

**IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT**

STATE OF OHIO, EX REL. DAVE YOST)	CASE NO.: CV-2018-09-3913
)	
Plaintiff)	JUDGE ALISON BREAUX
-vs-)	
)	
O JOSEPH M. NICE, et al. METRO ACC)	<u>ORDER</u>
LLC C)	
)	
Defendant		

- - -

This matter comes before the Court on review of the Magistrate's Decision filed July 25, 2019 recommending this Court grant default judgment in favor of Plaintiff, the State of Ohio, ex rel. Dave Yost, and against Defendants, Metro ACC LLC and Joseph M. Nice. No objections to the Magistrate's Decision have been filed.

The Court has made an independent review and analysis of the issues, appropriate rules of law applicable to the issues in this case, and the Magistrate's Decision in this case filed pursuant to Civ.R. 53(D). Upon consideration of the Magistrate's Decision, the Court determines there is no error of law or defect on the face of the Magistrate's Decision.

The Court further finds the Magistrate's Decision contains sufficient findings of fact and conclusions of law to allow this Court to make its own independent analysis of the issues and to apply the appropriate rules of law in making its final judgment entry in this matter.

Therefore, pursuant to Civ.R. 53(D), the Court shall adopt the Magistrate's Decision with its conclusions and findings.

WHEREFORE, based upon the foregoing, the Court **GRANTS** default judgment against Defendants Metro ACC LLC and Joseph M. Nice and in favor of Plaintiff, the State of Ohio, ex rel. Dave Yost, and **ORDERS** the following:

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CONSUMER PROTECTION SECTION
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1. The Court declares each act or practice of which Plaintiff complains violates the Consumer Sales Practices Act, in violation of R.C. §1345.02, specifically:
 - a. Defendants have committed an unfair or deceptive act or practice in violation of the CSPA, R.C. §1345.02, by displaying for sale or selling a used motor vehicle without first obtaining the certificate of title for the vehicle in the name of the dealer or without possessing a bill of sale for said motor vehicle proposed to be displayed, offered for sale, or sold, or a properly assigned 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 in violation of R.C. §4505.181(A)(2).
 - b. Defendants have committed an unfair and deceptive act or practice in violation of the CSPA, R.C. §1345.02, by failing, on or before the fortieth (40th) day following the date of sale to obtain to the vehicle in the name of the retail purchaser, in violation of R.C. §4505.181(B)(1).
2. Defendants, and their agents, representatives, salesmen, employees, successors and assigns and all persons acting in concert of participation with Defendants, directly or indirectly are PERMANENTLY ENJOINED from engaging in the above acts or practices in violation of the Consumer Sales Practices Act, R.C. §1345.01 et seq.
3. Defendants are PERMANENTLY ENJOINED from engaging in business in the State of Ohio as suppliers until all judgment ordered remuneration is paid, including any outstanding unsatisfied judgments arising out of a prior consumer transaction; and are further enjoined from engaging in the acts and practices of which Plaintiff complains.

4. Defendants are **ORDERED** to maintain in their possession and control for a period of five (5) years all business records relating to Defendants' solicitation or effectuation or business in Ohio 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 of said records, however stored. Defendants are further **ORDERED** that copies of such records be provided at Defendants' expense to the Ohio Attorney General upon request of the Ohio Attorney General or his representatives.
5. Defendants are liable to the State of Ohio for reimbursement of the TDR fund in the amount of \$16,274.14 (Sixteen Thousand Two Hundred Seventy-Four Dollars and Fourteen Cents).
6. Pursuant to R.C. §1345.07(A)(2)(b)(ii), Defendants are assessed civil penalties in the amount of \$5,000.00 (Five Thousand Dollars and No Cents).
7. Costs to Defendants.

This is a final appealable order. There is no just reason for delay.

The Clerk of the Summit County Common Pleas Court shall serve upon all parties not in default for failure to appear a notice of this Judgment and its date of entry upon the journal.

IT IS SO ORDERED.



JUDGE ALISON BREAUX

CC: ATTORNEY ROSEMARY E RUPERT
ATTORNEY MICHAEL R. SLIWINSKI