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DISTRICT
KANSAS

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CIVIL DEPARTMENT

STATE OF KANSAS, EX REL
NOLA FOULSTON, DISTRICT ATTORNEY,
EIGHTEENTH JUDICIAL DISTRICT,
Plaintiff,

99 C1258

vs.
MONTGOMERY WARD & CO. INCORPORATED,
an Illinois corporation d/b/a Montgomery Ward,
Defendant.

Case No.

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW, on this 29th day of April, 1999, the above matter comes on for disposition on the joint motion of the plaintiff and defendant for approval by the Court of a Consent Judgment, pursuant to K.S.A. 50-632. Plaintiff appears by and through its attorney, John J. Kisner, Jr., Assistant District Attorney of the Eighteenth Judicial District of the State of Kansas. Defendant appears by and through Philip D. Delk, a corporate Vice President.

THEREUPON, the Court, after being duly advised in the premises, and after hearing the statements of counsel, makes the following findings, to-wit:

1. That defendant, Montgomery Ward & Co. Incorporated, is an Illinois corporation doing business as Montgomery Ward within the State of Kansas. The defendant has retail locations within the State of Kansas, including locations in Sedgwick County, Shawnee County and Johnson County, Kansas.

2. That the defendant, at all times mentioned herein was, and now is, engaged in the business, inter alia, of the retail sale of various consumer goods and items.

3. That the property and services provided by the defendant, as described in paragraph 2 above, are consumer transactions as defined in K.S.A. 50-624(c), and the defendant is a supplier as defined in K.S.A. 50-624(l).

4. That the plaintiff and defendant have stipulated, agreed and consented to this final judgment without any trial or adjudication of any issue of fact or law herein and without any admission on the part of the defendant.

5. That the Court has jurisdiction over the parties and the subject matter, including the consenting defendant.

6. That the provisions of this judgment are applicable to the plaintiff and the defendant, its agents, employees, and representatives.

7. That on October 16, 1998, representatives of the Kansas Department of Agriculture, in cooperation with the Office of the District Attorney of the Eighteenth Judicial District of Kansas, visited the defendant's retail store located at 3805 East Harry Street, Wichita, Sedgwick County, Kansas, for the purpose of investigating, inspecting and reviewing the pricing, signage, price scanning and customer check-out procedures of said store. This investigation found twenty-four (24) discrepancies between the declared and/or displayed price of certain items and the price recorded at the defendant's point of sale register (out of one hundred (100) items selected). Of those twenty-four (24) discrepancies, five (5) were overcharges and nineteen (19) were undercharges.

8. That on August 19, 1998, representatives of the Kansas Department of Agriculture, in conjunction with the Office of the Kansas Attorney General, visited the defendant's

retail store located at 1831 Wanamaker, Topeka, Shawnee County, Kansas, for the purpose of investigating, inspecting and reviewing the pricing, signage, price scanning and customer check-out procedures of said store. This August 19, 1998, investigation found sixteen (16) price discrepancies between the declared and/or displayed price of certain items and the price recorded at the defendant's point of sale register {out of one hundred (100) items selected}. Of those sixteen (16) discrepancies, four (4) were overcharges and twelve (12) were undercharges.

9. That on November 24, 1997, representatives of the Kansas Department of Agriculture, in conjunction with the Office of the Kansas Attorney General, visited the defendant's retail store located at 11201 West 95th Street, Overland Park, Johnson County, Kansas, for the purpose of investigating, inspecting and reviewing the pricing, signage, price scanning and customer check-out procedures of said store. This investigation found forty (40) price discrepancies between the declared and/or displayed price of certain items and the price recorded at the defendant's point of sale register {out of one hundred (100) items selected}. Of those forty (40) discrepancies, ten (10) were overcharges and thirty (30) were undercharges.

