

IN THE COURT OF COMMON PLEAS FRANKLIN COUNTY, OHIO

STATE OF OHIO, ex rel.)	CASE NO. 21 CV 001312
DAVE YOST)	
ATTORNEY GENERAL OF OHIO)	
)	JUDGE SHERYL K. MUNSON
)	
Plaintiff,)	<u>CONSENT JUDGMENT AND</u>
)	<u>AGREED ENTRY AND ORDER</u>
v.)	<u>WITH DEFENDANTS</u>
)	<u>MTK AUTO LOFT LLC AND</u>
MTK AUTO LOFT LLC et al.,)	<u>VIRGIL MCDANIEL</u>
)	
Defendants.)	

PREAMBLE

This matter came upon the filing of a Complaint by Plaintiff, the Attorney General of Ohio, charging Defendants MTK Auto Loft LLC and owner Virgil McDaniel ("McDaniel") 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 the matters contained herein and all claims alleged against them. The Defendants waive service of process of the summons and Complaint, and/or any defects therein, submits to the personal jurisdiction of this Court, consents 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.

FINDINGS OF FACT

1. Defendant MTK Auto Loft LLC ("MTK Auto") is an Ohio limited liability company conducting business in Franklin County and other counties in the State of Ohio with its principal place of business located at 807 Parsons Ave., Columbus, Ohio 43206.
2. Defendant McDaniel is an individual whose address is 4015 Boyer Ridge Dr., Canal Winchester, Ohio 43110.

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3. Defendant McDaniel is the owner and operator of Defendant MTK Auto, dominated, controlled and directed the business activities and sales conduct of MTK Auto, and exercised the authority to establish, implement or alter the policies of it, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
4. Defendants were at all times relevant to this action engaged in the business of soliciting, promoting, purchasing, selling, financing and collecting the proceeds of the sales of used motor vehicles from their location in Columbus to consumers residing in Franklin and other Ohio counties.
5. Defendants, operating under the name MTK Auto Loft LLC, solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
6. Defendant MTK Auto held license #UD022681 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.
7. Defendants were displaying or selling used motor vehicles at the MTK Auto location.
8. Defendants failed to file an application for a certificate of title within thirty days after the assignment or delivery of a motor vehicle.
9. Defendants failed to obtain a certificate of title on or before the fortieth day after the sale of a motor vehicle.
10. Defendants failed to maintain a surety bond in an amount not less than Twenty-Five Thousand Dollars (\$25,000.00) after the Attorney General had paid a retail purchaser of the dealer from the Title Defect Recision (“TDR”) Fund.
11. A TDR consumer claim for this case, totaling Four Hundred and Thirty-Four Dollars and

Fifty Cents (\$4,434.50), 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 day after the sale of the motor vehicle.

CONCLUSIONS OF LAW

1. The Attorney General is the proper party to commence these proceedings under the authority vested in him by the R.C. 1345.07 of the CSPA, and the Certificate of Motor Vehicle Title Act, and by virtue of his statutory and common law authority to protect the interests of the citizens of the State of Ohio.
2. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
3. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(1)-(3), in that Defendant McDaniel resided in, operated his business from, and engaged in the transaction complained of in Franklin County.
4. Defendants were "supplier(s)" as that term is defined in R.C. 1345.01(C) as they engaged in the business of effecting or soliciting "consumer transactions" as that term is defined in R.C. 1345.01(A).
5. Defendants were engaged in "consumer transactions" by offering for sale, selling, or financing the purchase of 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).
6. Defendants committed unfair and deceptive acts and practices in violation of the CSPA, R.C. 1345.02 by failing to file an application for a certificate of title within thirty days after the assignment or delivery of a motor vehicle as required by R.C. 4505.06(A)(5)(b).

7. 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 day after the sale of the motor vehicle as required by R.C. 4505.181(B)(1).
8. The Defendants committed unfair and deceptive acts or practices in violation of the CSPA, R.C. 1345.02(A), by failing to maintain a surety bond in an amount not less than Twenty-Five Thousand Dollars (\$25,000.00) after the Attorney General had paid a retail purchaser of the dealer from the TDR Fund.
9. The acts or practices described in Paragraphs 6-8 have been previously determined by Ohio courts to violate the CSPA 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).

