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IN THE COURT OF COMMON PLEAS WARREN COUNTY, OHIO

STATE OF OHIO, ex rel.)	CASE NO. 19 CV 92139
DAVE YOST)	
ATTORNEY GENERAL OF OHIO)	JUDGE ROBERT PEELER
)	
Plaintiff,)	<u>CONSENT JUDGMENT AND</u>
)	<u>AGREED ENTRY AND ORDER</u>
v.)	
)	
1 AUTO EXCHANGE)	
aka #1 AUTO EXCHANGE, et al.)	
)	
Defendants.)	

PREAMBLE

This matter came upon the filing of a complaint by Plaintiff, State of Ohio, charging Defendants 1 Auto Exchange aka #1 Auto Exchange ("1 Auto") and Catherine Manning ("Manning") with violations of the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.* Defendants 1 Auto and Manning filed an answer and third-party complaint against Whitewater Motors and Anthony Zornes. Those claims remain pending. Plaintiff and Defendants 1 Auto and Manning have agreed to settle and resolve all matters alleged in that complaint. By signing this Consent Judgment and Agreed Entry and Order ("Consent Judgment"), these Defendants waive service of process of the summons and complaint, and/or any defects therein, submit to the personal jurisdiction of this Court, consent to the entry of this Consent Judgment pursuant to R.C. 1345.07(F), to the imposition of this Consent Judgment, and to the rights of Plaintiff to enforce this Consent Judgment.

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ATTORNEY GENERAL OF OHIO

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1 CONSUMER PROTECTION SECTION
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FINDINGS OF FACT

1. Defendant 1 Auto is an Ohio domestic limited liability company operating at 1380 East Second Street, Franklin, Ohio 45005.
2. Defendant Catherine Manning ("Manning") is an individual whose address is 2910 Oxford Avenue, Middleton, Ohio 45042.
3. Defendant Manning has at all times relevant to this lawsuit owned and operated Defendant 1 Auto, and dominated, controlled and directed the business activities and sales conduct of 1 Auto, and exercised the authority to establish, implement or alter the policies of 1 Auto, and committed, allowed, directed, ratified, or otherwise **caused the** following unlawful acts to occur.
4. On October 31, 2017, Defendant Manning, both individually and in her capacity as an agent/owner of 1 Auto, signed an Assurance of Voluntary Compliance ("AVC") with the Consumer Protection Section of the Ohio Attorney General's office, which included, among other things, agreements that Defendants would:
 - a. Refrain from displaying for sale and selling a used motor vehicle without obtaining a certificate of title for the vehicle, or without possessing a bill of sale for the motor vehicle displayed, or offering for sale, or selling, without a properly executed power of attorney or other related document from the prior owner of the motor vehicle giving 1 Auto the authority to have a certificate of title to the vehicle issued in its name in violation of the Title Defect Recision ("TDR") Act, R.C. 4505.01 et seq. and the CSPA, R.C. 1345.02(A).
 - b. Refrain from selling or transferring a motor vehicle to an Ohio retail purchaser when failing to apply for a certificate of title in the name of the retail purchaser on

- or before the thirtieth day following to date of the sale, in violation of the TDR Act, R.C. 4505.01 et seq., and the CSPA, R.C. 1345.02(A).
- c. Refrain in the ordinary course of business, from failing, on or before the fortieth day following the date of the sale, to obtain title to the vehicle in the name of the retail purchaser in violation of TDR Act, R.C. 4505.01 et seq. and the CSPA, R.C.1345. 02(A)
 - d. Refrain from engaging in consumer transactions in connection with the display for sale, or sale of used motor vehicles, until 1 Auto has posted a R.C. 4505.181 surety bond with the Ohio Attorney General's Office.
 - e. Reimburse the TDR Fund, which is a Fund administered by Plaintiff, Seven Thousand Three Hundred Six Dollars and Three Cents (\$7,306.03) at the rate of One Hundred Dollars (\$100.00) per week with the 1st payment due November 1, 2017 and thereafter weekly until paid in full.
 - f. Reimburse Plaintiff One Thousand Five Hundred dollars (\$1,500.00) for attorney fees and investigative costs at the rate of One Hundred Dollars (\$100.00) per week with the 1st payment due the week following the completion of payments referenced in paragraph (e) above.
5. Defendants made twenty-seven (27) payments of One Hundred Dollars. In total Defendants have paid Two Thousand Seven Hundred Dollars (\$2,700.00), with the last payment received by the Ohio Attorney General's office on July 9, 2018.
6. Defendants owe a remaining Four Thousand Six Hundred Six Dollars and Three Cents (\$4,606.03) of the amount Defendants promised to pay to reimburse the TDR Fund as part of the October 31, 2017 AVC.

