

FILED
LORAIN COUNTY

2021 APR - 1 P 1:43

COURT OF COMMON PLEAS
TOM ORLANDO
LORAIN COUNTY COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

TOM ORLANDO, Clerk
JOURNAL ENTRY
Christopher R. Rothgery, Judge



To the Clerk: THIS IS A FINAL
APPEALABLE ORDER.
Please serve upon all parties not
in default for failure to appear.
Notice of the Judgment and its
date of entry upon the Journal.

Date 3/31/21

Case No. 20CV201543

STATE OF OHIO EX. REL.
Plaintiff

REBECCA F SCHLAG
Plaintiff's Attorney (216)787-3030

VS

RT 82 AUTO GALLERY LLC
Defendant

Defendant's Attorney

This matter is before the Court for review of the Magistrate's Decision of March 10, 2021. No response was filed. Pursuant to Civ. R. 53, the Court may adopt, reject or modify the Magistrate's Decision. This Court has independently reviewed the conclusions of law based upon the factual findings made by the Magistrate. After independent review, this Court finds the objections well-taken and hereby modifies the Magistrate's Decision as follows:

In addition to the penalties imposed in the Magistrate's Decision previously adopted by this Court, the Court imposes a civil penalty in the amount of Seventy-Five Thousand Dollars (\$75,000.00). Defendants are ORDERED to pay, jointly and severally, a civil penalty of \$75,000 pursuant to R.C. 1345.07(D).

IT IS SO ORDERED.

VOL _____ PAGE _____


Christopher R. Rothgery, Judge

cc: Atty. Schlag
Rt. 82 Auto Gallery, LLC
Sean Nightingale
Angelo Guzzo

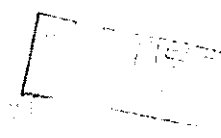
RECEIVED
ATTORNEY GENERAL OF OHIO

APR 08 2021



CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

To the Clerk: THIS IS A FINAL
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LORAIN COUNTY COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

TOM ORLANDO, Clerk
JOURNAL ENTRY
Christopher R. Rothgery, Judge

Date 3/9/21

Case No. 20CV201543

STATE OF OHIO EX. REL.
Plaintiff

REBECCA F SCHLAG
Plaintiff's Attorney (216)787-3030

VS

RT 82 AUTO GALLERY LLC, et al.
Defendant

Defendant's Attorney

JUDGMENT ENTRY GRANTING DEFAULT JUDGMENT

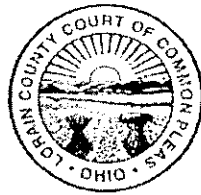
The instant matter came before the Court for review of the Magistrate's Decision dated March 9, 2021. Pursuant to Civ. R. 53, the Court may adopt, reject or modify the Magistrate's decision.

In reaching the conclusions found herein, the Court independently reviewed all of the pleadings and evidence properly before this Court regarding the default hearing. This Court, upon independent review, finds that the Magistrate has properly determined the factual issues and appropriately applied the law.

WHEREFORE, 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





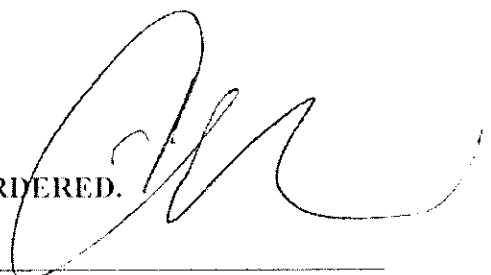
Practices Act in the manner set forth therein.

2. Defendants Angelo M. Guzzo, Sean Nightingale and Rt. 82 Auto Gallery, LLC are **PERMANENTLY ENJOINED** from engaging in any consumer transactions in the State of Ohio as an auto dealer.
3. Defendants, under their own names or any other names, their 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, 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. Defendants are **ORDERED** to pay, jointly and severally, \$72,426.50 to the Ohio Attorney General as reimbursement to the TDR Fund.
5. Defendants Guzzo and Nightingale are prohibited from applying for a salesperson or auto dealer license under Chapter 4517 of the Revised Code.
6. 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.
7. Defendants shall pay Plaintiff's costs of collecting on this judgment as permitted by statute.
8. Defendants are **ORDERED** to pay, jointly and severally, all court costs of this action.





