

92-011

AUG 31 '92 AM

KINGMAN COUNTY BY



DISTRICT COURT

Daniel P. Kolditz, #12102
Deputy Attorney General
Martha M. Snyder, #11317
Assistant Attorney General
Mark W. Stafford, #13233
Assistant Attorney General
Office of the Attorney General
Kansas Judicial Center
Topeka, Kansas 66612-1597
(913) 296-3751
HANNA.CJ/TXTTERRI

IN THE DISTRICT COURT OF KINGMAN COUNTY, KANSAS
DIVISION 5

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

Plaintiff,

vs.

Case No. 92 CV 12

ROYCE D. HANNA, d/b/a ROYCE HANNA
& ASSOCIATES, and d/b/a CONSUMER
TRUST SERVICES,

Defendant.

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 31 day of AUGUST, 1992, the plaintiff's motion for approval of consent judgment filed by plaintiff comes before the court for consideration. The State of Kansas ex rel. Robert T. Stephan, Attorney General, appears by and through Daniel P. Kolditz, Deputy Attorney General, Martha M. Snyder and Mark W. Stafford, Assistant Attorneys General.

Defendant Royce Hanna appears by and through Clifford L. Bertholf, 330 North Main Street, Wichita, Kansas 67202.

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 sole proprietor who did business as Royce Hanna & Associates and Consumer Trust Services.

3. Defendant admits the court has personal and subject-matter jurisdiction over the parties.

4. The Attorney General alleged the following acts and practices by defendant were deceptive and/or unconscionable and violated the Kansas consumer protection act.

COUNT II

18. Plaintiff hereby incorporates by reference paragraphs 1-17 as though fully stated herein.

19. On or about August 28, 1991, defendant solicited the sale of a living trust package to [REDACTED], [REDACTED], [REDACTED], [REDACTED], Kingman, Kansas.

20. Mr. [REDACTED] agreed to purchase the living trust package from defendant. Mr. [REDACTED] gave defendant a personal check in the amount of \$1,345.00.

21. On or about October 2, 1992, defendant delivered the living trust package to Mr. [REDACTED] who executed it.

22. The sale of the living trust package to Mr. [REDACTED] constituted a door-to-door sale within the meaning of K.S.A. 1991 Supp. 50-641(c)(1).

23. Defendant did not provide, either at the time of the initial solicitation and agreement or at the time of delivery of the living trust package, a statement notifying Mr. [REDACTED] of the three-day right to cancel the agreement as required by K.S.A. 1991 Supp. 50-640(a).

24. Defendant's failure to provide the notice required by statute constituted a deceptive act prohibited by K.S.A. 1991 Supp. 50-626(a).

25. As a result of defendant's deceptive act, Mr. [REDACTED] was not aware of his right to cancel the sale.

COUNT III

26. Plaintiff hereby incorporates by reference paragraphs 1-25 as though fully stated herein.

27. Mr. [REDACTED] did not know defendant lacked authority to provide the advice and service in connection with the solicitation and sale of the living trust package.

28. Mr. [REDACTED] relied to his detriment upon defendant's apparent expertise to provide the service.

29. Defendant knew or had reason to know the price for the living trust package he sold to Mr. [REDACTED] grossly exceeded the price at which similar property or services were readily obtainable.

30. The living trust package defendant sold to Mr. [REDACTED] was not personalized for him. The package was a print-out of a computerized form.

31. Defendant's acts described herein were unconscionable and prohibited by K.S.A. 1991 Supp. 50-627(a).

32. As a result of defendant's unconscionable act, Mr. [REDACTED] was damaged by incurring the purchase price in the amount of \$1,345.00, and additional expenses in the amount of \$717.30 for legal services.

33. The additional expenses were necessary to provide a living trust package appropriate for Mr. [REDACTED]'s needs and desires.

COUNT IV

34. Plaintiff hereby incorporates by reference paragraphs 1-33 as though fully stated herein.

35. On or about September 6, 1991, defendant solicited the sale of a living trust package to [REDACTED], [REDACTED], Kingman, Kansas.

36. Ms. [REDACTED] agreed to purchase the living trust package from defendant and gave defendant a personal check in the amount of \$1,145.00.

