

IN THE COURT OF COMMON PLEAS OF SUMMIT COUNTY, OHIO

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

Plaintiff,

v.

METRO ACC LLC
 c/o JOSEPH M. NICE
 Statutory Agent
 618 Birch Hill Dr.
 Medina, Ohio 44256

and

JOSEPH M. NICE (INDIVIDUALLY)
 618 Birch Hill Dr.
 Medina, Ohio 44256

Defendants.

CASE NO.

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 Metro ACC LLC and Joseph M. Nice ("Defendants"), hereinafter described, have occurred in the State of Ohio, Summit 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 each a “supplier” 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).
5. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and Summit 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 resided in, operated their business from, and engaged in some of the transactions complained of herein in Summit County.

STATEMENT OF FACTS

8. Metro ACC, LLC (“Metro”) is a domestic limited liability company conducting business in Summit County and in the State of Ohio with its principal place of business located at 137 E. Waterloo Rd., Akron, Ohio.

9. Defendant Metro at all relevant times was a licensed used motor vehicle dealer, operating under a permit issued by the Ohio Bureau of Motor Vehicles, permit number UD021252.
10. On information and belief, Defendant Joseph M. Nice is an individual whose address is 618 Birch Hill Dr., Medina, Ohio 44256.
11. Defendant Joseph M. Nice was registered with the Ohio Secretary of State as statutory agent for Metro ACC LLC.
12. On information and belief, Defendant Joseph M. Nice was the principal of Metro, and dominated, controlled and directed the business activities and sales conduct of Metro, and exercised the authority to establish, implement or alter the policies of Metro, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
13. 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 to consumers residing in Summit and other Ohio counties.
14. Defendants, operating under the name Metro ACC, LLC, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
15. The Defendants failed to file for an application for certificate of title within thirty (30) days after the assignment or delivery of a motor vehicle.
16. The Defendants failed to obtain a certificate of title on or before the fortieth (40th) day after the sale of a motor vehicle.
17. Title Defect Recision consumer claims totaling Eighteen Thousand Two Hundred Seventy-Four Dollars and Fourteen Cents (\$18,274.14) thus far were paid from the Title Defect

Recision Fund, administered by the Ohio Attorney General's Office, after the Defendants failed to obtain a certificate of title on or before the fortieth (40th) day after the sale of the motor vehicle.

18. Defendant Joseph M. Nice agreed to repay the Title Defect Recision Fund and made two one thousand dollar payments. Phone calls were placed to Nice and letters sent, but he ceased communications and no further payments were received.

CAUSE OF ACTION
VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Eighteen (1-18) of this Complaint.
20. The Defendants engaged in an unfair and deceptive act and practice in violation of R.C. 1345.02(A) by failing to file an application for a certificate of title within thirty (30) days after the assignment or delivery of a motor vehicle as required by R.C. 4505.06(A)(5)(b).
21. The Defendants engaged in an unfair and deceptive act and practice in violation of R.C. 1345.02(A), by selling a motor vehicle to a consumer, in the ordinary course of business, and then failing to obtain a certificate of title on or before the fortieth (40th) day of sale of the motor vehicle as required by R.C. 4505.181(B)(1).
22. 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 violation 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 any 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 and 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 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 liable for reimbursement to the Title Defect Recision Fund for funds expended to resolve title defects caused by Defendants' motor vehicle title violation.
- E. ASSESS, FINE, AND IMPOSE upon Defendants a civil penalty of \$25,000.00 for each of the appropriate unfair and 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 in the State of Ohio until they have satisfied all restitution and civil penalties, and made reimbursement to the Title Defect Recision Fund.
- H. ORDER that Defendant Joseph M. Nice be prohibited from maintaining, renewing or applying for an auto dealer or salesperson license under Chapter 4517 of the Revised Code until such a time as the reimbursement and penalties herein ordered are paid.
- 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,

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Attorney General


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