

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO, ex rel.)	
ATTORNEY GENERAL)	CASE NO. CV 2020 05 0860
DAVE YOST)	
)	JUDGE HOWARD
Plaintiff,)	
)	<u>CONSENT JUDGMENT AND</u>
v.)	<u>AGREED FINAL</u>
)	<u>ENTRY AND ORDER</u>
MESSAOUD CHOUBANE d/b/a)	
UNI Auto Sales)	
)	
Defendant.)	

PREAMBLE

This matter came to be heard upon the filing of a Complaint on May 14, 2020 by the Ohio Attorney General on behalf of the State ("State" or "Plaintiff"), alleging that the Defendant Messaoud Choubane dba UNI Auto Sales ("Defendant") violated Ohio's 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. The parties have agreed to settle and resolve the matters contained herein. By signing this Consent Judgment and Agreed Final Entry and Order ("Consent Judgment"), Defendant submits to the personal jurisdiction of this Court, consents to the Court's findings of fact and conclusions of law, consents to the imposition of this Consent Judgment pursuant to R.C. 1345.07(F), consents to the rights of Plaintiff to enforce this Consent Judgment, and waives any and all appeal rights they may have.

FINDINGS OF FACT

1. Defendant is a natural person whose residence is located at 5367 Pine Valley Drive, West Chester, OH 45069.
2. Defendant owned and operated UNI Auto Sales.

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3. UNI Auto Sales was a registered trade name that was registered with the Ohio Secretary of State from January 28, 2015 to January 18, 2020.
4. The principal place of business for UNI Auto Sales was 3201 Dixie Highway, Hamilton, OH 45015.
5. Defendant Choubane dominated, controlled, directed, and approved the business activities and sales conduct of UNI Auto Sales at the time of the violations set forth in the Complaint and caused, personally participated in, or ratified the acts and practices of UNI Auto Sales.
6. Defendant was, 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 the UNI Auto Sales' location in Hamilton, Ohio.
7. Defendant solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
8. Defendant used motor vehicle dealer license #UD019992, issued under R.C. 4517.01 et seq., which allowed it to engage in the business of displaying or selling at retail or wholesale used motor vehicles.
9. Dealer license #UD019992 has been inactive since March 31, 2021.
10. Defendant displayed and sold used motor vehicles at the UNI Auto Sales location.
11. Defendant failed to file applications for certificates of title within Thirty (30) days after the assignment or delivery of motor vehicles.
12. Defendant 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.
13. Consumer claims totaling \$37,063.50 have been paid from the Title Defect Recision Fund, administered by the Ohio Attorney General's Office, after Defendant failed to obtain

certificates of title in the names of consumer purchasers on or before the Fortieth (40th) day after the sale of the motor vehicles.

14. After claims were paid from the Title Defect Recision Fund, Defendant continued to offer for sale or sell used motor vehicles they did not hold certificates of title to, without first posting a \$25,000 bond with the Attorney General, as required by R.C. 4501.181(A)(2).
15. Defendant did not post the required \$25,000 surety bond with the Attorney General until May 22, 2018.
16. R.C. 4517.02(A)(3) requires a dealer be licensed as a motor vehicle leasing dealer before regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to lease.
17. Defendant regularly made available, offered to make available, or arranged for another person to use a motor vehicle pursuant to a lease without being licensed as a motor vehicle leasing dealer.
18. Defendant filed a voluntary Chapter 11 bankruptcy petition on September 14, 2020, in the United States Bankruptcy Court for the Southern District of Ohio, case number 1:20-bk-12516.
19. Discharge was ordered on May 20, 2021.

CONCLUSIONS OF LAW

20. Plaintiff Ohio Attorney General Dave Yost, brought this action in the public interest and on behalf of the State of Ohio under the authority vested in the Attorney General by R.C. 1345.07.
21. The actions of Defendants, described above, occurred in the State of Ohio, including in Butler County and, as set forth below, are in violation of the CSPA and the Certificate of

Motor Vehicle Title Act.

22. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
23. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(1)-(3) in that Butler County, Ohio is where Defendant resides, where Defendant's principal place of business was located, and where Defendant conducted some of the transactions complained of herein.
24. Defendant was a "supplier" as that term is defined in R.C. 1345.01(C) of the CSPA as Defendant was, 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).
25. Defendant 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 Thirty (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.
26. Defendant engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A) of the CSPA by selling motor vehicles to consumers, in the ordinary course of business, and then failing to obtain certificates of title in the names of the consumer purchasers on or before the Fortieth (40th) day following the date of the sale of the motor vehicles as required by R.C. 4505.181(B)(1) of the Certificate of Motor Vehicle Title Act.
27. Defendant committed unfair and deceptive acts and practices in violation of R.C. 1345.02 of the CSPA by continuing to offer for sale or sell used motor vehicles he did not hold certificates of title to after previous claims against Defendant resulted in payments from the

