

**IN THE COURT OF COMMON PLEAS****COUNTY OF SUMMIT**STATE OF OHIO, EX RE. DAVE  
YOST

Plaintiff

-vs-

KNH WHOLESALE, LLC, et al.

Defendant

CASE NO. CV-2021-01-0078

JUDGE KELLY L. McLAUGHLIN

**ORDER****RECEIVED**  
ATTORNEY GENERAL OF OHIO

APR 30 2021

CONSUMER PROTECTION SECTION  
PUBLIC INSPECTION FILE

This matter came upon the filing of a Complaint on January 8, 2021 by Plaintiff, the State of Ohio, charging Defendants KNH Wholesale, LLC ("KNH") and Nicholas Homrock ("Homrock") 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.* Plaintiff and Defendants have agreed to settle and resolve all matters alleged in the Complaint. By signing this Consent Judgment and Agreed Final Entry and Order ("Consent Judgment"), Defendants waive any claims they have or may have regarding 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), and to the rights of Plaintiff to enforce this Consent Judgment.

**FINDING OF FACTS**

1. Defendant KNH Wholesale, LLC ("KNH") is a limited liability company registered with the Ohio Secretary of State #2017448, and last operated a used motor vehicle dealership from an address of 903 E. Tallmadge Ave., Akron, Ohio 44310.

2. Defendant Nicholas Homrock is a natural person and the Statutory Agent of KNH, who operated and had an ownership interest in the business known as KNH Wholesale, LLC at all times relevant hereto.
3. Defendants, as described below, are “suppliers” as that term is defined in R.C. 1345.01(C), as Defendants were, at all times relevant herein, engaged in the business of effecting or soliciting “consumer transactions” as that term is defined in R.C. 1345.01(A).
4. Defendant Nicholas Homrock dominated, controlled and directed the business activities and sales conduct of KNH Wholesale, LLC and exercised the authority to establish, implement or alter the policies of KNH, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
5. Defendants held a used motor vehicle dealer permit number license #UD01945 issued by the State of Ohio under R.C. 4517.01 *et seq.*, allowing them to engage in the business of displaying or selling used motor vehicles.
6. Defendants displayed and sold used motor vehicles to consumers at addresses associated with KNH.
7. Defendants represented to consumers that the used motor vehicles they were selling included warranties which Defendants either failed to honor or failed to provide, resulting in harm to the consumers.
8. Defendants failed to file applications for certificates of title within thirty (30) days after the assignment or delivery of motor vehicles.
9. Defendants failed to obtain certificates of title on or before the fortieth (40<sup>th</sup>) day after the sale of motor vehicles.

10. The Title Defect Recision ("TDR") Fund, administered by the Ohio Attorney General's Office, paid a total of Forty-three Thousand Two Hundred Ninety-one Dollars and seventy cents (\$43,291.70 in consumer claims from the TDR Fund directly attributable to Defendants' actions. After recouping Six Hundred Five Dollars (\$605.00) via auction, the amount owed to the TDR Fund directly attributable to Defendants actions is Forty-two Thousand, Six Hundred Eighty-six Dollars and seventy cents (\$42,686.70).

### **CONCLUSIONS OF LAW**

11. This Court has personal jurisdiction over Defendants pursuant to R.C. 2307.382 because this cause of action arises from Defendants' business transactions with residents of Ohio.
12. The Court has subject matter jurisdiction over this action pursuant to R.C. 1345.04 of the CSPA.
13. Venue is proper with this Court, pursuant to Ohio Civ. R. 3(C)(2) and (3) because Defendants operated their principal place of business and conducted the activities which give rise to the State's claim for relief in Cuyahoga County, Ohio.
14. Defendants engaged in unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02 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).
15. Defendants committed unfair and deceptive acts or practices in violation of the CSPA, 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<sup>th</sup>) day of sale of the motor vehicles as required by R.C. 4505.181(B)(1).

16. Defendants committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by representing to consumers that the consumer transaction involved a warranty and then either failing to fulfill their obligations pursuant to the warranty or failing to pay the warranty company.

17. These 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**

#### **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

- A. The Court hereby **DECLARES** that the acts and practices described above violate the CSPA, R.C. 1345.01 *et seq.*, and the Certificate of Motor Vehicle Title Act in the manner set forth herein.
- B. Defendants, under these or any other names, and their officers, agents, representatives, salespersons, employees, successors, assigns, and all persons acting in concert or participation with Defendants, directly or indirectly, are **PERMANENTLY ENJOINED** from further violating the CSPA, R.C. 1345.01 *et seq.*
- C. Defendants are hereby **ORDERED** jointly and severally liable for payment to the TDR Fund in the amount of Forty-two Thousand, Six Hundred Eighty-six Dollars and seventy cents (\$42,686.70).

- D. Defendants are **ASSESSED, FINED AND IMPOSED** jointly and severally, a civil penalty of Fifty Thousand Dollars (\$50,000.00) pursuant to R.C. 1345.01(D) of the CSPA, with Twenty-Five Thousand Dollars (\$25,000.00) of this penalty suspended for as long as Defendants are in full and timely compliance with all provisions of this Consent Judgment, including the payment schedule set forth herein. In the event the TDR Fund payment ordered in Paragraph C above is not timely paid in full for any reason, or Defendants fail to timely and fully comply with any other provision of this Consent Judgment, then the suspended portion of the civil penalty shall have no effect and the entire civil penalty amount shall be immediately due and owing without any further petition to this Court.
- E. Defendants hereby **AGREE** that they shall not commence any bankruptcy proceedings until more than ninety (90) days have elapsed after the execution and filing of this Consent Judgment with the Court and payment of the initial Fifteen Thousand Dollar (\$15,000.00) required in Section J below.
- F. Defendants hereby **AGREE** that both the payment to the TDR Fund ordered above in Paragraph C (the "TDR Fund Payment"), and the payment of the civil penalties ordered above in Paragraph D (the "Civil Penalty Payment"), are payments which are not dischargeable under 11 USC §523(a)(7) in any current or future bankruptcy proceedings.
- G. It is further **ORDERED** that if the Defendants fail to deliver any payment due hereunder in accordance with the payment schedule herein, all remaining payments shall immediately become due and payable hereunder.

