

FILED
COMMON PLEAS COURT
ERIE COUNTY, OHIO
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CLERK OF COURTS

ORIGINAL

IN THE COURT OF COMMON PLEAS
ERIE COUNTY, OHIO

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

Plaintiff,

v.

BOASKO'S RT 4 AUTOMALL LLC
c/o MARC L. BOASKO
4103 Pebble Lane
Sandusky, Ohio 44870

and

STACEY M. BOASKO
4103 Pebble Lane
Sandusky, OH 44870

And

MARC L. BOASKO
4103 Pebble Lane
Sandusky, Ohio 44870

Defendant.

CASE NO.

2013CV0406

JUDGE

TYGH TONE

**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.

2. The actions of Defendants Boasko's Rt 4 Automall LLC, Stacey Boasko and Marc Boasko ("Defendants"), have occurred in the State of Ohio and Erie County and violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. and the Title Defect Recision Act (TDR), R.C. 4505.181.
3. This Court has jurisdiction over the subject matter of this action pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
4. This Court has venue to hear this case pursuant to Civ. R. 3(B)(1)-(3), in that Defendants reside in Erie County, maintained their principal place of business in Erie County and some of the transactions complained of herein, and out of which this action arises occurred in Erie County, Ohio.

DEFENDANTS

5. Defendant Boaskos Rt 4 Automall LLC is a limited liability company doing business in Ohio and located at 3002 Hayes Ave. Sandusky, Ohio 44870.
6. Defendant Stacey M. Boasko is an individual residing at 4103 Pebble Lane, Sandusky, Ohio 44870 and is the owner and principal of Boasko's Rt 4 Automall LLC. Defendant Stacey M. Boasko controlled and directed the activities of defendant Boasko's Rt 4 Automall LLC, and its employees, and had knowledge and control of the illegal practices alleged herein.
7. Defendant Marc L. Boasko is an individual residing at 4103 Pebble Lane, Sandusky, Ohio 44870 and was an employee and agent of Boasko's Rt 4 Automall LLC. at all times

relevant hereto, he acted as an agent of the company defendants and in accord with their instructions and had knowledge and control of the illegal practices alleged herein.

8. Defendants were a "supplier" 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 Erie 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).
9. Defendant Boaskos Rt 4 Automall LLC was a motor vehicle dealer as that term is defined in R.C. 4517.01(L).

STATEMENT OF FACTS

10. Defendant was engaged in the business of soliciting, promoting, purchasing, and/or selling motor vehicles.
11. Defendant Boasko's Rt 4 Automall LLC, at all relevant times hereto, was licensed by the Ohio Bureau of Motor Vehicles under dealer license number UD018914.
12. Defendant at all relevant times hereto, was a member of the Title Defect Recision Fund in accordance with R. C. 4505.181(A)(1)(b).
13. Defendant, in the ordinary course of business, has sold or transferred used motor vehicles to consumers without delivering to the retail purchasers or transferees, certificates of title assigned to such purchasers or transferees.
14. Defendant Marc L. Boasko was the salesperson who sold the subject motor vehicles. Upon information and belief, Defendant Marc L. Boasko, with the consent and knowledge of Stacey M. Boasko, also ran many of the day to day functions of Defendant Boasko's Rt 4 Automall LLC.

15. Defendants entered into numerous consumer transactions for the sale 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.
16. Consumers received reimbursement from the TDR fund due to Defendants' failure to provide titles to used motor vehicles they had sold to those consumers.
17. All facts alleged above have occurred in the two years prior to this lawsuit.

PLAINTIFF'S CAUSES OF ACTION

COUNT ONE

18. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Seventeen (1-17) of this Complaint.
19. 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 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

20. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Seventeen (1-17) of this Complaint.
21. 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 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 reimburse the Title Defect Recision 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 jointly and severally, 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) ORDER Defendants jointly and severally liable for all court costs.
- 8) GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General



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