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WINDOW 6
CLERK OF COURTS
CUYAHOGA COUNTY

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, *ex rel.*)
MICHAEL DEWINE)
ATTORNEY GENERAL OF OHIO) CAS Judge: NANCY MARGARET RUSSO
615 W. Superior Ave 11th Floor) CV 14 819770
Cleveland, Ohio 44113-1899)
Plaintiff,) JUDGE:
v.)
R&M AUTO SERVICE & SALES INC.) **COMPLAINT, REQUEST FOR**
3559 W. 140th Street) **DECLARATORY AND INJUNCTIVE**
Cleveland, Ohio 44111) **RELIEF, DAMAGES AND CIVIL**
and) **PENALTIES**
MICHAEL MANKIN SR.)
6490 Elmdale Rd.)
Cleveland, Ohio 44130)
Defendants.)

JURISDICTION AND VENUE

1. Plaintiff, State of Ohio, by and through its 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 Consumer Sales Practices Act, R.C. 1345.01 et seq.
2. The actions of Defendants R & M Auto Service & Sales Inc. and Michael Mankin Sr. (Defendants) have occurred in the State of Ohio and Cuyahoga County and violate the

Consumer Sales Practices Act, R.C. 1345.01 et seq. and the Title Defect Recision Act (TDR), R.C. 4505.181.

3. This Court has jurisdiction over the subject matter of this action pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
4. This Court has venue to hear this case pursuant to Civ. R. 3(B)(1)-(3), in that Defendants reside in, have their principal place of business in, and some of the transactions complained of herein, and out of which this action arises, occurred in Cuyahoga County, Ohio.

DEFENDANTS

5. Defendant R & M Auto Service & Sales Inc. is an Ohio corporation with its principal place of business at 3559 W. 140th Street Cleveland, Ohio 44111.
6. Defendant Michael Mankin Sr. owned and operated Defendant R & M Auto Service and Sales, Inc., and directed and controlled all business activities of the corporate defendant, including the solicitation for sale and sale of used motor vehicles.
7. Defendants were “suppliers” as that term is defined in R.C. 1345.01(C) as Defendants, at all times relevant herein, engaged in the business of effecting “consumer transactions” by soliciting for sale and selling used motor vehicles to “individuals” from Cuyahoga County, other counties in the State of Ohio, and in other states for purposes that were primarily personal, family or household within the meaning specified in R.C. 1345.01(A) and (D).
8. Defendants were motor vehicle dealers as that term is defined in R.C. 4517.01(L).

STATEMENT OF FACTS

9. Defendants were engaged in the business of soliciting, promoting, purchasing, and/or selling motor vehicles.
10. Defendant R & M Auto Service & Sales Inc., at all relevant times hereto, was licensed by the Ohio Bureau of Motor Vehicles under dealer license number UD017290.
11. Defendants, in the ordinary course of business, have sold or transferred a used motor vehicle to a consumer without delivering to the purchaser or transferee, a certificate of title assigned to such purchaser or transferee.
12. Defendants failed to transfer title as required by Ohio law. This failure resulted in the filing of a claim for reimbursement pursuant to the TDR Act.
13. A Consumer received reimbursement from the TDR fund due to Defendants' failure to provide title to a used motor vehicle they had sold to that consumer.
14. All facts alleged above have occurred in the two years prior to this lawsuit.

