

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA ex rel.
PATRICK MORRISEY, ATTORNEY GENERAL,

Plaintiff,

v.

Civil Action No. 18-C-454

Judge Bailey

KAREN LEE RICHMOND a/k/a KAREN LEE HODGES;
BRIAN RICHMOND; COREY SMITH;
GLENVILLE RATLIFF
d/b/a MAPLEWOOD AUTO SALES;
RICHMOND'S QUALITY CARS, LLC;
and CMS PRE-OWNED AUTO SALES, LLC

Defendants.

COMPLAINT FOR INJUNCTION, CONSUMER
RESTITUTION, DISGORGEMENT, CIVIL PENALTIES,
AND OTHER EQUITABLE RELIEF

Plaintiff, the State of West Virginia ex rel. Patrick Morrissey, Attorney General ("the State" or "Attorney General"), files this Complaint asking the court to temporarily and permanently enjoin the above-named Defendants, Karen Lee Richmond, also known as Karen Lee Hodges, Brian Richmond, Corey Smith, Glenville Ratliff d/b/a Maplewood Auto Sales, Richmond's Quality Cars, LLC, and CMS Pre-Owned Auto Sales, LLC (collectively "Defendants"), from violating the West Virginia Consumer Credit and Protection Act ("WVCCPA"), W. Va. Code §§ 46A-1-101 *et seq.*, and other applicable consumer protection laws and regulations. The State also asks that this court enter a final order finding that the Defendants engaged in a course of repeated and willful violations of the WVCCPA and awarding the State consumer restitution, disgorgement of ill-gotten gains, civil penalties and

such other equitable relief as may be necessary to secure complete justice for the public as authorized by W. Va. Code § 46A-7-108.

I. INTRODUCTION

1. In 2017, both the Attorney General and the West Virginia Division of Motor Vehicles (“DMV”) opened investigations of the Defendants after receiving complaints and other information that Karen Lee Richmond a/k/a Karen Hodges and Brian Richmond (“the Richmonds”) were selling used motor vehicles at a lot they were leasing in Cross Lanes, West Virginia. Further investigation disclosed that the Richmonds do not have, never had, and, based on the conduct revealed to the DMV during the investigation, never will have a dealer license from the DMV. The Richmonds have continued to sell vehicles at Cross Lanes and possibly other physical locations as of the date of this Complaint despite repeated cease and desist orders from the DMV.

2. Defendants Corey Smith and Glenville Ratliff owned previously licensed used car dealerships in Huntington and Lewisburg, respectively, and aided the Richmonds in this unlawful scheme by permitting them to buy used motor vehicles in the names of their licensed dealerships at auctions. The Richmonds subsequently sold the vehicles under the guise of Richmond’s Quality Cars at Cross Lanes and Corey Smith and Glenville Ratliff received a commission or other valuable consideration in violation of DMV Rules. As such, Smith and Ratliff have engaged in a joint enterprise with the Richmonds and are directly and vicariously liable for their unlawful actions.

3. Consumers who purchased vehicles from the Richmonds’ unlicensed dealership at Cross Lanes have been aggrieved by numerous other violations of the WVCCPA, including but not limited to, inability to obtain titles; sales of vehicles “as is;” unsafe

vehicles that will not pass inspection; fraudulent inspection stickers; misrepresentations about the mileage on the odometer, past repairs, and accident history of the vehicles; and unlawful repossessions.

4. Unless this court issues an injunction, the public will continue to be harmed by the unlawful sale of vehicles by the Defendants and other persons as yet unknown whom the Defendants may enlist to assist them in this unlawful enterprise.

II. PARTIES

The Plaintiff

5. Plaintiff Patrick Morrissey is the Attorney General of the State of West Virginia and is empowered to enforce the provisions of the WVCCPA, W. Va. Code §§ 46A-1-101 *et seq.*, including the provisions that govern the sale and financing of used motor vehicles.

The Defendants

Defendant Karen L. Richmond

6. Defendant Karen Lee Richmond, who is also known as Karen Lee Hodges, currently resides at 2 Fowler Drive, Saint Albans, Kanawha County, West Virginia 25177.

7. Ms. Richmond is the sole Member of Defendant Richmond's Quality Cars, LLC ("Richmond's QC") and is a Member of CMS Pre-Owned Auto Sales, LLC, ("CMS") along with Corey Smith.

8. Based on information obtained by the DMV, Ms. Richmond has a history of charges and convictions for crimes of fraud and dishonesty, including felony fraudulent schemes, worthless checks, obtaining controlled substances under false pretenses, and forgery of credit cards. Ms. Richmond currently has nine (9) active warrants for worthless checks.

9. Ms. Richmond is not now and has never been licensed by the DMV as a used motor vehicle dealer or salesperson.

10. Ms. Richmond applied for a license from the DMV to act as a salesperson for Glenville Ratliff d/b/a Maplewood Auto Sales, which was denied by the DMV on September 5, 2017. The DMV's Denial of Salesperson License is attached hereto as Exhibit 1 and incorporated by reference herein.

11. Ms. Richmond applied for a license from the DMV to operate a proposed used motor vehicle dealership using the trade name Richmond's Quality Cars, which was denied by the DMV on September 12, 2017. The DMV's Denial of Motor Vehicle License is attached hereto as Exhibit 2 and incorporated by reference herein.

