

STATE OF INDIANA
IN THE MARION COUNTY CIRCUIT/SUPERIOR COURT

CAUSE NO. _____

STATE OF INDIANA,

Plaintiff,

v.

JERRAMY JOHNSON, individually
and doing business as WHEELS OF
FORTUNE, LLC, SOUTHPOINTE
MOTORCARS, LLC, and MID
AMERICA AUTO REMARKETING,

and

JEFFREY PRESNELL, individually
and doing business as WHEELS OF
FORTUNE, LLC, SOUTHPOINTE
MOTORCARS, LLC, and MID
AMERICA AUTO REMARKETING,

and

KEITH WILLIAMS, individually and
doing business as WHEELS OF
FORTUNE, LLC,

and

JEFFREY BERRY, individually and
doing business as BWI EQUIPMENT,
INC.,

and

WHEELS OF FORTUNE, LLC,

and

SOUTHPOINTE MOTORCARS, LLC,

**COMPLAINT
FOR INJUNCTION, RESTITUTION,
CIVIL PENALTIES, TREBLE
DAMAGES, AND COSTS**

and
BWI EQUIPMENT, INC.,

Defendants.

I. INTRODUCTION

1. The State of Indiana, by Attorney General Curtis T. Hill, Jr. and Deputy Attorneys General Mark M. Snodgrass and Jacob Murray, commences this civil action under the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1 *et seq.*, the Salvage Motor Vehicles Act, Ind. Code § 9-22-3-1 *et seq.*, the Title Delivery Act, Ind. Code § 9-32-4-1 *et seq.*, the Indiana Odometer Act, Ind. Code § 9-19-9-1 *et seq.*, the Federal Odometer Act, 49 U.S.C.A § 32701 *et seq.* and the Motor Vehicle Unfair Practices Act, Ind. Code § 9-32-13 *et seq.*, for injunctive relief, consumer restitution, civil penalties, treble damages, costs, and other relief.
2. Defendants Jerramy Johnson and Jeffrey Presnell have engaged in a variety of schemes intended to subvert the laws of the State of Indiana related to the sale of motor vehicles. Johnson, who is ineligible to obtain a dealer license to engage in motor vehicle sales in the State of Indiana, recruited other individuals and dealers to provide fronts for Johnson and Presnell's unlicensed motor vehicle sales. Johnson's unlicensed dealership, Wheels of Fortune, LLC, using BWI Equipment's sales documents, sold over 350

vehicles between September 2017 and May 2018. Johnson and Presnell's various retail dealerships have also consistently engaged in unfair and deceptive sales practices, such as misrepresenting vehicle mileage in advertising and altering the odometers on motor vehicles, failing to deliver titles to consumers, and listing fictitious sale prices on consumer bills of sale to avoid paying full sales tax. Additionally, Johnson and Presnell operated an unlicensed wholesale dealership, Mid America Auto Remarketing, through which they engaged in a scheme to pay a police officer to illegally sign off on repairs made to over 400 salvage vehicles, without inspecting such vehicles as required by Indiana law. Johnson and Presnell subsequently sold the vehicles that had not been properly inspected through various retail dealerships. The Defendants' misrepresentations and actions are unfair, abusive, and deceptive, and constitute violations of Indiana's Deceptive Consumer Sales Act, the Salvage Motor Vehicle Act, Federal and Indiana Odometer Acts, Title Delivery Act, and Motor Vehicle Unfair Practices Act.

II. PARTIES

3. The Plaintiff, the State of Indiana, is authorized to bring this action and to seek injunctive and other statutory relief under Ind. Code § 24-5-0.5-4(c).
4. Defendant Jerramy Johnson ("Johnson") is an individual engaged in the sale of used motor vehicles to Indiana consumers under the business names Wheels of Fortune, LLC and Southpointe Motorcars, LLC, each with a

principal place of business in Marion County, located at 3245 South Keystone Avenue, Indianapolis, IN 46237.

5. Defendant Johnson is also engaged in the acquisition, repair and wholesale of salvage and rebuilt motor vehicles under the assumed business name Mid America Auto Remarketing (“Mid America”), with a principal place of business in Marion County, located at 1231 West Troy Avenue, Indianapolis, IN 46237.
6. Defendant Jeffrey Presnell (“Presnell”) is an individual engaged in the sale of used motor vehicles to Indiana consumers under the business names Wheels of Fortune, LLC and Southpointe Motorcars, LLC, each with a principal place of business in Marion County, located at 3245 South Keystone Avenue, Indianapolis, IN 46237.
7. Defendant Presnell is also engaged in the acquisition, repair and wholesale of salvage and rebuilt motor vehicles under the assumed business name Mid America Auto Remarketing, with a principal place of business in Marion County, located at 1231 West Troy Avenue, Indianapolis, IN 46237.
8. Defendant Keith Williams (“Williams”) is an individual engaged in the sale of used motor vehicles to Indiana consumers under the business name Wheels of Fortune, LLC, with a principal place of business in Marion County, located at 3245 South Keystone Avenue, Indianapolis, IN 46237.
9. Defendant Jeffrey Berry (“Berry”) is an individual engaged in the sale of used motor vehicles to Indiana consumers under the business name BWI

Equipment, Inc., with a principal place of business in Johnson County, located at 2501 E. 600 N., Whiteland, IN 46184.

