

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
____DIVISION

STATE OF ARKANSAS, *ex rel.*

LESLIE RUTLEDGE, ATTORNEY GENERAL

PLAINTIFF

v.

CASE NO. 60CV-20-

CEDRIC X. BUNN and XAVIER C.

RAINO d/b/a BEST RIDE AUTO SALES

DEFENDANT

COMPLAINT

The State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General (“the State”), for its Complaint against Cedric X. Bunn and Xavier C. Raino (collectively “Defendants”), states:

I. INTRODUCTION

1. This is a consumer protection action brought to redress and restrain violations of the Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-101 through 115 (“ADTPA”), the Used Motor Vehicle Protection Act (“UMVPA”), Ark. Code Ann. § 23-112-601 *et seq.* and the Motor Vehicle Administration, Certificate of Title, and Antitheft Act, Ark. Code Ann. § 27-14-902.

2. Defendants are used car dealers, owners, and operators of Best Ride Auto Sales, a dealership that routinely fails to deliver vehicle titles to consumers at the time of the sale as required by law. Most consumers pay cash for the car, yet

Defendants delay providing the car's title for months and months. As a result, consumers are often unable to legally drive the cars they purchased because they cannot timely register the car or get insurance coverage. Consumers report that Defendants' cars routinely break down, become unsafe or inoperable within days of spending thousands of dollars in reliance upon Defendants' assurances that the cars are safe and reliable. Without the title, a consumer cannot resell the car to another or even to a salvage yard.

3. The State seeks an injunction, an order imposing civil penalties, restitution for affected consumers, suspension of the Defendants' used car sale licenses, business permits, and other relief against Defendants.

II. PARTIES

4. Plaintiff is the State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General. Attorney General Rutledge is the chief legal officer of the State. Pursuant to Ark. Code Ann. § 4-88-104 and 4-88-113, the State may seek civil enforcement of the ADTPA.

5. Defendant Xavier C. Raino is a natural person who resides at 2803 Rock Street, Little Rock, Pulaski County, Arkansas.

6. Defendant Cedric X. Bunn is a natural person who resides at 300 Merganzer, Jacksonville, Pulaski County, Arkansas.

7. Xavier C. Raino and Cedric X. Bunn own and operate Best Ride Auto Sales, a used-car sales business that was previously located at 201 N. First Street,

Jacksonville, Arkansas but recently located at 7901 Warden Road, Sherwood, Arkansas.

III. JURISDICTION

8. This Court has jurisdiction over this matter pursuant to Ark. Code Ann. § 4-88-104 and the common law of the State of Arkansas.

9. This Court has jurisdiction over Defendants pursuant to Ark. Code Ann. § 16-4-101, which extends personal jurisdiction to all persons, causes of action, and claims for relief, to the maximum extent permitted by the Due Process Clause of the Fourteenth Amendment of the United States Constitution. Defendants have availed themselves of the benefit of conducting business in the State of Arkansas by conducting used auto sales within the state of Arkansas.

10. The venue is proper pursuant to Ark. Code Ann. § 4-88-104, 4-88-112 and the common law of the State of Arkansas.

IV. FACTUAL ALLEGATIONS

11. Best Ride Auto Sales is a used car dealership owned and operated by Xavier Raino and Cedric Bunn.

12. Xavier Raino has been licensed by the Arkansas State Police as a Used Motor Vehicle Dealer since November 26, 2018.

13. In 2018, Best Ride Auto Sales was located at 201 N. 1st Street in Jacksonville, Arkansas, but never issued a business license by the city of Jacksonville.

14. In 2020, Best Ride Auto Sales relocated to 7901 Warden Road, Sherwood, Arkansas, but never issued a business license by the city of Sherwood.

15. Beginning in October 2020, Cedric X. Bunn was listed as a person having an ownership interest on the Arkansas State Police Use Motor Vehicle License Application.

16. On information and belief, Defendants purchase used cars at auction for resale on their sales lot.

17. On information and belief, Defendants offer vehicles for sale on their lots before receiving title documents from the auction.

18. Upon review of the records of the Department of Finance and Administration (DFA), Defendants have sold over 1000 used cars and failed to deliver title at the time of sale at least 100 times in the last three years as evidenced by DFA's issuance of a "suspended" title.