Defendant Brian Richmond

12. Defendant Brian Richmond resides with Defendant Karen Lee Richmond at 2 Fowler Drive, Saint Albans, Kanawha County, West Virginia 25177.

13. Based on information obtained by the DMV, Mr. Richmond has a history of charges and convictions for various crimes, including daytime burglary, auto tampering, possession of a firearm by a convicted felon, and battery.

14. Mr. Richmond is not now and has never been licensed as a used motor vehicle dealer by the DMV.

15. Mr. Richmond applied for a license from the DMV to act as a salesperson for Glenville Ratliff d/b/a Maplewood Auto Sales, which was denied by the DMV on October 26, 2017. The DMV's Final Order denying a salesperson license to Brian Richmond is attached hereto as Exhibit 3 and incorporated by reference herein.

Defendant Corey Smith

16. Defendant Corey Smith's last known address was 48 Private Drive 13567, Chesapeake, Ohio 45619.

17. Defendant Corey Smith was the owner of CMS Pre-Owned Auto Sales, LLC ("CMS"), a licensed used car dealership previously located in Huntington, Cabell County, West Virginia.

18. Defendant Corey Smith's license to operate a used motor vehicle dealership was revoked by the DMV on December 5, 2017. The DMV's Order Revoking Dealer License Certificate is attached hereto as Exhibit 4 and incorporated by reference herein.

Defendant Glenville Ratliff

19. Defendant Glenville Ratliff currently resides at HC 81, Box 264AB, Lewisburg, Greenbrier County, West Virginia 24901.

20. Glenville Ratliff was the sole proprietor of Maplewood Auto Sales ("Maplewood"), previously located at 144 Maplewood Avenue, Lewisburg, Greenbrier County, West Virginia 24901.

21. Glenville Ratliff submitted a document dated March 3, 2017, to the DMV designating Defendant Brian Ratliff as a person authorized to make assignment of titles and transact business with the DMV for Maplewood. See DMV document attached hereto as Exhibit 5 and incorporated by reference herein. Glenville Ratliff also listed Brian Ratliff on Maplewood's Dealer Plate Log dated March 16, 2017, filed with the DMV. See document attached hereto as Exhibit 6 and incorporated by reference herein.

22. Glenville Ratliff's license to operate Maplewood as an active used motor vehicle dealer expired on July 1, 2017, and was permanently revoked by the DMV on November 14,

2017. The DMV's Order Revoking Dealer License Certificate is attached hereto as Exhibit 7 and incorporated by reference herein.

Defendant Richmond's Quality Cars, LLC

23. Defendant Richmond's QC is a limited liability company that was originally established by its sole Member, Karen Lee Richmond, on January 12, 2017, for the purpose of engaging in the business of a used motor vehicle dealer. Richmond's QC's Certificate of Limited Liability Company and Articles of Incorporation are attached hereto as Exhibits 8 and 9, respectively, and incorporated by reference herein.

24. Although neither Karen Richmond nor Brian Richmond had a used motor vehicle dealer license from the DMV, Karen Richmond and Brian Richmond engaged in the sale of used motor vehicles under the trade name Richmond's Quality Cars or Richmond Quality Used Cars at 5165 Big Tyler Road, Cross Lanes, Kanawha County, West Virginia 25313 at all times pertinent hereto. The Certificate of Registration of Trade Name, effective March 28, 2017, is attached hereto as Exhibit 10 and incorporated by reference herein.

25. On November 14, 2017, Richmond's QC changed its company name from Richmond's Quality Cars, LLC to CMS Pre-Owned Auto Sales, LLC and added Defendant Corey Smith as a Member along with Karen Richmond. The Certificate of Amendment to Articles of Organization, the Articles of Amendment to Articles of Organization, and other records memorializing this action are attached hereto as Exhibits 11, 12, and 13, respectively, and incorporated herein.

26. At the request of Karen Richmond, the West Virginia State Tax Department issued a Business Registration Certificate to the newly-renamed CMS Pre-Owned Auto Sales, LLC effective November 14, 2017, that listed its new physical location as 5165 Big Tyler Road, Cross

Lanes, Kanawha County, West Virginia 25313, the same location where the Richmonds have been operating Richmond's Quality Cars at all times pertinent hereto. The Business Registration Certificate is attached hereto as Exhibit 14 and incorporated by reference herein.

27. At the time of Richmond's QC's change of name to CMS and change of CMS's previous location from Huntington to Cross Lanes, Corey Smith and CMS no longer had a dealer license from the DMV. As noted above, Karen Richmond and Richmond's QC never had a dealer license from the DMV.

Defendant CMS Pre-Owned Auto Sales, LLC

28. Defendant CMS was established as a limited liability company by Corey Smith and Megan Sites,¹ its sole Members, on May 31, 2017, and engaged in the business of a used motor vehicle dealership at 245 Washington Avenue, Huntington, Cabell County, West Virginia 25701. See CMS's Certificate of Organization and Articles of Organization of Limited Liability Company attached hereto as Exhibits 15 and 16, respectively, and incorporated by reference herein.

29. Defendant Corey Smith terminated CMS as a limited liability company on September 1, 2017. See document terminating CMS attached hereto as Exhibit 17 and incorporated by reference herein.

30. CMS had a license from the DMV to operate as a used motor vehicle dealership but it was revoked on December 5, 2017. See Exhibit 4, *supra*.

