

STATE OF MAINE
Penobscot, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-84-461

FILED AND ENTERED

DATE: 1/28/85

ATTEST: *Madelyn M. Tipton*

CLERK

STATE OF MAINE

PLAINTIFF

v.

CONSENT DECREE

DAVID LAWLER
d/b/a DAVE'S AUTO SALES

DEFENDANT

1. This matter is before the Court on the Plaintiff's Complaint seeking a Permanent Injunction prohibiting the Defendant from violating the Maine Unfair Trade Practices Act (5 M.R.S.A. §§206-214) in the sale of used cars for transportation to consumers. The State also is seeking restitution, including repairs, for injured consumers.

2. The Defendant admits to committing the following unfair trade practices:

A. selling for transportation used motor vehicles that do not meet the inspection standards established in 29 M.R.S.A. §§2502-2503 (Supp. 1984);

B. failing to affix a valid certificate of inspection issued during the last 30 days prior to the date a used motor vehicle is sold for transportation, as required by 29 §2507-A (Supp. 1984);

C. failing to affix to a used motor vehicle a written disclosure statement describing the vehicle's history, as required by the Used Car Information Act 10 M.R.S.A. §1475 (1980 & Supp. 1984); and

D. excluding the warranty of inspectability by stamping on the bill of sale AS IS NOT FOR ROAD USE when selling used motor vehicles for transportation, as prohibited by 10 M.R.S.A. §1474(2) (1984).

3. The Defendant further admits that the following consumers were injured by one or more of the above unfair trade practices:

- A. Jeffrey Moody, 46 Patten Street, Bangor, Maine 04401; purchase date: 9/14/84.
- B. Donna Petersen, 7 Union Place, Bangor, Maine 04401; purchase date: 8/27/84.
- C. Andrew Rolfe, General Delivery, Milbridge, Maine 04658; purchase date: 8/10/84.
- D. Laurie Raymond, 253 Union Street, Bangor, Maine 04401; purchase date: 4/18/84.
- E. Brian Goggins, 319 Fourteenth Street, Bangor, Maine 04401; purchase date: 4/9/84, 4/10/84.
- F. Joseph LaBree, 76 Lincoln Street, Old Town, Maine 04468; purchase date: 3/5/84.
- G. Ruth Raymond, 602 South Main Street, Brewer Maine 04412; purchase date: 2/10/84.
- H. James Troutman, 47 North Main Street, Brewer, Maine 04412; purchase date: 12-3-83.
- I. Jason Farnsworth, Hancock Heights #20, R.F.D.#4, Ellsworth, Maine 04605; purchase date: 12-14-83.

- J. Rev. Wilbur E. Strout, 37 Water Street, Rockland, Maine 04841; purchase date: 7/21/83.
- K. David Roy, 423 Union Street, Bangor, Maine 04401; purchase date: 7/13/83.
- L. Terry Anne Cote Ross, 26A Sixth Street, Bangor, Maine; purchase date: 3/24/83.
- M. Diane Cote, P. O. Box 591, Milford, Maine 04461; purchase date: 12/30/83.
- N. Gregory Boober, 80 Sunset Avenue #804, Bangor, Maine 04401; purchase date: 10/5/82.
- O. Betty Lawson, 114 Langley Street, Bangor, Maine 04401; purchase date: 2/23/84.
- P. Aubrey Strout, Box 53, Hudson, Maine 04449; purchase date: 11/5/83.

4. **THEREFORE**, the Court finds the Defendant's above trade practices are in violation of the Unfair Trade Practices Act (5 M.R.S.A. §§206-214 (1979 & Supp. 1984-85) and have injured the consumers listed above in paragraph 3 (A-P).

