

IN THE COURT OF COMMON PLEAS  
LICKING COUNTY, OHIO

LICKING COUNTY  
COMMON PLEAS COURT

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

Plaintiff,

v.

CLARK MOTOR COMPANY, et al.

Defendants.

2015 MAR -2 P 4: 13  
CASE NO. 13 CV 0890

JUDGE BRANSTOOL

FILED  
GARY R. WALTERS  
CLERK

CONSENT JUDGMENT AND  
AGREED FINAL  
ENTRY AND ORDER

RECEIVED  
ATTORNEY GENERAL OF OHIO

MAY 27 2015

PREAMBLE

CONSUMER PROTECTION SECTION  
PUBLIC INSPECTION FILE  
This matter came to be heard upon the filing of a complaint on September 4, 2013 by the Ohio Attorney General on behalf of the State ("State" or "Plaintiff"), alleging that the Defendants Clark Motor Company ("CMC"), Phillip C. Clark, Jr., David Clark, and Christopher Clark (collectively "Defendants") violated Ohio's Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 et seq. and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 et seq. The parties have agreed to settle and resolve the matters contained herein. By signing this Consent Judgment and Agreed Final Entry and Order ("Consent Judgment"), Defendants submit to the personal jurisdiction of this Court, consent to the Court's finding of the following findings of fact and conclusions of law, consent to the imposition of this Consent Judgment pursuant to R.C. 1345.07(F), consent to the rights of Plaintiff to enforce this Consent Judgment, and waive any and all appeal rights they may have.

FINDINGS OF FACT

1. Defendant CMC was an Ohio corporation with its principal place of business located at 1070 Hebron Road, Heath, Ohio 43056 at all times relevant to this action. The

corporation has since been cancelled by operation of law.

2. Defendant Phillip C. Clark, Jr. is a natural person who resides at 189 Hillandale Drive, Newark, Ohio 43055.
3. Defendant Phillip C. Clark, Jr. did business as "Clark Motor Company" and "Clark Motor Company Limited Partnership," and was one of three general partners of Clark Motor Company Limited Partnership.
4. Defendant Phillip C. Clark was the President of Clark Motor Company and has dominated, controlled, and directed the business activities and sales conduct of Clark Motor Company, causing, personally participating in, or ratifying the acts and practices of Clark Motor Company, as described in the Complaint
5. Defendant David Clark is a natural person who resides at 1362 Twin Pines Trail, Newark, Ohio 43055.
6. Defendant David Clark did business as "Clark Motor Company" and "Clark Motor Company Limited Partnership," and was one of three general partners of Clark Motor Company Limited Partnership.
7. Defendant David Clark was the Treasurer of Clark Motor Company and has dominated, controlled, and directed the business activities and sales conduct of Clark Motor Company, causing, personally participating in, or ratifying the acts and practices of Clark Motor Company, as described in the Complaint
8. Defendant Christopher Clark is a natural person who resides at 1015 Hillside Drive, Newark, Ohio 43055.
9. Defendant Christopher Clark did business as "Clark Motor Company" and "Clark Motor Company Limited Partnership," and was one of three general partners of Clark Motor

Company Limited Partnership.

10. Defendant Christopher Clark was the Vice President of Clark Motor Company and has dominated, controlled, and directed the business activities and sales conduct of Clark Motor Company, causing, personally participating in, or ratifying the acts and practices of Clark Motor Company, as described in the Complaint.
11. Defendants were, at all times relevant to this action, engaged in the business of soliciting, promoting, purchasing, selling, and collecting the proceeds of the sales of used motor vehicles from CMC's business location in Heath, Ohio to consumers residing in Licking and other Ohio counties.
12. Defendants, operating under the names Clark Motor Company, Clark Motor Company Limited Partnership, and Clark Motor Company, Ltd., solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
13. At all relevant times hereto, Defendant CMC held used motor vehicle dealer license #UD011499 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. That license has since been cancelled.
14. At all relevant times hereto, the Defendants were displaying or selling used motor vehicles at the CMC location.
15. 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 in the name of the consumer purchasers on or before the Fortieth (40th) day after the Defendants sold the used motor vehicles to the consumers.