III. APPLICABLE LAW

31. In 1974 the Legislature enacted the WVCCPA, W. Va. Code §§ 46A-1-101 *et seq.*, which "is a remedial statute intended to protect consumers from unfair, illegal and deceptive

¹ Upon information and belief, Megan Sites was not involved in the unlawful actions that are the subject of this Complaint. Therefore, she is not listed as a defendant in this action.

business practices and must be liberally construed to accomplish that purpose.” *Fleet v. Webber Springs Owner’s Association*, 772 S.E. 2d 369, 377 (W. Va. 2015).

32. The WVCCPA identifies a wide range of conduct that it deems unlawful in the sale and financing of consumer goods and services, including the sale and financing of used motor vehicles.

33. The WVCCPA contains an all-encompassing, blanket prohibition against “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce . . . ,” W. Va. Code § 46A-6-104. The WVCCPA delineates at least 15 types of conduct that constitute *per se* violations, W. Va. Code § 46A-6-102(7). However, the statutory list is not intended to be all inclusive. *Id.*

34. The list of *per se* unfair or deceptive act or practices under the WVCCPA includes W.Va. Code §46A-6-102(7)(M):

The act, use or employment by any person or any deception, fraud, false pretense, false promise or misrepresentation, or the concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any goods or services, whether or not any person has in fact been misled, deceived, or damaged thereby;

35. In addition to the conduct proscribed by the WVCCPA, the sale of used motor vehicles is also regulated by the DMV and subject to the provisions set forth in W.Va. Code §§ 17A-6-1 *et seq.*, and the DMV’s Legislative Rules found in 91 C.S.R. § 6.

36. No person or corporate entity may engage in the business of a used motor vehicle dealer without first obtaining a license certificate from the DMV, W.Va. Code § 17A-6-3.

37. No person may engage in the business of a licensed motor vehicle salesperson without first obtaining a license from the DMV, W.Va. Code § 17A-6E-3(a).

38. A licensed motor vehicle dealer may not employ any person as a salesperson unless they are licensed by the DMV, W.Va. Code § 17A-6E-3(b).

39. A licensed salesperson may not sell vehicles for more than one dealer without a waiver from the DMV, W.Va. Code § 17A-6E-3(b).

40. A motor vehicle dealer may not place any vehicles on its lot for sale or sell such vehicles unless they have a valid motor vehicle safety inspection decal, W.Va. Code § 17C-16-9.

41. Any person who sells five or more vehicles in a calendar year is presumed to be engaged in the business of a motor vehicle dealership and must have a license from the DMV to lawfully do so, 91 C.S.R. § 6-7.2.

42. A person or company that engages in the business of selling used motor vehicles is a “merchant” as defined by W.Va. Code § 46-2-104(i) of the Uniform Commercial Code and as that term is used generally throughout the WVCCPA.

43. A merchant who is engaged in the sale of used motor vehicles to natural persons for a personal, family, household or agricultural purpose is engaged in “consumer transactions” as defined by W.Va. Code § 46A-6-102, regardless of whether the merchant is licensed as a dealer by the DMV. As such, those transactions are subject to the regulatory authority of the Attorney General under the WVCCPA, regardless of whether the merchant is licensed to sale motor vehicles by the DMV.

44. A merchant who is engaged in the sale of used motor vehicles to consumers is subject to the provisions set forth in the FTC Used Motor Vehicle Trade Regulation Rule ("FTC Used Vehicle Rule"), 16 C.F.R. § 455, which requires car dealers to post a disclosure document called a Buyers Guide in plain view on all used vehicles that are offered for sale to notify consumers about the terms and conditions of the warranty, if any, on the vehicle.

45. A merchant who is engaged in the sale or used motor vehicles to consumers may not sell vehicles "as is" nor may it exclude, modify or otherwise attempt to limit any warranty, express or implied, including the warranties of merchantability and fitness for a particular purpose, nor may it limit any remedy provided by law, including the measure of damages available, for a breach of warranty, express or implied, W. Va. Code § 46A-6-107.

46. A merchant who grants the privilege to consumers of deferring payment of debt for the purchase of goods or services, including used motor vehicles, is engaged in the extension of "credit" as defined by W. Va. Code § 46A-1-102(17).

47. A person or company who makes demands of consumers to make payments on alleged debts arising from consumer transactions is a "debt collector" as defined by W.Va. Code § 46A-2-122(d) and, as such, is subject to the provisions of the WVCCPA governing the collection of alleged debts.

48. Violations of the FTC Used Vehicle Rule, the WVCCPA, the DMV statute and regulations governing the licensing of used motor vehicles, and other state and federal laws intended to protect the public are deemed to be unfair or deceptive acts or practices in violation of W.Va. Code § 46A-6-104.

49. A person or creditor that engages in repeated and willful violations of the WVCCPA is subject to a civil penalty of up to \$5,000.00 for each violation in accordance of W.Va. Code § 46A-7-111(2).

IV. STATEMENT OF FACTS

50. The DMV commenced an investigation of the Richmonds in June, 2017, after receiving a phone call from Brett Childress, Investigator, and West Virginia State Police, who reported that the Richmonds sold a 2004 F-150 truck at their lot in Cross Lanes to Kelsey Drennen of Elkview. The vehicle did not have a valid West Virginia inspection sticker, it was

unsafe to drive, and it could not pass a legitimate state motor vehicle inspection due to excessive rust throughout the vehicle and other mechanical problems.

