

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

FILED
LORAIN COUNTY

CASE NO. 2020 JUL 29 P 12: 54

STATE OF OHIO, ex rel.)
DAVID YOST)
Ohio Attorney General)
Cleveland Regional Office)
615 W. Superior Avenue, 11th Floor)
Cleveland, Ohio 44113-1899)

Plaintiff,)

-vs-)

Rt. 82 Auto Gallery, LLC)
c/o Angelo M. Guzzo, Statutory Agent)
33735 E. Royalton Rd.)
Columbia Station, OH 44028)

And)

Angelo M. Guzzo)
29179 Quail Run)
North Olmsted, OH 44070)

And)

Sean Nightingale)
34859 Highland Dr.)
North Ridgeville, OH 44039-1725)

Defendants)

JUDGE)
20 CV 201543)
COURT OF COMMON PLEAS)
OHIO)

COMPLAINT FOR DECLARATORY
JUDGMENT, INJUNCTIVE RELIEF,
RESTITUTION, CIVIL PENALTIES
AND OTHER APPROPRIATE RELIEF

JUDGE CHRISTOPHER ROTHGERY

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, David 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, hereinafter described, have occurred in and around the State of Ohio and in Lorain County, and 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 “suppliers” 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) and (D).

5. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and Lorain County.

6. This Court has jurisdiction over the subject matter of this action 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 the business from, and engaged in the transactions complained of herein in Lorain County, Ohio.

STATEMENT OF FACTS

8. Defendant Rt. 82 Auto Gallery, LLC, is a limited liability Ohio company registered as #4145408 with the Ohio Secretary of State, last known to be operating from an address in Lorain County, at 33735 E. Royalton Rd., Columbia Station, OH 44028.

9. Defendant Angelo M. Guzzo, Jr. is the President, CEO and Statutory Agent of the used motor vehicle dealership known as Rt 82 Auto Gallery, LLC. Defendant Guzzo is also a co-owner of used motor vehicle dealer license #UD021440 which permits Defendants to engage in the business of displaying or selling used motor vehicles.

10. Defendant Sean Nightingale has operated and had interest in the business known as Rt. 82 Auto Gallery at all times relevant hereto, and is listed as a co-owner of #UD021440, the used motor vehicle dealer license which permits Defendants to engage in the business of displaying or selling used motor vehicles.

11. At all times relevant herein, Defendants Guzzo and Nightingale had ownership interest in and operated the business known as Rt. 82 Auto Gallery and dominated, controlled and directed the business activities and sales conduct of Rt. 82 Auto Gallery and exercised the authority to establish, implement or alter the policies of Rt. 82 Auto Gallery, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.

12. 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 from this location in Columbia Station to consumers residing in Lorain and other Ohio counties.

13. Defendants, operating under the name Rt. 82 Auto Gallery, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.

14. At all times relevant hereto, Defendants Guzzo and Nightingale held license #UD021440 issued by the State of Ohio under R.C. 4517.01 *et seq.*, allowing them to engage in the business of displaying or selling used motor vehicles.

15. At all times relevant hereto, Defendants were displaying or selling used motor

vehicles at addresses associated with Rt. 82 Auto Gallery, including its last known location on E. Royalton Rd., Columbia Station, OH 440280.

16 Defendants failed to file applications for certificates of title within thirty (30) days after the assignment or delivery of motor vehicles.

17. Defendants failed to obtain certificates of title on or before the fortieth (40th) day after the sale of motor vehicles.

18. Title Defect Rescission (“TDR”) consumer claims totaling Seventy-six Thousand, Four Hundred Sixteen dollars and fifty cents (\$76,416.50) thus far have been paid from the TDR Fund, administered by the Ohio Attorney General’s Office, after Defendants failed to obtain certificates of title on or before the fortieth (40th) day after the sale of motor vehicles. That figure is off-set by two factors; one vehicle was sold at auction which recouped Two Thousand, One Hundred Fifteen dollars (\$2,115.00) and, in 2019 Defendants remitted a check for Two Thousand Dollars (\$2,000.00) toward the amount owed. What remains due and owing to the TDR Fund as of this filing is Seventy-two Thousand, Three Hundred One dollars and fifty cents (\$72,301.50).

**VIOLATIONS OF THE CERTIFICATE OF MOTOR VEHICLE TITLE ACT
AND CSPA**

19. Plaintiff incorporates by reference, as if fully rewritten herein, the allegations set forth in paragraphs one through eighteen (1-18) of this Complaint.

20. Defendants engaged in unfair and deceptive acts and practices in violation of the CSPA, 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).

21. Defendants committed unfair and deceptive acts or practices in violation of the CSPA, 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).

22. 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

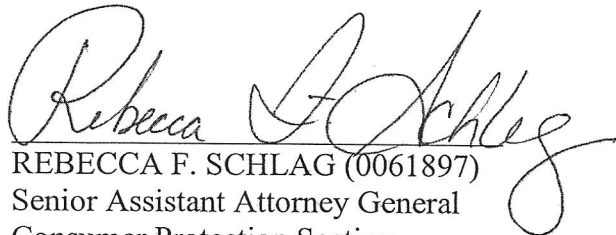
WHEREFORE, Plaintiff respectfully requests that this Court:

- A. **ISSUE A DECLARATORY JUDGMENT** declaring that each act or practice complained of herein 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, under these or any other names, and their officers, agents, representatives, salespersons, employees, successors and assigns and all persons acting in concert or participation with Defendants, directly or indirectly, 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 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 the full amount of 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 appropriate unfair or deceptive act alleged in the Complaint, pursuant to R.C. 1345.07(D).
- F.** ORDER that the Defendants be enjoined from engaging in consumer transactions as suppliers in the State of Ohio until all restitution, civil penalties, Attorney General costs to investigate and prosecute this action, and any court costs ordered herein have been satisfied.
- G.** ORDER that Defendants be prohibited from applying for a salesperson or auto dealer license under R.C. 4517.
- H.** ORDER Defendants, jointly and severally, to pay all court costs.
- I.** GRANT Plaintiff his costs in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
- J.** GRANT such further relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

DAVID A. YOST
OHIO ATTORNEY GENERAL



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