37. On or about October 17, 1991, defendant delivered the living trust package to Ms. [REDACTED] who did not execute the documents.

38. Defendant did not provide, either at the time of the initial solicitation and agreement or at the time of delivery of the living trust package, a statement notifying Ms. [REDACTED] of the three-day right to cancel the agreement as required by K.S.A. 1991 Supp. 50-640(a).

39. The sale of the living trust package to Ms. [REDACTED] constituted a door-to-door sale within the meaning of K.S.A. 1991 Supp. 50-641(c)(1).

40. Defendant's failure to provide the notice required by statute constituted a deceptive act and was prohibited by K.S.A. 1991 Supp. 50-626(a).

41. As a result of defendant's deceptive act, Ms. [REDACTED] was not aware of her right to cancel the sale. Ms. [REDACTED] has been damaged in the amount of \$1,145.00 by not being provided the statement and cancellation form required by statute.

42. Additional expenses in the amount of \$518.17 were incurred by Ms. [REDACTED] as consequential and incidental damages for legal services.

COUNT V

43. Plaintiff hereby incorporates by reference paragraphs 1-42 as though fully stated herein.

44. Ms. [REDACTED] did not know defendant lacked authority to provide the advice and service he provided in connection with the solicitation and sale of the living trust package.

45. Ms. [REDACTED] relied to her detriment upon defendant's apparent authority to provide the service.

46. Defendant knew or had reason to know the price for the living trust package he sold to Ms. [REDACTED] grossly exceeded the price at which similar property or services were readily obtainable.

47. The living trust package the defendant sold to Ms. [REDACTED] was not personalized for her. The package was a print-out of a computerized form.

48. Defendants acts described herein were unconscionable and prohibited by K.S.A. 1991 Supp. 50-627(a).

49. As a result of defendant's unconscionable act, Ms. [REDACTED] was damaged by incurring the purchase price in the amount of \$1,145.00, and additional expenses in the amount of \$518.17 for legal services.

50. Additional expenses in the amount of \$518.17 were incurred by Ms. [REDACTED] as consequential and incidental damages for legal services.

COUNT VI

51. Plaintiff hereby incorporates by reference paragraphs 1-50 as though fully stated herein.

52. On or about September 6, 1991, defendant solicited the sale of a living trust package to [REDACTED] and [REDACTED], Zenda, Kansas.

53. Mr. and Mrs. [REDACTED] agreed to purchase the living trust package from defendant and gave defendant a personal check in the amount of \$1,145.00.

54. Defendant mailed the living trust package to Mr. and Mrs. [REDACTED]

55. Mr. and Mrs. [REDACTED] did not execute the documents.

56. Defendant did not provide, either at the time of the initial solicitation and agreement or at the time of the delivery of the living trust package, a statement notifying Mr. and Mrs. [REDACTED] of the three-day right to cancel the agreement as required by K.S.A. 1991 Supp. 50-640(a).

57. The sale of the living trust package to Mr. and Mrs. [REDACTED] constituted a door-to-door sale within the meaning of K.S.A. 1991 Supp. 50-641(c)(1).

58. Defendant's failure to provide the notice required by statute constituted a deceptive act that is prohibited by K.S.A. 1991 Supp. 50-626(a).

59. As a result of defendant's deceptive act, Mr. and Mrs. [REDACTED] were not aware of their right to cancel the sale. They have been damaged in the amount of \$1,145.00 by not being provided the statement and cancellation form required by statute.

COUNT VII

60. Plaintiff hereby incorporates by reference paragraphs 1-59 as though fully stated herein.

61. Mr. and Mrs. [REDACTED] did not know defendant lacked authority to provide his advice and service in connection with the solicitation and sale of the living trust package.

62. Mr. and Mrs. [REDACTED] relied to their detriment upon defendant's apparent authority to provide the service.

63. Defendant knew or had reason to know the price for the living trust package he sold to Mr. and Mrs. [REDACTED] grossly exceeded the price at which similar property or services were readily obtainable.

64. The living trust package defendant sold to Mr. and Mrs. Bohrer was not personalized for them. The package was a print-out of a computerized form.

