

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

CV

2013 11 3193

STATE OF OHIO ex rel. ATTORNEY :
GENERAL MICHAEL DEWINE :
441 Vine Street, 1600 Carew Tower : Case No.
Cincinnati, Ohio 45202 :

MARY L. SWAIN
BUTLER COUNTY
CLERK OF COURTS

Plaintiff,

FILED BUTLER CO.
COURT OF COMMON PLEAS

NOV 22 2013

MARY L. SWAIN
CLERK OF COURTS

v.

DIA ALASOUD, Individually,
and d.b.a. Mr. Auto and Fairfield Motors
2715 Zoellners Ridge
Hamilton, OH 45011

Judge Spaeth

and

MR. AUTO LLC
c/o Dia Alasoud (statutory agent)
3659 Dixie Hwy
Hamilton, OH 45015

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

Defendants.

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 ("CSPA"), R.C. 1345.01 *et seq.*, the Retail Installment Sales Act ("RISA"), R.C. 1317.01 *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,

Butler County and other Ohio counties and, as set forth below, are in violation of the CSPA, RISA, and the Certificate of Motor Vehicle Title Act.

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 Mr. Auto LLC is an Ohio limited liability company operating at 3959 Dixie Highway, Hamilton, Ohio 45015 as Mr. Auto and at 5190-5210 Dixie Highway, Fairfield, Ohio 45014 as Fairfield Motors.

10. Defendant Dia Alasoud (hereinafter "Alasoud") is an individual doing business as Mr. Auto and Fairfield Motors.
11. Alasoud resides at 2715 Zoellners Ridge, Hamilton, OH 45011.
12. Defendant Alasoud owns and operates Defendant Mr. Auto LLC and dominated, controlled and directed the business activities and sales conduct of Mr. Auto LLC, Mr. Auto and Fairfield Motors, and exercised the authority to establish, implement or alter the policies of Mr. Auto LLC, Mr. Auto and Fairfield Motors, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
13. 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.
14. Defendants, operating under the name Mr. Auto and Fairfield Motors, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
15. Until January 2013, Mr. Auto held license #UD014409 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.
16. Defendants currently holds licenses #UD018279 and #UD017915 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.
17. At all relevant times hereto, the Defendants were displaying or selling used motor

vehicles at the Mr. Auto location.

18. Defendants used a document captioned "Retail Installment Contract and Security Agreement" for some of the consumer transactions in which the cash price of the used vehicle would be paid for by the consumers in installments over time.
19. In at least one instance, Defendants repossessed automobiles before the payments were due.
20. When repossessing vehicles, Defendants failed to send a notice setting forth specifically circumstances constituting a default within five (5) days after repossessing a consumer's motor vehicle.
21. Defendants failed to provide notice to the consumers at least ten (10) days prior to disposition of the collateral stating the time and place the collateral would be sold and the minimum price for which such collateral would be sold, together with a statement that the debtor could be held liable for any deficiency resulting from such sale.
22. Defendants failed to provide a proper accounting and/or refund to consumers after reselling the consumers' repossessed automobiles.
23. Some of Defendants' contracts imposed late fees for payments that were less than ten (10) days late.
24. Some of Defendants' contracts accelerated payments where the default in the retail installment contract was less than thirty (30) days.
25. Defendants charged consumers fees that were not specifically authorized by R.C. 1317.07, namely by overcharging some consumers for sales tax based on an improper calculation of the sales tax for the county where the customer resided.

26. On at least one occasion, Defendants failed to collect sales tax on the sale of a used motor vehicle to a non-resident of Ohio, when required to do so by R.C. 5739.029.
27. Defendants failed to legibly disclose the terms of contracts and/or failed to fill in all the blanks of the retail installment contracts.
28. Defendants failed to provide consumers at the time of the initial deposits with dated written receipts stating clearly and conspicuously whether the deposits were refundable and under what conditions.
29. Defendants failed to file applications for certificates of title within thirty (30) days after the assignment of delivery of the motor vehicles.
30. Defendants sold motor vehicles to consumers, in the ordinary course of business, and then failed to obtain certificates of title for the consumers on or before the 40th day of sale of the motor vehicles.
31. Defendants delivered motor vehicles to consumers pursuant to sales which were contingent upon financing without written agreements stating the parties' obligations should such financing not be obtained.
32. Defendants sold and provided warranties to consumers without disclosing all terms and conditions of the warranty, including that the warranty had a liability limit of \$1,000 and that the warranty did not cover any condition or defect present at the time of purchase.
33. Some of the consumers who relied upon the Defendants' misrepresentations and purchased used motor vehicles from Defendants found, soon after purchasing the motor vehicles, that the motor vehicles were not in proper working order.
34. Some of the consumers incurred substantial costs to have the used motor vehicles

repaired so that the motor vehicles were in proper working order.

