

JUN 03 2015

2015 MAY 28 AM 9:19 IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

STATE OF OHIO, ex rel.
ATTORNEY GENERAL
Plaintiff

v.

FAIRGROVE AUTO CENTER, INC.,
et al.

Defendants

) CASE NO. CV 2013-07-2056
)
)

) JUDGE ONEY
)

) - CONSENT JUDGMENT
) ENTRY AND ORDER
)
)
)
)

PREAMBLE

This matter came to be heard upon the filing of a Complaint by the Ohio Attorney General alleging that Defendants Fairgrove Auto Center, Inc. and John Brezinski ("Defendants") violated the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.* and its Substantive Rules. By signing this Consent Judgment Entry and Order ("Consent Judgment"), Defendants waive service of process, submit to the personal jurisdiction of this Court and consent to the entry of this Consent Judgment pursuant to R.C. 1345.07(F).

Defendants hereby consent to the Court's finding of the following facts and conclusions of law, to the imposition of this Consent Judgment and to the rights of Plaintiff to enforce this Consent Judgment.

FINDING OF FACTS

1. Defendant Fairgrove Auto Center, Inc. is an Ohio corporation last operating at 4805 Dixie Highway, Fairfield, Ohio 45014 as Route 4 Auto Store.
2. Defendant John K. Brezinski ("Brezinski") is an individual whose address is 5571 Walther Drive, Fairfield, Ohio 45014.



3. Defendant Brezinski owned and operated Defendant Fairgrove Auto Center, Inc. and dominated, controlled and directed the business activities and sales conduct of Fairgrove Auto Center, Inc. and Route 4 Auto Store, and exercised the authority to establish, implement and alter the policies of Fairgrove Auto Center, Inc. and Route 4 Auto Store, 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 Butler County to consumers residing in Butler and other Ohio counties.
5. Defendants, operating under the name Route 4 Auto Store, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
6. At all relevant times hereto, Defendant Fairgrove Auto Center, Inc. held license #UD008086 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, the Defendants were displaying or selling used motor vehicles at the Route 4 Auto Store location.
8. The Defendants failed to file applications for certificate of title within thirty (30) days after the assignment or delivery of a motor vehicle.
9. The Defendants failed to obtain certificates of title on or before the fortieth (40th) day after the sale of motor vehicles.
10. The Title Defect Recision Fund paid consumer claims after the Defendants failed to

obtain certificates of title on or before the fortieth (40th) day after the sale of the motor vehicles.

11. Defendant Brezinski filed for Chapter 7 bankruptcy on June 27, 2013.

CONCLUSIONS OF LAW

11. The Attorney General is the proper party to commence these proceedings under the authority of the CSPA, R.C. 1345.07, and by virtue of his statutory and common law authority to protect the interests of the citizens of the State of Ohio.
12. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3), in that some of the transactions complained of herein, and out of which this action arose, occurred in Butler County.
13. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
14. Provisions of the CSPA, R.C. 1345.01 et seq. govern the business practices of Defendants.
15. Defendants 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).
16. Defendants 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).
17. The Defendants engaged in unfair and deceptive acts and practices in violation of the CSPA, 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).

18. The Defendants committed unfair and deceptive acts or practices in violation of the CSPA, 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).
19. Plaintiff's action is one brought pursuant to the Attorney General's police and regulatory powers in enforcing the state's consumer protection laws, and as such, the action is exempt from the Bankruptcy Code's automatic stay pursuant to 11 U.S.C. 362(a)(4).