19. The Arkansas Attorney General's Office has received 33 consumer complaints, 3 complaints from the Better Business Bureau, and three from the Arkansas State Police.

20. Consumers who complained routinely report that the Defendants fail to provide the title to the vehicle at the time of the purchase.

21. Defendants directly or indirectly control each other and the operation of Best Ride Auto Sales.

22. Defendants are licensed used car dealers or salespersons who are required to comply with the Used Motor Vehicle Protection Act.

23. Defendants are licensed used car dealers or salespersons required to comply with the Motor Vehicle Administration, Certificate of Title, and Antitheft Act, Ark. Code Ann. § 27-14-902.

24. Defendants received consumer complaints from the Attorney General's Office, the Better Business Bureau, and the Arkansas State Police, such that they knew or reasonably should have known of the fact that they failed to deliver title at the time of sale or delivery of the vehicle to consumers.

25. As a result, consumers cannot timely register their vehicles, get insurance, or transfer ownership of the car.

26. When consumers cannot legally operate, insurance, or transfer the ownership of the vehicle, its value is significantly decreased.

V. VIOLATIONS OF LAW

27. The ADTPA sets forth the State's statutory program prohibiting deceptive and unconscionable trade practices.¹

28. Defendants' used car sales business constitutes the sale of "goods" or "services."² The same business practices constitute business, commerce, or trade.³

29. It is unlawful to "knowingly make a false representation as to the characteristics, ingredients, uses, benefits, alterations, source, approval, or certification of goods or services...."⁴ Defendants have engaged in prohibited conduct by misrepresenting:

¹ Ark. Code Ann. §§ 4-88-101, *et seq.*

² Ark. Code Ann. § 4-88-102(4) and (7).

³ Ark. Code Ann. § 4-88-107.

⁴ Ark. Code Ann. § 4-88-107(a)(1).

- a. Defendants' lawful ownership of the car at the time of sale, and
- b. Defendants' present ability to convey the title at the time of sale.

30. The law prohibits the use of "concealment, suppression, or omission of any material fact with the intent that others rely upon the concealment, suppression, or omission" while selling any goods or services.⁵ Defendants have engaged in prohibited conduct by:

- a. Advertising used cars for sale while concealing, suppressing, or omitting the material fact that Defendants cannot convey title to the vehicle at the time of sale, and
- b. Selling used cars while concealing, suppressing, or omitting the material fact that they cannot transfer title at the time of sale.

31. It is a violation to engage in unconscionable, false, or deceptive acts or practices in business, commerce, or trade.⁶ Defendants have engaged in prohibited conduct by:

- a. Neglecting to endorse or deliver a certificate of title to a transferee or owner in violation of Ark. Code Ann. § 23-112-605(5) which states that it is a misdemeanor to "[f]alsify, alter, or neglect to endorse or deliver a certificate of title to a transferee or lawful owner...on a document of assignment or certificate of title."
- b. Failing to sign and deliver the certificate of title to the purchaser or transferee at the time of delivery in violation of Ark. Code Ann. § 27-14-

⁵ Ark. Code Ann. § 4-88-108(2).

⁶ Ark. Code Ann. § 4-88-107(a)(10).

902(d) which states that “[t]he owner shall endorse an assignment and warranty of title upon the certificate of title for the vehicle, and he or she shall deliver the certificate of title to the purchaser or transferee at the time of delivery of the vehicle.”

- c. Violation of criminal laws is an unconscionable, false, or deceptive act in business, commerce, or trade.⁷

32. Defendants directly or indirectly controlled the operation of Best Ride Auto Sales as owners, officers, or directors of other salespersons.

33. Defendants knew or reasonably should have known of the facts by reason of which the violation or liability exists.

34. Consumers were harmed by Defendants’ violations of the ADTPA because they could not lawfully drive the car they purchased, could not resell the car, get insurance, or register their car.

