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2021CV0192 - Joel M Kuhlman

DOUGLAS F. CUBBERLEY
CLERK OF COURTS WOOD COUNTY OHIO

IN THE COURT OF COMMON PLEAS WOOD COUNTY, OHIO

STATE OF OHIO, ex rel.)	CASE NO.
ATTORNEY GENERAL)	
DAVE YOST)	
30 East Broad St., 14th Floor)	JUDGE
Columbus, Ohio 43215)	
)	
Plaintiff,)	<u>COMPLAINT FOR</u>
)	<u>DECLARATORY JUDGMENT,</u>
v.)	<u>INJUNCTIVE RELIEF,</u>
)	<u>RESTITUTION, CIVIL</u>
HARRIGAN FAMILY AUTOMOTIVE, LLC)	<u>PENALTIES, AND OTHER</u>
c/o Patrick Harrigan, Statutory Agent)	<u>APPROPRIATE RELIEF</u>
8232 Fremont Pike)	
Perrysburg, Ohio 43551)	
)	
and)	
)	
Patrick M. Harrigan Sr., Individually)	
623 River Rd.)	
Maumee, Ohio 43537)	
)	
and)	
)	
Patrick M. Harrigan Jr., Individually)	
1004 River Rd.)	
Maumee, Ohio 43537)	
)	
Defendants.)	

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 Harrigan Family Automotive LLC, Patrick M. Harrigan Sr. and Patrick M. Harrigan Jr. (“Defendants”), hereinafter described, have occurred in the State of Ohio, Wood 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. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and Wood 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(C)(2) and (3), in that Defendants operated their business from and engaged in some of the transactions complained of herein in Wood County, Ohio.

DEFENDANTS

8. Harrigan Family Automotive LLC (“HFA”) is a domestic limited liability company conducting business in Wood County and other counties in the State of Ohio with its principal place of business formerly located at 8232 Fremont Pike, Perrysburg, Wood County, Ohio 43551.
9. Defendant HFA 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 UD021528. The permit is now inactive.
10. On information and belief, Defendant Patrick M. Harrigan Sr. is an individual whose address is 623 River Road, Maumee, Lucas County, Ohio 43537.
11. On information and belief, Defendant Patrick M. Harrigan Jr. is an individual whose address is 1004 River Road, Maumee, Lucas County, Ohio 43537.
12. On information and belief, Defendants Patrick M. Harrigan Sr. and Patrick M. Harrigan Jr. are the principal owners of HFA and dominated, controlled and directed the business activities and sales conduct of HFA, exercised the authority to establish, implement or alter the policies of HFA, 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 Wood and other Ohio counties.
14. Defendants, operating under the name Harrigan Family Automotive LLC, solicited

individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.

STATEMENT OF FACTS

19. Defendants have solicited Ohio consumers for the sale of motor vehicles.
20. The Defendants failed to file applications for certificates of title within thirty days after the assignment or delivery of motor vehicles.
21. The Defendants failed to obtain certificates of title on or before the fortieth day after the sale of motor vehicles.
22. Payouts were made from the Title Defect Recision (“TDR”) Fund for the Defendants’ failure to transfer title. The payout amounts totaled \$16,486.50.
23. After payments were 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**

24. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1-23 of this Complaint.
25. 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 days after the assignment or delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b).
26. 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 day after the sale of the motor vehicles as required by R.C. 4505.181(B)(1).

27. The Defendants failed 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.
28. 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 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 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 and deceptive acts alleged in the Complaint, pursuant to R.C. 1345.07(D).
- F. 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, reimbursed the TDR Fund and have posted the required R.C. 4505.181 surety.
- H. ORDER that the Defendants be prohibited from maintaining, renewing or 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.

Dave Yost
Ohio Attorney General

/s/ Timothy W. Effler
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