51. The report from Brett Childress was brought to the attention of Phillip T. Faulkner of the DMV, who undertook to investigate the complaint. On July 19, 2017, Mr. Faulkner visited the lot where Ms. Drennen's vehicle was purchased, a business called Richmond's Quality Used Cars, located at 5165 Big Tyler Road, Cross Lanes, West Virginia. During his visit, Mr. Faulkner interviewed Karen Richmond and Brian Richmond, who represented that they owned and operated the car lot.

52. The Richmonds explained that the truck they sold to Ms. Drennen was sold on behalf of Glenville Ratliff, the owner of Maplewood in Lewisburg. Mr. Faulkner explained that Maplewood was not an active dealer at the time and, even if it was, Maplewood could not sell vehicles at any location other than the lot in Lewisburg approved by DMV. Sales at other locations, known as "off premises" sales, are not permitted by DMV Rules.

53. During his interview with the Richmonds, Mr. Faulkner also ascertained that neither Karen Richmond nor Brian Richmond had a dealer license from the DMV to sell used motor vehicles. Therefore, he ordered them to cease and desist from all further unlicensed sales on that day and provided them with a copy of the statute, W.Va. Code § 17A-6-3(1), that prohibits such sales. The DMV issued a formal cease and desist order to Karen Richmond on November 16, 2017, which is attached hereto as Exhibit 18 and incorporated by reference herein.

54. Mr. Faulkner also urged the Richmonds to make a full refund of the \$3,160.00 that they received from Ms. Drennen for the unsafe vehicle. Ms. Drennen promptly returned the vehicle but the Richmonds never made the refund. Mr. Faulkner later learned that Karen Richmond wrote two checks for \$3,160.00 to Poca Valley Bank that were to be applied towards

Ms. Drennen's loan account, but both checks bounced. See Bank records confirming that checks for \$3,100.00 and \$3,160.00 on June 25 and August 11, 2017, were dishonored, attached as Exhibit 19 and incorporated by reference herein.

55. In the months that followed, Mr. Faulkner repeatedly directed the Richmonds to cease and desist from any further sales without a license as a dealer during multiple visits to their Cross Lanes lot. Mr. Faulkner's continuing investigation of the Richmonds is memorialized in the Affidavit of Phillip T. Faulkner ("Faulkner Affidavit"), which is attached hereto as Exhibit 20 and incorporated by reference herein.

56. Mr. Faulkner found that the Richmonds continued to make unlawful sales from their Cross Lanes car lot. Faulkner Affidavit. For example, during his inspections of the Richmonds' Cross Lanes lot in 2017, Mr. Faulkner found: 11 vehicles for sale on July 19; multiple vehicles for sale on August 8; four motorcycles for sale on August 11; and 27 vehicles for sale on September 8.

57. During each visit to the Richmonds' lot in Cross Lanes, Mr. Faulkner again admonished the Richmonds whenever they were present to cease and desist from all further sales.

58. In addition to documentation of sales by visual inspections, review of sales documents, and interviews with purchasers, the Richmonds' sales were documented by almost daily postings of vehicles for sale by Karen Richmond on Facebook throughout 2017. Faulkner Affidavit.

59. An extensive examination of Facebook postings by Karen Richmond and/or Richmond Quality Cars was conducted by Tyson Mitchell an Investigator with the Attorney General's Consumer Protection Division.

60. Based upon this examination, Mr. Mitchell found: (a) The Richmonds posted 71 vehicles for sale on Facebook between May 21, 2017, and January 22, 2018; (b) Of the 71 vehicles posted, at least 32 vehicles were subsequently listed as having been sold; and (c) By adding up the reported sales prices for vehicles represented to have been sold (not including vehicles reportedly sold more than once), the Richmonds grossed \$132,622.00 in proceeds from sales during this period. See Affidavit of Tyson C. Mitchell ("Mitchell Affidavit") attached hereto as Exhibit 21, including Exhibits 21A and 21B, and incorporated by reference herein.

61. Mr. Mitchell also prepared a spreadsheet to illustrate his findings that contain the following information for each Facebook posting: (a) date of posting; (b) make and model of vehicle posted for sale; (c) color of vehicle; (d) posted sales price; (e) date of sale (if vehicle was sold); and (g) actual sales price. See spreadsheet attached as Exhibit 21A to Mitchell Affidavit.

62. During Mr. Faulkner's earliest encounter with Karen Richmond, she advised that she was in the process of becoming a licensed dealer through the DMV. However, the DMV denied her applications for salesperson and dealer licenses on September 5 and September 12, 2017, respectively. See Exhibits 1 and 2, *supra*.

63. Ms. Richmond's application for a license was denied in part because of her long history of charges and convictions for crimes of dishonesty, and because she failed to disclose these charges in her applications.

64. Throughout his investigation, Mr. Faulkner documented the presence of vehicles for sale on the Richmonds' lot through photographs and recording of the vehicles' VIN numbers. Using DMV records, he was able to identify the subsequent purchasers and contacted them for personal interviews whenever possible.

65. The identities of these persons, the vehicles they purchased, the dates of purchase, and the amounts they paid for the vehicles are memorialized in the Faulkner Affidavit.

