

**STATE OF OHIO  
OFFICE OF THE ATTORNEY GENERAL  
CONSUMER PROTECTION SECTION**

IN THE MATTER OF:

Shulak Motors LLC  
328 W. Johnstown Rd.  
Gahanna, Ohio 43230

and

Nathan E. Shulak  
1255 N. Hamilton Rd., #76  
Gahanna, Ohio 43230

DOCKET NO. 538041

**RECEIVED**  
ATTORNEY GENERAL OF OHIO

DEC 05 2017

CONSUMER PROTECTION SECTION  
PUBLIC INSPECTION FILE

**ASSURANCE OF VOLUNTARY COMPLIANCE**

This Assurance of Voluntary Compliance ("Assurance") is entered into this 22 day of December, 2017 by and between Nathan E. Shulak ("Shulak") and Shulak Motors LLC ("Suppliers") and Michael DeWine, Attorney General of the State of Ohio ("Attorney General"). For purposes of this Assurance, "Suppliers" means Shulak Motors LLC and Nathan E. Shulak, individually and doing business as Shulak Motors LLC, their partners, agents, servants, representatives, salespersons, employees, successors or assigns and all persons acting in concert or participation with them directly or indirectly, through any corporate device, partnership, association, or affiliation.

**WHEREAS**, the Attorney General, having reasonable cause to believe that Suppliers may have engaged in acts and practices which violate Chapter 1345 of the Revised Code ("Consumer Sales Practices Act") and Chapter 4505 of the Revised Code ("Certificate of Motor Vehicle Title Act") has conducted an investigation pursuant to the authority granted him by R.C. 1345.06 of the Revised Code; and

**WHEREAS**, the Attorney General may, pursuant to R.C. 1345.06(F), enter into and accept an Assurance of Voluntary Compliance; and

**WHEREAS**, this Assurance of Voluntary Compliance is an assurance in writing by Suppliers of their intent to conduct business in a manner designed to comply with the provisions of the Consumers Sales Practices Act, its Substantive Rules and the Certificate of Motor Vehicle Title Act; and

**WHEREAS**, Suppliers, desiring to comply with all aspects of the Consumer Sales Practices Act, its Substantive Rules, and the Certificate of Motor Vehicle Title Act, hereby voluntarily enter into this Assurance with the Attorney General.

**NOW THEREFORE**, in consideration of the mutual promises and conditions set forth herein, the parties hereto **AGREE** as follows:

- (1) The "Effective Date" shall mean the date indicated on the first page of this Assurance.
- (2) By accepting this written Assurance, the Attorney General agrees to terminate the current investigation of Suppliers' business practices and actions occurring on or before the Effective Date of this Assurance.
- (3) By giving this written Assurance, Suppliers agree to comply with all the terms of this Assurance, including all financial provisions, and to conduct any future business in compliance with all applicable Ohio laws, including without limitation, 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.

**BACKGROUND AND STATEMENT OF FACTS**

- (4) Shulak is the owner and principal representative of Shulak Motors LLC, formerly located at 328 W. Johnstown Rd., Gahanna, Ohio 43230.

- (5) Shulak Motors LLC has been registered with the Ohio Secretary of State since July 31, 2006.
- (6) Shulak exercised the authority to establish, implement or alter the policies of Shulak Motors LLC and committed, allowed, directed, ratified or otherwise caused the following unlawful acts and practices to occur.
- (7) Shulak operated Shulak Motors LLC, a used motor vehicle dealership that engaged in the business of effecting consumer transactions by advertising and selling used motor vehicles in the State of Ohio, including Franklin County.
- (8) Shulak Motors LLC held license #UD016440 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.
- (9) Suppliers displayed for sale and sold used motor vehicles without obtaining certificates of title for the vehicles in the name of Shulak Motors LLC, and without possessing bills of sale for the motor vehicles displayed, offered for sale, or sold, and without a properly executed power of attorney or other related documents from the prior owners of the motor vehicles giving Shulak Motors LLC the authority to have certificates of title to the vehicles issued in its name.
- (10) Suppliers, in the ordinary course of business, sold or transferred used motor vehicles to Ohio retail purchasers and failed to apply for certificates of title in the name of the retail purchasers on or before the thirtieth day following the dates of the sales.
- (11) Suppliers, in the ordinary course of business, sold or transferred motor vehicles to Ohio retail purchasers and failed to obtain the certificates of title in the name of the retail purchasers on or before the fortieth day following the dates of the sales.

