

IN THE COURT OF COMMON PLEAS
CHAMPAIGN COUNTY, OHIO

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

CASE NO. 2016 CV 00006
PENNY S. WILKINSON
CLERK OF COURT
CHAMPAIGN COUNTY, OHIO

JUDGE NICK A. SELVAGGIO

C-10

Plaintiff,

v.

TROYER'S GARAGE AND
AUTO SALES LLC et al.

Defendants.

DEFAULT JUDGMENT ENTRY

AND ORDER AGAINST

DEFENDANTS TROYER'S

GARAGE AND AUTO SALES LLC

AND TOBY LEE TROYER

**FINAL
APPEALABLE
ORDER**

This cause came to be heard upon Plaintiff's Motion for Default Judgment against Defendants Troyer's Garage and Auto Sales LLC and Toby Lee Troyer ("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 Troyer 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 Plaintiff's Complaint, hereby renders the following Default Judgment Entry and Order against Defendants.

FINDINGS OF FACT

1. Defendant Toby Lee Troyer ("Troyer") is an individual who, upon information and belief, resides at 524 East Church Street, Urbana, Ohio 43078.
2. Defendant Troyer did business under the registered trade name "Troyer's Garage and Auto Sales LLC" ("Troyer's Garage").

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ATTORNEY GENERAL OF OHIO

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CONSUMER PROTECTION SECTION
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3. Doing business as Troyer's Garage and Auto Sales LLC, Defendant Troyer operated a used car dealership, last operating at 953 North Main Street, Urbana, Ohio 43078 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 Champaign 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, Troyer's Garage and Auto Sales LLC held dealer permit #UDO17194 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 Troyer's Garage 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 a certificate of title on or before the Fortieth (40th) day after the sale of a motor vehicle.
10. Title Defect Rescission consumer claims totaling five thousand seven hundred eighty-six dollars and eighty-five cents (\$5,786.85) were paid from the Title Defect Rescission Fund, administered by the Ohio Attorney General's Office, after the Defendants failed to obtain a certificate of title on or before the Fortieth (40th) day after the sale of the motor vehicle.

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 an application for a certificate of title within Thirty (30) days after the assignment of delivery of a motor vehicle as required by R.C. 4505.06(A)(5)(b).
 - B. selling a motor vehicle to a consumer, in the ordinary course of business, and then failing to obtain a certificate of title on or before the Fortieth (40th) day of sale of the motor vehicle 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 Troyer is personally liable as he had ownership interest in Troyer's Garage and Auto Sales LLC and dominated, controlled and directed the business activities and sales conduct of Troyer's Garage and Auto Sales LLC. Defendant Troyer exercised the authority to establish, implement or alter the policies of Troyer's Garage, 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 Troyer 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, five thousand seven hundred eighty-six dollars and eighty-five cents (\$5,786.85) 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 ten thousand dollars (\$10,000.00).
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., 14th Floor, Columbus, Ohio 43215 in the total amount of fifteen thousand seven hundred eighty-six dollars and eighty-five cents (\$15,786.85).
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.

8/10/16
DATE

NAS
JUDGE NICK A. SELVAGGIO

Order Submitted By:

MICHAEL DEWINE
Attorney General



ROSEMARY E. RUPERT (0042389)
Assistant Attorney General
Title Defect Recision Fund Unit Director
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rosemary.rupert@ohioattorneygeneral.gov
Counsel for Plaintiff

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

Copies by Clerk:

- Rosemary E. Rupert, Assistant Attorney General, Title Defect Recision Fund Unit Director, Consumer Protection Section, Ohio Attorney General's Office, 30 E/ Broad St., 14th Floor, Columbus, OH 43215-3428
- Troyer's Garage and Auto Sales, LLC, c/o Toby Lee Troyer, 524 E. Church St., Urbana OH 43078
- Toby Lee Troyer, 524 E. Church St., Urbana OH 43078