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Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed: COMPLAINT
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By: TIMOTHY W. EFFLER 0083768

Confirmation Nbr. 2067926

STATE OF OHIO, EX REL. ATTORNEY GENERAL
DAVE YOST

CV 20 936968

vs.

CITYWIDEAUTOMALL LLC., ET AL.

Judge: WANDA C. JONES

Pages Filed: 7

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

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

Plaintiff,

V.

CITYWIDEAUTOMALL LLC
c/o Arlin J. Wallace Jr.
Statutory Agent
3479 W. 91st Street
Cleveland, Ohio 44102

and

ARLIN J. WALLACE JR., Individually
3479 W. 91st Street
Cleveland, Ohio 44102

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 CitywideAutoMall LLC. and Arlin J. Wallace Jr. (“Defendants”), hereinafter described, have occurred in the State of Ohio, Cuyahoga County and other counties, 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, 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. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
6. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(2) and (3), in that Defendants operated their business from and engaged in some of the transactions complained of herein in Cuyahoga County, Ohio.

DEFENDANTS

7. CitywideAutoMall LLC. (“Citywide”) is a domestic limited liability company conducting business in Cuyahoga County and other counties in the State of Ohio with its principal place of business located at 3855 Ridge Road, Cleveland, Ohio 44144.
8. Defendant Citywide 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 UD022259. The permit is active.
9. On information and belief, Defendant Arlin J. Wallace Jr. is an individual whose address is 3479 W. 91st Street, Cleveland, Ohio 44102.
10. On information and belief, Defendant Arlin J. Wallace Jr. is the principal owner of Citywide and dominated, controlled and directed the business activities and sales conduct of Citywide, exercised the authority to establish, implement or alter the policies of Citywide, 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 to consumers residing in Cuyahoga and other Ohio counties.
12. Defendants, operating under the name CitywideAutoMall LLC., solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.

STATEMENT OF FACTS

13. Defendants solicited Ohio consumers with the sale of motor vehicles, and have engaged in acts and practices that violate the CSPA, R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*
14. The Defendants failed to file applications for certificates of title within thirty (30) days after the assignment or delivery of motor vehicles.
15. The Defendants failed to obtain certificates of title on or before the fortieth (40th) day after the sale of motor vehicles.
16. The Defendants represented that a consumer transaction involved a warranty and then failed to fulfill their obligations under the stated warranty.
17. Payouts were made from the Title Defect Recision (“TDR”) Fund for the Defendants’ failure to transfer title. The total payout amount was \$8,021.00.
18. After payment was made from the TDR Fund, the Defendants failed to obtain a surety bond in violation of R.C. 4505.181, which requires that a dealer post a surety bond in an amount not less than \$25,000.00 after the Attorney General has paid a retail purchaser of the dealer from the TDR Fund.

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 unfair or deceptive acts and practices in violation of R.C. 1345.02(A) by failing to file applications for certificates of title within thirty days after the

assignment or delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b).

21. The Defendants engaged in unfair or 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 day of sale of the motor vehicles as required by R.C. 4505.181(B)(1).
22. The Defendants engaged in unfair or deceptive acts and practices in violation of R.C. 1345.02(A), by failing to post a surety bond after the Attorney General paid a retail purchaser of the dealer from the TDR Fund due to the Defendants' failure to deliver title to the purchaser, as required by R.C. 4505.181.
23. The Defendants engaged in unfair or deceptive acts and practices in violation of R.C. 1345.02(A) and R.C. 1345.02(b)(10) by representing that a consumer transaction involved a warranty and then failing to fulfill their obligations under the stated warranty.
24. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, 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 any officers, agents, 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 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 or deceptive acts and practices, and motor vehicle title violations.
- D. ORDER Defendants liable for reimbursement to the TDR for funds expended to resolve title defects caused by Defendants' motor vehicle title violations.
- E. ASSESS, FINE, AND IMPOSE upon Defendants a civil penalty of \$25,000.00 for each of the appropriate unfair or deceptive acts alleged in the Complaint, pursuant to R.C. 1345.07(D).
- F. ORDER that 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, reimbursed the TDR Fund and have posted the required R.C. 4505.181 surety bond.
- G. ORDER that Defendants be prohibited from maintaining, renewing or applying for an auto dealer or salesperson license under Chapter 4517 of the Revised Code.
- H. GRANT Plaintiff its costs in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
- I. ORDER Defendants to pay all court costs.
- J. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Dave Yost
Ohio Attorney General



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