

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

RECEIVED
ATTORNEY GENERAL OF OHIO

JAN 02 2014

STATE OF OHIO, *ex rel.*
MICHAEL DEWINE,
ATTORNEY GENERAL OF OHIO

CASE NO. 13CV4036

JUDGE R. FRYE

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

Plaintiff,

v.

DADS CAR LOT INC. et al.,

Defendants.

JUDGMENT ENTRY GRANTING
DEFAULT JUDGMENT AGAINST
DEFENDANTS
DADS CAR LOT INC. AND
GARY JONES

This cause came to be heard upon Plaintiff's Motion for Default Judgment Against Defendants Dads Car Lot Inc. and Gary Jones ("Defendants") pursuant to Civ. R. 55(A). Defendants Dads Car Lot Inc. and Gary Jones were properly served in this matter and have failed to file an answer to Plaintiff's Complaint and have failed to defend against this motion or appear before the Court in any manner. The Court finds the motion well taken and hereby grants and sustains Plaintiff's Motion for Default Judgment. The Court, based on that motion and Plaintiff's Complaint, hereby renders the following Default Judgment Entry and Order against Defendants¹ Dads Car Lot Inc. and Gary Jones.

FINDINGS OF FACT

1. Defendant, Dads Car Lot Inc. (hereinafter "Dads Car Lot") was an Ohio corporation last operating at 600 E. Broad St., Columbus, Franklin County, Ohio 43215.
2. Defendant, Gary Jones (hereinafter "Jones") is an individual whose address is 478 Stewart Ave., Columbus, Ohio 43206.

¹ Defendant William Taylor filed an answer to the complaint. As such, this pleading does not apply to him.

3. Defendant Jones had an ownership interest in and operated Defendant Dads Car Lot and dominated, controlled and directed the business activities and sales conduct of Dads Car Lot, and exercised the authority to establish, implement or alter the policies of Dads Car Lot., and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
4. Defendants Jones and Dads Car Lot (collectively hereinafter “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 Columbus to consumers residing in Franklin and other Ohio counties.
5. Defendants, operating under the name Dads Car Lot, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
6. Defendant Dads Car Lot held license #UD018885 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.
7. Defendants were displaying or selling used motor vehicles at their Dads Car Lot location.
8. The Defendants failed to provide consumers with dated receipts stating:
 - a.) The time during which the option to purchase the used motor vehicles was binding.
 - b.) Whether the deposits, as that term is defined in O.A.C. 109:4-3-07(D), were refundable or under what conditions the deposits were refundable.
9. The Defendants failed to file applications for certificates of title within Thirty (30) days after the assignment or delivery of a motor vehicle.
10. The Defendants failed to obtain certificates of title on or before the Fortieth (40th) day

after the sale of motor vehicles.

11. The Defendants "Spot Delivery" document contained a liquidated damages provision.

CONCLUSIONS OF LAW

1. The Court has jurisdiction over the subject matter, issues and parties to this action and venue is proper.
2. The business practices of Defendants, as described herein and in Plaintiff's Complaint, are governed by the Consumer Sales Practices Act, R.C. 1345.01 et seq.
3. The Ohio Attorney General, acting on behalf of the citizens of Ohio, and in the best interest of this state, is the proper party to commence this action under the authority of the Consumer Sales Practices Act, R.C. 1345.07, and by virtue of his authority to protect the interests of the citizens of the State of Ohio.
4. Defendants are "suppliers," as that term is defined in R.C. 1345.01(C), as they engaged in the business of effecting "consumer transactions" by soliciting consumers for the sale and repair of motor vehicles for a fee, within the meaning of R.C. 1345.01(A).
5. Defendants have committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A), by:
 - A. failing to provide to consumers, at the time of the initial deposits, dated written receipts stating clearly and conspicuously the time during which the options to purchase the used motor vehicles were binding, whether the deposits were refundable and under what conditions as required by Ohio Adm. Code 109:4-3-07(B)(5).
 - B. 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).