66. Mr. Faulkner learned through DMV and other sales records that the Richmonds acquired most of the vehicles they sold by buying them at auctions as agents for Corey Smith of CMS and Glenville Ratliff of Maplewood, dealers whose licenses are now revoked. See Exhibits 4 and 7, *supra*. Although licensed dealers may authorize licensed salespersons to buy and sell vehicles in the names of their dealerships, those vehicles may only be sold at the licensed dealership's approved location (in this case Huntington or Lewisburg) and not at Cross Lanes or any other locations. Such sales are known as "off premises" and are not permitted by DMV rules. See Faulkner Affidavit.

67. As of this date, the Attorney General and the DMV together have received numerous formal complaints arising from sales by the Defendants dating back to March, 2017. Each of the complainants and all other persons who purchased used motor vehicles from the Richmonds at their Cross Lanes locations are entitled to a full rescission of their sale because the Richmonds were not licensed as salespersons or as a motor vehicle dealer by the DMV.

68. The complaints filed with the Attorney General and the DMV disclose that persons who purchased the vehicles were also harmed by a wide range of other violations of the WVCCPA. These violations are evidenced by the following representative sample of complainants that is provided for illustrative purposes.

Complaint of Chrystal May, Chapmanville, WV, filed April 11, 2017

69. Chrystal May purchased a 2005 Chevrolet Equinox for \$2,677.50 from Brian Richmond at A&B Auto Auction in Saint Albans on behalf of Maplewood on March 16, 2017. See Buyer Invoice and Bill of Sale attached hereto as Exhibit 22 and incorporated by reference

herein. She was issued a Buyers Guide stating that the vehicle was sold “as is” and had “no warranty.” The Buyers Guide is attached hereto as Exhibit 23 and incorporated by reference herein. She encountered serious mechanical problems with the vehicle right away and the vehicle became inoperable the next day. She contacted Brian Richmond about the vehicle but he told her “You bought it now. It’s yours to worry about.” Ms. May’s money was later refunded after intervention by the Attorney General.

Complaint of Shawn Hayes, Charleston, WV, filed November 3, 2017

70. Mr. Hayes bought a 2007 Jeep Cherokee for \$5,470.00 from Brian Richmond at the Cross Lanes location on June 16, 2017. He learned about the vehicle from a Facebook posting by Brian Richmond. He messaged Mr. Richmond, who directed him to the lot in Cross Lanes where he ultimately purchased the vehicle. Mr. Richmond advised him that the Jeep had approximately 85,000 miles. However, after purchasing the vehicle, he noticed that the first digit of the mileage on the odometer was covered up by black tape. Once he lifted the tape, he saw that the actual mileage was 185,000 and not 85,000. He demanded that the Richmonds refund his money but they refused to do so. Although the vehicle was purchased from the Richmonds at Cross Lanes, the sales documents listed Maplewood as the seller. See Bill of Sale and Buy Here – Pay Here Dealer Affidavit attached hereto as Exhibits 24 and 25, respectively, and incorporated by reference herein (Brian Richmond listed as lienholder).

Complaint of Debbie Wilkerson, Charleston, WV, filed August 11, 2017

71. Ms. Wilkerson purchased a 2004 Mercury Sable from the Richmonds at Cross Lanes for \$2,000.00 on July 3, 2017. She took the vehicle to Monro Muffler/Brake on July 15, 2017, for an oil change and inspection. The mechanic found the vehicle and frame were “rusted

severely” and that the vehicle was “unsafe.” See inspection report from Joe Nenni, Manager, Monro Muffler attached hereto as Exhibit 26 and incorporated by reference herein. Although she purchased the vehicle from the Richmonds at Cross Lanes, the Bill of Sale lists the seller as Maplewood. See Bill of Sale attached hereto as Exhibit 27 and incorporated by reference herein.

Complaint of Kelsey Drennen, Elkview, WV, filed September 14, 2017

72. Ms. Drennen purchased a 2000 Ford F-150 truck from the Richmonds at Cross Lanes for \$3,790.02 on April 5, 2017. See Bill of Sale listing Richmond’s Quality Cars, LLC as the seller attached hereto as Exhibit 28 and incorporated by reference herein. The vehicle did not have a current inspection sticker so she brought it to a station for inspection. The inspector was so concerned about the condition of the vehicle that he contacted Brett Childress of the West Virginia State Police, who conducted his own inspection. Mr. Childress noted that the vehicle had a rear spring hanger that was held together with a wire, excessive amount of rust through the vehicle, and other mechanical problems, all of which rendered the vehicle unsafe to drive. Despite the Bill of Sale, DMV records listed the actual seller as Maplewood.

73. Both the Attorney General and Mr. Faulkner of the DMV urged Karen Richmond to rescind the sale and refund the \$3,160.00 that Ms. Drennen had borrowed from the Poca Valley Bank to pay for the car. Ms. Richmond agreed to do so and Ms. Drennen promptly returned the vehicle. However, Ms. Richmond never made the refund as promised. Instead, Ms. Richmond issued two checks for \$3,160.00 to Poca Valley Bank that were to be applied to Ms. Drennen’s account. Both checks bounced. See Exhibit 19, *supra*. As a result, Ms. Drennen is without a vehicle but must still repay the bank loan.

Complaint of April Pitts, Charleston, WV, filed January 1, 2018

74. April Pitts purchased a 2005 Nissan Altima for \$2,800.00 from the Richmonds at the Cross Lanes lot on September 15, 2017. The Bill of Sale indicated that the actual seller of the vehicle was Lemons Used Car Sales WDR & Repair Service, LLC of Lewisburg, which was the previous trade name for Maplewood, the dealership owned by Glenville Ratliff in Lewisburg. See Bill of Sale attached hereto as Exhibit 29 and incorporated by reference herein. As of this date, the title has not been transferred to Ms. Pitts.

