

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

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

Plaintiff,

v.

CAPITAL CITY CAR BROKERS LLC
c/o SHERLIN E. BOYD
Statutory Agent
71 Winner Ave.
Columbus, Ohio 43203

and

MICHAEL J. A. BOYD
71 Winner Ave.
Columbus, Ohio 43203

and

SHERLIN E. BOYD
71 Winner Ave.
Columbus, OH 43203

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, 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 Ohio Consumer Sales Practices Act, 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 Capital City Car Brokers LLC, Michael J. A. Boyd, and Sherlin Boyd (“Defendants”), hereinafter described, have occurred in the State of Ohio, Franklin County and, as set forth below, are in violation of the Consumer Sales Practices Act, 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 Franklin County.
6. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
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 Franklin County.

DEFENDANTS

8. Capital City Car Brokers, LLC (“Capital City Car”) is a domestic limited liability company conducting business in Franklin County and in the State of Ohio last operating

at 716 Sullivant Ave., Columbus, Ohio 43222 and 1043 E. Livingston Ave., Columbus, Ohio 43205.

9. Defendant Capital City Car at all times relevant was a licensed used motor vehicle dealer, operating under a permit issued by the Ohio Bureau of Motor Vehicles, permit number UD021398. The permit is currently inactive.
10. On information and belief, Defendant Michael J. A. Boyd is an individual whose address is 71 Winner Ave., Columbus, Ohio 43203.
11. On information and belief, Defendant Sherlin Boyd is an individual whose address is 71 Winner Ave., Columbus, Ohio 43203.
12. Defendant Michael J. A. Boyd at all relevant times was a licensed salesperson with a license issued by the Ohio Bureau of Motor Vehicles, license number SL158220.
13. Defendant Sherlin Boyd is registered with the Ohio Secretary of State as statutory agent for Capital City Car.
14. On information and belief, Defendants Michael J. A. Boyd, and Sherlin Boyd, are principals of Capital City Car, and dominated, controlled and directed the business activities and sales conduct of Capital City Car, and exercised the authority to establish, implement or alter the policies of Capital City Car, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
15. The 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 Franklin and other Ohio counties.
16. The Defendants, operating under the name Capital City Car Brokers, LLC, solicited

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

STATEMENT OF FACTS

17. On November 27, 2017, the Attorney General filed a lawsuit against Capital City Car, Michael J.A. Boyd and Sherlin Boyd alleging that they violated the Consumer Sales Practices Act in connection with the sale of motor vehicles. Franklin County Common Pleas Case No. 17-CV-10426.
18. In that previous lawsuit, the Court granted a default judgment against Capital City Car, Michael J.A. Boyd and Sherlin Boyd, and on January 30, 2018, the Court entered an Entry and Order Assessing Damages and Civil Penalties against these Defendants. Id. Defendants were ordered to pay \$3,250.00 to the Ohio Attorney General to reimburse the Title Defect Recision Fund ("TDR"), and a \$10,000 civil penalty. Id. Defendants were also enjoined from engaging in consumer transactions in Ohio as a supplier until they had paid all penalties and damages owed to the State of Ohio.
19. To date, Defendants have not paid any of the consumer damages or civil penalties awarded by the judgment in Case No. 17-CV-10426.
20. In the time since the 2018 default judgment, Defendants continued soliciting Ohio consumers with the sale of motor vehicles and several consumer filed consumer complaints with Plaintiff.
21. The Defendants have continued to sell motor vehicles in violation of the default judgment.
22. R.C. 4505.181 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.

23. The Defendants have not obtained or posted the surety bond in the favor of the State of Ohio, from a surety company authorized to do business in this State, in the amount of not less than \$25,000.00 required by R.C. 4505.181(A)(2) and in violation of the default judgment.
24. The Defendants failed to file applications for certificates of title within thirty (30) days after the assignment or delivery of motor vehicles.
25. The Defendants failed to obtain certificates of title on or before the fortieth (40th) day after the sale of motor vehicles.
26. In the default judgment, TDR consumer claims totaling \$3,250.00 were 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. After the Default Judgment was issued an additional \$1,670.00 payout was made from the TDR Fund for the failure to transfer title. Adding this payout amount to the previous payout of \$3,250.00, the total amount of all TDR payouts is \$4,920.00.
27. After the payouts were made from the TDR Fund, and default judgment was entered in this Court, the Defendants continued to operate in violation of the injunctive relief granted in the Default Judgment by continuing to engage in consumer transactions in violation of R.C. 4505.181 and R.C. 1345.01 et seq., by failing to post the surety bond, pay the damages amount, and civil penalty.

CAUSE OF ACTION
VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT

28. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Seven (1-27) of this Complaint.
29. 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).
30. 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).
31. 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.
32. After the payouts were made from the TDR Fund, and default judgment was entered in this Court, the Defendants continued to operate in violation of the injunctive relief granted in the Default Judgment by continuing to engage in consumer transactions in violation of R.C. 4505.181 and R.C. 1345.01 *et seq.*, by failing to post the surety bond, pay the damages amount, and civil penalty.
33. 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 Consumer Sales Practices Act, 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, servants, 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 Consumer Sales Practices Act, 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 amounts 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.
- G. ORDER that Defendants Michael J. A. Boyd, and Sherlin Boyd, be prohibited from maintaining, renewing or applying for an auto dealer or salesperson license under Chapter 4517 of the Revised Code.
- H. ORDER the Defendants to pay all court costs.
- I. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General



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