ORDER

For purposes of affecting this Consent Judgment Entry and Order, it is therefore

ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff's request for a Declaratory Judgment is GRANTED; and it is therefore DECLARED that the acts and practices enumerated in the Conclusions of Law set forth above violate the CSPA, R.C. 1345.01 et seq., and the Substantive Rules enacted thereunder, in the manner set forth therein.
2. It is further ORDERED that Defendants or their agents, representatives, salespersons, employees, successors, assigns, and all persons acting on behalf of Defendants, directly or indirectly, through any corporate or private device, partnership or association, including any person or entity which purchases any interest in the business and continues to operate the business, in connection with any consumer transaction, will comply with the requirements set forth and enumerated under the CSPA, R.C. 1345.01 et seq.
3. It is further ORDERED that Defendants, jointly and severally, shall pay \$7,000 to the Ohio Attorney General to be in placed in the Title Defect Recision Fund.

4. It is further ORDERED that Defendants are, jointly and severally, assessed a civil penalty in the amount of \$10,000, which is suspended upon full compliance with the CSPA and the terms of this Consent Judgment, including full and timely payments under the payment plan in Paragraph 5.
5. A payment of \$500 is due upon the execution of this Consent Judgment. The remaining \$6,500 shall be paid in monthly payments of \$500, with the first payment due by May 31st, 2015 and the last payment due in June 2016. The monthly payments shall be made by Defendants and received by the Attorney General on or before the last day of each month.
6. The parties stipulate that all portions of this payment are nondischargeable in any bankruptcy proceeding. The payments are penal monetary sanctions against the Defendants. The payments are a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit and are not compensation for actual pecuniary loss.
7. All payments shall be made via certified check or money order and made payable to the "Ohio Attorney General's Office," and directed to:

Compliance Officer
Consumer Protection Section
30 E. Broad Street, Floor 14
Columbus, OH 43215

8. It is further ORDERED that if the Defendants fail to deliver any payment or perform any obligation due hereunder to the Attorney General, all amounts, including the \$10,000.00 suspended civil penalty referenced in Paragraph 4 of this Order, shall immediately become due and payable hereunder. As a further means of ensuring compliance with this Consent Judgment, if Defendants fail to deliver any payment or perform any obligation

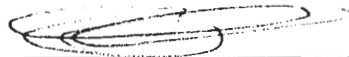
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due hereunder, Defendants shall be ENJOINED from acting as a Supplier in the used auto industry in the State of Ohio until the final judgment amount is satisfied.

9. It is further ORDERED that the acceptance of any payment by the Plaintiff subsequent to the time it is due or the failure of the Plaintiff to insist on strict performance of any order contained within this Consent Judgment, including, but not limited to, the obligation created by the acceleration provision of this Consent Judgment, shall not be construed as a waiver of any of the obligations created by this Consent Judgment.
10. It is further ORDERED that in the event the Ohio Attorney General must initiate legal action or incur any costs to compel Defendants to abide by this Consent Judgment, upon proof of the violation, Defendants shall be liable to the Ohio Attorney General for any such costs associated with proving that violation, including, but not limited to, a reasonable sum for attorneys' fees.
11. It is further ORDERED that Defendants shall not represent directly or indirectly or in any way whatsoever that the Court or the Ohio Attorney General has sanctioned, condoned, or approved any part or aspect of Defendants' business operation.
12. It is further ORDERED that Defendants shall pay all court costs associated with this matter.
13. This Court shall retain jurisdiction to enforce compliance with this Consent Judgment.

Date:

April 30 2015



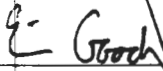
JUDGE ONEY



APPROVED:

MICHAEL DEWINE

Attorney General



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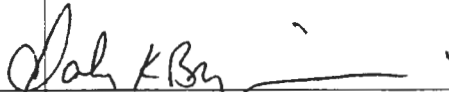
Eric.Gooding@ohioattorneygeneral.gov

Counsel for Plaintiff

4/27/15

Date

DEFENDANTS



JOHN BREZINSKI individually,

and for Fairgrove Auto Center, Inc.

5571 Walther Drive

Fairfield, OH 45014

4/20/15

Date

APPROVED BY:



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Attorney for Defendants

860 NW Washington Blvd.

Elden Roc, Suite J

Hamilton, OH 45013

4/20/15

Date