Complaint of Rachel D. Thomas, Saint Albans, WV, filed December 14, 2017

75. Rachel D. Thomas purchased a 2000 Volkswagen Beetle on October 25, 2017, for \$2,800.00 from the Richmonds who were then doing business as CMS at the same Cross Lanes location. She made a down payment of \$1,500.00 and was to pay the \$1,300.00 balance in 6 ½ payments of \$200.00 per month. See Buy Here – Pay Here Affidavit (listing Karen Richmond as lienholder) attached hereto as Exhibit 30 and incorporated by reference herein. Her purchase was induced by a Facebook posting by the Richmonds that listed the vehicle for sale.

76. The vehicle did not have a valid inspection sticker at the time of sale, but Karen Richmond promised to obtain one if she would leave the vehicle with her. When she picked up the vehicle on October 31, 2017, it had an inspection sticker. However, the tail light was loose and it was evident that the vehicle would not have passed a legitimate inspection.

77. On November 2, Ms. Thomas reported that the dashboard lit up “like a Christmas tree” and the vehicle broke down on the highway. A passerby with mechanical knowledge stopped to assist her and discovered that the hood was tied down with a zip tie.

78. On November 3, she called AAA and had the vehicle towed to the Richmonds’ lot and asked that it be repaired or that her money be refunded. The Richmonds never repaired the

vehicle or refunded her money. As of this date, Ms. Thomas paid \$1,650.00 for a vehicle that was never safe to drive and was returned to the Richmonds, where it has likely been resold to another innocent consumer.

79. Upon the basis of these and other complainants, the Defendants engaged in a wide range of additional violations of the WVCCPA in the sales of vehicles by the Richmonds at the Cross Lanes locations, including but not limited to the following: (a) failing to post Buyers Guides on vehicles offered for sale as required by the FTC; (b) selling vehicles without a valid safety inspection sticker; (c) selling vehicles that could not pass a legitimate motor vehicle safety inspection and are unsafe to drive; (d) selling vehicles with serious mechanical defects at the time of sale and refusing to make repairs when reported by consumers, essentially selling vehicles “as is”; (e) making material misrepresentations about the condition, service, and accident history of the vehicle; (f) misleading consumers about the mileage on the odometer; and (g) affixing fraudulent inspection stickers to vehicles.

V. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION (Selling Vehicles without a Dealer License from the DMV)

80. The State reasserts each and every allegation hereinabove in this Complaint as if set forth fully herein.

81. No persons or corporate entities may engage in the sale of used motor vehicles unless they first obtain a dealer license certificate from the DMV, W.Va. Code § 17A-6-3(a).

82. The Defendants Karen Richmond, Brian Richmond, and Richmond’s QC, repeatedly and willfully engaged in the sale of used motor vehicles at a lot they leased at 5165 Big Tyler Road, Cross Lanes, West Virginia and other locations, without a dealer license

certificate from the DMV, and continued to do so after receipt of oral and written cease and desist orders from the DMV.

83. The Defendants Corey Smith, Glenville Ratliff and CMS, for a commission or other valuable consideration, authorized the Richmonds to purchase vehicles in their names from auctions and other sources, knowing that they did not have a dealer license from the DMV and further knowing that the vehicles would be sold off premises at the Cross Lanes location in violation of DMV Rules. As such, they engaged in a joint enterprise and are directly and vicariously liable for the actions of the Richmonds and Richmond's QC as alleged in this Cause of Action.

84. The Defendants, individually and collectively, engaged in an unfair or deceptive act or practice in each instance when a vehicle was sold by Defendants Karen Richmond, Brian Richmond, and Richmond's QC at the Cross Lanes location, in violation of W.Va. Code § 46A-6-104 and W.Va. Code § 46A-6-102(7)(M).

85. The Defendants, by repeatedly and willfully selling vehicles without a dealer license from the DMV, and by participating in a scheme permitting the unlawful sale of vehicles by an unlicensed dealer, engaged in a course of repeated and willful violations of the WVCCPA. As such, they are subject to a civil penalty of up to \$5,000.00 in each instance where an unlawful sale, an attempted sale, or a representation that a sale of a vehicle could be made, as authorized by W.Va. Code § 46A-7-111(2).

**SECOND CAUSE OF ACTION
(Falsely Representing or Advertising that
One is a Licensed Motor Vehicle Dealer)**

86. The State reasserts each and every allegation hereinabove in this Complaint as if set forth fully herein.

87. No persons or corporate entities may represent or advertise that they are engaged or intend to engage in the business of a used motor vehicle dealer without a license from the DMV, W.Va. Code § 46A-6-3(a).

88. The Defendants Karen Richmond, Brian Richmond, and Richmond's QC repeatedly and willfully submitted postings on Facebook listing vehicles for sale at their Cross Lanes location and, in doing so, advertised and represented to the public that they were engaged in the business of a used car dealer without a license to do so from the DMV.

89. The Defendants Corey Smith, Glenville Ratliff, and CMS were engaged in a joint enterprise in which they implicitly authorized the Richmonds to advertise vehicles for sale on their behalf knowing that the vehicles would be sold unlawfully by the Richmonds at their lot in Cross Lanes. As such, they are directly and vicariously liable for the deceptive advertising and representations to the public that induced consumers to purchase vehicles from the Richmonds' unlawful car lot in Cross Lanes.

