

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS

STATE OF KANSAS, *ex rel.*,)
STEVE SIX, Attorney General,)
)
Plaintiff,)
)
v.)
)
RUSH PROPERTIES, INC.)
)
Defendant.)

Case No.09 CV 5820
Division 2

(Pursuant to K.S.A. Chapter 60)

AGREED JOURNAL ENTRY

NOW on this 20th day of July 2009, the parties come before the Court and, in order to reflect the mutually and amicably agreed resolution of the disputed claims in this matter, present this Agreed Journal Entry pursuant to K.S.A. 50-632(b). Plaintiff, the State of Kansas, *ex rel.*, Steve Six, Attorney General, appears by and through Tai J. Vokins, Assistant Attorney General. Defendant appears by and through Scott C. Nehrbass, Foulston Siefkin, LLP.

The parties advise the Court that they have stipulated and agreed to the following matters:

1. Steve Six is the Attorney General of the State of Kansas.
2. The Attorney General's authority to bring this action is derived from the statutory and common law of the State of Kansas, specifically the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*
3. Defendant Rush Properties, Inc. is a corporation registered with the Kansas Secretary of State.
4. Among the transactions in which Defendant engages are consumer transactions that include, but are not limited to general real estate transactions, the sale and purchase of

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redemption rights, and lease agreements. Defendant does not admit that all of the transactions encompassed by Plaintiff's Petition in this matter are "consumer transactions."

5. Defendant is a supplier as that term is defined by K.S.A. 50-624(j). Defendant does not admit that all of the transactions encompassed by Plaintiff's Petition in this matter are "consumer transactions" or that it is a "supplier" for purposes of all such transactions.
6. The Court has personal and subject matter jurisdiction over the parties for the sole purpose of entering into this Agreed Journal Entry and any subsequent enforcement thereof.
7. On or about June 30, 2009, Plaintiff filed its Petition in this matter, wherein Plaintiff alleged that Defendant engaged in deceptive and unconscionable acts and practices in violation of the Kansas Consumer Protection Act. Defendant specifically denies each and every one of these allegations.
8. After receiving Plaintiff's Petition, Defendant immediately initiated a candid and amicable dialogue with Plaintiff regarding Plaintiff's allegations and Defendant's business and business model.
9. Following their discussions, Plaintiff and Defendant agreed to resolve this matter, wishing to compromise, settle and fully release all claims that were or could have been asserted by Plaintiff in this action.
10. Plaintiff identifies the following allegations as among those included in his Petition:
 - a. Plaintiff alleges, but Defendant specifically denies, that Defendant, in the course of consumer transactions, in both oral and written representations, use exaggeration, falsehood, innuendo, or ambiguity as to material facts by

affirmatively representing to consumers that Defendant will help the consumers remain in their homes, that their options are limited, and that Defendant will counsel the consumers through the foreclosure process when such intentional representations are misleading and false in violation of K.S.A. 50-626(b)(2).

- b. Plaintiff alleges, but Defendant specifically denies, that Defendant, in the course consumer transactions, fails to state material facts or conceals material facts by not notifying the consumers of what, if any, redemption rights they may have or the options related to these rights in violation of K.S.A. 50-626(b)(3).
- c. Plaintiff alleges, but Defendant specifically denies, that Defendant, in the course of consumer transactions, falsely states, knowing or with reason to know, that the transaction is favorable for their rights in foreclosure actions or related real estate transactions in violation of K.S.A. 50-626(b)(8).
- d. Plaintiff alleges, but Defendant specifically denies, that Defendant takes advantage of consumers' inability to protect their own interests due to their ignorance of redemption rights and foreclosure rights in violation of K.S.A. 50-627(b)(1).
- e. Plaintiff alleges, but Defendant specifically denies, that Defendant makes misleading statements of opinion that consumers rely upon to their detriment in violation of K.S.A. 50-627(b)(6)

11. Defendant does not admit any of the allegations in Plaintiff's Petition or liability for any of the claims in Plaintiff's Petition, but, as part of the resolution of this matter, does voluntarily agree to this Agreed Journal Entry without trial or adjudication of any issue of fact or law.

12. Defendant agrees to refrain from and to be permanently enjoined from engaging in those acts and practices alleged to be unlawful and unconscionable in Paragraph Ten (10) of this Agreed Journal Entry. Defendant agrees that engaging in such acts or similar acts, after the date of this Agreed Journal Entry, shall constitute a violation of this Order and civil penalties will be imposed for each subsequent violation.

13. In the course of consumer transactions, Defendant engages in so-called "lease option" home purchase transactions. In the course of these transactions, Defendant enters into redemption rights purchase agreements whereby Defendant purchases redemption rights and enters into a residential rental agreement with consumers that were/are in the course of a foreclosure proceeding. During the transaction, Defendant enters into a contract for real estate entitled "Option Agreement" whereby the consumer may, if the consumer complies with the terms of the agreement, exercise an option to repurchase the home during a certain period of time after Defendant redeems the property. Defendant enters into a "Real Estate Sale Contract" that outlines the terms of the repurchase referenced herein.

