

STATE OF INDIANA  
IN THE MARION COUNTY SUPERIOR/CIRCUIT COURT

CAUSE NO. \_\_\_\_\_

STATE OF INDIANA,

Plaintiff,

v.

KBB AUTO SALES LLC

and

BRANDON BILLINGSLEY,  
individually and doing business as  
KBB AUTO SALES LLC,

and

NICOLAS FORTINBERRY,  
individually and doing business as  
KBB AUTO SALES LLC,

and

SHANNON HAYES, individually and  
doing business as KBB AUTO SALES  
LLC,

Defendants.

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

**I. INTRODUCTION**

1. The State of Indiana, by Attorney General Theodore E. Rokita and Deputy Attorneys General Mark M. Snodgrass and Steven A. Taterka, commences this civil action under the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1 *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, treble damages, civil penalties, costs, and other relief.

2. The Defendant, KBB Auto Sales LLC, tampered with and altered the odometers on at least 216 motor vehicles by rolling back the odometer mileage readings in order to deceive purchasing consumers. This odometer rollback scheme was undertaken by the owners and employees of KBB Auto Sales LLC, including Defendants Brandon Billingsley, Nicolas Fortinberry, and Shannon Hayes. The Defendants purchased vehicles at auto auction and received a title and odometer disclosure statement each stating a specific, accurate mileage for each vehicle. The Defendants then significantly lowered the mileage on the vehicles, either through replacement of the odometer cluster or using a tool to roll back the mileage, in order to make the vehicles more attractive to purchasing consumers. Finally, the Defendants would represent a false mileage on the title and odometer disclosure statements provided to the purchasing consumer that was significantly lower than the mileage listed on the title and odometer disclosure received by the Defendants when they took possession of the vehicle. In total, the Defendants rolled back odometers by a combined total of over 14 million miles on the known affected vehicles. The Defendants' misrepresentations and actions are unfair, abusive, and deceptive, and constitute violations of Indiana's

Deceptive Consumer Sales Act, Indiana's Odometer Act, the Federal Odometer Act, and the Indiana's 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) and 49 U.S.C. § 32709(d).
4. Defendant KBB Auto Sales LLC 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, formerly located at 1325 W. Troy Avenue, Indianapolis, Indiana 46225. KBB Auto Sales LLC was dissolved by the Indiana Secretary of State on April 5, 2023.
5. Defendant Brandon Billingsley is an individual engaged in the sale of used motor vehicles to Indiana consumers under the business name KBB Auto Sales LLC at all times relevant to this Complaint, with a principal place of business in Marion County, formerly located at 1325 W. Troy Avenue, Indianapolis, Indiana 46225.
6. Defendant Nicolas Fortinberry is an individual engaged in the sale of used motor vehicles to Indiana consumers under the business name KBB Auto Sales LLC at all times relevant to this Complaint, with a principal place of business in Marion County, formerly located at 1325 W. Troy Avenue, Indianapolis, Indiana 46225.

7. Defendant Shannon Hayes is an individual engaged in the sale of used motor vehicles to Indiana consumers under the business name KBB Auto Sales LLC at all times relevant to this Complaint, with a principal place of business in Marion County, formerly located at 1325 W. Troy Avenue, Indianapolis, Indiana 46225.
8. Brandon Billingsley, Nicolas Fortinberry, and Shannon Hayes controlled and directed the affairs of KBB Auto Sales LLC at the time of the transactions identified in this Complaint and were active in its management and operation, including its purchase of inventory at auction, advertising, sales, and other practices. Brandon Billingsley, Nicolas Fortinberry, and Shannon Hayes each individually committed the violations referenced in this Complaint as well as used KBB Auto Sales LLC to deceive Indiana consumers.
9. KBB Auto Sales LLC, Brandon Billingsley, Nicolas Fortinberry, and Shannon Hayes, will collectively be referred to as “KBB Auto Sales” throughout the remainder of this Complaint, unless otherwise individually referenced.

### **III. FACTS**

10. Attached and marked as Exhibit A is a table identifying 216 vehicles KBB Auto Sales sold to specific Indiana consumers, the mileage of each vehicle at the time of acquisition by KBB Auto Sales (“KBB Acquisition Mileage”), the approximate mileage of each vehicle at the time of KBB Auto Sales’ sale of

the vehicle to each consumer (“KBB Sale Mileage”), as well as the date of the sale of the vehicle to each consumer (“Date of Sale”).