ORDER

- 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, R.C. 4505.01 *et seq.* in the manner set forth herein.
- B. Defendants, individually and doing business under the name MTK Auto Loft LLC or any other name, the 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 any 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. IT IS FURTHER ORDERED that Defendants, jointly and severally, shall pay the amount of Four Thousand Four Hundred Thirty-Four Dollars and Fifty Cents (\$4,434.50) as a recovery for and deposit into the TDR Fund.
- D. Pursuant to R.C. 1345.07(D), Defendants, jointly and severally, are assessed a civil penalty in the amount of Five Thousand Dollars (\$5,000.00), with the civil penalty suspended in full, as long as the Defendants comply with all provisions of the Consent Judgment, including the payment provisions and the requirement to obtain and maintain a surety bond as noted in paragraph K below.
- E. Payment of the Four Thousand Four Hundred Thirty-Four Dollars and Fifty Cents (\$4,434.50) due pursuant to paragraph C above shall be made via certified check or money order, made payable to the "Ohio Attorney General's Office," and delivered to the Consumer Protection Section, Attn: Finance Specialist, 30 E. Broad St., 14th Floor, Columbus, Ohio 43215. Payment shall be made at the rate of One Thousand Dollars (\$1,000.00) per month for 4 months and a final 5th payment of Four Hundred and Thirty-Four Dollars and Fifty Cents (\$434.50). Payment shall begin on March 31, 2022 and continue each month thereafter until paid in full. Payments are due on or before the last day of each month. This is a five-month payment plan. The payment plan requires four monthly consecutive payments of One Thousand Dollars (\$1,000.00), then a final payment of Four Hundred and Thirty-Four Dollars and Fifty Cents (\$434.50). If all payments are made pursuant to these paragraphs, the last payment will be due on or before July 31, 2022.
- F. It is further ORDERED that if Defendants fail to make any payment due hereunder in accordance with the payment schedule herein, all remaining payments, including the balance of the full civil penalty amount of Five Thousand Dollars (\$5,000.00), shall

immediately become due and payable hereunder.

- G. It is further ORDERED 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 provision in Paragraph F of this Consent Judgment, shall not be construed as a waiver of any of the obligations created by this Consent Judgment.
- H. 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 them, pursuant to Ohio law, including, but not limited to R.C. 131.02, 109.08, and 109.081.
- I. It is further ORDERED that in the event the Ohio Attorney General must initiate legal action or incur any costs to compel Defendants to abide by this Consent Judgment, Defendants shall be liable to the Ohio Attorney General, should he prevail, for all related enforcement costs, including, but not limited to, a reasonable sum for attorneys' fees, investigative costs, and interest and collection costs as permitted by statute.
- J. IT IS FURTHER ORDERED that Defendants shall be prohibited from applying for or obtaining an auto dealer or salespersons license under Chapter 4517 of the Revised Code if they are not in compliance with all of the provisions of this Consent Judgment.
- K. Defendants are further ORDERED to obtain and maintain a surety in compliance with Revised Code Section 4505.181 or Administrative Code Section 4501:1-3-11(C) in an amount of not less than Twenty-Five Thousand Dollars (\$25,000.00). The Defendants shall

maintain the surety during the entire period for which MTK Auto's used motor vehicle dealer's license is held and shall provide Plaintiff the surety.

L. Defendants shall not represent, directly or indirectly, that the Ohio Attorney General has sanctioned, condoned, or approved any part or aspect of the MTK Auto business operations.

M. Defendants, jointly and severally, shall pay all court costs associated with this action.

IT IS SO ORDERED.

DATE

JUDGE SHERYL K. MUNSON

Agreed to by:

DAVE YOST
Attorney General

/s/ Rosemary E. Rupert

Rosemary E. Rupert (0042389)
Principal Assistant Attorney General
Consumer Protection Section
30 East Broad Street, 14th Floor
Columbus, Ohio 43215-3428
(614) 466-8831 (phone)
(614) 466-8898 (fax)
Counsel for Plaintiff

/s/ Virgil McDaniel (written approval 3/11/22)

Virgil McDaniel individually

/s/ Byron L. Potts (written approval 3/11/22)

Byron L. Potts (0040246)

Byron L. Potts & Co., LPA

761 S. High St.

Columbus, Ohio 43206

(614) 228-2154

www.blpotts.com

Counsel for the Defendants

Franklin County Court of Common Pleas

Date: 03-15-2022
Case Title: STATE OF OHIO ATTORNEY GENERAL DAVE YOST -VS- MTK
AUTO DETAILING ET AL
Case Number: 21CV001312
Type: AGREED ORDER

It Is So Ordered.

A handwritten signature in cursive script, "Sheryl K. Munson", is written over a faint, circular official seal of the Franklin County Court of Common Pleas. The seal contains the text "FRANKLIN COUNTY OHIO" and "COURT OF COMMON PLEAS".

/s/ Judge Sheryl K. Munson

Court Disposition

Case Number: 21CV001312

Case Style: STATE OF OHIO ATTORNEY GENERAL DAVE YOST -
VS- MTK AUTO DETAILING ET AL

Case Terminated: 18 - Other Terminations