14. Defendant agrees that, in the course of and prior to the completion of any transaction similar to the transaction outlined in Paragraph Thirteen (13), Defendant will:

- i. Provide copies of all executed documents to consumers at the time of execution.
- ii. Have each consumer execute and provide each consumer a copy of the document entitled "Acknowledgement of Receipt of Copies of Transaction Documents," attached as Exhibit A.

- iii. Include a 30-day cure period in each Option Agreement, to-wit:

Default. If Optionee defaults under the Residential Rental Agreement and that default is not cured within 30-days of written notice of such default, this Option Agreement shall be null and void and Optionee shall forfeit all rights under this Agreement and Optionor shall thereafter have no further obligations under this Agreement.

- iv. Include the following disclosure in each "Redemption Rights Terms/Agreement":

Rush presently estimates that, in the event Owner defaults and fails to timely cure or fails to timely exercise Owner's option under the Option Agreement, Rush will be able to sell the property to a third party and make a net profit of between ___% and ___% [a 10% range] on that sale. This is merely a good faith estimate.

15. The parties have exchanged a spreadsheet on which is listed certain past due rents on transactions similar to those described in Paragraph Thirteen (13). These past due rents are hereinafter referred to as "Spreadsheet Past Due Rents." Defendant has already obtained judgment for some of the Spreadsheet Past Due Rents. Defendant agrees that, in the future, although Defendant may attempt to collect the Spreadsheet Past Due Rents that are not already the subject of a judgment and may file forcible detainer or eviction actions based on a tenant's failure to pay Spreadsheet Past Due Rents, Defendant will not (1) seek collection of Spreadsheet Past Due Rents that are already the subject of a judgment, or (2) seek or obtain a monetary judgment in the amount of any Spreadsheet Past Due Rents that are not the subject of a judgment.

16. The provisions of this Agreed Journal Entry will be applicable to the Defendant, and every employee, agent or representative of Defendants.

17. Defendant agrees to make available and/or disclose the provisions of this Agreed Journal Entry to its employees, agents and representatives within five days of signing the Agreed Journal Entry.
18. Defendant agrees to be permanently enjoined from entering into, forming, organizing or reorganizing into any partnership, corporation, sole proprietorship or any other legal structures, for the purpose of avoiding compliance with the terms of this Agreed Journal Entry.
19. Defendant agrees to pay the office of the Kansas Attorney General consumer protection activity costs, enforcement costs, and general costs, expenses and investigative fees of \$5,100.00. Payment shall be made payable to the Kansas Attorney General at the time of signing of this document.
20. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Agreed Journal Entry to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations thereof.
21. If any portion, provision, or part of this Agreed Journal Entry is held to be invalid, unenforceable, or void for any reason, that portion shall be severed from the remainder and shall not affect the validity or enforceability of the remaining provisions, portions or parts.
22. Compliance with this Agreed Journal Entry does not relieve Defendant of any obligation imposed by applicable federal, state, or local law, nor shall the Attorney General be

precluded from taking appropriate legal action to enforce civil or criminal statutes under his jurisdiction.

23. The parties understand that this Agreed Journal Entry shall not be construed as an approval of or sanction by the Kansas Attorney General of the business practices of Defendant nor shall Defendant represent the decree of such approval. The parties further understand that any failure by the State of Kansas or by the Attorney General to take any action in response to any information submitted pursuant to the Agreed Journal Entry shall not be construed as an approval of or sanction of any representations, acts or practices indicated by such information, nor shall it preclude action thereon at a later date.

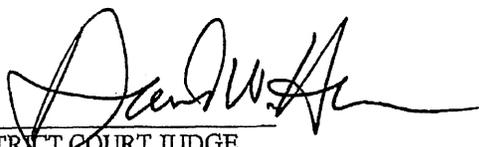
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the stipulation and agreement of the parties contained herein are adopted and approved as the findings of fact and conclusions of law of the Court and any monies owed hereunder by Defendant immediately become a judgment upon filing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant in favor of Plaintiff in the amount of \$5,100.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant pay all costs associated with this action.

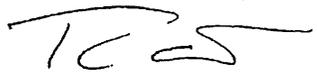
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, and the provisions of K.S.A. 50-632(b), the Court hereby approves the terms of the Agreed Journal Entry and adopts the same as the order of the Court.

IT IS SO ORDERED.



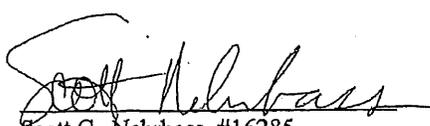
DISTRICT COURT JUDGE
Hon. James Vano

Prepared and Approved by:



Tai J. Vokins, #23707
Assistant Attorney General
Office of the Attorney General
120 SW 10th Street, 2nd Floor
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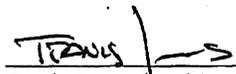
Attorney for Plaintiff



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Attorney for Defendants

Defendant:



Travis Jones, President
For Rush Properties, Inc.