11. KBB Auto Sales typically received a title and an odometer disclosure statement from the selling auto auction for each vehicle identified in Exhibit A specifying the vehicle’s odometer reading at the time of acquisition by KBB Auto Sales. The mileage of each vehicle at the time it was purchased by KBB Auto Sales is referenced in the “KBB Acquisition Mileage” column in Exhibit A.
12. KBB Auto Sales then altered the odometer of each vehicle referenced in Exhibit A once the vehicle was in the possession of KBB.
13. KBB Auto Sales rolled back the odometers on the vehicles referenced by either replacing the odometer cluster with an odometer cluster that had a lower reading, or alternatively, using a tool to roll back the mileage on the vehicle.
14. KBB Auto Sales rolled back the odometers on the vehicles referenced in Exhibit A to increase the perceived value of the vehicles and make them more desirable to purchasing consumers.
15. KBB Auto Sales then advertised and represented, both verbally and in writing, to purchasing consumers the new false, lower odometer readings on the vehicles referenced in Exhibit A.

16. KBB Auto Sales provided the purchasing consumers referenced in Exhibit A with a title and odometer disclosure statement that listed the rolled back odometer reading on each vehicle.
17. The odometer readings on the titles and odometer disclosure statements provided to purchasing consumers were significantly lower than the mileages on the titles and odometer disclosures originally received by KBB Auto Sales.
18. As a result, the consumers referenced in Exhibit A purchased vehicles with significantly higher mileage than represented by KBB Auto Sales. Such vehicles were often at the end of their mechanical life, were worth significantly less than consumers would have otherwise paid if the mileage had not been altered, and were more likely to experience mechanical problems due to the high actual mileages.
19. In total, KBB Auto Sales rolled back the mileage on the 216 vehicles referenced in Exhibit A by a combined total of 14,058,135 miles.
20. KBB Auto Sales' tampering with odometers and making false disclosures on documents, such as odometer disclosure statements and titles, constitutes fraudulent concealment under Ind. Code § 34-11-5-1.
21. KBB Auto Sales knowingly committed the actions described in this Complaint and committed such actions with intent to defraud.

#### **IV. CAUSES OF ACTION**

##### **COUNT I:**

##### **VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT- MISREPRESENTING THE MILEAGE OF MOTOR VEHICLES**

22. The State realleges Paragraphs 1 through 21 this Complaint.
23. KBB Auto Sales regularly engaged in “consumer transactions” under Ind. Code § 24-5-0.5-2(a)(1).
24. KBB Auto Sales is a “supplier” under Ind. Code § 24-5-0.5-2(a)(3).
25. KBB Auto Sales committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(a) by misrepresenting the mileage on motor vehicles to consumers in advertisements, verbally, and on documents.
26. KBB Auto Sales committed deceptive acts violating Ind. Code § 24-5-0.5-3(b)(1) by representing the mileage on motor vehicles was lower than the actual mileage of the vehicles.

COUNT II:  
VIOLATIONS OF THE FEDERAL ODOMETER ACT- MISREPRESENTING THE  
MILEAGE OF MOTOR VEHICLES

27. The State realleges Paragraphs 1 through 26 of this Complaint.
28. KBB Auto Sales, with intent to defraud, misrepresented the mileage on motor vehicles to consumers in advertisements, verbally, and on documents, in violation of 49 U.S.C.A. § 32705(a)(2).

COUNT III:  
VIOLATIONS OF THE INDIANA ODOMETER ACT- MISREPRESENTING THE  
MILEAGE OF MOTOR VEHICLES

29. The State realleges Paragraphs 1 through 28 of this Complaint.

30. KBB Auto Sales committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 9-19-9-7 by misrepresenting the mileage on motor vehicles to consumers in advertisements, verbally, and on documents in violation of 49 U.S.C.A. § 32705(a)(2).

COUNT IV:  
VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT- ALTERING ODOMETERS

31. The State realleges Paragraphs 1 through 30 of this Complaint.
32. KBB Auto Sales committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 24-5-0.5-3(a) by altering the odometers of motor vehicles.

COUNT V:  
VIOLATIONS OF THE FEDERAL ODOMETER ACT- ALTERING ODOMETERS

33. The State realleges Paragraphs 1 through 32 of this Complaint.
34. KBB Auto Sales, with intent to defraud, altered odometers on motor vehicles with the intent to change the mileages thereon, in violation of 49 U.S.C.A. § 32703(2).

