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FREELAND/MARKS

FILED BY CLERK  
S. DISTRICT COURT  
3rd JUDICIAL DISTRICT  
JUL 23 4 38 PM '93  
LIMITED ACTIONS DIV.  
TOPEKA, KANSAS

*pd by 9-1-93*

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
Division 5

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

Plaintiff,

vs.

FREELAND MARKETING, INC.,

RICHARD HUNDLEY

Defendants.

Case No. 93CV860

**JOURNAL ENTRY OF CONSENT JUDGMENT**  
**AND PERMANENT INJUNCTION**

NOW on this 22 day of ~~June~~<sup>July</sup>, 1993, the Plaintiff's petition for approval of consent judgment comes before the court for consideration under K.S.A. 1992 Supp. 50-632(b). The State of Kansas ex rel. Robert T. Stephan, Attorney General, appears by and through Mark W. Stafford, Assistant Attorney General. The Defendant Freeland appears by and through Cynthia Callendar of Callendar & Givens, Las Vegas, Nevada, and Timothy J. Evans and Richard C. Wallace of Evans & Mullinix,

P.A., Kansas City. Defendant Richard Hundley appears personally.

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

1. Robert T. Stephan is the Attorney General of the State of Kansas.

2. Defendant Freeland Marketing, Inc. (hereinafter, Freeland) is a Nevada corporation which engages in consumer transactions within the State of Kansas. Defendant Freeland does business in its own name and as Francis R. Pournelle; MPS; Matthews, Pournelle and Smith; Prize Claim Attendant; William Grovant; and Albert Price.

3. Defendant Richard Hundley is an Indiana resident and sole shareholder of Freeland.

4. The defendants enter their voluntary general appearance, and admit the court has jurisdiction over the parties and the subject matter.

5. Defendant Freeland solicits consumers to call its 900 telephone service for a fee by giving notice that the consumer has won a prize. The Attorney General alleges the following acts and practices by the Defendant Freeland are violations of the Kansas consumer protection act and are deceptive and unconscionable:

a. Defendant's direct mail items appeared to guarantee large cash prizes. However, such prizes were awarded only to the person

with the preselected winning number. Defendant used ambiguity and innuendo in disclosing conditions and limitations to winning the prizes.

b. Defendant used a location in Kansas as a return address, even though Defendant operated no place of business at that address. This gave the false appearance that consumers located in Kansas were transacting business with a local company.

6. The Defendants have engaged in at least three consumer transactions within the State of Kansas in which there occurred an act or practice alleged herein to be deceptive and/or unconscionable.

7. The Defendants voluntarily agree to this consent judgment without admitting liability and without trial or adjudication of any issue of fact or law.

8. The provisions of this consent judgment will be applicable to the Defendants, and every employee, agent or representative of the Defendants.

9. The Defendants agree to make available and/or disclose the provisions of this consent judgment to their employees, agents and representatives.

10. The Defendants agree to refrain from and to be permanently enjoined from engaging in consumer transactions by

mail, by telephone within the State of Kansas. If Defendants resume business in the future, Plaintiff agrees to consider and negotiate, in good faith, any amendment to such injunction so that Defendants may engage in consumer transactions within the State of Kansas within the bounds of the Kansas consumer protection act, and as long as,

a. The Defendants agree to refrain from and to be enjoined from engaging in all acts and practices alleged herein to be deceptive and unconscionable;

b. The Defendants agree that all conditions and limitations to winning prizes will be stated in separate sentences, in conspicuous and legible typography, layout and color in contrast to other printing contained in the solicitation, and not in a manner which detracts attention from such conditions and limitations;

c. The Defendants agree that they will refrain from using a return address or mailing address located within the State of Kansas which is not Defendants' place of business unless such address is clearly identified as a mail receiving facility and not as a place of business.

11. The Defendants agree to resolve all consumer complaints to the satisfaction of the Office of the Attorney General whether brought to Defendants' attention by the State of Kansas or by consumers complaining directly to the defendant. Defendants shall apprise plaintiff, in a simple and concise

manner, of the disposition of those complaints and disputes within thirty (30) days after resolved.

12. The Defendants 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.

13. The Defendants agree to pay \$15,000 in civil penalties to the State of Kansas, \$10,000 of which will be paid prior to or at the time of filing this consent judgment, and \$5,000 within 45 days following filing. Payment will be by certified check.

14. The Defendants agree to allow the Attorney General to inspect relevant business records in the future.

15. The defendants agree to pay all court costs and filing fees.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas consumer protection act, and the provisions of K.S.A. 50-632(b) and amendments thereto, 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 the defendant will pay all court costs and filing fees.

IT IS SO ORDERED.

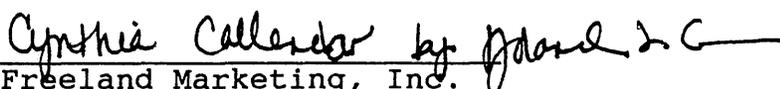
          
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DISTRICT COURT JUDGE            }

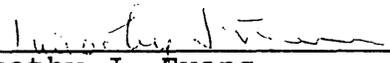
Approved by:

  
Robert T. Stephan, #05340  
Attorney General

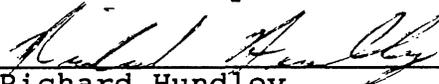
  
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