10. Defendant Wheels of Fortune, LLC (“Wheels of Fortune”) is an Indiana limited liability company engaged in the sale of used motor vehicles to Indiana consumers, with a principal place of business in Marion County, located at 3245 South Keystone Avenue, Indianapolis, IN 46237.
11. Defendant Southpointe Motorcars, LLC (“Southpointe”) is an Indiana limited liability company formerly engaged in the sale of used motor vehicles to Indiana consumers, with a principal place of business in Marion County, located at 3245 S. Keystone Avenue, Indianapolis, IN, 46237.
12. Defendant BWI Equipment, Inc. (“BWI Equipment”) is an Indiana corporation engaged in the sale of used motor vehicles to Indiana consumers, with a principal place of business in Johnson County, located at 2501 E. 600 N., Whiteland, IN 46184.
13. Johnson and Presnell controlled and directed the affairs of Wheels of Fortune and Southpointe at the time of the transactions identified in this Complaint and were active in both entities’ management and operation, including their advertising, sales, and other practices. Johnson and Presnell personally made representations identified in this Complaint. Johnson and Presnell used Wheels of Fortune and Southpointe to deceive Indiana consumers.
14. Berry controlled and directed the affairs of BWI Equipment at the time of the transactions identified in this Complaint and was active in BWI Equipment’s

management and operation. Berry used BWI Equipment to deceive Indiana consumers.

15. The Indiana Bureau of Motor Vehicles (“BMV”) is aware the Attorney General undertakes civil actions such as this to assist Indiana consumers in obtaining titles to their vehicles. In the event the Attorney General petitions an Indiana court to order the BMV to issue a title for a designated consumer and vehicle, the BMV has agreed to abide by the resulting court orders without the BMV being named as a party in interest in the complaint. An affidavit from the BMV supporting these assertions is attached to this Complaint as Exhibit 1.

III. FACTS

A. Johnson and Presnell’s History in the Auto Industry

16. Johnson and Presnell have demonstrated a history of being unwilling and unable to operate a motor vehicle dealership within the bounds of Indiana law.
17. In their various joint ventures in the auto industry, Johnson is typically the owner and primary operator of each business, while Presnell is usually described as Johnson’s “right hand” in operating the various ventures.
18. Johnson was the owner and operator of Front Row Motors, LLC (“Front Row Motors”), formerly located at 3401 South East Street, Indianapolis, IN 46227.
19. Presnell was the lot manager of Front Row Motors.

20. On December 6, 2011, the Indiana Secretary of State Auto Dealer Division (“SOS Dealer Division”) revoked Front Row Motors’ license to conduct motor vehicle sales in Indiana for various violations.
21. On June 25, 2012, the SOS Dealer Division, Front Row Motors and Johnson entered into a Consent Agreement. Under the Agreement, Front Row Motors’ dealer license was permanently revoked. Further, the Consent Agreement stated: “Johnson shall cease all dealer business operations and shall no longer operate as a dealer in Indiana, independently of FRM [Front Row Motors] or otherwise, from the date of the filing of this Consent Agreement onward.” Johnson personally signed the Consent Agreement.
22. On September 13, 2012, the State of Indiana filed a Complaint in Marion County, Cause No. 49D13-1209-PL-036096, against Front Row Motors and Johnson for failing to remit funds to active vehicle warranties purchased by consumers, misrepresenting the mileage on motor vehicles, failing to deliver titles, refusing to refund consumer deposits, and charging inappropriate fees.
23. On June 3, 2014, the State of Indiana, Front Row Motors and Johnson entered into a Consent Judgment to resolve the State’s lawsuit. In approving the Consent Judgment, Marion County Superior Court 13 enjoined Front Row and Johnson from future violations of certain provisions of the Indiana Deceptive Consumer Sales Act, specifically, Ind. Code § 24-5-0.5-3(a)(1), (2), (8) and (10), and well as from violating Indiana’s odometer disclosure statute, Ind. Code § 9-19-9-7.

24. On March 23, 2012, immediately after Front Row Motors was ordered to cease business operations, Johnson opened Hoosier Motors LLC (“Hoosier Motors”). Hoosier Motors was located at 3401 South East Street, Indianapolis, IN 46227, the same location as Front Row Motors.
25. Johnson owned and operated Hoosier Motors, but enlisted Paul Sitcler to represent himself as the owner of Hoosier Motors on its Articles of Incorporation filed with the Secretary of State as well as represent himself as the owner on Hoosier Motor’s dealer license application filed with the SOS Dealer Division, due to Johnson’s ineligibility to obtain a dealer license.
26. Presnell worked with Johnson at Hoosier Motors and held the title of Office Manager.
27. On December 20, 2012, the SOS Dealer Division revoked Hoosier Motors’ license to conduct motor vehicle sales in Indiana for issuing and altering temporary license plates when not authorized to do so, failing to deliver titles to consumers, and failing “to oversee its business operations in an appropriate and competent manner.”
28. On February 6, 2013, the SOS Dealer Division entered into an Agreed Entry with Hoosier Motors whereby Hoosier Motors would be allowed to continue to operate, provided it paid a fine for its violations and be placed on license probation for six months.
29. On June 17, 2013, the SOS Dealer Division was again forced to revoke Hoosier Motors’ dealer license for Hoosier Motors’ continued failure to deliver

vehicle titles to consumers and continued improper issuance of altered temporary plates.

30. On September 24, 2013, the State of Indiana filed a Complaint in Marion County, Cause No. 49D13-1209-PL-036096, against Hoosier Motors for charging consumers improper document preparation fees and tag and title fees. A Consent Judgment was subsequently entered into between the parties to resolve the matter.

B. Defendants' Associations at Issue

31. After Hoosier Motors' dealer license was revoked for the second time, Johnson acquired Southpointe, located at 3245 S. Keystone Avenue, Indianapolis, IN, 46237.
32. Southpointe was a licensed motor vehicle dealership originally owned by Mike Stout.
33. On an unknown date, Johnson took over ownership and operation of Southpointe, while leaving Southpointe's business filings and dealer license under Mike Stout's name.
34. Presnell worked at Southpointe and managed the dealership.
35. In June 2017, Stout voluntarily relinquished Southpointe's dealer's license to the SOS Dealer Division.
36. Johnson and Presnell rebranded the lot located at 3245 S. Keystone Avenue, Indianapolis, IN, 46237 as Wheels of Fortune.

