

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, OHIO

STATE OF OHIO, ex rel.)	CASE NO.
MICHAEL DEWINE)	
ATTORNEY GENERAL OF OHIO)	
30 East Broad St., 14th Floor)	JUDGE
Columbus, Ohio 43215)	
)	
Plaintiff,)	<u>COMPLAINT FOR</u>
)	<u>DECLARATORY JUDGMENT,</u>
v.)	<u>INJUNCTIVE RELIEF,</u>
)	<u>RESTITUTION, CIVIL</u>
ASHLEY ALEXANDER)	<u>PENALTIES, AND OTHER</u>
dba Alexanders Auto Sales)	<u>APPROPRIATE RELIEF</u>
5001 N. Dixie Highway)	
Dayton, Ohio 45414)	
)	
Defendant.)	

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 Defendant, hereinafter described, have occurred in the State of Ohio, Montgomery 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. Defendant, as described below, was a “supplier” as that term is defined in R.C. 1345.01(C) as Defendant was, 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. Defendant, 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 Defendant, hereinafter described, have occurred in the State of Ohio and Montgomery County.
6. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.
7. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3), in that Defendant resided in, operated his business from, and engaged in some of the transactions complained of herein in Montgomery County.

STATEMENT OF FACTS

8. Alexanders Auto Sales (“Alexanders Auto”) is an unincorporated company operating under a fictitious name conducting business in Montgomery County and in the State of

Ohio with its principal places of business located at 5001 N. Dixie Highway, Dayton, Ohio 45414 and 5115 N. Dixie Highway, Dayton, Ohio 45414.

9. On information and belief, Defendant Ashley Alexander (“Alexander”) is an individual whose address is 2717 Coronette Ave, Dayton, Ohio 45414.
10. Defendant Alexander has an ownership interest in and operates Alexanders Auto, and dominated, controlled and directed the business activities and sales conduct of Alexanders Auto, and exercised the authority to establish, implement or alter the policies of Alexanders Auto, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
11. Defendant was 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 his two locations to consumers residing in Montgomery and other Ohio counties.
12. Defendant, operating under the name Alexanders Auto, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
13. Defendant did not have a license issued by the State of Ohio under R.C. 4517.01 *et seq* allowing him to engage in the business of displaying or selling at retail or wholesale used motor vehicles at 5115 N. Dixie Dr., Dayton, Ohio 45414.
14. At all relevant times hereto, the Defendant was displaying or selling used motor vehicles at both locations even though he did not have a license allowing him to engage in the business of displaying or selling at retail or wholesale used motor vehicles at the 5115 N. Dixie Dr., Dayton, Ohio 45414 location.

15. The Defendant failed to file applications for certificate of title within Thirty (30) days after the assignment or delivery of a motor vehicle.
16. The Defendant failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
17. Title Defect Recision consumer claims totaling Ten Thousand Eight Hundred Ninety Dollars and no Cents (\$10,890.00) thus far was paid from the Title Defect Recision Fund, administered by the Ohio Attorney General's Office, after the Defendant failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of the motor vehicles.
18. R.C. 4505.181 requires that a dealer post a bond in an amount not less than \$25,000 after the Attorney General has paid a retail purchaser of the dealer from the Title Defect Recision Fund.
19. After the payouts were made from the Title Defect Recision Fund, the Defendant continued to operate without posting a bond.
20. Defendant failed to register with or report the fictitious trade name Alexanders Auto Sales to the Ohio Secretary of State.

CAUSE OF ACTION
VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Twenty (1-20) of this Complaint.
22. The Defendant engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A) 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).
23. The Defendant engaged in unfair and deceptive acts and practices in violation of 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).
 24. The Defendant engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A), by continuing to operate after failing to post a bond after the Attorney General paid retail purchasers of the dealer from the Title Defect Recision Fund due to the Defendant's failure to deliver titles to the purchasers, as required by R.C. 4505.181(A)(2).
 25. The Defendant engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A), by failing to register with or report the fictitious trade name Alexanders Auto Sales to the Ohio Secretary of State as required by R.C. 1329.01.
 26. 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 Defendant 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 Defendant and his officers, agents, servants, representatives, salespeople, employees, successors and assigns and all persons acting in concert or participating with him, directly or indirectly, from engaging in the acts and 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 Defendant liable for reimbursement to all consumers found to have been damaged by the Defendant's unfair and deceptive acts and practices, and motor vehicle title violations.
- D. ORDER Defendant liable for reimbursement to the Title Defect Recision Fund for funds expended to resolve title defects caused by Defendant's motor vehicle title violations.
- E. ASSESS, FINE, AND IMPOSE upon Defendant a civil penalty of \$25,000.00 for each of the appropriate unfair and deceptive acts alleged in the Complaint, pursuant to R.C. 1345.07(D).
- F. ASSESS, FINE, AND IMPOSE upon Defendant an additional civil penalty of not more than \$200.00 for each violation of the Certificate of Motor Vehicle Title Act, pursuant to R.C. 4505.99.
- G. ORDER, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, Defendant to maintain in their possession and control

for a period of Five (5) years all business records relating to the Defendant's solicitation and sale of used motor vehicles in Ohio and to permit the Ohio Attorney General or his representative, upon reasonable twenty-four (24) hour notice, to inspect and/or copy any and all records.

- H. Order that the Defendant be enjoined from engaging in consumer transactions as a supplier in the State of Ohio until he has satisfied all restitution, civil penalties, and made reimbursement to the Title Defect Recision Fund.
- I. Order that Defendant Ashley Alexander be prohibited from applying for an auto dealer or salesperson license under Chapter 4517 of the Revised Code.
- J. ORDER the Defendant to pay all court costs.
- K. GRANT such other relief as the Court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Attorney General



ROSEMARY E. RUPERT (0042389)
Assistant Attorney General
Title Defect Recision Unit Director
Consumer Protection Section
30 East Broad Street, 14th Floor
Columbus, Ohio 43215-3428
(614) 466-8831 (phone)
(866) 473-6249 (fax)
Counsel for Plaintiff