17. As a result of Defendants' failure to transfer titles into the consumer purchasers' names on or before the Fortieth (40th) day after the sale of the used motor vehicles, three (3) Title Defect Recision consumer claims totaling Ninety-Four Thousand Three Hundred Forty-Five Dollars (\$94,345.00) have been paid from the Title Defect Recision Fund administered by the Ohio Attorney General's Office.

#### CONCLUSIONS OF LAW

18. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Michael DeWine, brought this action in the public interest and on behalf of the State of Ohio under the authority vested in him by R.C. 1345.07.
19. The actions of Defendants, described above, occurred in the State of Ohio, including in Licking County and, as set forth below, are in violation of the CSPA and the Certificate of Motor Vehicle Title Act.
20. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
21. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3) in that Licking County, Ohio is the county in which Defendants reside, where Defendant CMC had its principal place of business, and where the Defendants conducted some of the transactions complained of herein.
22. Defendants are "supplier[s]" as that term is defined in R.C. 1345.01(C) of the CSPA as Defendants were, at all times relevant herein, engaged in the business of effecting or soliciting consumer transactions by offering for sale and selling 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).

23. Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02 of the CSPA by failing to file applications for certificates of title within Thirty (30) days after the assignment or delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b) of the Certificate of Motor Vehicle Title Act.
24. Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A) of the CSPA by selling motor vehicles to consumers, in the ordinary course of business, and then failing to obtain certificates of title in the names of the consumer purchasers on or before the Fortieth (40th) day following the date of the sale of the motor vehicles as required by R.C. 4505.181(B)(1) of the Certificate of Motor Vehicle Title Act.

#### **ORDER**

#### **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

- A. The Court hereby **DECLARES** that the acts and practices described in the Plaintiff's Complaint, and above in the Findings of Fact and Conclusions of Law, violate the CSPA, 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 Consent Judgment.
- B. Defendants, doing business under their own names, as Clark Motor Company, Clark Motor Company Limited Partnership, or Clark Motor Company, Ltd., or any other names, their agents, representatives, salesmen, employees, successors, or assigns, and all persons acting in concert and participation with them, directly or indirectly, are hereby **PERMANENTLY ENJOINED** from committing any unfair, deceptive, or unconscionable act or practice that violates the CSPA, R.C. 1345.01 et seq., and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 et seq.

- C. Pursuant to R.C. 1345.07, Defendants are **ORDERED**, jointly and severally, to pay a civil penalty in the amount of Twenty-Five Thousand Dollars (\$25,000.00), with Fifteen Thousand Dollars (\$15,000.00) of said penalty to be suspended upon full compliance with the terms of this Consent Judgment. Payment of the unsuspended portion in the amount of Ten Thousand Dollars (\$10,000.00) shall be due upon the date of entry of this Consent Judgment and shall be submitted in the form of a certified check, made payable to the "Ohio Attorney General's Office," and delivered to:

Compliance Officer  
Consumer Protection Section  
Office of the Ohio Attorney General  
30 East Broad Street, 14th Floor  
Columbus, Ohio 43215

Plaintiff shall move for the imposition of the suspended portion of this civil penalty if Defendant fails to comply with the terms of this Consent Judgment, including the payment provisions.

- D. Defendants are **ORDERED**, jointly and severally, to pay to the Attorney General's Title Defect Recision Fund the amount Ninety-Four Thousand Three Hundred Forty-Five Dollars (\$94,345.00) to reimburse funds expended to resolve title defects caused by Defendants' motor vehicle title violations. Payment of Thirty Thousand Dollars (\$30,000.00) of this amount shall be due upon the date of entry of this Consent Judgment and shall be submitted in the form of a certified check or money order, made payable to the "Ohio Attorney General's Office," and delivered to:

Compliance Officer  
Consumer Protection Section  
Office of the Ohio Attorney General  
30 East Broad Street, 14th Floor  
Columbus, Ohio 43215

E. Payment of the remaining Sixty-Four Thousand Three Hundred Forty-Five Dollars (\$64,345.00) of the reimbursement to the Attorney General's Title Defect Recision Fund shall be made in the following manner:

