

RECEIVED
ATTORNEY GENERAL OF OHIO

MAY 14 2019

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO *ex rel.* MICHAEL DEWINE
Plaintiff,
v.
IRIS TATE dba SELECTIVE AUTO MART
Defendants.

: CASE NO. CV 14 819769
:
: JUDGE: KATHLEEN ANN SUTULA
:
: JUDGMENT ENTRY GRANTING
: DEFAULT JUDGMENT AGAINST
: DEFENDANT IRIS TATE dba
: SELECTIVE AUTO MART
:
:

FILED
2014 MAY 27 A 8 39
CLEVELAND COURTS
CUYAHOGA COUNTY

This cause came to be heard upon Plaintiff's Motion for Default Judgment Against Defendant Iris Tate dba Selective Auto Mart ("Defendant") pursuant to Civ. R. 55(A). Defendant was properly served in this matter and has failed to file an answer to Plaintiff's Complaint and has failed to defend against this motion or appear. 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 Defendant.

FINDINGS OF FACT

1. Defendant, Iris Tate, is an individual doing business as Selective Auto Mart located at 4675 Warner Rd. Garfield Heights, Ohio 44125.
2. Defendant was 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 her location in Garfield Heights, Ohio to consumers residing in

Cuyahoga and other Ohio counties.

3. Defendant solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
4. Defendant held license #UD019411 issued by the State of Ohio under R.C. 4517.01 et seq., allowing her to engage in the business of displaying or selling at retail or wholesale used motor vehicles.
5. Dealer license number UD019411 is currently registered as a valid motor vehicle dealer license to Selective Auto Mart 14215 Miles Ave Cleveland, Ohio 44128. Defendant has not operated a motor vehicle dealership at 14215 Miles Ave Cleveland, Ohio 44128 in the past 6 months.
6. Defendant displayed or sold used motor vehicles at her Selective Auto Mart location.
7. Defendant displayed for sale or sold used motor vehicles without having first obtained certificates of title for the vehicles in the name of the dealer or without possessing a bill of sale for each motor vehicle displayed, offered for sale, or sold, along with a properly executed power of attorney or other related documents from the prior owner giving the dealer or person acting on behalf of the dealer authority to have a certificate of title to the motor vehicle issued in the name of the dealer for each motor vehicle displayed or sold.
8. Defendant sold such vehicles without certificates of titles in the dealer's name and subsequently failed to obtain certificates of title in the name of retail purchasers on or before the Fortieth (40th) day after the sale of motor vehicles.

CONCLUSIONS OF LAW

9. The Court has jurisdiction over the subject matter, issues and parties to this action and venue is proper.

10. The business practices of Defendants, as described herein and in Plaintiff's Complaint, are governed by the Consumer Sales Practices Act, R.C. 1345.01 et seq.
11. 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.
12. Defendant is a "supplier," as that term is defined in R.C. 1345.01(C), as she engaged in the business of effecting "consumer transactions" by soliciting consumers for the sale of motor vehicles within the meaning of R.C. 1345.01(A).
13. Defendant has committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, R.C. 1345.02(A), by displaying for sale or selling used motor vehicles without having first obtained certificates of title for the vehicles in the name of the dealer or without possessing a bill of sale for each motor vehicle displayed, offered for sale, or sold, along with a properly executed power of attorney or other related documents from the prior owner giving the dealer or person acting on behalf of the dealer authority to have a certificate of title to the motor vehicle issued in the name of the dealer for each motor vehicle displayed or sold.
14. Defendant has committed unfair and deceptive acts or practices in violation of the Consumer Sales Practices Act, 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).
15. Defendant has committed unfair and deceptive acts or practices in violation of the

Consumer Sales Practices Act, R.C. 1345.02(A), by failing to notify the registrar of motor vehicles concerning any change in status as a dealer concerning the location of office or principal place of business within 15 days of such change as required by R.C. 4517.23.

16. The acts or practices described in the Conclusions of Law have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

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. Defendant Iris Tate, under her own name or any other name, her 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, is PERMANENTLY ENJOINED from engaging in any consumer transactions in the State of Ohio until this judgment is satisfied in its entirety.
3. Defendant Iris Tate, under her own name or any other name, her 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, is 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 Iris Tate is HEREBY PROHIBITED from applying for an auto dealer or sales person license under Chapter 4517 of the Revised Code, and shall not engage in any consumer transactions as a supplier, until she has complied with all financial obligations Ordered by the Court.
5. Motor Vehicle License number UD019411 is hereby cancelled by Court order and the Bureau of Motor Vehicles shall not process any further titles using dealer license number UD019411.
6. Defendant is ordered to maintain in her possession and control for a period of three (3) years, and in a manner designed to secure the privacy of all consumers' personal information, all business records and to permit the Ohio Attorney General or his representative, upon reasonable twenty-four (24) hour notice, to inspect and/or copy any and all records.
7. Defendant Iris Tate is ORDERED TO PAY, Fifteen Thousand Seven Hundred Fifty Five Dollars (\$15,755.00) to the Ohio Attorney General for reimbursement to the Ohio Title Defect Recision Fund.
8. Defendant Iris Tate is ORDERED TO PAY a civil penalty of Thirty Thousand \$30,000.00 pursuant to R.C. 1345.07(D).
9. 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.

10. 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.

11. Defendant Iris Tate is ORDERED to pay all court costs of this action.

IT IS SO ORDERED.

5.27.14
DATE

K. A. Sutula
JUDGE KATHLEEN ANN SUTULA

Submitted By:

MICHAEL DEWINE
Attorney General

RECEIVED FOR FILING

MAY 27 2014

Michael R. Sliwinski (0076728)
Assistant Attorney General
Consumer Protection Section
615 W. Superior Ave. 11th Floor
Cleveland, Ohio 44113-1899
(216) 787-3104
(877) 616-5276 (facsimile)
michael.sliwinski@ohioattorneygeneral.gov
Counsel for Plaintiff State of Ohio

CUYAHOGA COUNTY
CLERK OF COURTS
By [Signature] Deputy