PLAINTIFF'S CAUSES OF ACTION

COUNT ONE

15. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Fourteen (1-14) of this Complaint.
16. Defendants have committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act R.C. 1345.02, by displaying for sale or selling used motor vehicles without having first obtained certificates of title for the vehicles in the name of the Defendants or without possessing a bill of sale for each motor vehicle proposed to be displayed, offered for sale, or sold, and a properly assigned power of attorney or other related documents from the prior owner giving the Defendants or person acting on behalf of the Defendants authority to have a certificate of title to the motor vehicle issued in the

name of the Defendants for each motor vehicle displayed or sold in violation of R.C. 4505.181(A)(2). Defendants committed said acts or practices after a decision determining the acts or practices violated R.C. 1345.02 was made available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT TWO

17. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Fourteen (1-14) of this Complaint.
18. Defendants have committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act R.C. 1345.02, by 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 R.C. 4505.181(B)(1). Defendants committed said acts or practices after a decision determining the acts or practices violated R.C. 1345.02 was made available for public inspection pursuant to R.C. 1345.05(A)(3).
19. Defendants have committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act R.C. 1345.02, by failing to file an application for certificate of title within thirty days after the assignment or delivery of a motor vehicle in violation of R.C. 4505.06(5)(b). Defendants committed said acts or practices after a decision determining the acts or practices violated R.C. 1345.02 was made available for public inspection pursuant to R.C. 1345.05(A)(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

- 1) ISSUE a permanent injunction, pursuant to R.C. 1345.07(A)(2), enjoining Defendants, their agents, servants, representatives, salesmen, employees, successors or assigns, and all

persons acting in concert and participation with them, directly or indirectly, from engaging in the acts and practices of which Plaintiff complains.

- 2) ISSUE a declaratory judgment, pursuant to R.C 1345.07(A)(1), declaring that each and every act or practice complained of herein violates the Ohio Consumer Sales Practices Act in the manner set forth in this Complaint.
- 3) ORDER the Defendants, pursuant to R.C. 4505.181(D), R. C. 1345.07 and R.C. 1345.52, to jointly and severally reimburse the Title Defect Recision Fund all monies paid to consumers and deficiencies in the fund caused by the Defendants' violation of R. C. 4505.181.
- 4) ASSESS, FINE and IMPOSE upon each Defendant, pursuant to R.C. 1345.07, a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein.
- 5) ENJOIN Defendants from engaging as a supplier in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations due hereunder.
- 6) GRANT Plaintiff all costs incurred in bringing this action.
- 7) GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General



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Counsel for Plaintiff



CUYAHOGA COUNTY CLERK OF COURTS

1200 Ontario Street
Cleveland, Ohio 44113

R E C E I P T

For: COURT OF COMMON PLEAS - CIVIL	Receipt Number: 145000001723
Case Nbr: CV14819770	Receipt Date: 01/08/2014
Date Filed: 01/08/2014	
STATE OF OHIO EX REL. MICHAEL DEWINE	TORT-CONSUMER RELIEF 200.00
-VS-	
R&M AUTO SERVICE & SALES INC. ET AL	
Judge: NANCY MARGARET RUSSO	Total Due 200.00
Received From:	
OHIO ATTORNEY GENERAL 00010879	Cash Amount 0.00
615 WEST SUPERIOR AVENUE	Change
STATE OFFICE BUILDING 11TH FLOOR	Total Paid 0.00
CLEVELAND, OH 44113-0000	Case Balance
	DEPUTY CLERK CLMWV

ANDREA F. ROCCO

CUYAHOGA COUNTY CLERK OF COURTS

1200 Ontario Street
Cleveland, Ohio 44113

R E C E I P T

For: COURT OF COMMON PLEAS - CIVIL	Receipt Number: 145000001724
Case Nbr: CV14819770	Receipt Date: 01/08/2014
Date Filed: 01/08/2014	
STATE OF OHIO EX REL. MICHAEL DEWINE	FEE 0.00
-VS-	
R&M AUTO SERVICE & SALES INC. ET AL	
Judge: NANCY MARGARET RUSSO	Total Due 0.00
Received From:	
OHIO ATTORNEY GENERAL 00010879	Cash Amount 0.00
615 WEST SUPERIOR AVENUE	Change
STATE OFFICE BUILDING 11TH FLOOR	Total Paid 0.00
CLEVELAND, OH 44113-0000	
	DEPUTY CLERK CLMWV