- C. 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).

- 6. Defendants have committed unconscionable acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.03, by:

- A. including in a “spot delivery” document, which was incorporated into a contract, an overreaching “liquidated damages” provision which was not reasonably related to an actual harm or damage claimed by the Defendants.

- 7. The acts or practices described in Conclusions of Law ¶¶5B-C and 6 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). **THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:**

- 1. Plaintiff’s request for Declaratory Judgment is GRANTED, and it is therefore DECLARED that the acts and practices set forth above violate the Consumer Sales Practices Act in the manner set forth therein.
- 2. Defendants Dads Car Lot and Gary Jones are PERMANENTLY ENJOINED from engaging in any consumer transactions in the State of Ohio until the final ordered resolution of this matter is satisfied in its entirety.

3. Defendants Dads Car Lot Inc. and Gary Jones under their own name or any other name, their agents, representatives, salespeople, employees, successors and assigns, and all persons acting on behalf of them directly or indirectly, through any corporate or private device, partnership or association, are PERMANENTLY ENJOINED 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 Substantive Rules enacted thereunder.
4. Defendant Gary Jones is HEREBY PROHIBITED from applying for an auto dealer or sales person license under Chapter 4517 of the Revised Code, and he shall not engage in any consumer transactions as supplier, if he is not in compliance with any and all financial obligations Ordered by the Court.
5. Defendants Dads Car Lot Inc. and Gary Jones are ordered to maintain in their possession and control for a period of three (3) years, and in a manner designed to secure the privacy of all consumers' personal information, all business records 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.
6. Defendants Dads Car Lot Inc. and Gary Jones are ORDERED TO PAY, jointly and severally, Ten Thousand Two Hundred Forty-One Dollars and Fifty-Three Cents (\$10,241.53) to the Ohio Title Defect Recision Fund.
7. Defendants are ORDERED TO PAY, jointly and severally, a civil penalty of \$25,000.00 pursuant to R.C. 1345.07(D).
8. Within seven days of the filing of this decision, all payments shall be made by delivering a certified check or money order payable to the "Ohio Attorney General" and sent c/o

Consumer Protection Compliance Officer, 30 E. Broad St., 14th Floor, Columbus, Ohio 43215.

9. This Court shall retain jurisdiction for the purpose of enforcement, or for inclusion of a consumer restitution Order, in the event additional consumer complaints are filed with the Plaintiff.
10. Defendants Dads Car Lot Inc. and Jones are ORDERED to pay, jointly and severally, all court costs of this action.

IT IS SO ORDERED.

DATE

JUDGE ROBERT FRYE

Submitted By:

MICHAEL DEWINE
Attorney General

Rosemary E. Rupert

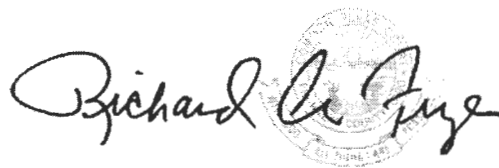
Rosemary E. Rupert (0042389)
Assistant Attorney General
Consumer Protection Section
30 E. Broad St., 14th Fl.
Columbus, Ohio 43215
(614) 752-5548
(866) 473-6249 (facsimile)
rosemary.rupert@ohioattorneygeneral.gov
Counsel for Plaintiff State of Ohio

Clerk, electronic copies to all parties of record:

Franklin County Court of Common Pleas

Date: 12-31-2013
Case Title: OHIO STATE ATTORNEY GENERAL MICHAEL DEWI -VS-
DADS CAR LOT INC ET AL
Case Number: 13CV004036
Type: DEFAULT JUDGMENT FOR CASE

It Is So Ordered.

A handwritten signature in cursive script, reading "Richard A. Frye", is written over a circular embossed seal. The seal contains the text "JUDGE OF COMMON PLEAS" and "FRANKLIN COUNTY, OHIO".

/s/ Judge Richard A. Frye