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**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

STATE OF OHIO, EX REL. ATTORNEY GENERAL
DAVE YOST

Plaintiff

CITYWIDEAUTOMALL LLC., ET AL.

Defendant

Case No: CV-20-936968

Judge: RICHARD A BELL

FILED
2021 MAR 30 P 3:33
CLERK OF COURTS
CUYAHOGA COUNTY

JOURNAL ENTRY

92 DEFAULT - FINAL

ORDER AND ENTRY GRANTING DEFAULT JUDGMENT AGAINST DEFENDANTS ISSUED. OSJ.
COURT COST ASSESSED TO THE DEFENDANT(S).

PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER
PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL
PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

OSJ
Judge Signature

Date

RECEIVED
ATTORNEY GENERAL OF OHIO

APR 05 2021

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO ex rel.
ATTORNEY GENERAL
DAVE YOST

Plaintiff,

v.

CITYWIDEAUTOMALL LLC, et al.

Defendants.

CASE NO.: CV-20-936968

JUDGE RICHARD A BELL

**ORDER AND ENTRY GRANTING
DEFAULT JUDGMENT AGAINST
CITYWIDEAUTOMALL LLC
AND ARLIN J. WALLACE, JR.**

This matter came to be heard upon the February 18, 2021 filing of Plaintiff's Motion for Default Judgment Against Defendants CitywideAutoMall LLC and Arlin J. Wallace Jr., Individually. On September 9, 2020, Plaintiff filed its Complaint against CitywideAutoMall LLC ("Citywide") and Arlin J. Wallace, Jr. ("Wallace"), who all did business using the name CitywideAutoMall LLC, alleging violations of the 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. In accordance with Civ.R. 4.1(A)(1), Defendant Citywide was served via Certified U.S. Mail on September 16, 2020. Defendant Wallace was served via Certified US Mail on September 16, 2020. Defendants filed a leave to file an answer or otherwise respond to the complaint on October 9, 2020 requesting until November 9, 2020 to file a responsive pleading. Defendants have failed to file an answer or further pleading on this matter. Individual Defendant Wallace is not active duty military, a reservist in active federal service, or a National Guardsman in active service. Therefore, pursuant to Civ.R. 55(A), the Court hereby **GRANTS** a default judgment against Defendants Citywide and Wallace on all counts of the Complaint.

In its Motion, the Plaintiff requested that the Court impose upon Defendants Citywide and Wallace each a separate \$20,000 civil penalty and order them to reimburse the Attorney General's Title Defect Recision ("TDR") Fund in the amount of \$8,021.00, jointly and severally. The Plaintiff also requested a declaratory judgment and injunctive relief, and submitted evidence in support of all of these requests.

The Court finds Plaintiff's requests well-taken. The evidence establishes that the imposition of a separate \$20,000 civil penalty against each of these two Defendants is appropriate and permitted by R.C. 1345.07(D) and that they are liable to reimburse the TDR Fund in the amount of \$8,021.00, jointly and severally. A declaratory judgment and injunctive relief are also issued. No hearing on this matter is necessary.

FINDINGS OF FACT

1. The actions of Defendants have occurred in the State of Ohio, including in Cuyahoga County.
2. Defendant Citywide is an Ohio limited liability company.
3. Defendant Wallace is an individual who resides at 3479 W. 91st Street, Cleveland, Ohio 44102.
4. Defendant Wallace is the principal owner of Citywide and dominated, controlled and directed the business activities and sales conduct of Citywide, exercised the authority to establish, implement or alter the policies of Citywide, and committed, allowed, directed, ratified or otherwise caused the violations to occur, as described in the Complaint and this Order.
5. Defendants' principal place of business for their car dealership was located at 3855 Ridge Road, Cleveland, Ohio 44144.

6. Defendants Citywide and Wallace were, at all times relevant to this action, engaged in the business of soliciting, promoting, purchasing, selling, and collecting the proceeds of the sales of used motor vehicles from their location in Cleveland, Ohio to consumers residing in Cuyahoga and other Ohio counties.
7. Defendant Citywide held license #UD022259 issued by the State of Ohio under R.C. 4517.01 et seq., allowing it to engage in the business of displaying or selling at retail or wholesale used motor vehicles. That dealer license is still active.
8. Defendants Citywide and Wallace solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
9. Defendants Citywide and Wallace displayed or sold used motor vehicles from the CitywideAutoMall LLC dealership location.
10. Defendants Citywide and Wallace failed to file applications for certificates of title within 30 days after the assignment or delivery of motor vehicles.
11. Defendants Citywide and Wallace failed to obtain certificates of title in the name of consumer purchasers on or before the Fortieth (40th) day after the sale of motor vehicles.
12. Defendants Citywide and Wallace failed 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 title to the purchaser.
13. Defendants Citywide and Wallace represented that a consumer transaction involved a warranty and then failed to fulfill their obligations under the stated warranty.
14. TDR consumer claims totaling \$8,021.00 have been paid from the TDR Fund, administered by the Attorney General's Office, after Defendants Citywide and Wallace failed to obtain certificates of title in the name of consumer purchasers on or before the Fortieth (40th) day

after the sale of the motor vehicles.