37. Johnson owned and operated Wheels of Fortune, but requested Diana DesJean (“DesJean”) represent herself as the owner of Wheels of Fortune on its Articles of Incorporation.
38. Johnson also requested DesJean apply for a dealer license for Wheels of Fortune due to Johnson’s ineligibility to obtain a dealer license.
39. DesJean declined Johnson’s request to apply for a dealer’s license.
40. Presnell ran the day-to-day operations of Wheels of Fortune and was listed on Wheels of Fortune’s business card as the “Shop Manager.” Presnell listed himself as the “General Manager” of Wheels of Fortune on his personal Facebook page.
41. Williams conducted advertising and sales for Wheels of Fortune and was referenced as both the “Sales Manager” and “VP of Sales.”
42. Since at least July 29, 2015, in addition to his retail locations, Johnson owned and operated a wholesale dealership, Mid America, located at 1231 West Troy Avenue, Indianapolis, IN 46225.
43. Presnell was the manager and ran the day-to-day operations of Mid America.
44. Mid America would acquire total loss vehicles with salvage titles from various auto auctions, purport to repair them to the specifications required by Indiana law, and distribute them to Johnson’s various dealerships for sale to Indiana consumers.
45. Jeffrey Berry (“Berry”) owns JAAK Properties, Inc. (“JAAK”).

46. JAAK owns the property located 1231 West Troy Avenue, Indianapolis, IN 46225, and leased it to Johnson for his Mid America operations.
47. Berry also owns and operates BWI Equipment, a licensed Indiana motor vehicle dealer.

C. Unlicensed Motor Vehicle Sales

Wheels of Fortune

48. After Southpointe relinquished its dealer's license, Johnson and Presnell did not have a license to continue sales at Southpointe/Wheels of Fortune.
49. Without a license, Johnson would have been unable to purchase vehicles at auction for Mid America. Retail purchasers of vehicles sold by Johnson would have been unable to title and register the vehicles as the vehicles were not sold by a licensed dealer.
50. Wheels of Fortune never applied to the SOS Dealer Division for a motor vehicle license.
51. In the fall of 2017, Johnson approached Berry, with whom he had a prior business relationship through JAAK, and asked if Wheels of Fortune could "lean on" BWI Equipment's dealer license.
52. Johnson falsely represented to Berry that Wheels of Fortune had applied for a dealer license from the SOS Dealer Division, but needed a 30-45 day stopgap while the license was being processed.

53. Berry agreed to let Johnson and Wheels of Fortune utilize BWI Equipment's name and dealer license as a cover for Wheels of Fortune's unlicensed vehicle sales.
54. BWI Equipment provided Johnson with the ability to purchase vehicles under BWI Equipment's account at various auto wholesale auctions, including Insurance Auto Auctions ("IAA").
55. Johnson and Wheels of Fortune, with the approval of Berry and BWI Equipment, purchased Frazier dealer tracking software and input BWI Equipment's dealer information.
56. For each vehicle it sold, Wheels of Fortune would use Frazier to print sales documents designed to create the appearance the sale had occurred at BWI Equipment, such as a BWI Equipment bill of sale, ST-108, odometer disclosure statement, etc.
57. Berry and BWI Equipment also provided Johnson and Wheels of Fortune with BWI Equipment's SOS Dealer Division credentials so Wheels of Fortune could print out temporary license plates for consumers.
58. Titles for vehicles purchased by Johnson and Presnell at IAA and other auctions were assigned to BWI Equipment. After Wheels of Fortune sold a vehicle to a consumer, Presnell or Williams, signing as agents of BWI Equipment, would sign over the BWI Equipment title to the purchasing consumer.

59. Neither Presnell nor Williams were ever agents or employees of BWI Equipment.
60. At the end of every month, Wheels of Fortune and Johnson or Presnell would provide BWI Equipment with a report detailing the number of vehicles sold by Wheels of Fortune. The report also detailed the amount of sales tax owed to the Indiana Department of Revenue (“DOR”) from Wheels of Fortune’s sales. Wheels of Fortune and Johnson or Presnell would then provide BWI Equipment with the funds for BWI Equipment to pay the sales tax, which BWI Equipment would remit to DOR.
61. Wheels of Fortune paid BWI Equipment one hundred dollars (\$100.00) for every vehicle sold by Wheels of Fortune using BWI Equipment’s paperwork, temporary plates and dealer license.
62. Between September 9, 2017, and May 28, 2018, Wheels of Fortune, Johnson and Presnell paid BWI Equipment over \$35,000.00 for Wheels of Fortune’s use of BWI Equipment’s paperwork, temporary plates and dealer’s license.
63. On June 1, 2018, Berry instructed Johnson to cease using BWI Equipment’s license and documents to sell vehicles at Wheels of Fortune. Berry subsequently cut off Johnson and Presnell’s ability to purchase vehicles at auctions using BWI Equipment’s account.
64. Between October 9, 2017, and June 4, 2018, Johnson and Presnell purchased 403 vehicles from IAA using BWI Equipment’s credentials.

65. Between September 9, 2017, and May 28, 2018, Wheels of Fortune advertised and sold approximately 359 vehicles off its lot at 3245 S. Keystone Avenue.
66. At no time did Wheels of Fortune ever have a dealer license issued by the SOS Dealer Division to allow Wheels of Fortune to legally sell motor vehicles.
67. Between September 9, 2017, and May 28, 2018, neither Johnson, Presnell nor Williams had a dealer's license issued by the SOS Dealer Division to allow any of the individuals to legally sell motor vehicles.
68. Between September 9, 2017, and May 28, 2018, Berry and BWI were fully aware that neither Wheels of Fortune, Johnson, Presnell nor Williams held a dealer's license to allow them to legally sell motor vehicles.

