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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION 4

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STATE OF KANSAS, et rel.,
ROBERT T. STEPHAN, Attorney General,

Plaintiff,

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) Case No. 90 CV 2089
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vs.

WAL-MART STORES, INC., d/b/a
HYPERMART U.S.A.,

Defendant.

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this ____ day of November, 1992, the Motion for Approval of Consent Judgment filed by the State of Kansas comes on for hearing. The State of Kansas appears on the relation of Robert T. Stephan, Attorney General, by and through Shelly Gasper, Assistant Attorney General. The Defendant appears by E. Dudley Smith of Fisher, Patterson, Saylor & Smith.

Whereupon, the parties advise the Court they have stipulated and agreed to the following matters:

1. Robert T. Stephan is the Attorney General of the State of Kansas.
2. Defendant is a Delaware corporation. Defendant's business was located at 1501 S.W. Wanamaker Road, Topeka, Kansas.
3. The Attorney General has investigated the Defendant and found the following acts and practices:

a) The Defendant's gasoline pumps which distributed regular leaded fuel on September 28, 1990, bore octane stickers which represented that the gasoline had an octane level of 89.

b) The Defendant's gasoline pumps which distributed regular leaded fuel on October 12, 1990, bore octane stickers which represented that the gasoline had an octane level of 89.

c) A sample of gasoline taken on September 28, 1990, from the Defendant's regular leaded pumps was tested by Williams Pipe Line Company on October 3, 1990, and found to have an octane level of 88.2.

d) A sample of gasoline taken on October 12, 1990, from the Defendant's regular leaded pumps was tested by William Pipe Line Company on October 16, 1990, and found to have an octane level of 88.

e) The Defendant knew or should have know, due to the bills of lading received from Williams Pipe Line Company, that the regular leaded fuel delivered on September 25, 1990, and October 11, 1990, had a represented octane level of 88.

f) The Defendant sold or offered for sale and/or advertised regular leaded fuel at a posted octane level of 89 when in fact the octane level was 88.2 on September 28, 1990, and 88 on October 12, 1990.

4. The Attorney General alleges the above acts and practices violated the Kansas Consumer Protection Act's proscription against making representations knowingly or with reason to know that:

a) Property or services have characteristics, ingredients, uses, benefits or quantities that they

do not have (K.S.A. 50-626(b)(1)(A)); or,

- b) Property or services are of particular standard, quality, grade, if they are of another which differs materially from the representation (K.S.A. 50-626(b)(1)(D)).

5. The Defendant has denied that it engaged in any deceptive act or practice in connection with a consumer transaction or that it knowingly made representations as alleged by Plaintiff, but voluntarily agrees to this Consent Judgment without trial or adjudication of any issues of fact or law.

6. The provisions of this Consent Judgment will be applicable to the Defendant Wal-Mart Stores, Inc. d/b/a Hypermart U.S.A.

7. Defendant agrees to refrain from and not engage in the acts and practices alleged by the State of Kansas to be deceptive and unconscionable, in paragraph number 3.

8. Defendant shall not enter into, form, organize or reorganize into any partnership, corporation, sole proprietorship or any other legal structures, for the purpose of avoiding compliance with the terms of this Consent Judgment.

9. Defendant agrees to pay \$2,000.00 in investigation fees and expenses to the Attorney General of the State of Kansas and \$3,000.00 in charitable donations to charities named by the attorney general at the time of filing this Consent Judgment.

10. Defendant agrees to allow the Attorney General or his designee to inspect relevant business records of fuel deliveries and sales, if any, in the future. The Attorney General will give

reasonable notice for these inspections.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the stipulation and agreement of the parties contained herein are adopted and approved as the findings of the Court.

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 Consent Judgment and adopts the same as the Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant pay the costs of this action.

IT IS SO ORDERED.

JUDGE OF THE DISTRICT COURT

Approved by:


ROBERT T. STEPHAN, #05340
Attorney General


Shelly Gasper, #12896
Assistant Attorney General
Attorneys for Plaintiff

WAL-MART STORES, INC.
d/b/a HYPERMART U.S.A.


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Attorneys for Defendant