

IN THE COURT OF COMMON PLEAS OF SCIOTO COUNTY, OHIO

SCIOTO COUNTY
OHIO
FILED

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

Plaintiff,

v.

OHIO VALLEY AUTO SALES, et al.

Defendants.

CASE NO. 15CIH082

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JUDGE WILLIAM T. MARSHALL

CLERK OF COURTS

**JUDGMENT ENTRY GRANTING
DEFAULT JUDGMENT AGAINST
DEFENDANTS OHIO VALLEY
AUTO SALES AND DON A.
RICE III**

This cause came to be heard upon Plaintiff's Motion for Default Judgment against Defendants Ohio Valley Auto Sales and Don A. Rice III ("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 Rice 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 Ohio Valley Auto Sales and Don A. Rice III.

FINDINGS OF FACT

1. Defendant Don A. Rice III ("Rice") is an individual who, upon information and belief, resides at 5515 Guyan River Road, Huntington, West Virginia 25702.
2. Defendant Don A. Rice III did business under the registered trade name "Ohio Valley Auto Sales" ("Ohio Valley").
3. Doing business as Ohio Valley Auto Sales, Defendant Rice operated a used car

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ATTORNEY GENERAL OF OHIO

AUG 26 2015

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

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THE STATE OF OHIO SCIOTO COUNTY, OH	CLERK OF THE COURT OF COMMON PLEAS AND COUNTY CLERK OF SCIOTO COUNTY
AUG 19 2015	
LISA BOWLING, CLERK	
BY <i>[Signature]</i>	DEPUTY

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dealership, last operating at 619 3rd Ave., Chesapeake, Ohio 45619 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 Scioto 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, Ohio Valley Auto Sales held dealer permit #UD0020241 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 Ohio Valley Auto Sales location.
8. Defendants failed to file applications for 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 motor vehicles.
10. Title Defect Rescission consumer claims totaling twelve thousand sixty-three dollars (\$12,063.00) were paid from the Title Defect Rescission Fund, administered by the Ohio Attorney General's Office, after Defendant Rice 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 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 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. 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 Rice is personally liable as he had the ownership interest in Ohio Valley Auto Sales and dominated, controlled and directed the business activities and sales conduct of Ohio Valley Auto Sales. Defendant Rice exercised the authority to establish, implement or alter the policies of Ohio Valley Auto Sales, 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 in the State of Ohio as an auto dealer 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. and the Substantive Rules enacted thereunder.
4. Defendant Rice 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, twelve thousand sixty-three dollars (\$12,063.00) 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 Twenty-Five Thousand Dollars (\$25,000.00).
7. Within seven days of the filing of this decision, all payments shall be made by Defendant Rice 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 in the amount of \$37,063.00.
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.

8-19-15
DATE

W.T. Marshall
JUDGE WILLIAM T. MARSHALL

Order Submitted By:

MICHAEL DEWINE
Attorney General



ROSEMARY E. RUPERT (0042389)

Assistant Attorney General
Consumer Protection Section
30 East Broad Street, 14th Floor
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(614) 466-8831 (phone)
(614) 466-8898 (fax)
Counsel for Plaintiff

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