

IN THE COURT OF COMMON PLEAS
MAHONING 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.

Y-TOWN AUTO SALES LLC
c/o Thomas H. Hofus Jr.
5341 Old Oxford Ln.
Youngstown, Ohio 44512

and

THOMAS H. HOFUS JR.
5341 Old Oxford Ln.
Youngstown, Ohio 44512

Defendants.

)
)
) CASE NO: 15 cv 2483
)
) JUDGE: 15 cv Krichbaum
)
) REFILED CASE PREVIOUSLY
) ASSIGNED CASE NO. 14CV43
) JUDGE MAUREEN SWEENEY
)

) **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.

The actions of Defendants Y-Town Auto Sales LLC and Thomas H. Hofus (Defendants), have occurred in the State of Ohio and Mahoning County and violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. and the Title Defect Rescission Act (TDR), R.C. 4505.181.

2. This Court has jurisdiction over the subject matter of this action pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
3. This Court has venue to hear this case pursuant to Civ. R. 3(B)(1)-(3), in that some of the transactions complained of herein, and out of which this action arises, occurred in Mahoning County, Ohio.

DEFENDANTS

4. Defendant Y-Town Auto Sales LLC is an Ohio limited liability company that did business at 3205 Market St. Youngstown, Ohio 44507.
5. Defendant Thomas H. Hofus Jr. owned and operated Defendant Y-Town Auto Sales LLC, held the dealer license, and directed and controlled all business activities of the limited liability defendant, including the solicitation for sale and sale of used motor vehicles.
6. Defendants were “suppliers” as that term is defined in R.C. 1345.01(C) as Defendants, 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 Mahoning 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).
8. Defendants were motor vehicle dealers as that term is defined in R.C. 4517.01(L).

STATEMENT OF FACTS

9. Defendants were engaged in the business of soliciting, promoting, leasing, purchasing, and/or selling motor vehicles.

10. Defendant Y-Town Auto Sales, LLC. at all relevant times hereto, was licensed by the Ohio Bureau of Motor Vehicles under dealer license number UD019326 held by Defendant Hofus.
11. Defendant Y-Town Auto Sales LLC at all relevant times hereto, was a member of the Title Defect Rescission Fund in accordance with R. C. 4505.181(A)(1)(b).
12. Defendants, in the ordinary course of business, have sold or transferred used motor vehicles to consumers without delivering to the purchasers or transferees, certificates of title assigned to such purchasers or transferees.
13. Defendants 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.
14. Consumers received reimbursement from the TDR fund due to Defendants' failure to provide titles to used motor vehicles they had sold to those consumers.

PLAINTIFF'S CAUSES OF ACTION

COUNT ONE

15. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Fifteen (1-15) of this Complaint.
16. Defendants have 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 a certificates of title for the vehicles in the name of the dealer 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 dealer or person acting on behalf of

the dealer authority to have a certificate of title to the motor vehicle issued in the name of the dealer for each motor vehicle displayed or sold in violation of R.C. 4505.181(A)(2). Defendants 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

17. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Fifteen (1-15) of this Complaint.
18. Defendants have 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). Defendants 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 Defendants, their agents, servants, representatives, salesmen, employees, successors or assigns, and all persons acting in concert and participation with them, 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 Defendants, pursuant to R.C. 4505.181(D), R. C. 1345.07 and R.C. 1345.52, to jointly and severally reimburse the Title Defect Rescission Fund all monies paid to consumers and deficiencies in the fund caused by the Defendants' violation of R. C. 4505.181.
- 4) ASSESS, FINE and IMPOSE upon each 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 Defendants from engaging as a supplier in any consumer transaction in the State of Ohio until such time as they have 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


THOMAS D. MCGUIRE (0007121)
Senior Assistant Attorney General
Consumer Protection Section
615 W. Superior Ave. 11th Floor
Cleveland, Ohio 44113-1899
216-787-3030
Thomas.mcguire@ohioattorneygeneral.gov

Counsel for Plaintiff

TO THE CLERK:

Please serve a copy of the forgoing Complaint by Certified U.S. mail, returnable according to law, upon the Defendants at the addresses listed at the heading of this Complaint.

for  (0084880)
THOMAS D. MCGUIRE (0007121)
Senior Assistant Attorney General
Consumer Protection Section