penalties, and any other costs ordered.
- I. Order that Don Rice be prohibited from applying for an auto dealer or salesperson license under Chapter 4517 of the Revised Code.
- J. ORDER the Defendants to pay all court costs.
- K. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General



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