

IN THE COURT OF COMMON PLEAS
BELMONT COUNTY, OHIO

STATE OF OHIO, ex rel.
MICHAEL DEWINE
Attorney General of Ohio
30 East Broad St., 14th Floor
Columbus, Ohio 43215

CASE NO. /3 CV40a
2013 NOV 1 PM 3 14
CYNTHIA R. DE JUDGE
CLERK OF COURTS

Plaintiff,

v.

M&E PARTNERS LLC
dba SECOND CHANCE AUTO

c/o Statutory Agent
Nicole Jacob
130 Criswill Road
Saint Clairsville, Ohio 43950

and

DAVID J. ELLIS, JR, Individually
and dba SECOND CHANCE AUTO
44930 Kacsmar Estates Drive
Saint Clairsville, Ohio 43950

Defendants.

**COMPLAINT FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF,
CIVIL PENALTIES, CONSUMER
DAMAGES, AND OTHER
APPROPRIATE RELIEF**

JURISDICTION

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Michael DeWine, having reasonable cause to believe that violations of Ohio's consumer 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 R.C. 1345.07.
2. The actions of Defendants, as described below, have occurred in the State of Ohio, in Belmont County and, as set forth below, are in violation of the 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.

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(B)(1)-(3) in that Belmont County, Ohio is the county in which Defendant Dave Ellis, Jr. resides, where Defendant M&E Partners LLC, dba Second Chance Auto has its principal place of business, and where the Defendants conducted some of the transactions complained of herein.

DEFENDANTS

5. Defendant M&E Partners LLC (“M&E”) is an Ohio limited liability corporation operating in Belmont County.
6. Defendant M&E did business as “Second Chance Auto,” which is an unregistered fictitious business name.
7. Defendant David J. Ellis, Jr. (“Ellis”) is a natural person who, upon information and belief, resides at 44930 Kacsmar Estates Drive, Saint Clairsville, Ohio 43950.
8. Defendant Ellis did business as “Second Chance Auto.”
9. Upon information and belief, Defendant Ellis worked as a manager at Second Chance Auto.
10. Upon information and belief, Defendant Ellis dominated, controlled, and directed the business activities and sales conduct of Second Chance at the time of the violations set forth in this Complaint, and caused, personally participated in, or ratified the acts and practices of Second Chance Auto, as described in this Complaint.

11. Defendants were, at all times relevant to this action, engaged in the business of soliciting, promoting, purchasing, selling, and collecting the proceeds of the sales of used motor vehicles from their business location in Bridgeport, Ohio to consumers residing in Belmont and other Ohio counties.
12. 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 by offering for sale and selling 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).

STATEMENT OF FACTS

13. Defendants, operating under the name Second Chance Auto, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
14. Defendant M&E failed to register its fictitious business name, Second Chance Auto, with the Ohio Secretary of State.
15. At all relevant times hereto, Defendant M&E held used motor vehicle dealer license #UD017729, issued to Second Chance Auto by the State of Ohio under R.C. 4517.01 et seq., which allowed it to engage in the business of displaying or selling at retail or wholesale used motor vehicles. That license has since been cancelled.
16. At all relevant times hereto, the Defendants were displaying or selling used motor vehicles at the Second Chance Auto location.
17. At all relevant times hereto, Defendant Ellis held motor vehicle salesperson license #SL129711 issued to him by the State of Ohio under R.C. 4517.01 et seq., allowing him

to engage in the business of displaying, selling, or offering to sell motor vehicles while employed by a dealer.

18. Defendant Ellis personally participated in the transactions at issue in this Complaint during the time near to and subsequent to the death of M&E owner Anton Matesic.
19. The salesperson license held by Defendant Ellis has since been transferred to a different dealership.
20. The Defendants failed to file applications for certificate of title within Thirty (30) days after the assignment or delivery of a motor vehicle.
21. The Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
22. To date, Title Defect Recision consumer claims totaling Eleven Thousand Eight-Hundred and Three Dollars and Fifty Cents (\$11,803.50) have been paid from the Title Defect Recision 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.

FIRST CAUSE OF ACTION

VIOLATIONS OF THE CERTIFICATE OF MOTOR VEHICLE TITLE ACT

23. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Two (1-22) of this Complaint.
24. The Defendants engaged in unfair or deceptive acts or practices in violation of R.C. 1345.02 of the CSPA 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).

25. The Defendants engaged in unfair or deceptive acts or practices in violation of R.C. 1345.02(A) of the CSPA 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 following the date of the sale of the motor vehicles as required by R.C. 4505.181(B)(1).
26. 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).

SECOND CAUSE OF ACTION

VIOLATION OF THE CONSUMER SALES PRACTICES ACT

27. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty-Two (1-22) of this Complaint.
28. Defendant M&E has committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by failing to register or report the use of all fictitious business names with the Ohio Secretary of State prior to doing business in Ohio under such fictitious names, as required by R.C. 1329.01(D).
29. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant M&E committed said violation 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 grant the following relief:

- A. ISSUE a permanent injunction enjoining Defendants M&E Partners LLC, doing business as Second Chance Auto, and David J. Ellis, Jr., individually and doing business as

Second Chance Auto or any other names, their agents, representatives, salesmen, employees, successors, or assigns, and all persons acting in concert and participation with them, directly or indirectly, from committing any unfair, deceptive, or unconscionable act or practice that violates the CSPA, R.C. 1345.01 et seq., and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 et seq.

- B. DECLARE 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.
- 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 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 this Complaint, pursuant to R.C. 1345.07(D).
- F. ASSESS, FINE, AND IMPOSE upon Defendants, jointly and severally, an additional civil penalty of not more than Two Hundred Dollars (\$200.00) for each violation of the Certificate of Motor Vehicle Title Act, pursuant to R.C. 4505.99.
- G. ISSUE an injunction prohibiting Defendants from engaging in business as suppliers in any consumer transaction in the State of Ohio until such time as they have satisfied all

monetary obligations ordered by this Court, and any other Court in Ohio, in connection with a consumer transaction.

- H. GRANT the Ohio Attorney General his costs in bringing this action.
- I. ORDER Defendants to pay all court costs.
- J. GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General



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