10. That on January 13, 1998, representatives of the Kansas Department of Agriculture, in conjunction with the Office of the Kansas Attorney General, visited the defendant's retail store located at 11201 West 95th Street, Overland Park, Johnson County, Kansas, for the purpose of again investigating, inspecting and reviewing the pricing, signage, price scanning and customer check-out procedures of said store. This investigation found fifteen (15) price discrepancies between the declared and/or displayed price of certain items and the price recorded at the defendant's point of sale register {out of one hundred (100) items selected}. Of those fifteen (15) discrepancies, nine (9) were overcharges and six (6) were undercharges.

11. That on September 2, 1998, representatives of the Kansas Department of Agriculture, in conjunction with the Office of the Kansas Attorney General, visited the defendant's retail store located at 11201 West 95th Street, Overland Park, Johnson County, Kansas, for the purpose of again investigating, inspecting and reviewing the pricing, signage, price scanning and

customer check-out procedures of said store. This investigation found seven (7) price discrepancies between the declared and/or displayed price of certain items and the price recorded at the defendant's point of sale register (out of one hundred (100) items selected). Of those seven (7) discrepancies, one (1) was an overcharge and six (6) were undercharges.

12. That some of the discrepancies found by said inspections involved incorrect prices being scanned by the in-store electronic price scanner that would result in a consumer being overcharged or undercharged at the point of sale unless specifically discovered by the consumer or an employee of the defendant. Said acts and practices constitute violations of K.S.A. 83-219 of the Kansas Statutes on Weights and Measures.

13. That some of the discrepancies found by said inspections involved signs posted with items that displayed incorrect current prices for said items. Said acts and practices constitute violations of K.S.A. 50-626(a) and (b)(7) of the Kansas Consumer Protection Act.

**IT IS THEREFORE, BY THE COURT, CONSIDERED, ORDERED, ADJUDGED
AND DECREED that:**

A. The defendant shall pay to the Clerk of the District Court, upon the filing of this consent judgment, civil penalties totaling One Hundred Fifty Thousand Dollars (\$150,000.00) for violations of K.S.A. 50-626 and K.S.A. 83-219. Upon receipt thereof, the Clerk shall disburse \$100,000.00 to the Treasurer of the State of Kansas for deposit and to be credited to the "Weights and Measures Fee Fund." The Clerk shall disburse the other \$50,000.00 to the Sedgwick County General Fund.

B. The defendant shall pay to the Clerk of the District Court, upon the filing of this consent judgment, costs in the amount of Sixty-Six Dollars and Fifty Cents (\$66.50).

C. The defendant shall pay to the Clerk of the District Court, upon the filing of this consent judgment, investigative fees and expenses in the amount of Seventy-Five Thousand Dollars (\$75,000.00) as provided by K.S.A. 50-636(c), which amount is hereby found to be reasonable. Upon receipt thereof, the Clerk shall disburse \$62,500.00 to the Special Investigative Fund, District Attorney's Office for the Eighteenth Judicial District of Kansas, 535 N. Main St., Wichita, KS 67203. The Clerk shall disburse the other \$12,500.00 to Office of the Kansas Attorney General, Kansas Judicial Center, 301 West 10th, Topeka, KS 66612.

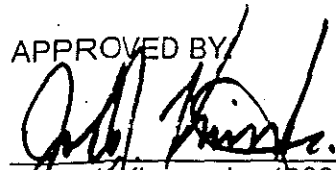
D. The defendant, its agents, employees, representatives, and those acting in conjunction with the defendant are enjoined from further violations as described in paragraphs 7, 8, 9, 10 and 11 above.

IT IS SO ORDERED.

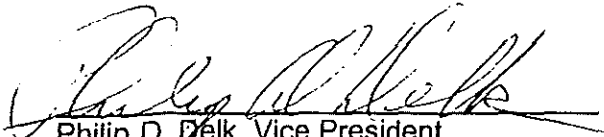


JUDGE OF THE DISTRICT COURT

APPROVED BY:



John J. Kisher, Jr., 12069
Assistant District Attorney
Attorney for Plaintiff



Philip D. Delk, Vice President
Montgomery Ward & Co., Inc.