

RECEIVED
ATTORNEY GENERAL OF OHIO

FEB 27 2019

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel.)	CASE NO. 18 CV 008503
DAVE YOST)	
ATTORNEY GENERAL OF OHIO)	
)	JUDGE MARK A. SERROTT
Plaintiff,)	
)	
v.)	<u>JUDGMENT ENTRY GRANTING</u>
)	<u>DEFAULT JUDGMENT AGAINST</u>
CAPITAL CITY CAR BROKERS,)	<u>DEFENDANTS MICHAEL J.A. BOYD</u>
LLC, et al.)	<u>SHERLIN E. BOYD AND CAPITAL</u>
)	<u>CITY CAR BROKERS, LLC</u>
Defendants.)	

This cause came to be heard upon Plaintiff's Motion for Default Judgment against Defendants Michael J.A. Boyd ("M. Boyd"), Sherlin E. Boyd ("S. Boyd") and Capital City Car Brokers, LLC ("Capital City Car") ("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. Defendants M. Boyd and S. Boyd are not active duty military, reservists in active Federal service or National Guardsmen 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 Michael J.A. Boyd, Sherlin E. Boyd and Capital City Car Brokers, LLC.

FINDINGS OF FACT

1. Defendant M. Boyd is an individual who, upon information and belief, resides at 71 Winner Ave., Columbus, Ohio 43203.
2. Defendant S. Boyd is an individual who, upon information and belief, resides at 71

Winner Ave., Columbus, Ohio 43203.

3. Defendants M. Boyd and S. Boyd co-owned and co-operated Defendant Capital City Car, and dominated, controlled and directed the business activities and sales conduct of Capital City Car, and exercised the authority to establish, implement or alter the policies of Capital City Car, 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 locations in Columbus to consumers residing in Franklin and other counties.
5. Defendants solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
6. At all relevant times hereto, Defendants held dealer permit #UD021398 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. At all relevant times hereto, Defendants were displaying or selling used motor vehicles at the Capital City Car location.
8. Defendant M. Boyd at all relevant times was a licensed salesperson with a license issued by the Ohio Bureau of Motor Vehicles, license number SL158220.
9. Defendant Sherlin Boyd is registered with the Ohio Secretary of State as statutory agent for Capital City Car.
10. Defendants failed to file applications for certificates of title within Thirty (30) days after the assignment or delivery of a motor vehicle.

11. Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of motor vehicles.
12. Title Defect Recision ("TDR") consumer claims since January 30, 2018 totaling \$2,970.00 were paid from the TDR Fund, administered by the Ohio Attorney General's Office, after Defendants failed to obtain certificates of title on or before the Fortieth (40th) day after the sale of the motor vehicles.
13. On November 27, 2017, the Attorney General filed a lawsuit against Capital City Car, Michael J.A. Boyd and Sherlin E. Boyd alleging that they violated the Consumer Sales Practices Act in connection with the sale of motor vehicles. Franklin County Common Pleas Case No. 17-CV-10426.
14. In that previous lawsuit, the Court granted a default judgment against Capital City Car, Michael J.A. Boyd and Sherlin E. Boyd, and on January 30, 2018, the Court entered an Entry and Order Assessing Damages and Civil Penalties against these Defendants. *Id.* Defendants were ordered to pay \$3,250.00 to the Ohio Attorney General to reimburse the TDR Fund, and a \$10,000.00 civil penalty. *Id.* Defendants were also enjoined from engaging in consumer transactions in Ohio as a supplier until they had paid all penalties and damages owed to the State of Ohio. Defendants were also prohibited from applying for, being granted or maintaining a salespersons or dealer license under Chapter 4517 of the Revised Code. *Id.*
15. To date, Defendants have made minimal payments towards TDR reimbursement and civil penalties awarded by the judgment in Case No. 17-CV-10426.

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 "supplier(s)" 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 or 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. Defendants M. Boyd and S. Boyd are personally liable as they were the co-owners of Capital City Car and dominated, controlled and directed the business activities and sales conduct of Capital City Car. Defendants M. Boyd and S. Boyd exercised the authority to establish, implement or alter the policies of Capital City Car, and committed, allowed, directed, ratified or otherwise caused the unlawful acts to occur.
8. The Defendants continued to operate in violation of the default judgment granted on January 30, 2018 in Case No. 17-CV-10426 resulting in additional payouts totaling \$2,970.00 made from the TRD Fund to resolve three consumers title complaints.

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 in the manner set forth therein.
2. 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.
3. Defendants are ORDERED TO PAY, jointly and severally, two thousand nine hundred seventy dollars (\$2,970.00) to the Ohio Attorney General to reimburse the TDR Fund.

4. Defendants are ORDERED TO PAY, jointly and severally, a civil penalty of \$25,000.00 pursuant to R.C. 1345.07(D).
5. Within seven days of the filing of this decision, all payments shall be made by 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.
6. Defendants M. Boyd and S. Boyd are both prohibited from applying for, being granted, or maintaining a salesperson or auto dealer license under Chapter 4517 of the Revised Code.
7. 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.
8. Defendants are ORDERED to pay, jointly and severally, all court costs of this action.

IT IS SO ORDERED.

DATE

JUDGE MARK A. SERROTT

Submitted By:

DAVE YOST
Attorney General

Rosemary E. Rupert

ROSEMARY E. RUPERT (0042389)
Principal Assistant Attorney General
Title Defect Recision Unit Director
Consumer Protection Section
Ohio Attorney General's Office
30 East Broad Street, 14th Floor
Columbus, Ohio 43215-3428
(614) 752-5548 (phone)
(866) 473-6249 (fax)
Counsel for Plaintiff

Clerk, electronic copies to all parties of record:

Capital City Car Brokers LLC
c/o Sherlin E. Boyd
71 Winner Ave.
Columbus, Ohio 43203

Michael J.A. Boyd
71 Winner Ave.
Columbus, Ohio 43203

Sherlin E. Boyd
71 Winner Ave.
Columbus, Ohio 43203

Franklin County Court of Common Pleas

Date: 02-13-2019
Case Title: OHIO ATTORNEY GENERAL -VS- MICHAEL J A BOYD ET AL
Case Number: 18CV008503
Type: JUDGMENT ENTRY

It Is So Ordered.

A handwritten signature in black ink, reading "Mark A. Serrott". The signature is written in a cursive style with a large, stylized "S" at the end.

/s/ Judge Mark A. Serrott