90. The Defendants, individually and collectively, engaged in a unfair or deceptive act or practice in each instance when vehicles were advertised for sale at Cross Lanes through Facebook postings or other means, in violation of W.Va. Code § 46A-6-104 and W.Va. Code § 46A-2-102(7)(M).

91. The Defendants, by repeatedly and willfully engaging in the actions as alleged in this Cause of Action, are subject to a civil penalty of up to \$5,000.00 for each such instance, as authorized by W.Va. Code § 46A-7-111(2).

THIRD CAUSE OF ACTION
(Selling Vehicles without the
Ability to Convey Title)

92. The State reasserts each and every allegation hereinabove in this Complaint as if set forth fully herein.

93. A merchant engaged in the sale of used motor vehicles, whether licensed by the DMV or not, must, at the time of sale, hold the title or have the ability to transfer the title to the buyer within 60 days from the date of the sale, W.Va. Code § 17A-4-4.

94. The Defendants Karen Richmond, Brian Richmond, and Richmond's QC repeatedly and willfully sold vehicles at their unlicensed lot in Cross Lanes to consumers without physical possession of the title, knowing that they lacked the ability to control the transfer of title, and knowing that they could not guarantee transfer of the title within 60 days or at any time after the sale.

95. The Defendants Karen Richmond, Brian Richmond, and Richmond's QC engaged in an unfair or deceptive act or practice in each instance when they sold a vehicle without physical possession of the title, without the ability to control the transfer of the title, and when they failed to transfer the title to the buyer within 60 days as required by W.Va. Code § 17A-4-4, in violation of W.Va. Code § 46A-6-104 and W.Va. Code § 46A-6-102(7)(M).

96. The Defendants Corey Smith, Glenville Ratliff and CMS are directly and vicariously liable for the actions of Karen Richmond, Brian Richmond, and Richmond's QC in each instance when they engaged in the conduct as alleged in this Cause of Action, in violation of W.Va. Code § 46A-6-104 and W.Va. Code § 46A-6-102(7)(M).

97. The Defendants, individually and collectively, are subject to a civil penalty of up to \$5,000.00 for each instance in which the conduct as alleged in this Cause of Action occurred, as authorized by W.Va. Code § 46A-7-111(2).

**FOURTH CAUSE OF ACTION
(Selling Vehicles in Violation of the
Implied Warranty of Merchantability)**

98. The State reasserts each and every allegation hereinabove in this Complaint as if set forth fully herein.

99. A merchant who is engaged in the sale of used motor vehicles to consumers, whether licensed by the DMV or not, may not sell used motor vehicles “as is,” may not sell vehicles without a current motor vehicle safety inspection sticker, and may not sell vehicles that cannot pass a motor vehicle safety inspection or otherwise fail to honor their obligations to sell vehicles that are merchantable, W.Va. Code § 46A-6-107.

100. The Defendants Karen Richmond, Brian Richmond, and Richmond’s QC repeatedly and willfully sold vehicles “as is,” sold vehicles without valid motor vehicle safety inspection stickers or with fraudulent or altered stickers, sold vehicles with serious mechanical problems such that could not pass a legitimate motor vehicle safety inspection, and failed to repair the mechanical problems present at the time of sale or that occurred shortly after the sale as required by the implied warranty of merchantability.

101. The Defendants Karen Richmond, Brian Richmond, and Richmond’s QC engaged in an unfair or deceptive act or practice in each instance when they engaged in the conduct as alleged in this Cause of Action, in violation of W.Va. Code § 46A-6-107, W.Va. Code § 46A-6-104 and W.Va. Code § 46A-6-102(7)(M).

102. The Defendants Corey Smith, Glenville Ratliff and CMS are directly and vicariously liable for the actions of the Defendants Karen Richmond, Brian Richmond, and Richmond's QC in each instance when they engaged in the conduct as alleged in this Cause of Action while selling a vehicle for or on their behalf at the Cross Lanes location.

103. The Defendants, individually and collectively, are subject to a civil penalty of up to \$5,000.00 for each instance in which they conduct as alleged in this Cause of Action occurred, as authorized by W.Va. Code § 46A-7-111(2).

**FIFTH CAUSE OF ACTION
(Misleading Consumers about
the Condition of Vehicles)**

104. The State reasserts each and every allegation hereinabove in this Complaint as if set forth fully herein.

105. A merchant engaged in the sale of used motor vehicles to consumers, whether licensed by the DMV or not, may not use or employ any deception, fraud, false pretense, false promise or misrepresentation, or concealment, suppression, or make any omission of a material fact with the intent that others rely upon such representations or omissions, in connection with the sale or advertisement of any goods or services, including used motor vehicles, W.Va. Code § 46A-6-102(7)(M).

106. The Defendants Karen Richmond, Brian Richmond, and Richmond's QC repeatedly and willfully made false representations about the conditions of vehicles, including misrepresenting the mileage on the odometer, and omitted material facts about the condition, service, and accident history of vehicles to induce consumers to purchase vehicles from them at their Cross Lanes car lot.