Jerramy Johnson & Jeffrey Presnell

69. Johnson and Presnell have continued to sell motor vehicles since BWI Equipment ceased allowing Wheels of Fortune to use its sale documentation.
70. Presnell has marketed numerous vehicles under the Facebook page "Jason Presnell" and instructs consumers inquiring online about specific vehicles to come to 3245 South Keystone Avenue, Indianapolis, IN 46237, to finalize the sales.

Keith Williams

71. Since selling vehicles under the Wheels of Fortune name, Williams has continued to market and sell vehicles under the name 2EZ Autos.
72. 2EZ Auto LLC is a dealer licensed by the SOS Dealer Division, but Williams is not affiliated or employed by this entity.

73. Williams does not have a dealer license issued by the SOS Dealer Division to sell motor vehicles under the name 2EZ Autos or any other name.

Mid America Auto Remarketing

74. Between 2015 and the date of the filing of this Complaint, Mid America has wholesaled hundreds of motor vehicles.

75. At no time did Mid America ever have a dealer license issued by the SOS Dealer Division to allow Mid America to wholesale vehicles from its location at 1231 West Troy Avenue, Indianapolis, IN 46225.

D. Misrepresenting the Mileage on Motor Vehicles

Jeremy Oliver's Consumer Transaction

76. On January 12, 2017, in response to an advertisement posted on Facebook, Jeremy Oliver went to Southpointe to purchase a 2002 Chevrolet Avalanche, VIN 3GNEC13T92G241344 ("the 2002 Avalanche").

77. Upon arriving at the dealership, Oliver dealt with Scott Keen and Johnson.

78. Oliver agreed to purchase the 2002 Avalanche from Southpointe for \$4,723.00.

79. At the time of sale, the 2002 Avalanche's odometer read 112,500 miles.

80. A Facebook ad posted by Southpointe for the 2002 Avalanche made a similar representation regarding the mileage of the 2002 Avalanche.

81. Prior to the sale, Keen verbally represented to Oliver on three separate occasions that the 2002 Avalanche's odometer reading of 112,500 miles was accurate.

82. At the time of sale to Oliver, the 2002 Avalanche had in excess of 207,541 miles.
83. On December 30, 2016, Mid America purchased the 2002 Avalanche from IAA. At that time, Mid America received a “buyer receipt” and title for the 2002 Avalanche, both listing the actual mileage of the 2002 Avalanche as 207,541.
84. On information and belief, Johnson or Presnell, either personally or by directing others, altered the mileage of the 2002 Avalanche, or alternatively, replaced the odometer cluster on the 2002 Avalanche, leading the odometer to reflect a lower and inaccurate mileage.

Daniel Fernandez’s Consumer Transaction

85. On January 31, 2018, in response to an advertisement posted on Facebook and OfferUp.com, Daniel Fernandez went to Wheels of Fortune to purchase a 2005 Honda Pilot, VIN 2HKYF18195H519272 (“the 2005 Pilot”).
86. Upon arriving at the dealership, Fernandez dealt with Williams and Johnson.
87. Fernandez agreed to purchase the 2005 Pilot from Wheels of Fortune for \$4,495.00.
88. The bill of sale provided to Fernandez listed BWI Equipment as the seller of the 2005 Pilot.
89. Fernandez has never been to BWI Equipment.

90. Williams drafted and posted the advertisement for the 2005 Pilot on Facebook and OfferUp.com.
91. The Facebook and OfferUp.com advertisement for the 2005 Pilot prominently represented the 2005 Pilot had “Only 110k miles!!”
92. At the time of sale to Fernandez, the 2005 Pilot had in excess of 298,748 miles.
93. On January 18, 2018, Williams purchased the 2005 Pilot, signing as an agent for BWI Equipment. At that time, Williams received a title for the 2005 Pilot listing the actual mileage of the 2005 Pilot as 298,748.
94. On information and belief, Johnson, Presnell, or Williams, either personally or by directing others, altered the mileage of the 2005 Pilot, or alternatively, replaced the odometer cluster on the 2005 Pilot, leading the odometer to reflect a lower and inaccurate mileage.

Calvin Terrell’s Consumer Transaction

95. On March 9, 2018, in response to an advertisement posted on Facebook, Calvin Terrell went to Wheels of Fortune to purchase a 2003 Toyota Corolla, VIN 1NXBR32E73Z055353 (“the 2003 Corolla”).
96. Upon arriving at the dealership, Terrell dealt with Williams.
97. Terrell agreed to purchase the 2003 Corolla from Wheels of Fortune for \$2,350.00.
98. The bill of sale Williams provided Terrell listed BWI Equipment as the seller of the 2003 Corolla.

99. Terrell has never been to BWI Equipment.
100. Presnell drafted and posted a Facebook advertisement for the 2003 Corolla which prominently represented the 2003 Corolla as having “124,000 miles.”
101. Williams drafted and posted a second Facebook advertisement for the 2003 Corolla which represented the 2003 Corolla as having “120k miles.”
102. At the time of sale to Terrell, the 2003 Corolla had in excess of 249,000 miles.
103. On January 24, 2018, Presnell purchased the 2003 Corolla, signing as an agent for BWI Equipment. At that time, Presnell received a title issued in 2016 for the 2003 Corolla listing the actual mileage of the 2003 Corolla as 236,000.
104. On information and belief, Johnson or Presnell, either personally or by directing others, altered the mileage of the 2003 Corolla, or alternatively, replaced the odometer cluster on the 2003 Corolla, leading the odometer to reflect a lower and inaccurate mileage.

Alexandra Nunez’s Consumer Transaction

105. On March 13, 2018, in response to an advertisement posted on Facebook, Alexandra Nunez went to Wheels of Fortune to purchase a 2009 Honda Accord, VIN 1HGCP26369A142934 (“the 2009 Accord”).
106. Upon arriving at the dealership, Nunez dealt with Williams and Johnson.
107. Williams represented to Nunez several times that Nunez was “getting a great deal on such a low mileage vehicle.”