7. Defendants made no payments of the \$1,500.00 they promised to pay for investigative and administrative costs as part of the October 31, 2017.
8. Defendants have violated the terms of the October 31, 2017 AVC that was agreed upon with the Consumer Protection Section of the Ohio Attorney General's Office.
9. Defendants are at all times relevant to this action engaging in the business of soliciting, promoting, purchasing, selling, financing and collecting the proceeds of the sales of used motor vehicles from their location in Franklin to consumers residing in Warren and other Ohio counties.
10. Defendants, operating under the name 1 Auto Exchange aka #1 Auto Exchange, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
11. Defendants held license #UD020332 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.
12. Defendants displayed or sold used motor vehicles at the 1 Auto location.
13. Defendants failed to file an application for a certificate of title within thirty (30) days after the assignment or delivery of the motor vehicle.
14. Defendants failed to obtain a certificate of title on or before the fortieth (40th) day after the sale of the motor vehicle.
15. A TDR consumer claim totaling \$7,306.03 was paid from the TDR Fund, administered by the Ohio Attorney General's Office, after the Defendants failed to obtain a certificate of title on or before the fortieth (40th) day after the sale of the motor vehicle.
16. R.C. 4505.181 requires that a dealer post a bond in an amount not less than \$25,000 after

23. Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02 by failing to file an application for a certificate of title within thirty (30) days after the assignment or delivery of a motor vehicle as required by R.C. 4505.06(A)(5)(b).
24. Defendants committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by selling a motor vehicle to a consumer, in the ordinary course of business, and then failing to obtain a certificate of title on or before the fortieth (40th) day of sale of the motor vehicle as required by R.C. 4505.181(B)(1).
25. Defendants continued to operate after failing to post a surety bond after the Attorney General paid a retail purchaser of the dealer from the TDR Fund due to the Defendants' failure to deliver a title to the purchaser, as required by R.C. 4505.181(A)(2).
26. The actions, as set forth above, are in violation of the CSPA and the Certificate of Motor Vehicle Title Act.
27. Such acts or practices have been previously determined by Ohio courts to violate the CSPA, 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).

ORDER

- A. The court hereby DECLARES that the acts and practices described above violate the CSPA and the Certificate of Motor Vehicle Title Act in the manner set forth herein.
- B. Defendants, doing business under the name 1 Auto Exchange or any other name, their officers, agents, representatives, salespersons, employees, successors, or assigns, and all persons acting in concert and participation with them, directly or indirectly, through any corporate device, partnership or association, are hereby PERMANENTLY ENJOINED from engaging in unfair, deceptive, or unconscionable acts or practices that violate the

CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules, O.A.C. 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 Consent Judgment.

C. Pursuant to R.C. 1345.07(D), the Defendants shall pay a civil penalty in the amount of Five Thousand Dollars (\$5,000.00). Four Thousand Five Hundred Dollars (\$4,500.00) of the civil penalty is suspended provided the Defendants are in full compliance with all of the provisions of this Consent Judgment, including the financial provisions. Payment of the unsuspended amount is due at the signing of the Consent Judgment. Payment shall be made via certified check or money order and made payable to the "Ohio Attorney General's Office" and directed to the Consumer Protection Section Financial Specialist, 30 E. Broad St., 14th Fl., Columbus, Ohio 43215.

D. IT IS FURTHER ORDERED that the Defendants shall reimburse the TDR Fund, in the amount of Four Thousand Six Hundred Six Dollars and Three Cents (\$4606.03). Payment of this amount is due at the signing of the Judgment. Payment shall be made via certified check or money order and made payable to the "Ohio Attorney General's Office" and directed to the Consumer Protection Section Financial Specialist, 30 E. Broad St., 14th Fl., Columbus, Ohio 43215.

E. IT IS FURTHER ORDERED that the Defendants shall reimburse Plaintiff attorney fees and investigative costs in the amount of Fifteen Hundred Dollars (\$1,500.00). Payment of this amount is due at the signing of the Judgment. Payment shall be made via certified check or money order and made payable to the "Ohio Attorney General's Office" and directed to the Consumer Protection Section Financial Specialist, 30 E. Broad St., 14th Fl., Columbus, Ohio 43215.

- F. IT IS FURTHER ORDERED that Defendant Manning shall be prohibited from applying for or obtaining an auto dealer or sales persons license under Chapter 4517 of the Revised Code if she is not in compliance with all of the provisions of this Consent Judgment, including the posting of a surety bond.
- G. Defendants shall not represent, directly or indirectly, that the Ohio Attorney General has sanctioned, condoned, or approved any part or aspect of their business operations.
- H. IT IS FURTHER ORDERED that, in the event that the Ohio Attorney General must initiate legal action or otherwise incur any costs to compel Defendants to abide by this Consent Judgment, and the Attorney General should prevail in that action, then Defendants shall be liable to the Ohio Attorney General for all related enforcement costs, including but not limited to, a reasonable sum for attorney fees and investigative costs.
- I. Defendant shall pay all court costs associated with this action.
- J. Defendants' third party claims against the third party Defendants Whitewater Motors and Anthony Zornes remain pending.

IT IS SO ORDERED

12/18/2020


DATE

Robert W. Peeler

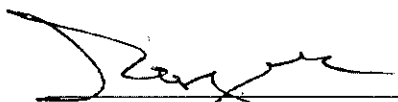
JUDGE W. ROBERT PEELER

Submitted by:

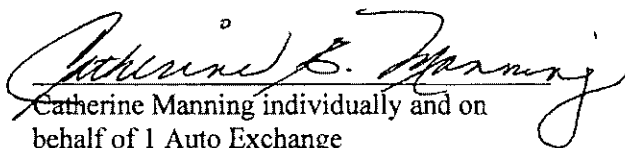
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Catherine Manning individually and on
behalf of 1 Auto Exchange