

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

STATE OF OHIO, ex rel.	)	CASE NO.
ATTORNEY GENERAL	)	
DAVE YOST	)	
30 East Broad St., 14th Floor	)	JUDGE
Columbus, Ohio 43215	)	
	)	
Plaintiff,	)	<b><u>COMPLAINT FOR</u></b>
	)	<b><u>DECLARATORY JUDGMENT,</u></b>
v.	)	<b><u>INJUNCTIVE RELIEF,</u></b>
	)	<b><u>RESTITUTION, CIVIL</u></b>
S AUTOMOTIVE LTD.	)	<b><u>PENALTIES, AND OTHER</u></b>
4333 E. Main St.	)	<b><u>APPROPRIATE RELIEF</u></b>
Whitehall, Ohio 43213	)	
	)	
and	)	
	)	
SIMON C. NWARU, JR.,	)	
6152 Sharon Woods Blvd.	)	
Columbus, Ohio 43229	)	
	)	
Defendants.	)	

**JURISDICTION**

1. Plaintiff, State of Ohio, by and through counsel, the Attorney General of Ohio, Dave Yost, having reasonable cause to believe that violations of Ohio's consumer protection laws have occurred, brings this action in the public interest and on behalf of the State of Ohio under the authority vested in him by the Ohio Consumer Sales Practices Act ("CSPA"), R.C. 1345.01 *et seq.*, the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*, and the Odometer Rollback and Disclosure Act, R.C. 4549.41 *et seq.*.
2. The actions of Defendants S Automotive Ltd. and Simon C. Nwaru, Jr. ("Defendants"), hereinafter described, have occurred in the State of Ohio, Franklin County and other counties, and, as set forth below, are in violation of the CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules, O.A.C. 109:4-3-01 *et seq.*, the Certificate of Motor Vehicle Title Act,

R.C. 4505.01 *et seq.*, and the Odometer Rollback and Disclosure Act, R.C. 4549.41 *et seq.*

3. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C)(2) and (3), in that Defendants operated their business from and engaged in some of the transactions complained of herein in Franklin County, Ohio.

### **DEFENDANTS**

5. S Automotive Ltd. (“SAL”) is a domestic limited liability company conducting business in Franklin County and other counties in the State of Ohio with its principal place of business located at 4333 E. Main St., Whitehall, Ohio 43213.
6. Defendant SAL, at all relevant times, was a licensed used motor vehicle dealer operating under a permit issued by the Ohio Bureau of Motor Vehicles, permit number UD023339.
7. Defendant Simon C. Nwaru, Jr. (“Nwaru”) is an individual whose address is 6152 Sharon Woods Blvd., Columbus, Ohio 43229.
8. On information and belief, Defendant Nwaru is the principal owner of SAL and dominated, controlled and directed the business activities and sales conduct of SAL, exercised the authority to establish, implement or alter the policies of SAL, and committed, allowed, directed, ratified or otherwise caused the following unlawful acts to occur.
9. 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” 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).

**STATEMENT OF FACTS**

10. 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 to consumers residing in Franklin and other Ohio counties.
11. Defendants, operating under the name S Automotive Ltd., solicited individual consumers to enter into consumer transactions, specifically for the sale of used motor vehicles.
12. In some instances, the Defendants did not have physical possession of the titles and/or the vehicles were not titled to the Defendants on the dates the vehicles were sold to consumers.
13. Defendants failed to file applications for certificates of title within thirty days after the assignment or delivery of motor vehicles.
14. Defendants failed to obtain certificates of title on or before the fortieth day after the sale of motor vehicles.
15. Because of Defendants' actions in paragraphs 13-15, payouts were made from the Title Defect Recision ("TDR") Fund for the Defendants' failure to transfer title. As of the date of the filing of this Complaint, the payout amounts have totaled \$14,340.00.
16. The mileage or odometer reading on the odometer of a motor vehicle is a very important factor in determining the price of a used motor vehicle, as the mileage history of a motor vehicle is connected to its value.
17. An accurate indication of the mileage on the odometer assists a buyer in deciding on the safety and reliability of the motor vehicle.
18. Defendants were required, at the time of the sale, to prepare and sign a statement, which

the buyer was also required to sign, disclosing the motor vehicle's current odometer reading.

