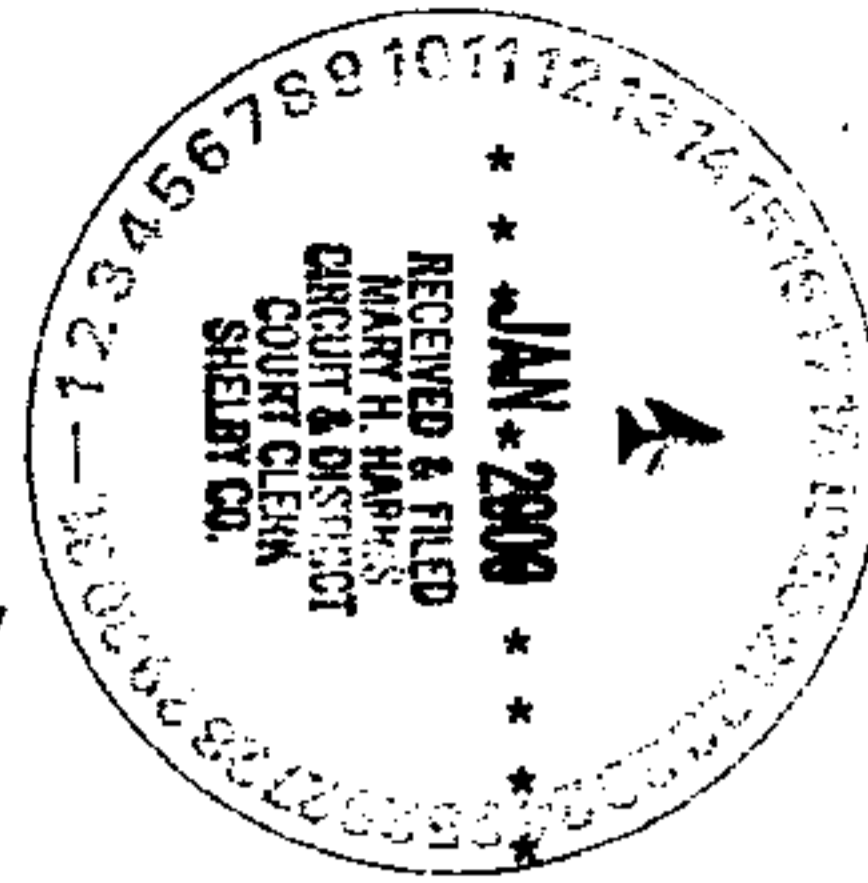


JACK EYER and RITA EYER,
PLAINTIFFS,
VS.

ALABASTER AUTO SALES, INC.,
JEFF MCCONATHY, and
MARVIN HALL,

DEFENDANTS.



IN THE CIRCUIT COURT FOR
SHELBY COUNTY, ALABAMA

CV 97-932

JUDGMENT

This case comes before the Court upon the pleadings and proof, including ore tenus testimony and documents which were received into evidence, and upon consideration thereof, and upon consideration of arguments presented by the attorneys for the parties, the Court FINDS, ORDERS, ADJUDGES, and DECREES as follows:

1. The Court FINDS the issues in favor of the plaintiffs and against the defendants Alabaster Auto Sales, Inc., Jeff McConathy, and Marvin Hall on the plaintiffs's claims against said defendants..

The plaintiffs and said defendant, Alabaster Auto Sales, Inc., had a continuing business relationship from September, 1994, until just prior to the filing of this litigation whereby the plaintiffs, from time to time, advanced funds to said Alabaster Auto Sales, Inc. for the purpose of financing or "floor-planning" motor vehicles, and the Court FINDS, that during the course of such dealings, said defendants committed fraud on said plaintiffs by willfully withholding and concealing material facts from said plaintiffs, and by willfully misrepresenting material facts to said plaintiffs.¹

¹ Bill Benson, now deceased, also participated during his lifetime in the fraud which has been perpetrated on the plaintiffs, but the plaintiffs, in this litigation, have not sought judgment against a personal representative of said Bill Benson, deceased, or of his estate.

Said defendant, Alabaster Auto Sales, Inc., on separate occasions, without knowledge of the plaintiffs, sold and transferred title to motor vehicles which the plaintiffs had financed (and which were security to the plaintiffs for such financing) without paying the plaintiffs pursuant to the financing agreements.

