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IN THE COURT OF COMMON PLEAS OF BELMONT COUNTY, OHIO

STATE OF OHIO, ex rel.
ATTORNEY GENERAL
DAVE YOST

Plaintiff,

v.

TRI STATE AUTO GROUP LLC, et al.,

Defendants.

CASE NO. 18 CV 422

JUDGE JOHN A. VAVRA

COMMON PLEAS COURT

BELMONT CO. OH

2019 DEC -3 AM 11:15

CYNTHIA L. FREGLATO

CLERK OF COURT

**FINAL JUDGMENT ENTRY AND ORDER AGAINST
DEFENDANT CHAD ANTHONY**

This matter came to be heard upon the filing of a complaint on October 30, 2018 by Plaintiff, State of Ohio ex rel. Attorney General Dave Yost ("Plaintiff") against Defendants Tri State Auto Group LLC ("Tri State") and owners Candice Anthony and Chad Anthony ("Anthony") (collectively "Defendants"). The Court granted default judgment against Defendants Tri State and Candice Anthony on January 16, 2019. Defendant Anthony filed an answer to the complaint and then filed a Motion for Summary Judgment on April 29, 2019. Plaintiff filed an Answer Brief on May 15, 2019. The court denied Anthony's motion on June 3, 2019. Plaintiff then filed a Motion for Summary Judgment on October 3, 2019. Defendant Anthony filed a Reply to Plaintiff's Motion for Summary Judgment on October 17, 2019. Plaintiff filed a Rebuttal Brief on October 25, 2019. On November 1, 2019, the Court issued an order granting Summary Judgment as to liability against Defendant Anthony. Plaintiff filed a Memorandum in Support of Damages on November 15, 2019. The Court held a damages hearing on November 18, 2019 to determine whether injunctive and declaratory relief should issue, to

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determine amounts for civil penalties, reimbursement to the Title Defect Recision ("TDR") Fund and to address the dealer licensure prohibition.

Present for the hearing were Rosemary E. Rupert, Principal Assistant Attorney General, on behalf of Plaintiff the State of Ohio and the Defendant Chad Anthony, unrepresented. The Court asked Plaintiff whether it had any additional evidence to produce to support its request for damages. Plaintiff requested that the Court accept its Memorandum in Support of Damages previously filed, and the affidavits of Attorney General employees Christopher Ellison and Jeffrey Simmons included in Plaintiff's Motion for Summary Judgment as evidence to support its damages claims. Plaintiff also indicated that both Attorney General employees were present and available to testify to the damages claims. The Court indicated that it was satisfied with Plaintiff's evidence already in the record and that additional testimony was not necessary. Plaintiff then rested.

The Court then asked Defendant Chad Anthony whether he had any additional evidence to provide to the Court and he said no. He indicated that he was relying upon the summary pleadings he filed and that he planned to appeal the judgment. Defendant then rested.

Upon review of Plaintiff's Complaint, and considering the entire record, including all of the pleadings filed, and the representations made at the damages hearing, the Court grants the relief Plaintiff requested in its complaint, and now issues the following Findings of Fact, Conclusions of Law and Final Judgment Entry and Order against Defendant Anthony.

FINDINGS OF FACT

1. Defendant Tri State Auto Group, LLC ("Tri State") was a limited liability company that was registered with the Ohio Secretary of State under charter number 2239153.

2. Tri State's principal place of business was 6 Cadiz Pike, Bridgeport, Belmont County, Ohio 43912.
3. Tri State was engaged in the business of buying and selling used vehicles from its location at 6 Cadiz Pike, Bridgeport, Belmont County, Ohio 43912.
4. Defendant Anthony was an owner of Tri State, and he exercised the authority to establish, implement, or alter the policies of Tri State and committed, allowed, directed, ratified, or otherwise caused the following unlawful acts and practices to occur.
5. Defendant Anthony 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).
6. The actions of Defendant Anthony occurred in the State of Ohio and Belmont County.
7. Defendant Anthony was engaged in the business of soliciting, promoting, purchasing, selling, financing and collecting the proceeds of the sales of used motor vehicles from a location in Bridgeport to consumers residing in Belmont and other Ohio counties.
8. Defendant Anthony solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
9. Defendant Anthony was displaying or selling used motor vehicles at the Tri State Auto location.
10. Defendant Anthony failed to file applications for certificates of title within thirty (30) days after the assignment or delivery of motor vehicles.
11. Defendant Anthony failed to obtain certificates of title on or before the fortieth (40th) day after the sale of motor vehicles.

12. Defendant Anthony entered into arrangements with retail purchasers whereby he accepted retail purchasers' current motor vehicles as trade-ins or agreed to facilitate the sale of consumers' motor vehicles and then failed to pay off pre-existing liens on the motor vehicles, and by selling used motor vehicles encumbered with pre-existing liens to retail purchasers so that retail purchasers paid money for motor vehicles which were not titled in the Defendants' names at the time of purchase, and for which Defendant Anthony knew he would be unable to obtain title.
13. Defendant Anthony accepted money from consumers for goods and services and then permitted eight weeks to elapse without making shipment or delivery of the goods and services ordered, making a full refund, advising the consumer of the duration of an extended delay and offering to send a refund within two weeks if so requested, or furnishing similar goods or services of equal or greater value as a good faith substitute.
14. Plaintiff established that the TDR Fund suffered losses of One Hundred Twenty Four Thousand Four Hundred Thirty Seven dollars and Sixty Two cents (\$124,437.62).

CONCLUSIONS OF LAW

1. The Plaintiff is entitled to judgment against Defendant Anthony for the claims enumerated in its complaint.
2. The Attorney General is the proper party to commence these proceedings under the authority vested in him by R.C. 1345.07 of the Consumer Sales Practices Act ("CSPA"), and the Certificate of Motor Vehicle Title Act, and by virtue of his statutory and common law authority to protect the interests of the citizens of the State of Ohio.

3. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
4. This Court has venue to hear this case pursuant to Civ. R. 3(C)(2)-(3), in that Defendant operated his business from, and engaged in the transactions complained of in Belmont County.
5. Defendant Anthony was a "supplier" as that term is defined in R.C. 1345.01(C) as he engaged in the business of effecting or soliciting "consumer transactions" as that term is defined in R.C. 1345.01(A).
6. Defendant Anthony 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).
7. Defendant Anthony committed 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).
8. Defendant Anthony committed unfair and deceptive acts and 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).
9. Defendant Anthony committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A) by:

- A. Entering into arrangements with retail purchasers whereby he accepted retail purchasers' current motor vehicles as trade-ins or agreed to facilitate the sale of consumers' motor vehicles and then failed to pay off pre-existing liens on the motor vehicles.
 - B. Selling used motor vehicles encumbered with pre-existing liens to retail purchasers so that retail purchasers paid money for motor vehicles which were not titled in the Defendants' names at the time of purchase, and for which Defendant Anthony knew they would be unable to obtain title.
10. Defendant Anthony committed unconscionable acts or practices in connection with consumer transactions in violation of the CSPA, R.C. 1345.03 by:
- A. Entering into consumer transactions while knowing of the inability of the consumer to receive a substantial benefit from the subject of the consumer transaction by displaying for sale or selling used motor vehicles when there was no reasonable probability based upon its precarious financial condition that the Tri State Defendants could secure certificates of title to the motor vehicles in compliance with R.C. 4505.181(A)(2).
 - B. Collecting monies as part of the sales contracts for the purpose of paying the secured liens on consumers' traded vehicles and then failing to remit payment to the secured lenders.
 - C. Selling the consumers' vehicles to other retail purchasers who paid money for motor vehicles which were not titled in the Defendants' names at the time of purchase, and for which the Defendant Anthony knew they would be unable to obtain title.
11. Defendant Anthony committed unfair and deceptive acts or practices in violation of the Failure to Deliver Rule, O.A.C. 109:4-3-09(A) and the CSPA, R.C. 1345.02(A), by accepting money from consumers for goods and services and then permitting eight weeks to elapse without making shipment or delivery of the goods and services ordered, making a full refund, advising the consumer of the duration of an extended delay and offering to send a refund within two weeks if so requested, or furnishing similar goods or services of equal or greater value as a good faith substitute.
12. Such acts or practices have been previously determined by Ohio courts to violate the

CSPA, R.C. 1345.01 et seq. Defendant Anthony committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

13. Plaintiff's evidence established five distinct violations of R.C. 1345.02 et seq. A maximum civil penalty of \$25,000.00 can be awarded per violation. The Plaintiff has requested, and the Court finds reasonable, a civil penalty of \$125,000.00. The amount of the civil penalty reflects the numerous times and ways Defendant Anthony violated the CSPA resulting in actual harm to numerous consumers who had purchased used motor vehicles from him, to which title could not transfer, or traded in used motor vehicles wherein he did not pay off the preexisting liens leaving consumers responsible for the balance on the loans.

Based on the above the **COURT HEREBY ISSUES THE FOLLOWING ORDER:**

ORDER

- A. The Court hereby DECLARES that the acts and practices described above violate the CSPA, R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.* in the manner described herein.
- B. Defendant Anthony, doing business under his or any other name, his officers, agents, representatives, salespersons, employees, successors, or assigns, and all persons acting in concert and participation with him, directly or indirectly, through any corporate device, partnership or association, are hereby PERMANENTLY ENJOINED from engaging in any unfair or deceptive acts or practices that violate the CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules, 109:4-3-01 *et seq.*, or the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.* including, without limitation, violations of the specific statutes described in this Judgment Entry and Order.

- C. Pursuant to R.C. 1345.07(D), Defendant Anthony shall pay a civil penalty in the amount of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) pursuant to R.C. 1345.07(D). Such payment shall be made within seven days to the Attorney General via certified check or money order payable to the "Ohio Attorney General" and delivered to:

Finance Specialist
Consumer Protection Section
Office of the Ohio Attorney General
30 East Broad Street, 14th Floor
Columbus, Ohio 43215

- D. IT IS FURTHER ORDERED that Defendant Anthony shall reimburse the TDR Fund administered by the Ohio Attorney General in the amount of One Hundred Twenty Four Thousand Four Hundred Thirty Seven Dollars and Sixty Two cents (\$124,437.62). Such payment shall be made within seven days to the Attorney General via certified check or money order payable to the "Ohio Attorney General" and delivered to:

Finance Specialist
Consumer Protection Section
Office of the Ohio Attorney General
30 East Broad Street, 14th Floor
Columbus, Ohio 43215

- E. IT IS FURTHER ORDERED that Defendant Anthony shall be prohibited from applying for or obtaining an auto dealer or salesperson license under Chapter 4517 of the Revised Code if he is not in compliance with all of the provisions of this Judgment Entry and Order including the financial provisions.
- F. It is further ORDERED that in the event the Ohio Attorney General must initiate legal action or incur any costs to compel Defendant Anthony to abide by this Judgment Entry and Order, he shall be liable to the Ohio Attorney General, should he prevail, for all related enforcement costs, including, but not limited to collection costs.

G. Defendant Anthony shall pay all court costs associated with this action.

IT IS SO ORDERED.

December 2, 2019
DATE


JUDGE JOHN A. VAVRA

Prepared and Submitted by:

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Counsel for Plaintiff

ENDED

The Clerk shall circulate copies of this entry to all parties.