65. Mr. and Mrs. [REDACTED] returned the unexecuted trust package to defendant but defendant re-delivered the package to Mr. and Mrs. Bohrer.

66. Mr. and Mrs. [REDACTED] requested a refund, but defendant denied their request claiming that he had fulfilled his obligation.

67. Defendant's acts described herein were unconscionable and prohibited by K.S.A. 1991 Supp. 50-627(a).

68. As a result of defendant's unconscionable act, Mr. and Mrs. [REDACTED] were damaged by incurring the purchase price in the amount of \$1,145.00.

COUNT VIII

69. Plaintiff hereby incorporates by reference paragraphs 1-68 as though fully stated herein.

70. On or about September 28, 1991, defendant solicited the sale of a living trust package to [REDACTED], [REDACTED], Utica, Kansas.

71. Ms. [REDACTED] agreed to purchase the living trust package from defendant and gave defendant a personal check in the amount of \$695.00.

72. Defendant failed to provide a statement notifying Ms. [REDACTED] of the three-day right to cancel the sale required by K.S.A. 1991 Supp. 50-640(a).

73. Defendant's failure to provide the notice required by statute constituted a deceptive act and was prohibited by K.S.A. 1991 Supp. 50-626(a).

COUNT IX

74. Plaintiff hereby incorporates by reference paragraph 1-73 as though fully stated herein.

75. Defendant solicited the sale of a living trust package to [REDACTED] of Kingman, Kansas.

76. Ms. [REDACTED] agreed to purchase the living trust package from defendant and gave defendant a personal check in the amount of \$595.00.

77. Defendant failed to provide a statement notifying Ms. [REDACTED] of the three-day right to cancel the sale as required by K.S.A. 1991 Supp 50-640(a).

78. Defendant's failure to provide the notice required by statute constituted a deceptive act and was prohibited by K.S.A. 1991 Supp. 50-626(a).

COUNT X

79. Plaintiff hereby incorporates by reference paragraphs 1-78 as though fully stated herein.

80. On or about January 21, 1992, defendant solicited the sale of a living trust package to [REDACTED] and [REDACTED], [REDACTED], Colwich, Kansas.

81. Mr. and Mrs. [REDACTED] did not agree to purchase the living trust package on defendant's first visit.

82. On or about January 22, 1992, defendant returned to the [REDACTED] home.

83. During the second visit, defendant convinced Mr. and Mrs. [REDACTED] that the trust package was what they wanted.

84. Mr. and Mrs. [REDACTED] gave defendant a personal check in the amount of \$895.00 for the living trust package.

85. Defendant gave Mr. and Mrs. [REDACTED] a receipt indicating payment for a "Living Trust A - B."

86. Defendant did not provide a statement notifying Mr. and Mrs. [REDACTED] of the three-day right to cancel the agreement as required by K.S.A. 1991 Supp. 50-640(a).

87. The sale of the living trust package to Mr. and Mrs. [REDACTED] constituted a door-to-door sale within the meaning of K.S.A. 1991 Supp. 50-641(c)(1).

88. Defendant's failure to provide the notice required by statute constituted a deceptive act prohibited by K.S.A. 1991 Supp. 50-626(a).

COUNT XI

89. Plaintiff hereby incorporates by reference paragraphs 1-88 as though fully stated herein.

90. On or about August 28, 1991, defendant solicited the sale of a living trust package to [REDACTED] and [REDACTED], [REDACTED] - [REDACTED], Cheney, Kansas.

91. Mr. and Mrs. [REDACTED] agreed to purchase the living trust package, and gave defendant a personal check in the amount of \$1,595.00.

92. On or before November 12, 1991, defendant delivered the living trust package to Mr. and Mrs. [REDACTED]

93. Defendant did not provide, either at the time of the initial solicitation or at the time of delivery of the living trust package, a statement notifying Mr. and Mrs. [REDACTED] of the three-day right to cancel the agreement as required by K.S.A. 1991 Supp. 50-640(a).

94. The sale of the living trust package to Mr. and Mrs. [REDACTED] constituted a door-to-door sale within the meaning of K.S.A. 50-641(c)(1).