108. Nunez agreed to purchase the 2009 Accord from Wheels of Fortune for \$5,200.00.
109. The bill of sale Nunez received from Johnson listed BWI Equipment as the seller of the 2009 Accord.
110. Nunez has never been to BWI Equipment.
111. Presnell drafted and posted the advertisement for the 2009 Accord on Facebook.
112. The Facebook advertisement for the 2009 Accord represented the 2009 Accord as having “70,000 miles.”
113. At the time of sale to Nunez, the 2009 Accord had in excess of 184,000 miles.
114. On February 14, 2018, Presnell purchased the 2009 Accord from IAA. At that time, Presnell received a “Buyer Receipt” and title from IAA, both listing the actual mileage of the 2009 Accord as 184,568. Signing as an agent of BWI Equipment, Presnell signed the title under “buyer acknowledgement of odometer certification.”
115. On information and belief, Johnson or Presnell, either personally or by directing others, altered the mileage of the 2009 Accord, or alternatively, replaced the odometer cluster on the 2009 Accord, leading the odometer to reflect a lower and inaccurate mileage.

E. Fraudulent Salvage Vehicle Restoration Affidavits

116. A vehicle with a salvage title brand must obtain a rebuilt title brand before the vehicle can be registered and driven on Indiana roads.

117. To convert a salvage title brand to a rebuilt title brand, Ind. Code § 9-22-3-15 requires the following actions to be undertaken: 1) the owner must complete and execute an affidavit detailing “the name, identification number and source of all component parts that were used in the restoration of vehicle,” and 2) a police officer must inspect the vehicle and the affidavit to verify the proof of ownership and source of the major component parts used in the repairs listed on the affidavit.
118. The Indianapolis Metropolitan Police Department does not charge for such vehicle inspections.
119. Johnson and Presnell purchased a large number of salvage vehicles and purportedly restored them at Mid America.
120. Johnson and Presnell engaged in a conspiracy with Sergeant Charles Butler (“Butler”) of the Indianapolis Metropolitan Police Department to avoid inspections of their salvage vehicles.
121. Johnson and Presnell would personally call or text Butler requesting him to come to Mid America to sign the salvage restoration affidavits, typically on Butler’s scheduled off days.
122. Johnson or Presnell would then provide Butler the completed salvage restoration affidavits.
123. Butler did not inspect or examine the vehicles that were the subject of the salvage restoration affidavits.

124. Butler would then sign the salvage restoration affidavits, falsely affirming “I have personally examined the above vehicle, major component parts and ownership documents. The salvage restoration conforms to Indiana Code § 9-22-3.”
125. Johnson and Presnell would pay Butler cash for each vehicle for which he signed the affidavit while neglecting to inspect the vehicle.
126. On May 31, 2018, Butler was arrested and charged with a felony for his role in failing to inspect the salvage vehicles. Butler subsequently entered a guilty plea.
127. Between January 29, 2016, and May 4, 2017, Butler signed off on 415 vehicle salvage restoration affidavits for Johnson and Presnell without inspecting the vehicles.
128. Johnson and Presnell subsequently distributed those uninspected vehicles to dealerships around the state to be sold to unsuspecting consumers.
129. 55 of the uninspected vehicles were sold at Southpointe and two at Wheels of Fortune.

F. Failure to Pay Proper Sales Tax

130. For an unknown number of vehicles sold at Wheels of Fortune, Johnson, Presnell, and Williams would list a vehicle price on a purchasing consumer’s bill of sale that was less than the consumer actually paid Wheels of Fortune.
131. Wheels of Fortune used the vehicle prices on bills of sale to calculate the amount of sales tax due on each vehicle.

132. Johnson and Presnell provided reports to BWI Equipment identifying the amount of sales tax to be paid to DOR using the false vehicle prices.
133. BWI Equipment would then remit the funds, represented by Johnson and Presnell as the correct amounts to be paid on each vehicle, to DOR, resulting in BWI Equipment paying DOR less sales tax than required on an unknown number of vehicles.

Daniel Fernandez's Consumer Transaction

134. Daniel Fernandez purchased a vehicle from Wheels of Fortune, as referenced in Paragraphs 85 through 94, above.
135. Fernandez purchased his vehicle for \$4,495.00 and paid the full amount in cash at the time of sale.
136. At the time of sale, Fernandez received a hand written receipt from Williams in the amount of \$4,495.00.
137. Williams drafted Fernandez's bill of sale and listed the "vehicle price" as \$467.29, with "sales tax" of \$32.71, for a "total due" of \$500.00.
138. BWI Equipment remitted \$32.71 to DOR for the sales tax on Fernandez's vehicle purchase, based on the bill of sale drafted by Williams.
139. Wheels of Fortune and BWI Equipment should have remitted sales tax to DOR in the amount of \$314.65 for Fernandez's vehicle purchase.

Alexandra Nunez's Consumer Transaction

140. Alexandra Nunez purchased a vehicle from Wheels of Fortune, as referenced in Paragraphs 105 through 115, above.

141. Nunez purchased her vehicle for \$5,200.00 and paid the full amount in cash.
142. At the time of sale, Nunez initially received a hand written receipt from Williams in the amount of \$500.00, with a note that stated “due 4700.”
143. Johnson drafted Nunez’s bill of sale and listed the “vehicle price” as \$2,803.76, with “sales tax” of \$196.26, for a “total due” of \$3,000.00.
144. Nunez inquired with Johnson regarding the discrepancy of the sale price on the bill of sale and Johnson represented to Nunez that he was listing a lower price so he would not have to pay as much in tax.
145. BWI Equipment remitted \$196.26 to DOR for the sales tax on Nunez’s vehicle purchase, based on the bill of sale drafted by Johnson.
146. Wheels of Fortune and BWI Equipment should have remitted sales tax to DOR in the amount of \$364.00 for Nunez’s vehicle purchase.

