

DANIEL M. HERRIGAN

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SUMMIT COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

STATE OF OHIO, *ex rel.*
MICHAEL DEWINE
ATTORNEY GENERAL OF OHIO
615 W. Superior Ave 11th Floor
Cleveland, Ohio 44113-1899

Plaintiff,

v.

WILLIAM D. BENNETT d/b/a THE CAR
SHACK
1724 McChesney Rd.
Akron, Ohio 44306-4336

Defendant.

CASE NO:

2014 01 0089

JUDGE:

Judge Tammy O'Brien

**COMPLAINT, REQUEST FOR
DECLARATORY AND INJUNCTIVE
RELIEF, DAMAGES AND CIVIL
PENALTIES**

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through its 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 Consumer Sales Practices Act, R.C. 1345.01 et seq.
2. The actions of Defendant William D. Bennett d/b/a The Car Shack, have occurred in the State of Ohio and Summit County and violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. and the Title Defect Recision Act (TDR), R.C. 4505.181.
3. This Court has jurisdiction over the subject matter of this action pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.

4. This Court has venue to hear this case pursuant to Civ. R. 3(B)(1)-(3), in that Defendant resides in, had his principal place of business in, and some of the transactions complained of herein, and out of which this action arises, occurred in Summit County, Ohio.

DEFENDANTS

5. Defendant William D. Bennett d/b/a The Car Shack is an individual doing business at 355 ½ S. Arlington St. Akron, Ohio 44306.
6. Defendant is a “supplier” as that term is defined in R.C. 1345.01(C) as Defendant, at all times relevant herein, engaged in the business of effecting “consumer transactions” by soliciting for sale and selling used motor vehicles to “individuals” from Summit County, other counties in the State of Ohio, and in other states for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
7. Defendant is a motor vehicle dealer as that term is defined in R.C. 4517.01(L).

STATEMENT OF FACTS

8. Defendant was engaged in the business of soliciting, promoting, leasing, purchasing, and/or selling motor vehicles.
9. Defendant William D. Bennett d/b/a The Car Shack, at all relevant times hereto, was licensed by the Ohio Bureau of Motor Vehicles under dealer license number UD018146.
10. Defendant, in the ordinary course of business, has sold or transferred used motor vehicles to consumers without delivering to the purchasers or transferees, certificates of title assigned to such purchasers or transferees.
11. Defendant entered into numerous consumer transactions for the sale, lease or transfer of automobiles, and failed to transfer titles as required by Ohio law. This failure resulted in the filing of claims for reimbursement pursuant to the TDR Act.

12. Consumers received reimbursement from the TDR fund due to Defendant's failure to provide titles to used motor vehicles he had sold to those consumers.
13. All facts alleged above have occurred in the two years prior to this lawsuit.

PLAINTIFF'S CAUSES OF ACTION

COUNT ONE

14. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Thirteen (1-13) of this Complaint.
15. Defendant has committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act R.C. 1345.02, by displaying for sale or selling used motor vehicles without having first obtained certificates of title for the vehicles in the name of the Defendant or without possessing a bill of sale for each motor vehicle proposed to be displayed, offered for sale, or sold, and a properly assigned power of attorney or other related documents from the prior owner giving the Defendant or person acting on behalf of the Defendant authority to have a certificate of title to the motor vehicle issued in the name of the Defendant for each motor vehicle displayed or sold in violation of R.C. 4505.181(A)(2). Defendant committed said acts or practices after a decision determining the acts or practices violated R.C. 1345.02 was made available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT TWO

16. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Thirteen (1-13) of this Complaint.
17. Defendant has committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act R.C. 1345.02, by failing, on or before the fortieth day

following the date of the sale, to obtain title to the vehicle in the name of the retail purchaser in violation of R.C. 4505.181(B)(1). Defendant committed said acts or practices after a decision determining the acts or practices violated R.C. 1345.02 was made available for public inspection pursuant to R.C. 1345.05(A)(3).

18. Defendant has committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act R.C. 1345.02, by failing to file an application for certificate of title within thirty days after the assignment or delivery of a motor vehicle in violation of R.C. 4505.06(5)(b). Defendant committed said acts or practices after a decision determining the acts or practices violated R.C. 1345.02 was made available for public inspection pursuant to R.C. 1345.05(A)(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

- 1) ISSUE a permanent injunction, pursuant to R.C. 1345.07(A)(2), enjoining Defendant, his agents, servants, representatives, salesmen, employees, successors or assigns, and all persons acting in concert and participation with him, directly or indirectly, from engaging in the acts and practices of which Plaintiff complains.
- 2) ISSUE a declaratory judgment, pursuant to R.C. 1345.07(A)(1), declaring that each and every act or practice complained of herein violates the Ohio Consumer Sales Practices Act in the manner set forth in this Complaint.
- 3) ORDER the Defendant, pursuant to R.C. 4505.181(D), R.C. 1345.07 and R.C. 1345.52, to jointly and severally reimburse the Title Defect Recision Fund all monies paid to consumers and deficiencies in the fund caused by the Defendant's violation of R.C. 4505.181.

- 4) ASSESS, FINE and IMPOSE upon Defendant, pursuant to R.C. 1345.07, a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein.
- 5) ENJOIN Defendant from engaging as a supplier in any consumer transaction in the State of Ohio until such time as he has satisfied all monetary obligations due hereunder.
- 6) GRANT Plaintiff all costs incurred in bringing this action.
- 7) GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General



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