

DANIEL M. HARRIGAN

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SUMMIT COUNTY
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SUMMIT COUNTY, OHIO

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MAY 14 2019

CONSUMER PROTECTION SECTION
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STATE OF OHIO *ex rel.* MICHAEL
DEWINE

Plaintiff,

v.

WILLIAM D. BENNETT

Defendant.

: CASE NO. 2014-01-0089

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: JUDGE: O'BRIEN

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: JUDGMENT ENTRY GRANTING

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: DEFAULT JUDGMENT AGAINST

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: DEFENDANT WILLIAM D. BENNETT

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This cause came to be heard upon Plaintiff's Motion for Default Judgment Against Defendant William D. Bennett ("Defendant") pursuant to Civ. R. 55(A). Defendant was properly served in this matter and failed to file an answer to Plaintiff's Complaint and has failed to defend against this motion or appear before the Court in any manner. 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, William D. Bennett is a sole proprietor doing business as The Car Shack with a primary location at 355 ½ S. Arlington St. Akron, Ohio 44306.
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 his location in Akron to consumers residing in Summit and other Ohio counties.

3. Defendant solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
4. Defendant William D. Bennett held license #UD018146 issued by the State of Ohio under R.C. 4517.01 et seq., allowing him to engage in the business of displaying or selling at retail or wholesale used motor vehicles.
5. Defendant displayed or sold used motor vehicles at his 355 ½ S. Arlington Rd. Akron, Ohio location.
6. 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.
7. 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

8. The Court has jurisdiction over the subject matter, issues and parties to this action and venue is proper.
9. The business practices of Defendant, as described herein and in Plaintiff's Complaint, are governed by the Consumer Sales Practices Act, R.C. 1345.01 et seq.
10. 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.

11. Defendant is a "supplier," as that term is defined in R.C. 1345.01(C), as he 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).
12. 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.
13. 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).
14. 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. The Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3). See *State ex rel. Petro v. Angelini dba Angelini Pontiac Oldsmobile*, Case No. 04 CV 0137 OPIF# 10002271 (Crawford County

C.P. Aug. 16, 2004); *State ex rel Petro v. Smithwalters Enterprises Inc.*, Case No. 03CV597-TMM OPIF# 10003209 (Licking County C.P. Feb. 3, 2005).

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 William D. Bennett is PERMANENTLY ENJOINED from engaging in any consumer transactions in the State of Ohio until this judgment is satisfied in its entirety.
3. Defendant William D. Bennett, under his own name or any other name, his agents, representatives, salespeople, employees, successors and assigns, and all persons acting on behalf of him 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.
4. Defendant William D. Bennett 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 he has complied with all financial obligations Ordered by the Court.
5. Defendant William D. Bennett is ordered to maintain in his 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.

6. Defendant William D. Bennett is ORDERED TO PAY Two Thousand Forty Eight Dollars and 50/100 (\$2,048.50) to the Ohio Attorney General for reimbursement to the Ohio Title Defect Recision Fund.
7. Defendant William D. Bennett is ORDERED TO PAY a civil penalty of Five Thousand Dollars \$5,000.00 pursuant to R.C. 1345.07(D).
8. 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.
9. 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.
10. Defendant William D. Bennett is ORDERED to pay all court costs of this action.

IT IS SO ORDERED.

DATE



JUDGE TAMMY O'BRIEN

Submitted By:

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