The Court FINDS that said defendants, when asked by the plaintiffs, were under a legal duty to disclose to the plaintiffs the locations of said motor vehicles which served as security for the plaintiffs' loans to said Alabaster Auto Sales, Inc., but that, in fact, said defendants, on some occasions, concealed and withheld information from said plaintiffs as to the true locations of said motor vehicles, and other occasions, willfully gave the plaintiffs false information as to the locations of said motor vehicles. The Court further FINDS that said defendants, after inquiries were made, were under a legal duty to inform the plaintiffs when said Alabaster Auto Sales, Inc. sold and transferred title to said motor vehicles to other parties, but that in fact, said defendants concealed and withheld from the plaintiffs the information that said motor vehicles had been sold and the titles thereto transferred to other parties, and that said defendants willfully misrepresented to said plaintiffs that said motor vehicles had not been sold and the titles thereto transferred to other parties, when said motor vehicles in fact had been sold and the titles thereto transferred to other parties, without paying over to the plaintiffs funds which had been advanced by the plaintiffs pursuant to the financing agreements.

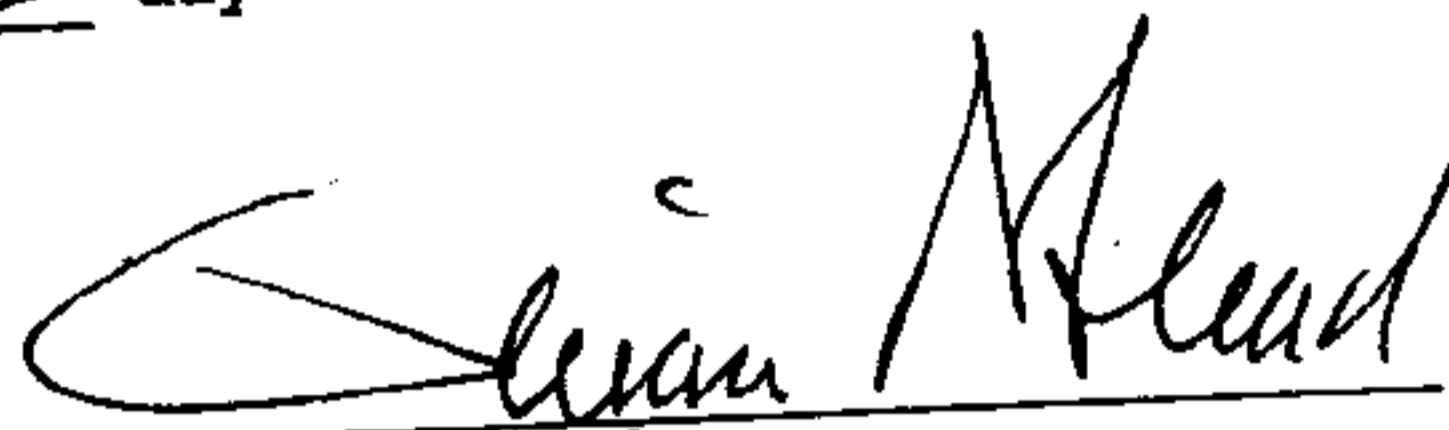
The Court further FINDS that the plaintiffs have proved by clear and convincing evidence that they are entitled to receive punitive damages from said defendants.

Judgment is, therefore, entered in favor of the plaintiffs Jack Eyer and Rita Eyer against said defendants Alabaster Auto Sales, Inc., Jeff McConathy, and Marvin Hall in the amount of \$44,067.00, as compensatory damages and \$44,067.00, as punitive damages, for a total sum of \$88,134.00.

2. The Court further FINDS the issues in favor of the plaintiffs and against the defendant Alabaster Auto Sales, Inc. on the counterclaim asserted by said defendant Alabaster Auto Sales, Inc., and judgment is entered in favor of the plaintiffs Jack Eyer and Rita Eyer on the defendant Alabaster Auto Sales, Inc.'s said counterclaim.

3. Costs of Court are taxed to the defendants.

DONE and ORDERED this 18th day of January, 2000.


Oliver P. Head
Circuit Judge

Inst # 2000-07243

03/07/2000-07243

10:49 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

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