107. The Defendants Karen Richmond, Brian Richmond, and Richmond's QC engaged in unfair or deceptive acts or practices in each instance when they engaged in the conduct as alleged in this Cause of Action, in violation of W.Va. Code § 46A-6-107, W.Va. Code § 46A-6-104, and W.Va. Code § 46A-6-102(7)(M).

108. The Defendants Corey Smith, Glenville Ratliff and CMS are directly and vicariously liable for the actions of the Defendants Karen Richmond, Brian Richmond, and Richmond's QC in each instance when they engaged in the conduct as alleged in this Cause of Action while selling a vehicle for or on their behalf at Cross Lanes.

109. The Defendants, individually and collectively, are subject to a civil penalty of up to \$5,000.00 for each instance in which the conduct as alleged in this Cause of Action occurred, as authorized by W.Va. Code § 46A-7-111(2).

SIXTH CAUSE OF ACTION (Failure to Post Buyers Guides)

110. The State reasserts each and every allegation hereinabove in this Complaint as if set forth fully herein.

111. A merchant engaged in the sale of used motor vehicles, whether licensed as a dealer by the DMV or not, must post a Buyers Guide on each used motor vehicle offered for sale as required by the FTC Used Car Rule.

112. The Defendants Karen Richmond, Brian Richmond, and Richmond's QC, repeatedly and willfully failed to post Buyers Guides on the vehicles they sold at their lot in Cross Lanes.

113. The Defendants Karen Richmond, Brian Richmond, and Richmond's QC engaged in unfair or deceptive acts or practices in each instance when they failed to post Buyers Guides

on used motor vehicles offered for sale as required by the FTC Rule, in violation of W.Va. Code § 46A-6-104 and W.Va. Code § 46A-6-102(7)(M).

114. The Defendants Corey Smith, Glenville Ratliff, and CMS are directly and vicariously liable for the actions of Defendants Karen Richmond, Brian Richmond, and Richmond's QC in each instance when they engaged in the conduct as alleged in this Cause of Action while selling a vehicle for or on their behalf.

115. The Defendants, individually and collectively, are subject to a civil penalty of \$5,000.00 for each instance in which the conduct as alleged in this Cause of Action occurred, as authorized by W.Va. Code § 46A-7-111(2).

VI. PRAYER

WHEREFORE, the State respectfully prays that this court enter an Order:

(a) Immediately and permanently enjoining the Defendants Karen Richmond, Brian Richmond, Corey Smith, Glenville Ratliff, Richmond's QC, and CMS, and any other persons or corporate entities acting for or on their behalf, from engaging in the sale of used motor vehicles at the property located at 5165 Big Tyler Road, Cross Lanes, West Virginia, or at any other physical location, and from advertising or representing to the public that they are engaged in the business of a used car dealer;

(b) Directing the Sheriff of Kanawha County, within 72 hours after entry of the Order, to inspect the property located at 5165 Big Tyler Road in Cross Lanes and any other property in which the Sheriff has reason to believe that the Defendants may be engaging in activity that violates this Order to ensure compliance; and further directing the Sheriff to remove and impound any vehicles for sale that are present on the property and to remove or

destroy any signage indicating that the property is a place of business for a used motor vehicle dealer;

(c) Permanently enjoining all of the Defendants, Karen Richmond, Brian Richmond, Corey Smith, Glenville Ratliff, Richmond's QC, CMS, and any persons or corporate entities acting for or on their behalf, from engaging in the sale of used motor vehicles in any capacity, including but not limited to ownership, operation, management or as a salesperson or employee of a used motor vehicle dealership without the express written approval from the DMV;

(d) Finding that the Defendants, individually, collectively, directly, and vicariously, have engaged in unfair or deceptive acts or practices and other violations of the WVCCPA in each instance when they engaged in the conduct as alleged in this Complaint, or any other acts or practices that violate the WVCCPA that may be determined through discovery;

(e) Finding that the Defendants, individually, collectively, directly, and vicariously, engaged in a course of repeated and willful violation of the WVCCPA and imposing a civil penalty of up to \$5,000.00 for each instance, as authorized by W.Va. Code § 46A-7-111(2);

(f) Finding that all of the sales of vehicles by the Defendants under the circumstances as alleged in this Complaint, or any other acts or practices that violate the WVCCPA that may be determined through discovery, were unlawful, that all such sales must be rescinded, and all amounts received by Defendants from the sales must be disgorged and paid to the State;

(g) That the State make refunds to all aggrieved consumers from the disgorged funds received from the Defendants without regard to whether consumers still have possession of or the ability to return the vehicles;

(h) Authorizing the DMV to release or dissolve any liens that appear on the titles to used motor vehicles sold by the Defendants and to provide clear title to consumers who purchased the vehicles;


(i) Requiring the Defendants to reimburse the State for all of its costs, including attorney's fees, incurred in connection with the investigation and litigation of this matter as authorized by W.Va. Code § 46A-7-108; and

(j) Awarding the State such other and further equitable relief as may be necessary to secure complete justice for the public at large and the individual consumers who have been harmed by the actions of the Defendants herein.

Respectfully submitted,

STATE OF WEST VIRGINIA ex rel.
PATRICK MORRISEY,
ATTORNEY GENERAL, Plaintiff

By Counsel



NORMAN GOOGEL (WV State Bar # 1438)
SENIOR ASSISTANT ATTORNEY GENERAL
Consumer Protection/Antitrust Division
Post Office Box 1789
Charleston, West Virginia 25326-1789
(304) 558-8986