19. Defendants misrepresented the actual mileage of the odometers in the written odometer disclosure statements provided to some consumers.
20. By misrepresenting the actual mileage Defendants were also misrepresenting the condition and reliability of the vehicles.
21. Defendants did not disclose the odometer discrepancies to some consumers.
22. The odometer discrepancies were the result of Defendants rolling back the odometers before selling the vehicles to consumers.
23. Some consumers complained that Defendants did not provide them with written odometer disclosure statements, and/or that they did not sign the odometer disclosure statements and/or their signatures were forged and that they found out of the odometer discrepancy long after they purchased the vehicles.
24. For example, on January 10, 2022, Consumer JG purchased a 2002 Acura MDX bearing VIN 2HNYD18233H554954 from the Defendants for \$4,295.00 which the Defendants misrepresented to JG to have approximately 132,000 miles.
25. The vehicle was not titled to the Defendants on the date of sale to JG.
26. The prior Ohio title for this vehicle documented a high mileage reading of 168,120 on February 8, 2022 when the title transferred to Defendants.
27. On March 2, 2022 Defendants filed an application with the Ohio Bureau of Motor Vehicles to transfer the title to JG. The application included an odometer disclosure statement with the mileage listed as 132,000.

28. JG found out months later that the odometer reading was not accurate.
29. JG would not have purchased the vehicle had Defendants disclosed the true and actual mileage to her before she agreed to purchase the vehicle.
30. JG's complaint was resolved via the TDR Fund at a cost of \$4,295.00.
31. A rebuilt title reflects that a vehicle has been rehabilitated after being issued a salvage title, which would have resulted from collision damage, fire, flood, or even a manufacturer buyback following a lemon-law claim.
32. There is no guarantee a car bearing a rebuilt title brand is safe or reliable.
33. Defendants were required to notify potential consumers in writing prior to the execution of the purchase agreement that the motor vehicle is a rebuilt salvage vehicle with a title branded rebuilt salvage.
34. Defendants did not disclose the fact that they were selling rebuilt salvage vehicles to the consumers in writing prior to the execution of the purchase agreements.
35. Consumers were not advised by Defendants, nor were they aware, that they were purchasing rebuilt salvage vehicles.
36. For example, on October 3, 2022 Consumer DM purchased a 2015 Jeep Grand Cherokee bearing VIN 1C4RJEBGXFC144013 from Defendants for \$2665.00.
37. The vehicle was titled to Defendants on July 20, 2022 and the title was branded rebuilt salvage.
38. Defendants did not disclose orally or in writing prior to the execution of the purchase agreement to DM the fact that he was purchasing a rebuilt salvage motor vehicle.
39. Defendants' application with the Bureau of Motor Vehicles for a replacement title made

no reference to rebuilt salvage and a new title was issued in the name of Defendants without the rebuilt salvage brand.

40. Defendants then made application with the Bureau of Motor Vehicles on November 9, 2022 to transfer the title to DM. The new title issued to DM made no mention of the rebuilt salvage title brand that appeared on the title when the title was transferred to the Defendants on July 7, 2022.
41. DM would not have purchased the vehicle had the Defendants disclosed the fact that the motor vehicle was a rebuilt salvage motor vehicle.
42. On information and belief, the consumer examples in this Complaint are just a few of the many consumers damaged by Defendants' actions.

**FIRST CAUSE OF ACTION:**  
**VIOLATIONS OF THE CERTIFICATE OF MOTOR VEHICLE TITLE ACT**

43. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
44. Defendants engaged in unfair and deceptive acts and practices in violation of R.C. 1345.02(A), by failing to file applications for certificates of title within thirty days after the assignment or delivery of motor vehicles as required by R.C. 4505.06(A)(5)(b).
45. Defendants 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 after the sale of the motor vehicles as required by R.C. 4505.181(B)(1).
46. Such acts or practices have been previously determined by Ohio courts to violate the CSPA,

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).