- (12) Suppliers received payment from the retail purchasers, and/or third parties on behalf of the retail purchasers, in full satisfaction for the purchase of the motor vehicles.
- (13) As a result of Suppliers' conduct, retail purchasers were unable to obtain certificates of title to their used motor vehicles, and filed claims pursuant to Ohio's Title Defect Recision (TDR) statute, R. C. 4505.181.
- (14) Title Defect Recision consumer claims totaling Twenty-Six Thousand Nine Hundred Forty-Four Dollars and Fifty Cents (\$26,944.50) thus far was paid from the Title Defect Recision Fund, administered by the Ohio Attorney General's Office, after the Suppliers failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of the motor vehicles.
- (15) Shulak and Shulak Motors LLC are "suppliers" as that term is defined in R.C. 1345.01(C), because they engaged in the business of effecting or soliciting consumer transactions, by offering for sale or selling or financing the purchase or transfer of used motor vehicles to individuals for purposes that are primarily personal, family or household within the meaning specified in R.C. 1345.01(A).
- (16) Suppliers committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02, by selling or transferring used motor vehicles to Ohio retail purchasers and failing to apply for certificates of title in the name of the retail purchasers on or before the thirtieth day following the date of the sale as required by R.C. 4505.06(A)(5)(b).
- (17) Suppliers committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02, by failing, on or before the fortieth day following the

date of the sale, to obtain titles to the vehicles in the name of the retail purchasers in violation of R.C. 4505.181(B)(1).

- (18) The acts and practices described in paragraphs 16-17 of this Assurance have been previously determined by Ohio courts to violate the Consumer Sales Practices Act. Suppliers committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

#### **COMPLIANCE PROVISIONS**

- (19) In connection with the display for sale, or sale of used motor vehicles, Suppliers shall refrain from displaying for sale and selling a used motor vehicle without obtaining a certificate of title for the vehicle in Shulak Motors LLC name, or without possessing a bill of sale for the motor vehicle displayed, or offering for sale, or selling, without a properly executed power of attorney or other related document from the prior owner of the motor vehicle giving Shulak Motors LLC the authority to have a certificate of title to the vehicle issued in its name, in violation of the Obtaining Certificate of Title Prerequisite to Offering Vehicle for Sale Act, R.C. 4505.181 and the Consumer Sales Practices Act, R.C. 1345.02(A).
- (20) In connection with the display for sale, or sale of used motor vehicles, Suppliers shall refrain from selling or transferring a motor vehicle to an Ohio retail purchaser when they fail to apply for a certificate of title in the name of the retail purchaser on or before the thirtieth day following the date of the sale, in violation of the Certificate of Motor Vehicle Title Act R.C. 4505.01 et seq. and the Consumer Sales Practices Act, R.C. 1345.02(A).

- (21) In connection with the display for sale, or sale of used motor vehicles, Suppliers shall refrain, in the ordinary course of business, from failing, on or before the fortieth day following the date of the sale, to obtain title to the vehicle in the name of the retail purchaser in violation of the Obtaining Certificate of Title Prerequisite to Offering Vehicle for Sale Act, R.C. 4505.181 and the Consumer Sales Practices Act, R.C. 1345.02(A).

