

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

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

Plaintiff,

v.

JAMES W. DAVIES, JR.
dba Wheelin N Dealin LLC
1224 Hanover Street
Hamilton, OH 45011

and

ADHAM AKROUSH
3131 Woodside Dr.
Fairfield, Ohio 45014

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, Dave Yost, 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 ("CSPA"), 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, Butler County and, as set forth below, are in violation of the CSPA, 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, were “suppliers” 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 Butler County.
6. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
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 Butler County.

STATEMENT OF FACTS

8. Wheelin N Dealin LLC is an unincorporated company operating under a fictitious name conducting business in Butler County and in the State of Ohio with its principal places of business last located at 701 South Eric Boulevard, Hamilton, Ohio 45011.
9. The Wheelin N Dealin LLC was dissolved by an Ohio Secretary of State entry dated April 5, 2016.
10. On information and belief, Defendant James W. Davies, Jr. (“Davies”) is an individual whose address is 1224 Hanover Street, Hamilton, Ohio 45011.

11. Defendant Davies had an ownership interest in and operated Wheelin N Dealin LLC, and dominated, controlled and directed the business activities and sales conduct of it, and exercised the authority to establish, implement or alter the policies of Wheelin N Dealin LLC, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
12. On information and belief, Defendant Adham Akroush ("Akroush") is an individual whose address is 3131 Woodside Dr., Fairfield, Ohio 45014.
13. Defendant Akroush had an ownership interest in and operated Wheelin N Dealin LLC, and dominated, controlled and directed the business activities and sales conduct of it, and exercised the authority to establish, implement or alter the policies of Wheelin N Dealin LLC, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
14. 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 to consumers residing in Butler and other Ohio counties.
15. Defendants, operating under the fictitious name Wheelin N Dealin LLC, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
16. At all relevant times hereto, Defendant Davies held license #UD020518 issued by the State of Ohio under R.C. 4517.01 *et seq.*, allowing him to engage in the business of displaying or selling at retail or wholesale used motor vehicles at the 701 South Eric

Boulevard, Hamilton, Ohio 45011 location.

17. The Defendants failed to file applications for certificate of title within Thirty (30) days after the assignment or delivery of a motor vehicle.
18. The Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
19. Title Defect Recision ("TDR") consumer claims totaling Eight Thousand Eight Hundred Eighty-Two Dollars and Twenty Cents (\$8,882.20) thus far was 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 the motor vehicles.
20. Defendants failed to register with or report the fictitious trade name Wheelin N Dealin LLC to the Ohio Secretary of State.

CAUSE OF ACTION
VIOLATIONS OF THE CONSUMER SALES PRACTICES 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(A) 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 engaged in unfair and deceptive acts and practices in violation of 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. The Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A), by failing to register with or report the fictitious trade name Wheelin N Dealing LLC to the Ohio Secretary of State as required by R.C. 1329.01.
25. 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 CSPA, 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, representatives, salespeople, employees, successors and assigns and all persons acting in concert or participating with him, directly or indirectly, from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, 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 TDR Fund for funds expended to resolve title defects caused by the Defendants motor vehicle title violations.
- E. ASSESS, FINE, AND IMPOSE upon the 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, civil penalties, court costs and made reimbursement to the TDR Fund.
- H. Order that Defendants James W. Davies Jr. and Adham Akroush be prohibited from applying for an auto dealer or salesperson license under Chapter 4517 of the Revised Code.
- I. Grant Plaintiff its costs in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
- 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,

DAVE YOST
Attorney General



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