

IN THE COURT OF COMMON PLEAS
OTTAWA COUNTY, OHIO

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

Plaintiff,

v.

TOM'S TOYS, INC.
c/o Thomas Owens
Statutory Agent
2307 South Harbor Bay
Marblehead, Ohio 43440

and

THOMAS E. OWENS, Individually,
2307 South Harbor Bay
Marblehead, Ohio 43440

Defendants.

CASE NO. 18CV143

JUDGE

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

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, Ottawa, Clark, and Fairfield Counties 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 at Ottawa, Clark, Fairfield, and other Counties.
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) and (3), in that Defendant Thomas Owens resides in Ottawa County and the Defendants conducted business from their location in Ottawa County and they also had locations in Fairfield and Clark counties where they operated their business from, and engaged in the transactions complained of herein.

STATEMENT OF FACTS

8. Defendant Tom’s Toys (“Tom’s”) is an Ohio corporation last operating at 250 Southeast Catawba Road, Port Clinton, Ohio 43452 (Ottawa Cty.)
9. Defendant Tom’s also had locations at 4815 Urbana Road, Springfield, Ohio 45502 (Clark Cty.) and 2445 Columbus Lancaster Road Northwest, Lancaster, Ohio 43130

(Fairfield Cty.).

10. On information and belief, Defendant Thomas Owens ("Owens") is an individual whose address is 2307 South Harbor Bay, Marblehead, Ohio 43440.
11. Defendant Owens had an ownership interest in and operated Defendant Tom's, and dominated, controlled and directed the business activities and sales conduct of Tom's, and exercised the authority to establish, implement or alter the policies of Tom's, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
12. 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 locations in Port Clinton, Springfield, and Lancaster, and to consumers residing in Ottawa, Clark, Fairfield, and other Ohio counties as well as consumers in other states.
13. Defendants, operating under the name Tom's Toys, solicited individual consumers to enter into consumer transactions, specifically for the sale of both new and used motor vehicles.
14. At all relevant times hereto, Defendants held license #ND003813 issued by the State of Ohio under R.C. 4517.01 *et seq.*, allowing them to engage in the business of displaying or selling at retail or wholesale used motor vehicles at 250 Southeast Catawba Road, Port Clinton, Ohio 43452.
15. At all relevant times hereto, Defendants held license #ND003796 issued by the State of Ohio under R.C. 4517.01 *et seq.*, allowing them to engage in the business of displaying or

selling at retail or wholesale used motor vehicles at 4815 Urbana Rd., Springfield, Ohio 45502.

16. At all relevant times hereto, Defendants held license #ND003961 issued by the State of Ohio under R.C. 4517.01 *et seq.*, allowing them to engage in the business of displaying or selling at retail or wholesale used motor vehicles at 2445 Columbus Lancaster Rd. N.W., Lancaster, OH 43130.
17. At all relevant times hereto, the Defendants were displaying or selling used motor vehicles at the Tom's locations in Port Clinton, Springfield, and Lancaster.
18. The Defendants failed to file applications for certificates of title within Thirty (30) days after the assignment or delivery of motor vehicles.
19. The Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
20. Title Defect Recision consumer claims totaling \$20,075.36 thus far were paid from the Title Defect Recision 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

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty (1-20) of this Complaint.
22. 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 or delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b).

23. 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).
24. 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

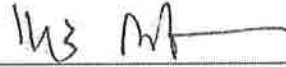
WHEREFORE, Plaintiff respectfully prays that this Court:

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

Respectfully submitted,

MICHAEL DEWINE
Attorney General



ROSEMARY E. RUPERT (0042389)
Assistant Attorney General
Title Defect Recision Unit Director
Consumer Protection Section
Ohio Attorney General's Office
30 East Broad Street, 14th Floor
Columbus, Ohio 43215-3428
(614) 466-8831 (phone)
(614) 466-8898 (fax)
Counsel for Plaintiff