COUNT VI:  
VIOLATIONS OF THE INDIANA ODOMETER ACT- ALTERING ODOMETERS

35. The State realleges Paragraphs 1 through 34 of this Complaint.
36. KBB Auto Sales committed unfair and deceptive acts, omissions, and practices violating Ind. Code § 9-19-9-7 by altering, or causing to be altered,

odometers on motor vehicles with intent to change the mileages thereon, in violation of 49 U.S.C.A. § 32703(2).

COUNT VII:  
KNOWING VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

37. The State realleges Paragraphs 1 through 36 of this Complaint.
38. KBB Auto Sales committed the unfair and deceptive acts asserted in this Complaint with knowledge of their unfair and deceptive acts, subjecting KBB Auto Sales to penalties under Ind. Code § 24-5-0.5-4(g).

COUNT VIII:  
INCURABLE DECEPTIVE ACTS

39. The State realleges Paragraphs 1 through 38 of this Complaint.
40. The unfair and deceptive acts asserted in this Complaint are incurable deceptive acts and were committed by KBB Auto Sales as part of a scheme, artifice, or device with intent to defraud or mislead, subjecting KBB Auto Sales to penalties under Ind. Code § 24-5-0.5-8.

COUNT IX:  
VIOLATIONS OF THE MOTOR VEHICLE UNFAIR PRACTICES ACT

41. The State realleges Paragraphs 1 through 40 of this Complaint.
42. KBB Auto Sales committed deceptive and unfair acts and practices violating Ind. Code § 9-32-13-20 by misrepresenting the mileage on motor vehicles to consumers in advertisements, verbally, and on documents, and by tampering with and/or altering the odometers on motor vehicles.

**V. RELIEF**

43. The State requests the Court enter judgment against the Defendants, KBB Auto Sales LLC, Brandon Billingsley, Nicolas Fortinberry, and Shannon Hayes, for the relief described in Paragraphs 44 through 52 of this Complaint.
44. The State seeks a permanent injunction, under Ind. Code § 24-5-0.5-4(c)(1) and 49 U.S.C. § 32709(d)(1)(A), enjoining Brandon Billingsley, Nicolas Fortinberry, and Shannon Hayes each from owning, operating, managing or controlling the operations of any licensed Indiana motor vehicle dealership.
45. The State seeks a permanent injunction, under Ind. Code § 24-5-0.5-4(c)(1) and 49 U.S.C. § 32709(d)(1)(A), enjoining Brandon Billingsley, Nicolas Fortinberry, and Shannon Hayes each from:
  - 45.1. tampering, altering, or causing to be altered, the odometer of a motor vehicle;
  - 45.2. falsifying the stated mileage of a motor vehicle on any documents referencing the vehicle's mileage;
  - 45.3. making any misrepresentations regarding the mileage on a vehicle; and
  - 45.4. 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).
46. The State seeks consumer restitution, under Ind. Code § 24-5-0.5-4(c)(2) and Ind. Code § 9-32-16-13(b)(2)(C), payable to the Office of the Attorney General,

for the benefit of the consumers referenced in Exhibit A in the amounts each respective consumer paid for their vehicle.

47. The State seeks treble damages, under 49 U.S.C.A. § 32709(d)(1)(B) and 49 U.S.C.A. § 32710(a), in the amount of three (3) times the actual damages or ten thousand dollars (\$10,000), whichever is greater, for the benefit of each purchaser referenced in Exhibit A, payable to the Office of the Attorney General.
48. 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.
49. The State seeks civil penalties, under Ind. Code § 9-19-9-7, on Counts III and VI of this Complaint, for KBB Auto Sales' violations of the Indiana Odometer Act, payable to the State of Indiana, in the amount of one thousand, five hundred dollars (\$1,500.00) per violation.
50. The State seeks civil penalties, under Ind. Code § 24-5-0.5-4(g), on Count VII of this Complaint, for KBB Auto Sales' knowing violations of Ind. Code § 24-5-0.5-3(a) and (b)(1), payable to the State of Indiana, in the amount of five thousand dollars (\$5,000.00) per violation.
51. The State seeks civil penalties, under Ind. Code § 24-5-0.5-8, on Count VIII of this Complaint, for KBB Auto Sales' incurable deceptive acts, payable to the State of Indiana, in the amount of five hundred dollars (\$500.00) per violation.

52. The State seeks all other just and proper relief.

Respectfully submitted,

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