

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO



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

Plaintiff,

v.

AUTOMAX OF CANTON LLC
Elias Eberly, Statutory Agent
Inmate #A804983
Marion Correctional Institution
940 Marion-Williamsport Rd., E.
Marion, Ohio 43302

and

ELIAS EBERLY, Individually
Inmate #A804983
Marion Correctional Institution
940 Marion-Williamsport Rd., E.
Marion, Ohio 43302

Defendants.

CASE NO.

2025CV00962

JUDGE

Hartnett

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 Automax of Canton LLC ("Automax") and Elias Eberly ("Eberly") (collectively "Defendants"), hereinafter described, have occurred in the State of

Ohio, Stark 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. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(2)-(3), in that Defendants operated their business from and engaged in some of the transactions complained of herein, in Stark County, Ohio.

DEFENDANTS

5. Defendant Automax is a domestic limited liability company conducting business in Stark County and other counties in the State of Ohio with its principal place of business last located at 5158 Tuscarawas Street W., Canton Ohio 44708.
6. Defendant Automax, at all relevant times, was a licensed used motor vehicle dealer previously operating under a permit issued by the Ohio Bureau of Motor Vehicles, permit number 023215. The dealer permit is cancelled.
7. Defendant Eberly is an individual who, on information and belief, is currently incarcerated and residing at the Marion Correctional Institution, Inmate #A804983, 940 Marion-Williamsport Rd., E., Marion, Ohio 43302.
8. On information and belief, Defendant Eberly is the principal owner of Automax and dominated, controlled, and directed the business activities and sales conduct of Automax, exercised the authority to establish, implement or alter the policies of Automax, and committed, allowed, directed, ratified, or otherwise caused the unlawful acts alleged herein

to occur.

9. All allegations contained herein occurred prior to Defendant Eberly's incarceration.
10. Defendants are each a "supplier," as Defendants, at all times relevant herein, engaged in the business of effecting or soliciting "consumer transactions" either directly or indirectly, by offering for sale, selling or financing the purchase of used motor vehicles to "consumers" for purposes that were primarily for personal, family or household use, as those terms are defined in R.C. 1345.01(A), (C) and (D).

STATEMENT OF FACTS

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 Stark and other Ohio counties.
12. Defendants solicited individual Ohio consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
13. In some instances, the Defendants did not have physical possession of the titles and/or the vehicles were not titled to the Defendants on the dates the vehicles were sold to consumers.
14. Defendants failed to file applications for certificates of title within thirty days after the assignment or delivery of motor vehicles.
15. Defendants failed to obtain certificates of title on or before the fortieth day after the sale of motor vehicles.
16. As a result of the Defendants' conduct, retail purchasers were unable to obtain certificates of title to their used motor vehicles and filed complaints with the Ohio Attorney General.
17. As a result of Defendants' conduct, to date claims totaling \$46,054.98 were paid from the

Ohio Attorney General's Title Defect Recision (TDR) Fund for the Defendants' failure to transfer title. Plaintiff anticipates additional payouts from the TDR Fund to resolve pending complaints.

CAUSE OF ACTION:
VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT AND
CERTIFICATE OF MOTOR VEHICLES ACT

18. Plaintiff incorporates by reference, as if completely rewritten herein, the preceding paragraphs of this Complaint.
19. 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).
20. 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).
21. 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.
- D. ORDER Defendants 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 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 payments, civil penalties, court costs, and have made full payment to the TDR Fund.
- G. ORDER that the Defendants be prohibited from maintaining, renewing, or applying for an auto dealer 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 the Defendants to pay all court costs.
- J. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully Submitted,

Dave Yost
Ohio Attorney General

/s/ Rosemary E. Rupert

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