IT IS SO ORDERED.


JUDGE CHRISTOPHER ROTHGERY

NOTICE REGARDING OBJECTIONS

Pursuant to Civil Rule 53(D)(3) & (4), the Court adopts the Magistrate's Decision and enters judgment. The filing of timely written objections shall operate as an automatic stay of execution of that judgment until the Court disposes of those objections and vacates, modifies or adheres to the judgment previously entered.

Within fourteen (14) days of the filing (time-stamp) of the Magistrate's Decision, a party may file written objections to the Magistrate's Decision. Objections shall be specific and state with particularity the grounds of the objection. Any objection to a finding of fact shall be supported by a transcript of all the evidence submitted to the Magistrate relevant to that fact or an affidavit of that evidence if a transcript is not available. Any such objections must be served on all parties to this action.

NOTE: Pursuant to Civ.R. 53(D)(3)(b), a party shall not assign as error on appeal the court's adoption of any finding of fact or conclusion of law unless the party has objected to that finding or conclusion under Civ.R. 53.

cc: Plaintiff
Defendant Rt. 82 Auto Gallery, LLC
Defendant Angelo M. Guzzo
Defendant Sean Nightingale





LORAIN COUNTY COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

TOM ORLANDO, Clerk
JOURNAL ENTRY
Christopher R. Rothgery, Judge

Date 3/9/21

Case No. 20CV201543

STATE OF OHIO EX. REL.
Plaintiff

REBECCA F SCHLAG
Plaintiff's Attorney (216)787-3030

VS

RT 82 AUTO GALLERY LLC, et al.
Defendant

Defendant's Attorney

MAGISTRATE'S DECISION

This cause came to be heard upon Plaintiff's Motion for Default Judgment against Defendants Rt. 82 Auto Gallery, LLC, Angelo M. Guzzo, Jr. ("Guzzo") and Sean Nightingale ("Nightingale") pursuant to Civ. R. 55(A). Defendants were properly served in this matter, have failed to file an answer to Plaintiff's Complaint, and have failed to defend against this motion or otherwise appear before the Court. Neither Defendant Angelo M. Guzzo, Jr. nor Defendant Sean Nightingale are active duty military, reservists in active Federal service, or National Guardsmen in active service. Nobody appeared at the hearing for Default on behalf of Defendants. The Court finds the Plaintiff's 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:





FINDINGS OF FACT

1. Defendant Rt. 82 Auto Gallery, LLC, is a limited liability Ohio company which conducted business from 33735 E. Royalton Rd., Columbia Station, OH 44028.
2. Defendant Angelo M. Guzzo, Jr. is the President, CEO and Statutory Agent of the used motor vehicle dealership known as Rt. 82 Auto Gallery, LLC, and co-owned the used motor dealer license with Defendant Nightingale.
3. Defendant Sean Nightingale has operated and had interest in the business known as Rt. 82 Auto Gallery, LLC and co-owned the used motor vehicle dealer license with Defendant Guzzo.
4. Defendants Guzzo and Nightingale at all times relevant herein had ownership interest in and operated the business known as Rt. 82 Auto Gallery, LLC and dominated, controlled and directed the business activities and sales conduct of Rt. 82 Auto Gallery, LLC and exercised the authority to establish, implement or alter the policies of Rt. 82 Auto Gallery, LLC and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
5. Defendants were engaged in the business of soliciting, promoting, purchasing, selling, financing and collecting the proceeds of the sales of used motor vehicles from the location in Columbia Station to consumers residing in Lorain County and other Ohio counties.
6. Defendants solicited individual consumers to enter into consumer transactions, specifically, for the sale of used motor vehicles.