G. Failure to Deliver Titles

147. On the respective dates below, Southpointe sold used motor vehicles to Indiana consumers, including but not limited to the following:

<u>Consumer</u>	<u>Vehicle</u>	<u>Date of Sale</u>
147.1. Jennifer Nugent	2005 Chevrolet Cobalt; VIN 1G1AL12F157577985	2/23/17
147.2. Gloria Butler	2003 Chevrolet Cavalier; VIN 1G1JC1FX37230779	4/5/17
147.3. Kristen Ivy	2007 Buick Lucerne; VIN 1G4HE57Y47U155176	4/8/17

<u>Consumer</u>	<u>Vehicle</u>	<u>Date of Sale</u>
147.4. Logan Watson	2006 Ford Explorer; VIN 1FMEU74E86UA51509	4/10/17
147.5. Jacob Coffey	2002 Dodge Ram 1500; VIN 1D7HU18Z52J185150	4/11/17
147.6. Simona Gamble	2004 Hyundai Elantra; VIN KMHDN46D84U721259	4/12/17
147.7. Patricia Patton	2010 Chevrolet Impala; VIN 2G1WB5EK3A1234644	4/17/17
147.8. Landon Sills	2006 Dodge Grand Caravan; VIN 2D4GP44L86R860980	5/12/17
147.9. Tammy Thieke	2008 Dodge Grand Caravan; VIN 1D8HN44H58B129994	6/7/17

148. At the time of the transactions identified in Paragraph 147, Southpointe was a motor vehicle dealer licensed by the State of Indiana.
149. The consumers referenced in Paragraph 147 purchased the respective vehicles from Southpointe in good faith.
150. The consumers referenced in Paragraph 147 purchased the respective vehicles within the ordinary course of Southpointe's business.
151. On the respective dates of sale, the consumers identified in Paragraph 147 made all agreed-upon initial down payments to Southpointe on their respective vehicles.

152. Southpointe represented to consumer Watson on the date of sale through a “Dealer Title Affidavit” that it would deliver a title to Watson no later than May 16, 2017.
153. Southpointe represented to consumer Coffey on the date of sale through a “Dealer Title Affidavit” that it would deliver a title to Coffey no later than May 12, 2017.
154. Southpointe represented to consumer Patton on the date of sale through a “Dealer Title Affidavit” that it would deliver a title to Patton no later than May 17, 2017.
155. Southpointe failed to deliver valid titles to the consumers identified in Paragraph 147 within the time periods represented or within thirty-one (31) days from the date of purchase, as required by Indiana law.
156. Consumers Nugent, Watson, Coffey, and Stills have been unable to obtain titles to their respective vehicles due to Southpointe’s failure to deliver valid titles.

IV. CAUSES OF ACTION

COUNT I: **VIOLATIONS OF THE SALVAGE MOTOR VEHICLE ACT-** **FAILURE TO INSPECT SALVAGE VEHICLES**

157. The State realleges Paragraphs 1 through 156 of this Complaint.
158. Johnson and Presnell, prior to applying for rebuilt titles, failed to have a police officer properly inspect salvage vehicles to verify proof of ownership

and the source of major component parts used in the repairs, in violation of Ind. Code § 9-22-3-14(a)(1), as asserted in Paragraphs 116 through 129.

COUNT II:
VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-
FAILURE TO INSPECT SALVAGE VEHICLES

159. The State realleges Paragraphs 1 through 158 of this Complaint.
160. The transactions identified in this Complaint are “consumer transactions” as defined by Ind. Code § 24-5-0.5-2(1).
161. Johnson, Presnell, Williams, Berry, Wheels of Fortune, Southpointe, and BWI Equipment are “suppliers” as defined by Ind. Code § 24-5-0.5-2(3).
162. Johnson and Presnell, by failing to have a police officer properly inspect salvage vehicles to verify proof of ownership and the source of major component parts used in the repairs and conspiring to have a police officer declare the vehicles had been inspected when they had not, committed unfair, abusive, and deceptive acts, omissions, and practices in connection with consumer transactions, in violation of Ind. Code § 24-5-0.5-3(a).

COUNT III:
VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-
SALE OF VEHICLES NOT PROPERLY INSPECTED OR REBUILT

163. The State realleges Paragraphs 1 through 162 of this Complaint.
164. Johnson, Presnell, Wheels of Fortune, and Southpointe, by selling vehicles that had not properly been inspected in accordance with Ind. Code § 9-22-3-14(a)(1), and thus not eligible for a rebuilt title brand, committed unfair,

abusive, and deceptive acts, omissions, and practices in connection with consumer transactions, in violation of Ind. Code § 24-5-0.5-3(a).

COUNT IV:
VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-
VIOLATIONS OF THE SALVAGE MOTOR VEHICLE ACT

- 165. The State realleges Paragraphs 1 through 164 of this Complaint.
- 166. Johnson and Presnell's violations of the Salvage Motor Vehicle Act, as asserted in Paragraph 158, constitute Deceptive Acts under Ind. Code § 9-22-3-37.

COUNT V:
VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-
UNLICENSED VEHICLE SALES

- 167. The State realleges Paragraphs 1 through 166 of this Complaint.
- 168. Wheels of Fortune was required to obtain a motor vehicle dealer license from the Indiana Secretary of State under Ind. Code § 9-32-11-1, as it sold more than twelve vehicles within a twelve month period.
- 169. Wheels of Fortune, Johnson, Presnell, and Williams, by selling hundreds of motor vehicles without a valid dealer license, solicited and engaged in consumer transactions without a permit or license required by law, in violation of Ind. Code § 24-5-0.5-10.

COUNT VI:
VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-
ASSISTING WITH UNLICENSED VEHICLE SALES

- 170. The State realleges Paragraphs 1 through 169 of this Complaint.