CONCLUSIONS OF LAW

15. The Attorney General, acting on behalf of the State of Ohio and in the public interest, is the proper party to bring this action by virtue of the authority vested in the Attorney General by R.C. 1345.07.
16. The actions of Defendants Citywide and Wallace have occurred in the State of Ohio, including in Cuyahoga County and, as set forth below, are in violation of the CSPA, R.C. 1345.01 et seq., and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 et seq.
17. Defendants Citywide and Wallace are "supplier[s]" as that term is defined in R.C. 1345.01(C) as they were, at all times relevant herein, engaged in the business of effecting or soliciting "consumer transactions" by offering for sale and selling 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).
18. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
19. Venue in this Court is proper, pursuant to Ohio Civ. R. 3(C)(2)-(3), because Cuyahoga County is where Defendants Citywide and Wallace's principal place of business was located and where they conducted the transactions that gave rise to the Plaintiff's claim for relief.
20. Defendants Citywide and Wallace engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02 of the CSPA by failing to file applications for certificates of title within 30 days after the assignment or delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b) of the Certificate of Motor Vehicle Title Act.

21. Defendants Citywide and Wallace engaged in unfair and deceptive acts and practices in violation of 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 day of sale of the motor vehicles as required by R.C. 4505.181(B)(1) of the Certificate of Motor Vehicle Title Act.
22. Defendants Citywide and Wallace engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A), by 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 title to the purchaser, as required by R.C. 4505.181.
23. Defendants Citywide and Wallace engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A) and R.C. 1345.02(B)(10) by representing that a consumer transaction involved a warranty and then failing to fulfill their obligations under the stated warranty.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

- A. It is DECLARED, pursuant to R.C. 1345.07(A)(1), that the acts and practices committed by Defendants Citywide and Wallace, as set forth above, violate the CSPA, R.C. 1345.01 et seq., and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 et seq.
- B. Defendants Citywide and Wallace, doing business under their own names or any other names, their agents, representatives, salespeople, employees, successors, or assigns, and all persons acting in concert and participation with them, directly or indirectly, are PERMANENTLY ENJOINED, pursuant to R.C. 1345.07(A)(2), from engaging in the acts and practices described in this order and from further violating the CSPA, R.C. 1345.01 et seq., and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 et seq.

- C. Defendants Citywide and Wallace are ORDERED, jointly and severally, to pay \$8,021.00 to the Attorney General to reimburse the TDR Fund for expenditures made to resolve consumers' motor vehicle title defects caused by Defendants Citywide and Wallace. Such payment shall be made to the Attorney General via a certified check or money order payable to the "Ohio Attorney General" and delivered within seven days to:

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

- D. Based on the above findings that Defendant Citywide committed unfair and deceptive acts and practices in violation of the CSPA, Defendant Citywide is ORDERED, pursuant to R.C. 1345.07(D), to pay a civil penalty of \$20,000. Such payment shall be made to the Attorney General via a certified check or money order payable to the "Ohio Attorney General" and delivered within seven days to:

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

- E. Based on the above findings that Defendant Wallace committed unfair and deceptive acts and practices in violation of the CSPA, Defendant Wallace is ORDERED, pursuant to R.C. 1345.07(D), to pay a civil penalty of \$20,000. Such payment shall be made to the Attorney General via a certified check or money order payable to the "Ohio Attorney General" and delivered within seven days to:

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

Columbus, Ohio 43215

- F. Defendant Wallace is PERMANENTLY ENJOINED from applying for or obtaining any motor vehicle dealer or salesperson license under Chapter 4517 of the Revised Code.
- G. Defendants Citywide and Wallace are ENJOINED from engaging in business as suppliers in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations ordered herein, and until they have satisfied any monetary obligations ordered by any other Court in Ohio in connection with a consumer transaction.
- H. Defendants are liable for Plaintiff's costs of collecting this judgment, as permitted by statute.
- I. Defendants Citywide and Wallace are ORDERED, jointly and severally, to pay all court costs.

IT IS SO ORDERED.

3/29/2021
DATE

Richard A. Bell
JUDGE RICHARD A. BELL

Submitted by:

DAVE YOST
Ohio Attorney General

/s/ Timothy W. Effler
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