

IN THE COURT OF COMMON PLEAS
FAYETTE COUNTY, OHIO

SANDRA J. WILSON
CLERK OF COURTS
FAYETTE COUNTY
WASHINGTON C.H., OHIO
2018 JUL 30 PM 2:07

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

Plaintiff,

v.

GHAZEL MOTORS LLC
c/o Yahia Alcharbaji
347 W. Court St.
Washington Court House, OH 43160

and

YAHIA ALCHARBAJI, Individually,
802 Grants Trail
Dayton, OH 45459

Defendants.

CASE NO.

CVH20180219

JUDGE

Beathard

COMPLAINT AND REQUEST 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, hereinafter described, have occurred in the State of Ohio, Fayette 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 “supplier[s]” as that term is defined in R.C. 1345.01(C) as Defendants are, at all times relevant herein, engaging 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) and (D).
5. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and Fayette 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 reside in, operate their business from, and engage in the transactions complained of herein in Fayette County.

STATEMENT OF FACTS

8. Defendant Ghazel Motors, LLC (“Ghazel”) is an Ohio limited liability company registered with the Ohio Secretary of State as a fictitious business operating at 347 W. Court Street, Washington Court House, Ohio 43160.
9. On information and belief, Defendant Yahia Alcharbaji (“Alcharbaji”) is an individual whose address is 802 Grants Trail, Dayton, Ohio 45459.

10. Defendant Alcharbaji has an ownership interest in and operates Defendant Ghazel, and dominates, controls and directs the business activities and sales conduct of Ghazel, and exercises the authority to establish, implement or alter the policies of Ghazel, and commits, allows, directs, ratifies or otherwise causes the following unlawful acts to occur.
11. On October 23, 2017, Defendant Yahia Alcharbaji, both individually and in his capacity as an agent/owner of Ghazel Motors, LLC, signed an Assurance of Voluntary Compliance (“AVC”) with the Consumer Protection Section of the Ohio Attorney General’s office, which included but was not limited to the agreements that Defendant would:
 - a. Refrain from displaying for sale and selling a used motor vehicle without obtaining a certificate of title for the vehicle in its name, or without possessing a bill of sale for the motor vehicle displayed, or offering for sale, or selling, without a properly executed power of attorney or other related document from the prior owner of the motor vehicle giving Ghazel Motors LLC the authority to have a certificate of title to the vehicle issued in its name in violation of the Title Defect Recision (“TDR”) Act, R.C. 4505.01 et seq. and the Consumer Sales Practices Act, R.C. 1345.02(A).
 - b. Refrain from selling or transferring a motor vehicle to an Ohio retail purchaser when they fail to apply for a certificate of title in the name of the retail purchaser on or before the thirtieth day following the date of the

sale, in violation of the TDR Act, R.C. 4505.01 et seq, and the Consumer Sales Practices Act, R.C. 1345.02(A).

- c. Refrain in the ordinary course of business, from 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 TDR Act, R.C. 4505.01 et seq. and the Consumer Sales Practices Act, R. C. 1345.02(A).
- d. Refrain from engaging in consumer transactions in connection with the display for sale, or sale of used motor vehicles, until Ghazel Motors, LLC has posted a R.C. 4505.181 surety bond with the Ohio Attorney General's Office.

- 12. To date, Defendant Alcharbaji has made no payments of the \$7,552.50 Defendant Alcharbaji promised to pay to reimburse the TDR Fund as part of the AVC entered into with the Ohio Attorney General's Office on October 23, 2017.
- 13. To date, Defendants have made no payments of the \$1,500.00 Defendant Alcharbaji promised to pay for investigative and administrative costs as part of the AVC entered into with the Ohio Attorney General's Office on October 23, 2017.
- 14. Defendant Alcharbaji has violated the terms of the October 23, 2017 AVC that was agreed upon with the Consumer Protection Section of the Ohio Attorney General's office.
- 15. Defendants are at all times relevant to this action engaging in the business of soliciting, promoting, purchasing, selling, financing and collecting the proceeds of the sales of used motor vehicles from their location in Washington Court House to consumers residing in Fayette and other Ohio counties.

16. Defendants, operating under the name Ghazel Motors, LLC., solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
17. At all relevant times hereto, Defendants held license #UD020618 issued by the State of Ohio under R.C. 4517.01 *et seq.*, allowing them to engage in the business of displaying or selling at retail or wholesale used motor vehicles.
18. At all relevant times hereto, the Defendants displayed or sold used motor vehicles at the Ghazel location.
19. The Defendants continue to fail to file applications for certificates of title within Thirty (30) days after the assignment or delivery of motor vehicles.
20. The Defendants continue to fail to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
21. TDR consumer claims totaling \$7,552.50 thus far 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 motor vehicles.
22. R.C. 4505.181 requires that a dealer post a bond in an amount not less than \$25,000 after the Attorney General has paid a retail purchaser of the dealer from the TDR Fund.
23. After the payouts were made from the TDR Fund, the Defendants continued to operate without posting a bond.

PLAINTIFF'S CAUSE OF ACTION:
VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT

COUNT ONE
VIOLATIONS OF THE TERMS OF AN
ASSURANCE OF VOLUNTARY COMPLIANCE

24. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Three (1-23) of this Complaint.
25. Defendants have committed unfair and deceptive acts and practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A) by violating the terms of an Assurance of Voluntary Compliance entered into on October 23, 2017 with Yahia Alcharbaji individually and in his capacity as owner of Ghazel Motors, LLC.
26. Pursuant to R.C. 1345.06(F)(2), evidence of a violation of an Assurance of Voluntary Compliance is prima-facie evidence of an act or practice in violation of the Consumer Sales Practices Act.
27. Such acts and practices have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violation after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT TWO
VIOLATIONS OF THE CERTIFICATE OF MOTOR VEHICLE TITLE ACT

28. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Three (1-23) of this Complaint.
29. The Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02 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 committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, 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 continued to operate after failing to post a bond after the Attorney General paid retail purchasers of the dealer from the TDR Fund due to the Defendants' failure to deliver titles to the purchasers, as required by R.C. 4505.181(A)(2).
32. 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 their 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 or 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 jointly and severally 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 jointly and severally 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, jointly and severally, a civil penalty of Twenty-Five Thousand Dollars (\$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 Defendants jointly and severally liable to reimburse Plaintiff its \$1500.00 investigative and administrative costs Defendants were required to pay as part of the AVC and to reimburse Plaintiff its costs to prosecute this matter.
- G. Order that the Defendants be enjoined from engaging in consumer transactions as a used car dealer if Defendants have not posted with the attorney general's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars.
- H. ORDER, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, Defendants to maintain in their possession and control for a period of Five (5) years all business records relating to the Defendants' solicitation and sale of used motor vehicles in Ohio and to permit the Ohio Attorney General or his

representative, upon reasonable twenty-four (24) hour notice, to inspect and/or copy any and all records.

- I. Order that the Defendants be enjoined from engaging in consumer transactions as a supplier until they have satisfied all restitution, civil penalties, Attorney General costs to investigate and prosecute this action and any court costs ordered.
- J. Order that Defendant Alcharbaji be prohibited from maintaining, applying for or being granted a salesperson or auto dealer license under Chapter 4517 of the Revised Code.
- K. ORDER the Defendants to pay all court costs.
- L. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General



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