- H. It is further **AGREED** that the acceptance of any payment by the Plaintiff subsequent to the time it is due, or the failure of the Plaintiff to insist on strict performance of any order contained within this Consent Judgment including, but not limited to, the obligation created by the acceleration provisions in Paragraphs D and G of this Consent Judgment, shall not be construed as a waiver of any of the obligations created by this Consent Judgment.
- I. It is further **AGREED** that Defendants will incur no penalties for the pre-payment of any monies ordered to be paid herein.
- J. All payments ordered herein shall be made payable to "Ohio Attorney General" and delivered to:

Financial Specialist  
Consumer Protection Section  
Ohio Attorney General's Office  
30 E. Broad St., 14<sup>th</sup> fl.  
Columbus, OH 43215

Payment of the TDR Fund Payment and the Civil Penalty Payment shall be made as follows:

- (a) Upon the execution of this Consent Judgment, Defendants shall pay Fifteen Thousand Dollars (\$15,000.00) to Plaintiff by wire transfer or certified check;
- (b) Thereafter, commencing on the first day of the month following the execution of this Consent Judgment and continuing on the first day of each subsequent month until both the TDR Fund Payment and Civil Penalty Payment are paid in full, Defendants shall make

regular, timely, consecutive monthly payments via certified check in the amount of One Thousand Dollars (\$1,000.00);

(c) All payments made hereunder will be first applied to the TDR Fund Payment until it is paid in full and then to the Civil Penalty Payment.

K. Defendants are hereby **NOTIFIED** that if they fail to make any payment due in accordance herein, the unpaid amount due under this Consent Judgment may be referred to the Ohio Attorney General's Collection Enforcement Section for collection. Should the unpaid amount be referred for collection, the Collections Enforcement Section will assess additional collection fees and interest against the Defendants, pursuant to Ohio law including, but not limited to, R.C. §§ 131.02, 109.08 and 109.081.

L. It is further **ORDERED** that, in the event Plaintiff must initiate legal action or incur any costs to compel the Defendants to abide by this Consent Judgment, Defendants jointly and severally shall be liable to the Plaintiff, should he prevail, for all related enforcement costs, including but not limited to, a reasonable sum for attorneys' fees and investigative costs.

M. It is further **ORDERED** that Defendants shall be prohibited from applying for or obtaining an auto dealer license under Chapter 4517 of the Revised Code unless and until all provisions of the within Consent Judgment have been fully satisfied, including payment in full of any and all monies due hereunder.

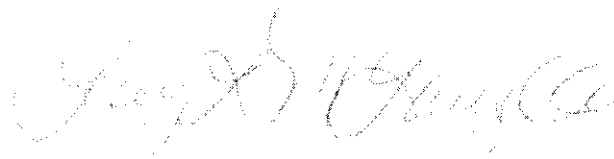
N. It is further **ORDERED** that Defendant Homrock shall be permitted to apply for and obtain a salesperson license under Chapter 4517 of the Revised Code, so long as Defendant remains in full and timely compliance

with all of the provisions of this Consent Judgment, including the payment schedule set forth herein.

- O. It is hereby **ORDERED** that this Consent Judgment does not resolve or preclude any investigation or enforcement action against Defendants for occurrences which are not the subject matter of this Consent Judgment, or which may transpire after the filing of this Consent Judgment, under any authority granted to the Ohio Attorney General. This Consent Judgment resolves only the issues relating to the allegations brought forth in the civil complaint filed by the Plaintiff in this matter.
- P. Defendants shall not represent, directly or indirectly or in any way whatsoever, that the Court or the Plaintiff has sanctioned, condoned, or approved any part or aspect of the Defendants' business operations.
- Q. Defendants are **ENJOINED** from engaging in consumer transactions as dealers in the State of Ohio until they have made full payment of all monies herein ordered.
- R. Defendants shall pay all court costs associated with this matter.

This Court shall retain jurisdiction to enforce compliance with this Consent Judgment.

IT IS SO ORDERED.



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JUDGE KELLY L. McLAUGHLIN

CC: ATTORNEY REBECCA F. SCHLAG  
ATTORNEY CARLY L. SNAVELY



**IT IS SO ORDERED.**

PEZ

\_\_\_\_\_  
**DATE**

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**JUDGE KELLY McLAUGHLIN**

**APPROVED AND AGREED TO BY:**

**DAVE YOST**

**OHIO ATTORNEY GENERAL**



**REBECCA F. SCHLAG (0061897)**

**Senior Assistant Attorney General**

**Consumer Protection Section**

**Cleveland Regional Office**

**615 W. Superior Ave., 11<sup>th</sup> fl.**

**Cleveland, OH 44113-1899**

**216-787-3030**

**Rebecca.Schlag@OhioAttorneyGeneral.gov**

***Counsel for Plaintiff State of Ohio***

4/15/2021  
**DATE**

  
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**Chagrin Falls, OH 44022**

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***Counsel for Defendant KNH Wholesale, LLC and***

***Defendant Nicholas Homrock***

03/16/2021  
**DATE**

  
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**Nicholas Homrock**

**1811 Edenhall Dr.**

**Cleveland, OH 44124-3823**

***Defendant***

3/16/21  
**DATE**

cc: Plaintiff  
Defendants