#### **SHULAK CHAP. 7 BANKRUPTCY DISCHARGE**

- (22) Shulak filed a voluntary Chapter 7 bankruptcy petition on May 16, 2017 in the United States Bankruptcy Court for the Southern District of Ohio.
- (23) A discharge under 11 U.S.C. Section 727 was granted to Shulak on August 29, 2017.
- (24) The order of discharge did not discharge debts for most fines, penalties, forfeitures, or criminal restitution obligations.
- (25) The order of discharge also did not prevent Shulak from paying any debt voluntarily.
- (26) The Attorney General argues that the TDR debt is a debt in the nature of a fine, penalty, forfeitures, or criminal restitution obligation and is thus non-dischargeable.
- (27) Shulak does not agree with the Attorney General, however he also does not want to litigate this issue, and is willing to enter into this AVC, and reimburse the Attorney General \$9,000.00, which represents a portion of the amount due TDR to resolve this matter.

#### **GENERAL PROVISIONS**

- (28) Suppliers understand and agree this Assurance applies to their principals, officers, directors, agents, servants, representatives, salespersons, employees, instructors, independent contractors, successors in interest and assigns, jointly and severally.

- (29) This Assurance shall be governed by the laws of the State of Ohio.
- (30) This Assurance is entered into by Suppliers of their own free and voluntary act and with full knowledge and understanding of the nature of the proceedings and the obligations and duties imposed by this Assurance.
- (31) This Assurance does not constitute an approval by the Attorney General of any of Suppliers' business practices and neither shall represent directly or indirectly, or in any way whatsoever, that the Attorney General has sanctioned, condoned or approved any part or aspect of their business practices.
- (32) This Assurance sets forth the entire agreement between the Attorney General, and the Suppliers and supersedes all prior agreements or understandings, whether written or oral, between the Parties and/or their respective counsel with respect to the subject matter hereof. This Assurance may be amended by written agreement between the Parties, subject to any further requirements under state law.
- (33) The Parties acknowledge that no other promises, representations or agreements of any nature have been made or entered into by the Parties. The Parties further acknowledge that this Assurance constitutes a single and entire agreement that is not severable or divisible, except that if any provision herein is found to be legally insufficient or unenforceable, the remaining provisions shall continue in full force and effect.
- (34) Suppliers shall negotiate in good faith, through the office of the Attorney General, any consumer complaints filed with this office concerning their conduct occurring prior to the Effective Date of this Assurance, which are brought by consumers that are discovered after entering into this Assurance. The Attorney General shall direct all complaints to the attention of Shulak.

- (35) This Assurance is a public record and shall be maintained in the Public Inspection File.

**REIMBURSEMENT TO THE TDR FUND**

- (36) As part of the consideration for the termination of the Attorney General's investigation of the Suppliers under the Consumer Sales Practices Act, R.C. 1345.01 et seq., Shulak shall reimburse the TDR Fund in the amount of Nine Thousand Dollars (\$9,000.00). This amount represents partial reimbursement for the payments made by the Attorney General to resolve complaints filed by the consumers.
- (37) Payment of this amount shall be made in the following manner:

- a. Thirty (30) monthly payments of Three-Hundred Dollars (\$300.00). The first payment is due on or before December 1, 2017 and thereafter on the 1st of each month until paid in full.
- b. Each separate payment shall be made by delivery of a certified check or money order, payable to the "Ohio Attorney General's Office," delivered to the following address:

Finance Assistant  
Consumer Protection Section  
Ohio Attorney General's Office  
30 E. Broad St., 14<sup>th</sup> Floor  
Columbus, Ohio 43215

- (38) Payments made pursuant to this paragraph shall be placed into the TDR Fund. If Suppliers fail to comply with the Assurance, including the payment plan, the remainder of the \$9000.00 amount due shall be immediately due and payable upon demand.