95. Defendant's failure to provide the notice required by statute constituted a deceptive act and was prohibited by K.S.A. 1991 Supp. 50-626(a).

96. As a result of defendant's deceptive act, Mr. and Mrs. [REDACTED] were not aware of their right to cancel the sale. They have been damaged in the amount of \$1,595.00 by not being provided the statement and cancellation form required by statute.

COUNT XII

97. Plaintiff hereby incorporates by reference paragraphs 1-96 as though fully stated herein.

98. Mr. and Mrs. [REDACTED] did not know defendant lacked authority to provide the advice and service he provided in connection with the solicitation and sale of the living trust package.

99. Mr. and Mrs. [REDACTED] relied to their detriment upon defendant's apparent expertise and authority to provide the service.

100. Defendant knew or had reason to know the price for the living trust package he sold to Mr. and Mrs. [REDACTED] grossly exceeded the price at which similar property or services were readily obtainable.

101. The living trust package defendant sold to Mr. and Mrs. [REDACTED] was not personalized for them. The package was a print-out of a computerized form.

102. Defendant's acts described herein are unconscionable and prohibited by K.S.A. 1991 Supp. 50-627(a).

103. As a result of defendant's unconscionable act, Mr. and Mrs. [REDACTED] were damaged by incurring the purchase price in the amount of \$1,595.00.

5. Defendant voluntarily agrees to this consent judgment.

6. The provisions of this consent judgment will be applicable to defendant and every agent, representative or employee of defendant.

7. Defendant agrees to stop and be enjoined from engaging in all acts and practices alleged by plaintiff to be deceptive and unconscionable as stated in paragraph number four herein.

8. Defendant agrees to pay One Thousand Dollars (\$1,000.00) in investigation fees and expenses to the Attorney General of Kansas.

9. Defendant agrees to pay and is liable for \$27,500.00 in civil penalties to the State of Kansas.

10. Defendant agrees to pay and is liable for the following sums of money to the Attorney General on behalf of the stated consumers for their actual damages:

- a) \$2,062.30 for [REDACTED]
- b) \$1,663.17 for [REDACTED]
- c) \$1,145.00 for [REDACTED] and [REDACTED]
- d) \$1,595.00 for [REDACTED] and [REDACTED]
- e) \$ 895.00 for [REDACTED]
- f) \$1,345.00 for [REDACTED]
- g) \$ 800.00 for [REDACTED]
- h) \$1,145.00 for [REDACTED]
- i) \$ 875.00 for [REDACTED]
- j) \$ 695.00 for [REDACTED]
- k) \$ 895.00 for [REDACTED]
- l) \$ 895.00 for [REDACTED] and [REDACTED]

11. Defendant agrees to resolve all other consumer complaints to the good faith satisfaction of the Attorney General after the date of this consent judgment whether brought to defendant's attention by the State of Kansas or by consumers complaining directly to defendant. Defendant shall inform the

Attorney General of the disposition of those complaints within thirty (30) days after resolution.

12. Defendant consents to the issuance of a writ of quo warranto and is hereby enjoined from the unauthorized practice of law. Specifically, defendant is enjoined from conferring with consumers regarding matters requiring the knowledge and application of legal principles and techniques, and is enjoined from preparing documents by which legal rights are conferred. This paragraph shall not be construed to prohibit defendant from executing a contract between defendant or his principals and consumers so long as such contract does not involve the unauthorized practice of law by defendant.

13. Defendant agrees to pay all court costs.

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 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 THEREFORE ORDERED, ADJUDGED AND DECREED that the defendant will pay all court costs and filing fees.

IT IS SO ORDERED.

LARRY T. SOLOMON
DISTRICT JUDGE

Agreed to and approved by:


ROBERT T. STEPHAN, #05340
Attorney General


Daniel P. Kolditz, #17102
Deputy Attorney General


Martha M. Snyder, #11317
Assistant Attorney General


Mark W. Stafford, #13233
Assistant Attorney General
Office of the Attorney General
Kansas Judicial Center
Topeka, Kansas 66612-1597

Attorneys for plaintiff


Clifford L. Bertholf
330 North Main Street
Wichita, Kansas 67202

Attorney for defendant