

JUL 23 2013

MARY L. SWAIN
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

CV

2013 07 2056

MARY L. SWAIN
BUTLER COUNTY
CLERK OF COURTS

STATE OF OHIO, ex rel.)
MICHAEL DEWINE)
ATTORNEY GENERAL OF OHIO)
441 Vine Street, 1600 Carew Tower)
Cincinnati, Ohio 45202)

CASE NO.

JUDGE

Plaintiff,

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

v.

FAIRGROVE AUTO CENTER, INC.)
c/o John K. Brezinski)
Statutory Agent)
5571 Walther Drive)
Fairfield, Ohio 45014)

and

John K., Brezinski, Individually,)
5571 Walther Drive)
Fairfield, Ohio 45014)

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, 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 are “supplier[s]” 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 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. Defendants were used motor vehicle dealers as that term is defined in R.C. 4517.01(L), as they were engaged in the business of selling, displaying, offering for sale, or dealing in used motor vehicles.
6. The actions of Defendants, hereinafter described, have occurred in the State of Ohio and Butler County.
7. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
8. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3), in that Defendants reside in, operated their business from, and engaged in the transactions complained of herein in Butler County.

STATEMENT OF FACTS

9. Defendant Fairgrove Auto Center, Inc. is an Ohio corporation last operating at 4805 Dixie Highway, Fairfield, Ohio 45014 as Route 4 Auto Store.
10. Defendant John K. Brezinski (hereinafter “Brezinski”) is an individual whose address is 5571 Walther Drive, Fairfield, Ohio 45014.

11. Defendant Brezinski owned and operated Defendant Fairgrove Auto Center, Inc. and dominated, controlled and directed the business activities and sales conduct of Fairgrove Auto Center, Inc. and Route 4 Auto Store, and exercised the authority to establish, implement or alter the policies of Fairgrove Auto Center, Inc. and Route 4 Auto Store, 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 their location in Butler County to consumers residing in Butler and other Ohio counties.
13. Defendants, operating under the name Route 4 Auto Store, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
14. At all relevant times hereto, Defendant Fairgrove Auto Center, Inc. held license #UD008086 issued by the State of Ohio under R.C. 4517.01 *et seq.*, allowing it to engage in the business of displaying or selling at retail or wholesale used motor vehicles.
15. At all relevant times hereto, the Defendants were displaying or selling used motor vehicles at the Route 4 Auto Store location.
16. The Defendants failed to file applications for certificate of title within Thirty (30) days after the assignment or delivery of a motor vehicle.
17. The Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
18. Title Defect Rescission consumer claims totaling \$11,492.90 were paid from the Title

Defect Rescission 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.

19. All facts above have occurred in the two years prior to this lawsuit.

CAUSE OF ACTION
VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT AND
CERTIFICATE OF MOTOR VEHICLE TITLE ACT

20. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Nineteen (1-19) of this Complaint.
21. 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 of delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b).
22. 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).
23. 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 Title Defect Recision Fund ("TDR") 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. ENJOIN the Defendants from engaging in any consumer transaction as a Supplier in the State of Ohio until they have satisfied all monetary obligations hereunder.
- G. ORDER the Defendants to pay all court costs.

H. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General



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