171. BWI Equipment and Berry, by providing assistance and the means for Wheels of Fortune to conduct unlicensed motor vehicle sales, committed unfair, abusive, and deceptive acts, omissions, and practices in connection with consumer transactions, in violation of Ind. Code § 24-5-0.5-3(a).

COUNT VII:
VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-
MISREPRESENTING VEHICLE MILEAGE

172. The State realleges Paragraphs 1 through 171 of this Complaint.

173. Johnson, Presnell, Williams, Wheels of Fortune, and Southpointe, by misrepresenting the mileage of vehicles, committed unfair, abusive, and deceptive acts, omissions, and practices in connection with consumer transactions, in violation of Ind. Code § 24-5-0.5-3(a).

174. Johnson, Presnell, Williams, Wheels of Fortune, and Southpointe, by misrepresenting the mileage of vehicles, represented that consumer transactions had characteristics or benefits they did not have, which the Defendants knew or reasonably should have known they did not have, in violation of Ind. Code § 24-5-0.5-3(b)(1).

COUNT VIII:
VIOLATIONS OF THE FEDERAL ODOMETER ACT-
MISREPRESENTING VEHICLE MILEAGE

175. The State realleges Paragraphs 1 through 174 of this Complaint.

176. Johnson, Presnell, Williams, Wheels of Fortune and Southpointe gave false statements regarding vehicle mileage to purchasing consumers, in violation of 49 U.S.C.A § 32705(a)(2).

COUNT IX:
VIOLATIONS OF THE FEDERAL ODOMETER ACT-
ALTERING THE MILEAGE ON VEHICLE ODOMETERS

177. The State realleges Paragraphs 1 through 176 of this Complaint.
178. Johnson and Presnell replaced, reset or altered, or had replaced, reset or altered, the odometers on motor vehicles intending to change the mileage registered by the odometers, in violation of 49 U.S.C.A § 32703(2).

COUNT X:
VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-
VIOLATIONS OF THE FEDERAL AND INDIANA ODOMETER ACTS

179. The State realleges Paragraphs 1 through 178 of this Complaint.
180. Johnson, Presnell, Williams, Wheels of Fortune, and Southpointe 's violations of the Federal Odometer Act, as asserted in Paragraphs 176 and 178, constitute Deceptive Acts under Ind. Code § 9-19-9-7.

COUNT XI:
VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-
MISREPRESENTATING VEHICLE PRICE

181. The State realleges Paragraphs 1 through 180 of this Complaint.
182. Johnson, Presnell, Williams, Wheels of Fortune, and BWI Equipment, by misrepresenting the vehicle price on consumer bills of sale, committed unfair, abusive, and deceptive acts, omissions, and practices in connection with consumer transactions, in violation of Ind. Code § 24-5-0.5-3(a).
183. Johnson, Presnell, Williams, Wheels of Fortune, and BWI Equipment, by misrepresenting the vehicle price on consumer bills of sale, represented that consumer transactions had characteristics or benefits they did not have,

which the Defendants knew or reasonably should have known they did not have, in violation of Ind. Code § 24-5-0.5-3(b)(1).

COUNT XII:
VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-
FAILURE TO PAY FULL SALES TAX

184. The State realleges Paragraphs 1 through 183 of this Complaint.
185. Johnson, Presnell, Williams, Wheels of Fortune, and BWI Equipment, by listing vehicle prices on consumer bills of sale that were lower than the purchasing consumers paid and failing to remit sales tax on the full amount actually paid by purchasing consumers, committed unfair, abusive, and deceptive acts, omissions, and practices in connection with consumer transactions, in violation of Ind. Code § 24-5-0.5-3(a).

COUNT XIII:
VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-
FAILURE TO DELIVER TITLES

186. The State realleges Paragraphs 1 through 185 of this Complaint.
187. Southpointe, Johnson, and Presnell, through their failure to deliver titles to consumers, committed unfair, abusive, and deceptive acts, omissions, and practices in connection with consumer transactions, in violation of Ind. Code § 24-5-0.5-3(a).
188. Southpointe, Johnson, and Presnell, through their representations that they would provide titles for vehicles and failure to deliver such titles to consumers, represented that consumer transactions had characteristics, uses, or benefits they did not have, which the Defendants knew or reasonably

should have known they did not have, in violation of Ind. Code § 24-5-0.5-3(b)(1).

189. Southpointe, Johnson, and Presnell, through their failure to timely deliver titles, represented they could deliver or complete the subject of consumer transactions in a stated or reasonable period of time when the Defendants knew or reasonably should have known they could not, in violation of Ind. Code § 24-5-0.5-3(b)(10).

COUNT XIV:
VIOLATIONS OF THE TITLE DELIVERY ACT

190. The State realleges Paragraphs 1 through 189 of this Complaint.
191. Southpointe, Johnson, and Presnell failed to deliver valid titles to motor vehicles within thirty-one (31) days from the date of purchase, in violation of Ind. Code § 9-32-4-1(a)(2).

COUNT XV:
KNOWING VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

192. The State realleges Paragraphs 1 through 191 of this Complaint.
193. Johnson, Presnell, Williams, Berry, Wheels of Fortune, Southpointe, and BWI Equipment committed the deceptive acts asserted in Paragraphs 157 through 189 with knowledge of their deceptive acts.

COUNT XVI:
INCURABLE DECEPTIVE ACTS

194. The State realleges Paragraphs 1 through 193 of this Complaint.

195. The deceptive acts asserted in Paragraphs 157 through 189 are incurable deceptive acts and were committed by Johnson, Presnell, Williams, Berry, Wheels of Fortune, Southpointe, and BWI Equipment as part of a scheme, artifice, or device with intent to defraud or mislead.

COUNT XVII:
VIOLATIONS OF THE MOTOR VEHICLE UNFAIR PRACTICES ACT

196. The State realleges Paragraphs 1 through 195 of this Complaint.

197. Johnson, Presnell, Williams, Berry, Wheels of Fortune, Southpointe, and BWI Equipment, engaged in the deceptive advertising, acts and practices referenced in this Complaint in violation of Ind. Code § 9-32-13-20.

