

STATE OF INDIANA
IN THE MARION COUNTY CIRCUIT/SUPERIOR COURT

CAUSE NO. _____

STATE OF INDIANA,

Plaintiff,

v.

SCOTT KEEN,

Defendant.

**COMPLAINT
FOR INJUNCTION, CIVIL
PENALTIES, AND COSTS**

I. INTRODUCTION

1. The State of Indiana, by Attorney General Curtis T. Hill, Jr. and Deputy Attorney General Mark M. Snodgrass, commences this civil action under the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1 *et seq.*, for injunctive relief, civil penalties, costs, and other relief.
2. The Defendant, Scott Keen, has engaged in a scheme to sell motor vehicles without the proper license as required by Indiana law. Under Indiana law, an individual is prohibited from selling, or advertising for sale, more than twelve motor vehicles within a twelve month period without first obtaining a motor vehicle dealer license issued by the Indiana Secretary of State. Keen does not possess a dealer license issued by the Indiana Secretary of State. Keen has advertised and sold hundreds of motor vehicles to Indiana consumers, despite not having a license to do so. On April 8, 2019, the Indiana Secretary of State issued to Keen an Order to Cease and Desist his unlicensed advertising and

selling of motor vehicles. Since the issuance of the Order to Cease and Desist, Keen has continued to advertise and sell a significant number of motor vehicles without a valid dealer license. Keen's actions are unfair, abusive, and deceptive, and constitute violations of Indiana's Deceptive Consumer Sales 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. The defendant, Scott Keen ("Keen"), is an individual engaged in the sale of used motor vehicles to Indiana consumers, with a principal place of business in Marion County, located at 1608 E. Southern Avenue, Indianapolis, Indiana 46203.

III. FACTS

5. Under Ind. Code § 9-32-11-1(a)(3), all motor vehicle dealers operating within the State of Indiana must obtain a dealer license from the Indiana Secretary of State ("SOS").
6. Ind. Code § 9-32-2-9.6(a) defines a "dealer" as "a person that (1) sells; (2) offers to sell; or (3) advertises for sale; including directly by the internet or another computer network, at least twelve (12) motor vehicles within a twelve (12) month period."
7. Keen has never held an Indiana dealer license issued by the SOS.

8. Keen has posted numerous advertisements on Facebook attempting to acquire used vehicle inventory, offering cash in exchange for vehicles which are functioning and have clean titles.
9. Keen has advertised as “for sale” hundreds of vehicles on Facebook.com.
10. A significant number, if not all, of those vehicles were subsequently sold by Keen to Indiana consumers.
11. Keen advertises his vehicles on Facebook with the phrase and hashtag “Cash is Keen.”
12. On April 8, 2019, the SOS issued Keen an Order to Cease and Desist. A true and accurate copy of the Order to Cease and Desist is attached and marked as Exhibit 1.
13. The Order to Cease and Desist ordered Keen to “cease and desist from selling, offering to sell, or advertising to sell motor vehicles without a license issued by the Division as required by Ind. Code § 9-32-11-1.”
14. Since being served with the Order to Cease and Desist, Keen has continued to advertise and sell motor vehicles, in direct defiance of the Order to Cease and Desist.
15. Since April 8, 2019, the day the Order to Cease and Desist was issued, Keen has posted new Facebook advertisements for over 75 vehicles he is offering for sale.
16. Keen did not intend to apply for and obtain a dealer license from the SOS, nor is Keen eligible to obtain a dealer license from the SOS.

17. In many of Keen's Facebook advertisements for vehicle sales, Keen references "Remarketing 2222 LLC," apparently in reference to the entity selling the vehicle being advertised.
18. Remarketing 2222 LLC is not an Indiana limited liability company, nor does Remarketing 2222 LLC have a certificate to conduct business in Indiana.
19. Since May 1, 2019, Keen has been employed by a licensed Indiana motor vehicle dealer but has continued to advertise and sell motor vehicles from his own property, sales which are unaffiliated with the licensed dealer.

IV. CAUSES OF ACTION

COUNT I:

VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT- SELLING VEHICLES WITHOUT A DEALER LICENSE

20. The State realleges Paragraphs 1 through 19 of this Complaint.
21. Keen is "supplier" under Ind. Code § 24-5-0.5-2(3).
22. Keen solicited and engaged in "consumer transactions" under Ind. Code § 24-5-0.5-2(1).
23. Keen committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(a) by advertising for sale, and selling, motor vehicles without a license required by law.
24. Keen committed deceptive acts violating Ind. Code § 24-5-0.5-10(a)(1)(A) by soliciting to engage in consumer transactions for the sale of motor vehicles without a dealer license required by Ind. Code § 9-32-11-1.

25. Keen committed deceptive acts violating Ind. Code § 24-5-0.5-10(a)(1)(B) by soliciting to engage in consumer transactions for the sale of motor vehicles without a dealer license required by Ind. Code § 9-32-11-1, without intending or being eligible to obtain such a license.
26. Keen committed deceptive acts violating Ind. Code § 24-5-0.5-10(a)(1)(C) by engaging in consumer transactions for the sale of motor vehicles without a dealer license required by Ind. Code § 9-32-11-1.

COUNT II:
VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT-
USE OF UNREGISTERED LLC

27. The State realleges Paragraphs 1 through 26 of this Complaint.
28. Keen committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(a) by implying a non-registered LLC, Remarketing 2222 LLC, was the seller of vehicles referenced in various Facebook advertisements.

COUNT III:
KNOWING VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

29. The State realleges Paragraphs 1 through 28 of this Complaint.
30. Keen committed the deceptive acts asserted in this Complaint with knowledge of his deceptive acts.

COUNT IV:
INCURABLE DECEPTIVE ACTS

31. The State realleges Paragraphs 1 through 30 of this Complaint.

32. The deceptive acts asserted in this Complaint are incurable deceptive acts and were committed by Keen as part of a scheme, artifice, or device with intent to defraud or mislead.

V. RELIEF

33. The State requests the Court enter judgment against Scott Keen for the relief described in Paragraphs 34 through 38 of this Complaint.

34. The State seeks a permanent injunction, under Ind. Code § 24-5-0.5-4(c)(1), enjoining Scott Keen, and his agents, representatives, employees, successors, and assigns, from:

34.1. advertising, in any medium, including online, the sale of any vehicle, other than a personal vehicle titled in Keen's own name, without first obtaining an Indiana motor vehicle dealer license;

34.2. selling any vehicle, other than a personal vehicle titled in Keen's own name, without first obtaining an Indiana motor vehicle dealer license;

34.3. selling more than three (3) personal vehicles, titled in Keen's own name, within a single calendar year;

34.4. referencing any corporation, LLC, or other entity in any advertisements that is not properly registered to do business in Indiana; and

34.5. 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).

35. 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.
36. The State seeks civil penalties, under Ind. Code § 24-5-0.5-4(g), on Count III of this Complaint, for Keen's knowing violations of Ind. Code § 24-5-0.5-3(a) and Ind. Code § 24-5-0.5-10, payable to the State of Indiana in an amount to be determined at trial.
37. The State seeks civil penalties, under Ind. Code § 24-5-0.5-8, on Count IV of this Complaint, for Keen's incurable deceptive acts, payable to the State of Indiana in an amount to be determined at trial.
38. The State seeks all other just and proper relief.

Respectfully submitted,

CURTIS T. HILL, JR.
INDIANA ATTORNEY GENERAL
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