5. The Court now orders that the Defendant and his officers, agents, servants, employees and all persons in active concert or participation with him are hereby permanently enjoined pursuant to 5 M.R.S.A. §209 (Supp. 1984-85) from committing the following unfair and deceptive sales practices:

A. selling for transportation used motor vehicles that do not meet the inspection standards established in 29 M.R.S.A. §§2502-2503 (Supp. 1984);

B. failing to affix a valid certificate of inspection issued during the last 30 days prior to the date a used motor vehicle is sold for transportation, as required by 29§ 2507-A (Supp. 1984);

C. failing to affix to a used motor vehicle a written disclosure statement describing the vehicle's history, as required by the Used Car Information Act 10 M.R.S.A. §1475 (1980 & Supp. 1984); and

D. excluding the warranty of inspectability when selling used motor vehicles for transportation, as prohibited by 10 M.R.S.A. §1474(2) (1984).

6. Penalties for violations by the Defendant of this permanent injunction shall be in accordance with 5 M.R.S.A. §209.

7. The Court further orders that the Defendant provide restitution, including repair, in accordance with the following schedule:

A. No later than Friday, February 8, 1985 the Defendant and the State will agree upon a car appraiser located in the Bangor area to determine the current market value of cars sold by the Defendant to listed consumers. The Defendant and the State will select this appraiser from five names submitted by the Maine Automobile Dealers Association, Augusta, Maine 04330.

B. No later than March 1, 1985 any injured consumer listed below in sub-paragraph 7(C) can meet with the selected appraiser and determine the current fair market value of the car sold to them by the Defendant. At that time the appraiser can also estimate the cost of any repairs that were or are necessary to make the consumer's car eligible to pass the State inspection standards set forth at 29 M.R.S.A. §2503. This repair estimate shall be limited to repairs likely needed at the time the Defendant sold the car to the consumer. Each consumer accepting this remedy is free to elect either to return the car to the Defendant and receive its fair market value or keep their car and receive the cost of their inspection-related repairs.

C. The consumers eligible for the restitution, including repair, described above in sub-paragraph B are:

Terry Anne Cote Ross

Jason Farnsworth

Brian Goggins

Joseph LaBree

Ruth Raymond

David Roy

Aubrey Strout

Rev. Wilbur E. Strout

D. The following consumers shall be reimbursed by the Defendant for the costs of repairing their cars in order to

meet State inspection standards in the following amounts:

Jeffrey Moody no more than \$370.00

Andrew Rolfe \$279.00

Donna Petersen \$70.00

Further, consumer Laurie Raymond will receive \$426.00 restitution. The Defendant shall pay the restitution listed in this sub-paragraph, as well as the repair costs of the consumers listed in sub-paragraph C, in payments of \$100.00, per month, beginning February 15, 1985, with additional payments made on the 15th day of each succeeding month. The Department of the Attorney General shall distribute this restitution to the named consumers in a timely manner at its discretion.

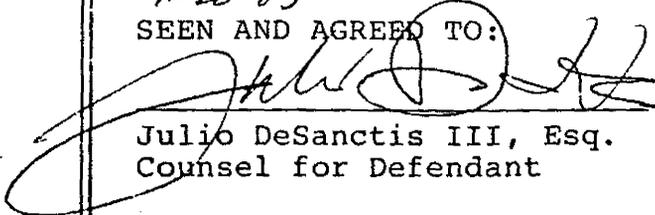
E. No later than Friday, March 8, 1985 the Attorney General will submit an affidavit to the Court for an execution of judgment listing the consumers who have chosen restitution in this matter and the amounts they are to receive.

8. The Defendant is further ordered to pay the State's investigative costs in this matter of \$1,000.00.

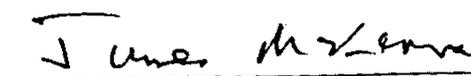
9. The parties to this agreement may apply to this Court for further orders in order to insure the payment of the restitution, including repairs, set forth above.

Dated: 1/2

1-28-85
SEEN AND AGREED TO:


Julio DeSanctis III, Esq.
Counsel for Defendant


Justice, Superior Court


James McKenna, Esq.
Assistant Attorney General