V. RELIEF

198. The State requests the Court enter judgment against the Defendants for the relief described in Paragraphs 199 through 211 of this Complaint.

199. The State seeks a permanent injunction, under Ind. Code § 24-5-0.5-4(c)(1), enjoining Jerramy Johnson and Jeffrey Presnell from future employment in the motor vehicle industry, prohibiting either individual from owning, managing, or working, either as an employee or independent contractor, at any motor vehicle retail dealership, wholesale dealership, or motor vehicle repair business, as well as prohibiting Johnson or Presnell from selling or assisting in the sale of any motor vehicle that is not their personal vehicle titled in their own name.

200. The State seeks a permanent injunction, under Ind. Code § 24-5-0.5-4(c)(1), enjoining Keith Williams from:

- 200.1. misrepresenting the mileage of a motor vehicle, either orally or in any written advertising;
 - 200.2. including a vehicle purchase price on a consumer bill of sale that does not reflect the amount of money actually paid or financed by the consumer for the purchase of the vehicle;
 - 200.3. committing an unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction, in violation of Ind. Code § 24-5-0.5- 3(a); and
 - 200.4. representing that the subject of a consumer transaction has characteristics, uses, or benefits that it does not have, which Williams knows or reasonably should know it does not have, in violation of Ind. Code § 24-5-0.5-3(b)(1).
201. The State seeks a permanent injunction, under Ind. Code § 24-5-0.5-4(c)(1), enjoining Jeffrey Berry and BWI Equipment, Inc. from:
- 201.1. assisting any individual or entity from engaging in the unlicensed sale of motor vehicles, including allowing any such unlicensed person or entity to utilize BWI Equipment’s purchase documents, auction access, or temporary plate account maintained with the SOS Dealer Division; and
 - 201.2. committing an unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction, in violation of Ind. Code § 24-5-0.5-3(a).

202. The State seeks an Order directing the Indiana Bureau of Motor Vehicles to issue titles to the following consumers and their respective vehicles, and due to the consumers' respective statuses as buyers in the ordinary course, free of any potential prior liens resulting from Southpointe's acquisition of the respective vehicles:

<u>Consumer</u>	<u>Vehicle</u>
Jennifer Nugent	2005 Chevrolet Cobalt; 1G1AL12F157577985
Logan Watson	2006 Ford Explorer; 1FMEU74E86UA51509
Jacob Coffey	2002 Dodge Ram 1500; 1D7HU18Z52J185150
Landon Sills	2006 Dodge Grand Caravan; 2D4GP44L86R860980

203. The State seeks consumer restitution, under Ind. Code § 24-5-0.5-4(c)(2) and Ind. Code § 9-32-16-2(e), in an amount to be determined at trial, payable to the Office of the Attorney General, for the benefit of all consumers who purchased vehicles that were not properly inspected by a police officer and/or not properly repaired prior to Johnson and Presnell obtaining rebuilt titles for the vehicles.

204. The State seeks consumer restitution, under Ind. Code § 24-5-0.5-4(c)(2) and Ind. Code § 9-32-16-2(e), in an amount to be determined at trial, payable to the Office of the Attorney General, for the benefit of all consumers who purchased vehicles with actual mileage that differed from the mileage listed

in the Defendants' advertising or differed from the odometer reading on the vehicle at the time of sale.

205. The State seeks consumer restitution, under 49 U.S.C.A §§ 32709 and 32710, in an amount of three times each consumers' actual damages, payable to the Office of the Attorney General, for the benefit of all consumers who purchased vehicles with actual mileage that differed from the mileage listed in the Defendants' advertising or differed from the odometer reading on the vehicle at the time of sale.
206. The State seeks costs, under Ind. Code § 24-5-0.5-4(c)(4), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action.
207. The State seeks civil penalties, under Ind. Code § 24-5-0.5-4(g), on Count XV of this Complaint, for the Defendants' knowing violations of Ind. Code § 9-22-3-14(a)(1), Ind. Code § 9-19-9-7, Ind. Code § 24-5-0.5-10, Ind. Code § 24-5-0.5-3(a) and Ind. Code §§ 24-5-0.5-3(b)(1) and (10), payable to the State of Indiana in an amount to be determined at trial.
208. The State seeks civil penalties, under Ind. Code § 24-5-0.5-8, on Count XVI of this Complaint, for Defendants' incurable deceptive acts, payable to the State of Indiana in an amount to be determined at trial.
209. The State seeks civil penalties, under Ind. Code § 9-19-9-7, on Count X of this Complaint, for Defendants' violation of the Federal and Indiana

Odometer Acts, payable to the State of Indiana in an amount to be determined at trial.

210. The State seeks civil penalties, under Ind. Code § 9-32-17-1, on Count XVII of this Complaint, for Defendants' violations of the Motor Vehicle Unfair Practices Act, payable to the State of Indiana in an amount to be determined at trial.
211. The State seeks all other just and proper relief.

Respectfully submitted,

CURTIS T. HILL, JR.
INDIANA ATTORNEY GENERAL
Attorney Number 13999-20

By: /s/ Mark M. Snodgrass
Mark M. Snodgrass
Deputy Attorney General
Attorney Number 29495-49

Office of Attorney General
Indiana Government Center South
302 West Washington St., 5th Floor
Indianapolis, IN 46204
Telephone: (317) 234-6784
Fax: (317) 233-4393
Mark.Snodgrass@atg.in.gov

By: /s/ Jacob Murray
Jacob Murray
Deputy Attorney General
Atty. No. 34129-06

Office of Attorney General
Indiana Government Center South
302 West Washington St., 5th Floor
Indianapolis, IN 46204
Telephone: (317) 234-7104
Fax: (317) 233-4393
Jacob.Murray[atg.in.gov]