7. Defendants, operating under the name Rt. 82 Auto Gallery, LLC, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
8. Defendants Angelo M. Guzzo, Jr. and Sean Nightingale held license #UD021440 issued by the State of Ohio under R.C. 4517.01 *et seq.* which allowed them to engaged in the business of displaying and selling used motor vehicles.
9. Defendants were displaying and selling used motor vehicles at addresses associated with Rt. 82 Auto Gallery, LLC, including its last known address on E. Royalton Road in Columbia Station, Ohio.
10. Defendants failed to file applications for certificates of title within thirty (30) days after the assignment or delivery of motor vehicles.
11. Defendants failed to obtain certificates of title on or before the fortieth (40th) day after the sale of motor vehicles.
12. Title Defect Rescission ("TDR") consumer claims totaling Seventy-six Thousand, Five-Hundred Forty-one dollars and fifty cents (\$76,541.50) were paid from the TDR Fund, administered by the Ohio Attorney General's Office, after Defendants failed to obtain certificates of title on or before the fortieth (40th) day after the sale of motor vehicles. The Ohio Attorney General's office has recouped from this total Four Thousand One Hundred Fifteen dollars (\$4,115.00) via one cash payment and the sale of one motor vehicle at auction, leaving Seventy-Two Thousand, Four Hundred Twenty-six dollars and fifty cents (\$72,426.50) due and owing to the TDR Fund.





CONCLUSIONS OF LAW

1. The Court has jurisdiction over the subject matter, issues and parties to this action and venue is proper.
2. 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.*
3. 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.
4. Defendants were "suppliers," as that term is defined in R.C. 1345.01(C), as they engaged in the business of effecting "consumer transactions" by soliciting consumers for the sale and repair of motor vehicles for a fee, within the meaning of R.C. 1345.01(A).
5. Defendants have committed unfair and deceptive acts or practices in violation of the Consumer Sales Practice Act, R.C. 1345.02(A), by failing to file applications for certificates of title within thirty (30) days after the assignment or delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b).
6. Defendants have 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 (40) day after the sale of the motor vehicles as required by R.C. 4505.181(B)(1).





7. The acts or practices described in Conclusions of Law 5 and 6 have been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 *et seq.* Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).
8. Defendant Angelo M. Guzzo, Jr. and Defendant Sean Nightingale are personally liable as they dominated, controlled, and directed the business activities and sales conduct of Defendant Rt. 82 Auto Gallery, LLC, and committed, allowed, directed, ratified or otherwise caused the unlawful acts to occur.

WHEREFORE, 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. Defendants Angelo M. Guzzo, Sean Nightingale and Rt. 82 Auto Gallery, LLC are **PERMANENTLY ENJOINED** from engaging in any consumer transactions in the State of Ohio as an auto dealer.
3. Defendants, under their own names or any other names, their 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, 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.

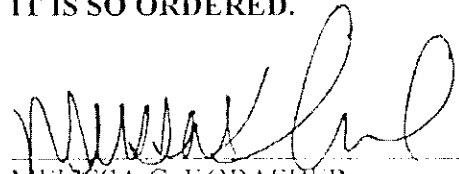




1345.01 *et seq.* and the Substantive Rules enacted thereunder.

4. Defendants are **ORDERED** to pay, jointly and severally, \$72,426.50 to the Ohio Attorney General as reimbursement to the TDR Fund.
5. Defendants Guzzo and Nightingale are prohibited from applying for a salesperson or auto dealer license under Chapter 4517 of the Revised Code.
6. 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.
7. Defendants shall pay Plaintiff's costs of collecting on this judgment as permitted by statute.
8. Defendants are **ORDERED** to pay, jointly and severally, all court costs of this action.

IT IS SO ORDERED.



MELISSA C. KOBASHER,
MAGISTRATE

NOTICE REGARDING OBJECTIONS

NOTE: Pursuant to Civ.R. 53(D)(3)(b), a party shall not assign as error on appeal the court's adoption of any finding of fact or conclusion of law unless the party has objected to that finding or conclusion under Civ.R. 53.

cc: Plaintiff
Defendant Rt. 82 Auto Gallery, LLC
Defendant Angelo M. Guzzo
Defendant Sean Nightingale

