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2014 CVO 297

IN THE COURT OF COMMON PLEAS OF UNION COUNTY, OHIO

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

Plaintiff,

v.

WODA AUTOMOTIVE, LLC
 18987 State Route 37
 Broadway, OH 43007

and

DONALD WODA
 959 Walker Woods Ln.
 Marysville, OH 43040

Defendants.

CASE NO.

JUDGE

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

Deanna A. Nickele
 CLERK

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COURT OF COMMON
 PLEAS
 UNION COUNTY, OHIO

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 and Union 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.*

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3. Defendants, as described below, were "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 Union 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 Union County.

STATEMENT OF FACTS

8. Defendant Woda Automotive LLC was an Ohio limited liability company last operating at 18987 State Route 37, Broadway, OH 43007.
9. On information and belief, Defendant Donald Woda is an individual whose address is 959 Walker Woods Ln., Marysville, OH 43040.
10. Defendant Donald Woda had an ownership interest in and operated Woda Automotive LLC and dominated, controlled and directed the business activities and sales conduct of Woda Automotive LLC, and exercised the authority to establish, implement or alter the

policies of Woda Automotive LLC, 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 Broadway to consumers residing in Union County and other Ohio counties.
12. Defendants, operating under the name Woda Automotive LLC, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
13. At all relevant times hereto, Defendant Woda Automotive LLC held license #UD017746 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 Woda Automotive LLC location.
15. The Defendants displayed for sale and sold used motor vehicles without obtaining a certificate of title for the vehicles in their name, and without possessing a bill of sale for each motor vehicle displayed, offered for sale, or sold, and without a properly executed power of attorney or other related document from the prior owner of the motor vehicle giving the defendants the authority to have a certificate of title to those vehicles issued in their name.
16. The Defendants sold used motor vehicles encumbered with pre-existing liens to retail purchasers so that retail purchasers paid money for motor vehicles which were not titled

in the Defendants' name at the time of purchase, and for which the Defendants knew they would be unable to obtain title because of the pre-existing liens the Defendants were unable to satisfy.

17. The Defendants received payment from retail purchasers, and/or third parties on behalf of retail purchasers, in full satisfaction for the purchase of the motor vehicles, even though the Defendants knew that they would be unable to obtain title to the motor vehicles because of the pre-existing liens.
18. The Defendants, in the ordinary course of business, sold or transferred motor vehicles to Ohio retail purchasers and failed to file applications for certificate of title within Thirty (30) days after the assignment or delivery of the motor vehicles.
19. The Defendants, in the ordinary course of business, sold or transferred motor vehicles to Ohio retail purchasers and failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
20. As a result of the Defendants conduct, retail purchasers were unable to obtain certificates of title to their used motor vehicles, and filed numerous claims with the Ohio Attorney General pursuant to Ohio's Title Defect Recision (TDR) statute, R. C. 4505.181.
21. TDR claims totaling One Hundred Eight Thousand Eight Hundred Eleven Dollars and Fifty Cents (\$108,811.50) were paid from the TDR 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 to retail purchasers.
22. The Defendants represented that a consumer transaction involved a warranty and then failed to fulfill their obligations under the stated warranty.

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

23. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Two (1-22) of this Complaint.
24. 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).
25. 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).
26. 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).

SECOND CAUSE OF ACTION
UNCONSCIONABLE CONSUMER SALES PRACTICES

27. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Two (1-22) of this Complaint.
28. The Defendants committed unconscionable acts or practices in connection with consumer transactions in violation of the Consumer Sales Practices Act R.C. 1345.03 by entering into consumer transactions knowing at the time the consumer transaction was

entered into of the inability of the consumer to receive a substantial benefit from the subject of the consumer transaction, by displaying for sale or selling new and used motor vehicles when there was no reasonable probability based upon its precarious financial condition that Defendants could secure certificates of title to the motor vehicles for each motor vehicle displayed or sold in violation of R.C. 4505.181(A)(2).

29. Such acts or practices have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

THIRD CAUSE OF ACTION
UNFAIR AND DECEPTIVE CONSUMER SALES PRACTICES

30. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Two (1-22) of this Complaint.
31. The Defendants represented that a consumer transaction involved a warranty and then failed to fulfill their obligations under the stated warranty, in violation of R.C. 1345.02.
32. Such acts or practices have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. 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, deceptive and unconscionable acts and practices, and motor vehicle title violations.
- D. ORDER Defendants jointly and severally liable for payment to the TDR 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) for each of the appropriate unfair, deceptive or unconscionable acts alleged in the Complaint, pursuant to R.C. 1345.07(D).

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- F. ASSESS, FINE, AND IMPOSE upon Defendants, jointly and severally, an additional civil penalty of not more than Two Hundred Dollars (\$200) 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 suppliers in the State of Ohio until they have satisfied all restitution, civil penalties, and payment to the TDR Fund.
- I. Order that Donald Woda 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

/s/ Rosemary E. Rupert
ROSEMARY E. RUPERT (0042389)
Assistant Attorney General
Director Title Defect Recision Unit

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