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CINDY A. HOFNER

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ATTORNEY GENERAL OF OHIO

AUG 24 2016

CONSUMER PROTECTION SECTION  
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**IN THE COURT OF COMMON PLEAS  
WOOD COUNTY, OHIO**

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

Plaintiff,

v.

JAKE'S USED CARS, LLC et al.,

Defendants.

CASE NO. 2016CV0256

JUDGE ALAN R. MAYBERRY

DEFAULT JUDGMENT ENTRY  
AND ORDER AGAINST  
DEFENDANTS JAKE'S USED  
CARS, LLC AND JAMES  
BERNARD

This cause came to be heard upon Plaintiff's Motion for Default Judgment against Defendants Jake's Used Cars, LLC and James Bernard ("Defendants") pursuant to Civ. R. 55(A). Defendants were properly served in this matter, 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. Defendant Bernard is not active duty military, a reservist in active Federal service or a National Guardsman in active service. 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

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Plaintiff's Complaint, hereby renders the following Default Judgment Entry and Order against Defendants.

**FINDINGS OF FACT**

1. Defendant James Bernard ("Bernard") is an individual who, upon information and belief, resides at 1150 Louisiana Avenue, Apartment 25, Perrysburg, Ohio 43551.
2. Defendant Bernard did business under the registered trade name "Jake's Used Cars, LLC" ("Jake's").
3. Doing business as Jake's Used Cars, LLC, Defendant Bernard operated a used car dealership, last operating at 9566 Clark Road, Rossford, Ohio 43460 and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
4. 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 Wood County.
5. Defendants solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
6. At all relevant times hereto, Jake's Used Cars, LLC held dealer permit #UD020686 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. At all relevant times hereto, Defendants were displaying or selling used motor vehicles at the Jake's location.
8. Defendants failed to file an application for a certificate of title within Thirty (30) days after the assignment or delivery of a motor vehicle.
9. Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after

the sale of the motor vehicles.

10. Title Defect Rescission consumer claims totaling one hundred five thousand four hundred forty-four dollars and thirty-two cents (\$105,444.32) were 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 the motor vehicles.

### 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 the 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 were "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 file applications for certificates of title within Thirty (30) days after the assignment of delivery of the motor vehicles as required by R.C.

4505.06(A)(5)(b).

- B. selling motor vehicles to consumers, in the ordinary course of business, and then failing to obtain the certificates of title on or before the Fortieth (40th) day of the sale of the motor vehicles as required by R.C.

4505.181(B)(1).

6. The acts or practices described in Conclusions of Law ¶¶5A-B have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).
7. Defendant Bernard is personally liable as he had ownership interest in Jake's Used Cars, LLC and dominated, controlled and directed the business activities and sales conduct of Jake's Used Cars, LLC. Defendant Bernard exercised the authority to establish, implement or alter the policies of Jake's, and committed, allowed, directed, ratified or otherwise caused the unlawful acts to occur.

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, 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 therein.
2. Defendants are PERMANENTLY ENJOINED from engaging in any consumer transactions as a supplier in the State of Ohio until all financial obligations ordered in this matter are satisfied in their entirety.

3. Defendants under their own names 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..
4. Defendant Bernard is PERMANENTLY ENJOINED from applying for an auto dealer or salesperson license under Chapter 4517 of the Revised Code.
5. Defendants are ORDERED TO PAY, jointly and severally, one hundred five thousand four hundred forty-four dollars and thirty-two cents (\$105,444.32) to the Ohio Attorney General to reimburse the Title Defect Recision Fund.
6. Defendants are ORDERED TO PAY, jointly and severally, a civil penalty of seventy-five thousand dollars (\$75,000.00).
7. Within seven days of the filing of this decision, all payments shall be made by Defendants delivering a certified check(s) or money order(s) payable to the "Ohio Attorney General" and sent c/o Consumer Protection Compliance Officer, 30 E. Broad St., 14<sup>th</sup> Floor, Columbus, Ohio 43215 in the total amount of one hundred eighty thousand four hundred forty-four dollars and thirty-two cents (\$180,444.32).
8. 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.
9. Defendants are ORDERED to pay, jointly and severally, all court costs of this action.

IT IS SO ORDERED.

Judgment for court costs  
rendered to Wood County

\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
JUDGE ALAN R. MAYBERRY

Order Submitted By:

MICHAEL DEWINE  
Attorney General

CLERK TO FURNISH TO ALL COUNSEL OF  
RECORD AND UNREPRESENTED PARTIES  
NOT IN DEFAULT FOR FAILURE TO APPEAR  
WITH A COPY OF THIS ENTRY INCLUDING  
THE DATE OF ENTRY ON THE JOURNAL

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*Counsel for Plaintiff*

**The Clerk shall send copies of the entry to all parties.**

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