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COURT OF COMMON PLEAS
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ROSS COUNTY COMMON PLEAS
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IN THE COURT OF COMMON PLEAS OF ROSS COUNTY, OHIO

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

Plaintiff,

v.

MIDWEST MOTOPLEX, LLC et al.,

Defendants.

CASE NO. 16 CI 000481

JUDGE HOLZAPFEL
Sitting by Assignment

DEFAULT JUDGMENT ENTRY
AND ORDER AGAINST
DEFENDANTS MIDWEST
MOTOPLEX LLC AND
TRACY J. BETTENDORF

This cause came to be heard upon Plaintiff's Motion for Default Judgment against Defendants Midwest Motoplex LLC and Tracy J. Bettendorf ("Bettendorf") aka Tracy McBee aka Tracey Jo Bettendorf collectively ("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 Bettendorf 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 Midwest Motoplex LLC ("Midwest Motoplex") was an Ohio limited liability

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company last operating at 98 Consumer Dr., Chillicothe, Ohio 45601.

2. Defendant Tracy J. Bettendorf ("Bettendorf") aka Tracy McBee aka Tracey Jo Bettendorf is an individual whose last known address is 221 Almahurst Dr., Chillicothe, Ohio 45601.
3. Defendant Bettendorf was the owner of and operated Midwest Motoplex, dominated, controlled and directed the business activities and sales conduct of Midwest Motoplex, and exercised the authority to establish, implement or alter the policies of Midwest Motoplex, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
4. Defendants were 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 Chillicothe to consumers residing in Ross and other Ohio counties.
5. Defendants, operating under the name Midwest Motoplex, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
6. Defendants held dealer permit #MN000697 issued by the State of Ohio under R.C. 4517.01 *et seq.*, allowing them to engage in the business of displaying or selling at retail or wholesale used motor vehicles.
7. Defendants were displaying or selling used motor vehicles at the Midwest Motoplex location.
8. Defendants failed to file applications for a certificates of title within Thirty (30) days after the assignment or delivery of motor vehicles.
9. Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of the motor vehicles.

10. The Title Defect Recision ("TDR") Fund, R.C. 4505.181, administered by the Ohio Attorney General has paid Seven Thousand Four Hundred Nineteen Dollars and Eleven Cents (\$7,419.11) thus far to resolve complaints filed by consumers who had purchased used motor vehicles from the Defendants but did not receive the titles to the vehicles within the time prescribed by R.C. 4505.181. Additionally, consumer Hicks' vehicle was sold at auction and the One Thousand One Hundred Three Dollars and Fifty cents (\$1,103.50) proceeds from the sale of the vehicle were used to reimburse the TDR Fund. Thus the total amount remaining due the TDR Fund is Six Thousand Three Hundred Fifteen Dollars and Sixty One cents (\$6,315.61)

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 Bettendorf is personally liable as she had an ownership interest in Midwest Motoplex, and dominated, controlled and directed the business activities and sales conduct of Midwest Motoplex. Defendant Bettendorf exercised the authority to establish, implement or alter the policies of Midwest Motoplex, 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.

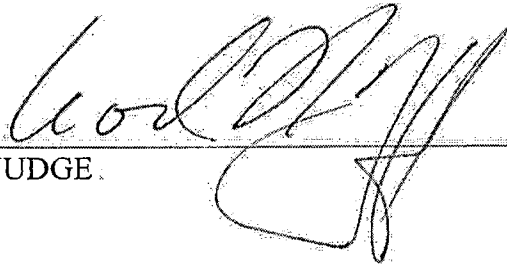
2. Defendants are PERMANENTLY ENJOINED from engaging in any consumer transactions as a supplier in the State of Ohio until all financial obligations ordered in this matter are satisfied in their entirety.
3. Defendants under their own names or any other name, their agents, representatives, salespeople, 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 Bettendorf is PERMANENTLY ENJOINED from applying for or being granted an auto dealer or salesperson license under Chapter 4517 of the Revised Code.
5. Defendants are ORDERED TO PAY, jointly and severally, Six Thousand Three Hundred Fifteen Dollars and Sixty One cents (\$6,315.61) 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 Sixteen Thousand Three Hundred Fifteen Dollars and Sixty-One Cents (\$16,315.61).

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.

5-16-17
DATE


JUDGE

Order Submitted By:

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Attorney General

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The Clerk of this Court is hereby directed to serve a copy of this Judgement Order, and its date of Entry upon the Journal, upon all counsel of record and all parties not represented by counsel, by personal service or by U.S. Mail, and to note service on the Docket.

Judge

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