**PENALTIES FOR FAILURE TO COMPLY**

- (39) The Attorney General may assert any claim that Suppliers have violated this Assurance in a separate civil action to enforce this Assurance against Suppliers and the court shall

apply applicable standards of law to determine damages per any subsequent violation, which may include any and all remedies available to the Attorney General pursuant to R.C. 1345.07. In any such action or proceeding, relevant evidence of conduct that occurred before the Effective Date shall be admissible on any material issue, including alleged willfulness, intent, knowledge, contempt or breach, to the extent permitted by law. By this paragraph, Suppliers do not waive any evidentiary objection or any other objection they may have as permitted by law to the admissibility of any such evidence, including, but not limited to, showing evidence that Suppliers have fully and promptly cooperated in good faith with this investigation.

- (40) Pursuant to R.C. 1345.06(F), this Assurance is not, and shall not be construed as, evidence of any violation of the Consumer Sales Practices Act or the Substantive Rules adopted thereunder, by Suppliers. Evidence of a violation of an Assurance of Voluntary Compliance, though, is prima-facie evidence of an act or practice in violation of the Consumer Sales Practices Act, R.C. 1345.01 et seq., if presented after the violation in an action brought under the Consumer Sales Practices Act, R.C. 1345.01 et seq.
- (41) This Assurance shall in no way exempt Suppliers from any other obligations imposed by law, and nothing contained herein shall relieve them of any legal responsibility for any acts or practices engaged in by them other than those acts specifically resolved by this Assurance.
- (42) Nothing in this Assurance shall in any way preclude any investigative or enforcement action against Suppliers under any legal authority granted to the Attorney General:
  - a. With respect to the transactions or occurrences which are the subject of this enforcement action, if the terms of this Assurance are not fully obeyed; or

- b. With respect to transactions or occurrences which are not the subject of this action.

**TOLLING AGREEMENT**

- (43) Suppliers acknowledge and agree that they shall not, in any action filed by the Attorney General, raise any applicable time-related or statute of limitations defense, either in law or equity, relating to their activities in connection with the current Attorney General investigation, except as to any cause of action already barred as of the Effective Date, which shall remain barred, unless otherwise preserved.
- (44) If Suppliers file a Motion to Dismiss based on statute of limitations grounds, the parties agree that this AVC shall be submitted as evidence in opposition to the motion, and that the Attorney General may seek to recover the costs incurred to defend such a frivolous motion.

**REPRESENTATIONS AND WARRANTIES**

- (45) Suppliers warrant and represent that the individual signing this Assurance on behalf of Shulak Motors LLC is doing so in their official capacity and is fully authorized by Shulak Motors LLC to enter into this Assurance and to legally bind Shulak Motors LLC to all of the terms and conditions of the Assurance.
- (46) Suppliers represent that by executing this Assurance that they have carefully read this Assurance and that if they so choose have had the opportunity to discuss the terms and conditions of this Assurance with an attorney, and that they agree to the terms and conditions as set forth in this Assurance by signing the same.

**WHEREFORE**, the parties hereto affix their signatures in recognition and acceptance of the terms contained herein on this 22 day of February, 2017.

**ACCEPTED BY:**

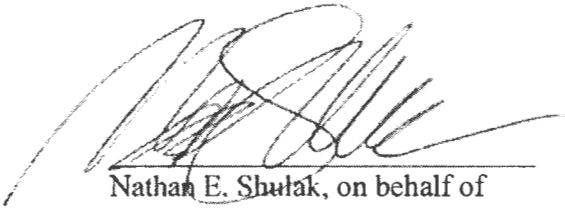


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12/4/17

Date

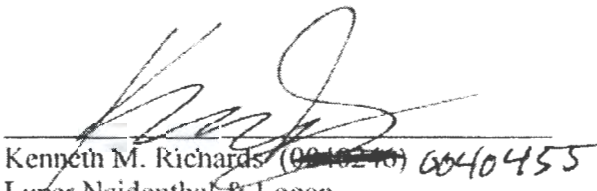
*Counsel for the Ohio Attorney General*



Nathan E. Shulak, on behalf of  
Shulak Motors LLC, and  
in his individual capacity.

11/22/17

Date



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11/28/2017

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*Counsel for Nathan E. Shulak and Shulak Motors LLC*