35. At least one consumer has obtained a judgment, which is unpaid, against Defendants arising from a consumer transaction.
36. All facts above have occurred in the two years prior to this lawsuit.

PLAINTIFF'S FIRST CAUSE OF ACTION:
VIOLATIONS OF THE RETAIL INSTALLMENT SALES ACT (RISA)

37. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Thirty-Six (1-36) of this Complaint.
38. Defendants repossessed automobiles before the payments were due, in violation of R.C. 1317.16.
39. When repossessing vehicles, Defendants failed to send a notice setting forth specifically the circumstances constituting a default within five (5) days after repossessing a consumer's motor vehicle, in violation of R.C. 1317.12.
40. Defendants failed to provide notice to the consumers at least ten (10) days prior to disposition of the collateral stating the time and place the collateral would be sold and the minimum price for which such collateral would be sold, together with a statement that the debtor could be held liable for any deficiency resulting from such sale, in violation of R.C. 1317.16.
41. Defendants failed to provide a proper accounting and/or refund to consumers after reselling the consumers' repossessed automobiles in violation of R.C. 1317.16.
42. Some of Defendants' contracts imposed late fees for payments that were less than ten (10) days late, in violation of R.C. 1317.06(B).

43. Defendants' contracts accelerated payments where the default in the retail installment contract was less than thirty (30) days, in violation of R.C. 1317.06(C).
44. Defendants charged consumers fees that were not specifically authorized by R.C. 1317.07, in violation of R.C. 1317.07, namely by overcharging some consumers for sales tax based on an improper calculation of the sales tax for the county where the customer resided.
45. Defendants failed to legibly disclose the terms of contracts and/or failed to fill in all the blanks of the retail installment contracts, in violation of R.C. 1317.04.
46. The acts and practices described in Paragraphs 38 through 45 are unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02.
47. 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).

PLAINTIFF'S SECOND CAUSE OF ACTION:
VIOLATIONS OF THE CSPA

48. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Thirty-Six (1-36) of this Complaint.
49. Defendants represented that the subject of a consumer transaction had sponsorship, approval, performance characteristics, accessories, uses, or benefits that it did not have, in violation of R.C. 1345.02(B)(1).
50. Defendants represented that subject of a consumer transaction was of a particular standard, quality, grade, style, prescription, or model, when it was not, in violation of

R.C. 1345.02(B)(2).

51. Defendants failed to collect sales tax on the sale of a used motor vehicle to a non-resident of Ohio, when required to do so by R.C. 5739.029.
52. Defendants failed to provide consumers at the time of the initial deposits with dated written receipts stating clearly and conspicuously whether the deposits were refundable and under what conditions, in violation of Ohio Administrative Code 109:4-3-07.
53. The Defendants failed 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).
54. The Defendants sold motor vehicles to consumers, in the ordinary course of business, and then failed 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).
55. Defendants delivered motor vehicles to consumers pursuant to sales which were contingent upon financing without written agreements stating the parties' obligations should such financing not be obtained, in violation of O.A.C. 109:4-3-16(B)(30).
56. Defendants sold and provided warranties to consumers without disclosing all terms and conditions of the warranty, including that the warranty had a liability limit of \$1,000 and that the warranty did not cover any condition or defect present at the time of purchase.
57. Defendants engaged in consumer transactions while having unsatisfied judgments against them that arose from prior consumer transactions.
58. The acts and practices described in Paragraphs 49 through 57 are unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02.
59. 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

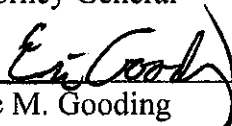
WHEREFORE, Plaintiff respectfully prays that this Court:

- A. ISSUE A DECLARATORY JUDGMENT declaring that each act or practice described in Plaintiff's Complaint violates the CSPA, R.C. 1345.01 *et seq.*, the RISA, R.C. 1317.01 *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 CSPA, R.C. 1345.01 *et seq.*, the RISA, R.C. 1317.01 *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.
- D. 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).
- E. 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.

- F. ORDER the Defendants to pay all court costs.
- G. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General



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