- Title Defect Recision Fund, without first posting a \$25,000 bond with the Attorney General, as required by R.C. 4505.181(A)(2).
28. Defendant committed unfair or deceptive acts or practices in violation of CSPA, R.C. 1345.02(A), by regularly making available, or arranging for another person to use a motor vehicles pursuant to bailment, lease, sublease, or other contractual arrangement under which a charge is made for its use at a periodic rate for a term of thirty days or more, and title to the motor vehicle remains in the motor vehicle leasing dealer who originally leases it without being licensed as a motor vehicle leasing dealer under sections R.C. 4517.01 to 4517.45 as required by R.C. 4517.02(A)(3).
29. The acts and practices committed by Defendant have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendant committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3)
30. The parties agree and the Court finds that the TDR Fund repayment obligations and civil penalties assessed for violations of the CSPA are both in the nature of a fine, penalty, or forfeiture payable to and for a government unit and as such meet the exception to a bankruptcy discharge enumerated in 11 U.S.C. 523(a)(7).

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

- A. It is DECLARED that the acts and practices described in the Plaintiff's Complaint, and above in the Findings of Fact and Conclusions of Law, violate the CSPA, R.C. 1345.01 et seq., and the Certificate of Motor Vehicle Title Act, R.C. 4505.01 et seq., in the manner set forth in this Consent Judgment.

- B. Defendant, doing business under his own name, as UNI Auto Sales, or any other names, his agents, representatives, salespeople, employees, successors, or assigns, and all persons acting in concert and participation with him, directly or indirectly, are hereby **PERMANENTLY ENJOINED** from committing any unfair, deceptive, or unconscionable act or practice that violates the CSPA, R.C. 1345.01 et seq., or the Certificate of Motor Vehicle Title Act, R.C. 4505.01 et seq.
- C. Defendant is **ORDERED** to pay to the Attorney General's Title Defect Recision Fund \$37,063.50, with \$18,531.75 of said payment suspended upon compliance with the terms of this Consent Judgment. Payment of the unsuspended \$18,531.75 shall be made in the following manner:
- a. Defendant shall pay \$531.75 April 1, 2022. Defendant shall pay 36 consecutive monthly installments in the amount of \$500, with the first payment due on May 1, 2022 and the final payment due on April 1, 2025.
 - b. Payment of each monthly installment payment shall be made by delivery of a certified check or money order, made payable to the "Ohio Attorney General," to the following address:

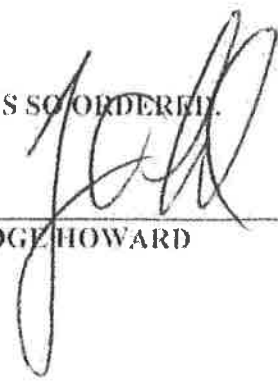
Compliance Officer
Consumer Protection Section
Office of the Ohio Attorney General
30 East Broad Street, 14th Floor
Columbus, Ohio 43215
- D. Pursuant to R.C. 1345.07, Defendant is **ORDERED**, to pay a \$15,000.00 civil penalty. Said penalty is suspended upon full compliance with the terms of this Consent Judgment.
- E. It is further ordered that if the Defendant fails to deliver any payment due hereunder to the Attorney General in accordance with the payment schedule ordered in Paragraph C above,

all remaining monthly payments owed, the \$18,531.75 suspended payment to the Attorney General's Title Defect Reversion Fund, and the \$15,000.00 suspended civil penalty ordered pursuant to Paragraph D, shall immediately become due and payable.

- F. It is further **ORDERED** that the acceptance by the Attorney General of any payment due hereunder subsequent to the time such payment is due or the failure of the Ohio Attorney General to insist on strict performance of any order contained within this Consent Judgment, including the obligation created by the acceleration provision in Paragraph E of this Consent Judgment, shall not be construed as a waiver of any of the obligations created by this Consent Judgment.
- G. It is further **ORDERED** that in the event that Plaintiff must initiate legal action or incur any costs to compel the Defendant to abide by this Consent Judgment, Defendant shall be liable to State should it prevail, for all related enforcement costs including, but not limited to, a reasonable sum for attorneys' fees and investigatory costs.
- H. Defendant is hereby notified that if he fails to make any payment due in accordance with this Consent Judgment, 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 Defendant pursuant to Ohio law, including, but not limited to R.C. 131.02, 109.08, and 109.081.
- I. Defendant shall not represent, directly or indirectly, that this Court or the Ohio Attorney General has sanctioned, condoned, or approved any part or aspect of the Defendant's business operations.
- J. Defendant is **ORDERED** to pay all court costs.

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

IT IS SO ORDERED.



JUDGE HOWARD

APPROVED AND AGREED TO BY:

PLAINTIFF

DAVE YOST
Attorney General of Ohio

Lisa M. Treleven

2/14/2022

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Date

DEFENDANT

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Defendant

02/14/2022

Date

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2/14/22
Date