- 1) Fifty-Nine (59) consecutive monthly payments in the amount of One Thousand Seventy-Two Dollars and Forty-Two Cents (\$1,072.42), with the first monthly payment due in March 2015, on the one-month anniversary of the entry of this Consent Judgment, and continuing until all Fifty-Nine payments are made.
- 2) A sixtieth (60th) monthly payment in the amount of One Thousand Seventy-Two Dollars and Twenty-Two Cents (\$1,072.22), due one month following the date of the final payment made pursuant to paragraph D(1), above.
- 3) Payment of each monthly installment shall be made by delivery of a certified check or money order, made payable to the "Ohio Attorney General's Office," delivered to the following address:  
  
Compliance Officer  
Consumer Protection Section  
Office of the Ohio Attorney General  
30 East Broad Street, 14th Floor  
Columbus, Ohio 43215
- 4) For any period of time when two or more of the individual Defendants are incarcerated for a period exceeding thirty days for any federal criminal conviction, the amounts due and owing pursuant to this paragraph shall be stayed. Within thirty days of a release from incarceration resulting in at least two of the three individual Defendants no longer being incarcerated,

the monthly payments due under section (2) of this paragraph shall resume and continue monthly until all Fifty-Nine payments are made, with the Sixtieth payment due under section (3) of this paragraph due one month after the final monthly payment due under section (2) is made.

- F. It is further **ORDERED** that the acceptance by the Attorney General of any payment due hereunder subsequent to the time such payment is due or the failure of the Ohio Attorney General to insist on strict performance of any order contained within this Agreed Order including, but not limited to, the obligation created by the acceleration provision in Paragraph F of this Consent Judgment, shall not be construed as a waiver of any of the obligations created by this Consent Judgment.
- G. It is further **ORDERED** that if the Defendants fail to deliver any payment due hereunder to the Attorney General in accordance with the payment schedule ordered herein, all remaining payments shall immediately become due and payable hereunder.
- H. It is further **ORDERED** that in the event that the Plaintiff State of Ohio must initiate legal action or incur any costs to compel the Defendants to abide by this Consent Judgment, Defendants shall be liable to State should it prevail, for all related enforcement costs including, but not limited to, a reasonable sum for attorneys' fees and investigatory costs.
- I. Defendants shall not represent, directly or indirectly, that this Court or the Ohio Attorney General has sanctioned, condoned, or approved any part or aspect of the Defendants' business operations.
- J. Defendants are **ORDERED** to pay all court costs.
- K. This Court shall retain jurisdiction to enforce compliance with this Consent Judgment.

IT IS SO ORDERED.

  
Judge Branstool

**APPROVED AND AGREED TO BY:**

**PLAINTIFF**

MICHAEL DEWINE  
Attorney General of Ohio




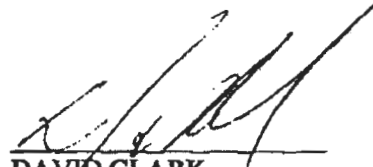
TRACY MORRISON DICKENS (0082898)  
Associate Assistant Attorney General  
Consumer Protection Section  
30 E. Broad Street, 14th Floor  
Columbus, Ohio 43215  
(614) 644-9618  
(866) 449-0989 (fax)  
tracy.dickens@ohioattorneygeneral.gov

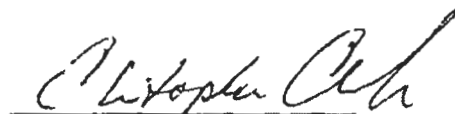
*Counsel for Plaintiff*

Termination Code: 18

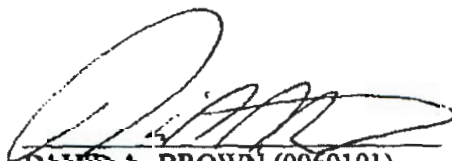
**DEFENDANTS**

  
PHILLIP C. CLARK, JR.  
189 Hillandale Drive  
Newark, Ohio 43055

  
DAVID CLARK  
1362 Twin Pines Trail  
Newark, Ohio 43055

  
CHRISTOPHER CLARK  
1015 Hillside Drive  
Newark, Ohio 43055

  
Representative for CLARK MOTOR COMPANY

  
DAVID A. BROWN (0060101)  
6017 Post Road  
Dublin, Ohio 43017  
(614) 761-0400  
(614) 761-0303 (fax)  
dbrown@stockampbrown.com

*Counsel for Defendants*