PRAYER FOR RELIEF

35. The Attorney General may bring a civil action to seek to prevent persons from engaging in the use or employment of prohibited practices.⁸

36. Likewise, the Attorney General may bring a civil action to seek to restore to any purchaser who has suffered any ascertainable loss by reason of the use or employment of the prohibited practices any moneys or real or personal

⁷ An unconscionable act is one that “affronts the sense of justice, decency, reasonableness, including acts that violate public policy or a statute.” *Independence Cty v. Pfizer*, 534 F. Supp.2d 882, 886 (E.D. Ark. 2008) *aff’d* 552 F.3d. 659 (8th Cir. 2009) *See also State v. R&A Investment Co.*, 336 Ark. 289, 985 S.W.2d 299 (1999).

⁸ Ark. Code Ann. § 4-88-113(a)(1).

property which may have been acquired by means of any practices declared to be unlawful, together with other damages sustained.⁹

37. The Attorney General may seek an injunction prohibiting any person from engaging in any deceptive or unlawful practice.¹⁰

38. The Attorney General may seek suspension or forfeiture of franchises, corporate charters, or other licenses or permits or authorization to do business in this state.

39. Any person who violates the provisions of the ADTPA may be assessed a civil penalty of up to \$10,000 per violation.¹¹

40. In addition, any person who violates the provisions of the ADTPA shall be liable to the Office of the Attorney General for all costs and fees, including but not limited to, expert witness fees and attorney's fees, incurred by the Office of the Attorney General in the prosecution of such actions.¹²

41. A "person" is an individual, organization, group, association, partnership, corporation, or any combination thereof.¹³

42. Xavier Raino is a "person" who has engaged in an unconscionable, false, or deceptive act or practice in business, commerce, or trade.

43. Cedric Bunn is a "person" who has engaged in an unconscionable, false, or deceptive act or practice in business, commerce, or trade.

⁹ Ark. Code Ann. § 4-88-113(a)(2)(A).

¹⁰ Ark. Code Ann. §§ 4-88-104 and 4-88-113(a)(1).

¹¹ Ark. Code Ann. § 4-88-113(a)(3).

¹² Ark. Code Ann. § 4-88-113(e).

¹³ Ark. Code Ann. § 4-88-102(5).

44. Defendants are jointly and severally liable for “[e]very person who directly or indirectly controls another person who is in violation of or liable under this chapter and every partner, officer, or director of another person who is in violation of or liable under this chapter shall be jointly and severally liable for any penalties assessed and any monetary judgments awarded in any proceeding for civil enforcement of the provisions of this chapters, provided that the persons to be held jointly and severally liable knew or reasonably should have known of the existence of the facts by reason of which the violation or liability exists.”¹⁴

45. The State will exercise its right to a trial by jury.

WHEREFORE, the above premises considered, the State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General, respectfully requests that this Court:

- a. Issue such orders, pursuant to Ark. Code Ann. §§ 4-88-104 and 4-88-113(a)(1), as may be necessary to prevent the use or employment by the Defendant of the practices described herein which are violations of the ADTPA.
- b. Issue an order, pursuant to Ark. Code Ann. § 4-88-113(a)(2)(A), requiring Defendants to pay restitution to those Arkansas consumers affected by the activities outlined herein; in addition, or in the alternative, enter an order requiring Defendants to remit to affected consumers all sums obtained from Arkansas consumers by methods prohibited by Arkansas law.

¹⁴ Ark. Code Ann. § 4-88-113(d)(1).

- c. Impose civil penalties pursuant to Ark. Code Ann. § 4-88-113(a)(3), to be paid to the State by the Defendants in the amount of \$10,000.00 per each violation of the ADTPA proved at a trial of this matter, the full amount of which will exceed the amount necessary to establish federal diversity jurisdiction.
- d. Order the suspension or forfeiture of corporate charters or other licenses or permits or authorization to do business in this state pursuant to Ark. Code Ann. § 4-88-113(b).
- e. Find that Defendants are jointly and severally liable for all penalties assessed and money judgments awarded pursuant to Ark. Code Ann. § 4-88-113(d).
- f. Issue an order, pursuant to Ark. Code Ann. § 4-88-113(e), requiring Defendants to pay the State's costs in this investigation and litigation, including, but not limited to, attorneys' fees and costs; and
- g. For all other just and proper relief to which the State may be entitled.

Respectfully submitted,

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