

Wednesday, March 23, 2022 8:35:39 AM

2021CV0192 - Joel M Kuhlman

DOUGLAS F. CUBBERLEY
CLERK OF COURTS WOOD COUNTY OHIO

OHIO ATTORNEY GENERAL

MAR 29 2022

TOLEDO, OH

RECEIVED
ATTORNEY GENERAL OF OHIO

JUL 14 2022

CONSUMER PROTECTION SECTION
PUBLIC INSPECTION FILE

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

STATE OF OHIO ex rel.
ATTORNEY GENERAL
DAVE YOST

Plaintiff,

v.

HARRIGAN FAMILY
AUTOMOTIVE, LLC, et al.

Defendants.

CASE NO.: 2021CV0192

JUDGE JOEL M. KUHLMAN

**ORDER AND ENTRY GRANTING
DEFAULT JUDGMENT AGAINST
HARRIGAN FAMILY AUTOMOTIVE,
LLC AND PATRICK M. HARRIGAN,
JR.**

This matter came to be heard upon the February 18, 2022 filing of Plaintiff's Motion for Default Judgment Against Defendants Harrigan Family Automotive, LLC ("HFA") and Patrick M. Harrigan Jr., Individually ("Harrigan"). Both Defendants were properly served in this matter, have failed to file an answer to Plaintiff's, 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., and have failed to defend against this motion or appear before the Court in any manner.

In its Motion, the Plaintiff requested that the Court impose upon Defendants HFA and Harrigan 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 \$16,486.50, 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 motion well-taken and, therefore, pursuant to Civ.R. 55(A), the Court hereby **GRANTS** a default judgment against Defendants HFA and Harrigan on all counts of the Complaint. 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 \$16,486.50, 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 Wood County.
2. Defendant HFA is an Ohio limited liability company, with its principal place of business formerly located at 8232 Freemont Pike, Perrysburg, Wood County, Ohio 43551.
3. Defendant Harrigan is an individual whose address is 1004 River Road, Maumee, Ohio 43537.
4. Defendant Harrigan is the principal owner of HFA and dominated, controlled and directed the business activities and sales conduct of HFA, exercised the authority to establish, implement or alter the policies of HFA, and committed, allowed, directed, ratified or otherwise caused the violations to occur, as described in the Complaint and this Order.
5. Defendants HFA and Harrigan 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 Perrysburg, Ohio to consumers residing in Wood and other Ohio counties.
6. Defendant HFA was a licensed used motor vehicle dealer, operating under a permit issued

- by the Ohio Bureau of Motor Vehicles, permit #UD021528. That permit is now inactive.
7. Defendants HFA and Harrigan solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
 8. Defendants HFA and Harrigan failed to file applications for certificates of title within 30 days after the assignment or delivery of motor vehicles.
 9. Defendants HFA and Harrigan 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.
 10. Payouts were made from the Title Defect Recision ("TDR") Fund for the Defendant's failure to transfer title. The payout amounts totaled \$16,486.50.
 11. Defendants HFA and Harrigan failed to obtain a surety bond after the Attorney General paid a retail purchaser of the dealer from the TDR Fund.

CONCLUSIONS OF LAW

12. 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.
13. The actions of Defendants HFA and Harrigan have occurred in the State of Ohio, including in Wood 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.
14. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
15. Venue in this Court is proper, pursuant to Ohio Civ. R. 3(C)(2)-(3), because Wood County is where Defendants HFA and Harrigan's principal place of business was located and where they conducted the transactions that gave rise to the Plaintiff's claim for relief.

16. Defendants HFA and Harrigan 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).

17. Defendants HFA and Harrigan 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.
18. Defendants HFA and Harrigan 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.
19. Defendants HFA and Harrigan 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.

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 HFA and Harrigan, 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 HFA and Harrigan, 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 HFA and Harrigan are ORDERED, jointly and severally, to pay \$16,486.50 to the Attorney General to reimburse the TDR Fund for expenditures made to resolve consumers' motor vehicle title defects caused by Defendants HFA and Harrigan. 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:

Finance 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 HFA committed unfair and deceptive acts and practices in violation of the CSPA, Defendant HFA 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:

Finance 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 Harrigan committed unfair and deceptive acts and practices in violation of the CSPA, Defendant Harrigan 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:

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

- F. Defendant Harrigan is PERMANENTLY ENJOINED from applying for or obtaining any motor vehicle dealer or salesperson license under Chapter 4517 of the Revised Code.
- G. Defendants HFA and Harrigan 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 HFA and Harrigan are ORDERED, jointly and severally, to pay all court costs. Judgment for Court Costs rendered to Wood County.

IT IS SO ORDERED.

[Electronic Signature of Judicial Officer Included Below.]

Journalized 03/23/2022

Signed

2022 Mar 22 PM 1 46

/s/ JOEL M KUHLMAN, Judge

Wood County Court of Common Pleas

Submitted by:

DAVE YOST
Ohio Attorney General

/s/ Timothy W. Effler
Timothy W. Effler (0083768)
Assistant Attorney General
Counsel for Plaintiff
Office of the Attorney General
Consumer Protection Section
1 Government Center
640 Jackson St. Suite 1340
Toledo, Ohio 43604
(419) 245-2556
(877) 584-2047 (fax)
timothy.effler@ohioago.gov
Counsel for Plaintiff

CLERK TO FURNISH TO ALL COUNSEL OF
RECORD AND UNREPRESENTED PARTIES
NOT IN DEFAULT FOR FAILURE TO APPEAR
WITH A COPY OF THIS ENTRY INCLUDING
THE DATE OF ENTRY ON THE JOURNAL

