

IN THE COURT OF COMMON PLEAS OF FAIRFIELD COUNTY, OHIO

STATE OF OHIO, ex rel. )  
MICHAEL DEWINE )  
ATTORNEY GENERAL OF OHIO )  
30 East Broad St., 14th Floor )  
Columbus, Ohio 43215 )

Plaintiff, )

v. )

HEATH MOTOR SPORTS )  
c/o Paul Dague )  
Statutory Agent )  
105 Lillian Ct )  
Newark, Ohio 43055 )

and )

PAUL DAGUE, Individually, )  
105 Lillian Ct. )  
Newark, Ohio 43055 )

CASE NO. 14CV 252

JUDGE JUDGE R BERENS

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

FILED  
2014 APR - 1 AM 9:38  
CLERK OF COURTS  
FAIRFIELD CO. OHIO

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, Fairfield 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, as described below, 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, 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 Defendants, hereinafter described, have occurred in the State of Ohio and Fairfield 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)(2), in that Defendants’ primary place of business is in Fairfield County.

#### STATEMENT OF FACTS

8. Defendant Heath Motor Sports, LLC (“Heath”) is an Ohio limited liability company last operating at 1004 N Memorial Drive, Lancaster, Ohio.
9. On information and belief, Defendant Paul Dague (“Dague”) is an individual whose address is 105 Lillian Court, Newark, Ohio 43055.
10. Defendant Dague had an ownership interest in and operated Heath Motor Sports, LLC and dominated, controlled and directed the business activities and sales conduct of Heath Motor Sports, LLC, and exercised the authority to establish, implement or alter the

policies of Heath Motor Sports, LLC, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.

11. 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 Lancaster to consumers residing in Fairfield and other Ohio counties.
12. Defendants, operating under the name Heath Motor Sports, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
13. At all relevant times hereto, Defendant Heath Motor Sports, LLC held dealer permit #UD018156 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.
14. At all relevant times hereto, the Defendants were displaying or selling used motor vehicles at the Heath Motor Sports location.
15. The Defendants failed to file applications for certificate of title within Thirty (30) days after the assignment or delivery of a motor vehicle.
16. The Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
17. Title Defect Rescission consumer claims totaling \$42,498.91 thus far have been 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 motor vehicles. Additional payments may also be paid in the near

future.

CAUSE OF ACTION  
VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT

18. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Seventeen (1-17) of this Complaint.
19. 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).
20. 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).
21. 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.

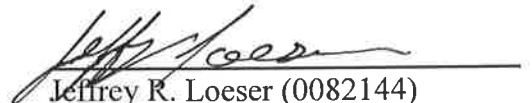
- B. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants and their officers, agents, servants, representatives, salespeople, employees, successors and assigns and all persons acting in concert or participating with them, directly or indirectly, from engaging in the acts or practices of which Plaintiff 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 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. 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. ORDER, as a means of insuring compliance with this Court's Order and with the consumer protection laws of Ohio, Defendants to maintain in their possession and control for a period

of Five (5) years all business records relating to the Defendants' 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 Defendants be enjoined from engaging in consumer transactions as a supplier in the State of Ohio until they have satisfied all restitution, civil penalties, Attorney General costs to investigate and prosecute this action and any court costs ordered.
- I. ORDER the 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  
Attorney General

  
Jeffrey R. Loeser (0082144)  
Assistant Attorney General  
Consumer Protection Section  
30 East Broad Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215-3428  
(614) 466-1305 (phone)  
(877) 650-4712 (fax)  
jeff.loeser@ohioattorneygeneral.gov  
*Counsel for Plaintiff*