**SECOND CAUSE OF ACTION:**  
**VIOLATIONS OF THE CONSUMER SALES PRACTICES ACT**

**COUNT 1: ADVERTISEMENT AND SALE OF MOTOR VEHICLES**

47. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
48. Defendants committed unfair and deceptive acts and practices in violation of R.C.1345.02 and O.A.C. 109:4-3-16(B)(29), by failing to disclose prior to obtaining the signatures by the consumers on any documents for the purchase of the vehicles the fact that such vehicles were previously titled as a rebuilt salvage vehicle when Defendants had actual knowledge of such facts.
49. The acts and practices described above 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).

**COUNT 2: SUBSTANTIATION OF CLAIMS IN ADVERTISING**

50. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
51. Defendants committed unfair and deceptive acts and practices in violation of R.C. 1345.02 and O.A.C. 109:4-3-10(A), by making representations, claims or assertions of fact, orally or in writing, which would cause a reasonable consumer to believe such statements

regarding the mileage listed on their purchase agreements and odometer disclosure statements were accurate when Defendants knew they were not.

52. The acts and practices described above 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).

**THIRD CAUSE OF ACTION:**  
**VIOLATIONS OF THE ODOMETER ROLLBACK AND DISCLOSURE ACT**

**COUNT 1: FAILING TO PROVIDE ACCURATE ODOMETER STATEMENTS**

53. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
54. Defendants committed unfair and deceptive acts and practices in violation of R.C. 1345.02 and the Odometer Rollback and Disclosure Act, R.C. 4549.45(A), by failing to provide true and complete odometer disclosures required by R.C. 4505.06.
55. The acts and practices described above 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).

**COUNT 2: TAMPERING WITH ODOMETERS**

56. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in the preceding paragraphs of this Complaint.
57. Defendants committed unfair and deceptive acts and practices in violation of R.C. 1345.02

and R.C. 4549.42(A), by adjusting, altering, changing, tampering with or setting back, an odometer of a motor vehicle, or caused any of the foregoing to occur to an odometer of a motor vehicle with the intent to alter the number of miles registered on the odometer.

58. The acts and practices described above 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).

**PRAAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that this Court:

- A. ISSUE A DECLARATORY JUDGMENT declaring that each act or practice described in Plaintiff's Complaint violates the CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules, O.A.C. 109:4-3-01 *et seq.*, the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*, and the Odometer Rollback and Disclosure Act, R.C. 4549.41 *et seq.* in the manner set forth in this Complaint.
- B. ISSUE PERMANENT INJUNCTIVE RELIEF enjoining Defendants and any officers, agents, representatives, salespeople, employees, successors and assigns and all persons acting in concert or participating with them, directly or indirectly, from engaging in the acts and practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 *et seq.*, its Substantive Rules, O.A.C. 109:4-3-01 *et seq.*, the Certificate of Motor Vehicle Title Act, R.C. 4505.01 *et seq.*, and the Odometer Rollback and Disclosure Act, R.C. 4549.41 *et seq.*

- C. ORDER Defendants liable for reimbursement to all consumers found to have been damaged by the Defendants' unfair and deceptive acts and practices, and motor vehicle title violations.
- D. ORDER Defendants liable for payment to the TDR Fund for funds expended to resolve title defects caused by Defendants' motor vehicle title violations.
- E. ASSESS, FINE, AND IMPOSE upon Defendants a civil penalty of \$25,000.00 for each of the appropriate unfair and deceptive acts alleged in the Complaint, pursuant to R.C. 1345.07(D).
- F. ASSESS, FINE, AND IMPOSE upon Defendants a civil penalty of not less than one thousand nor more than two thousand dollars for each violation of the Odometer Rollback and Disclosure Act, R.C. 4549.41 *et seq.*, except that the maximum civil penalty shall not exceed one hundred thousand dollars.
- G. ORDER that Defendants be enjoined from engaging in consumer transactions as a supplier in the State of Ohio until they have satisfied all restitution, civil penalties, court costs, and have made payment the TDR Fund.
- H. ORDER that Defendants be prohibited from maintaining, renewing or applying for an auto dealer or salesperson license under Chapter 4517 of the Revised Code.
- I. GRANT Plaintiff its costs in bringing this action, including, but not limited to, the costs of collecting on any judgment awarded.
- J. ORDER Defendants to pay all court costs.
- K. GRANT such other relief as the Court deems to be just, equitable and appropriate.

DAVE YOST  
Ohio Attorney General

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