

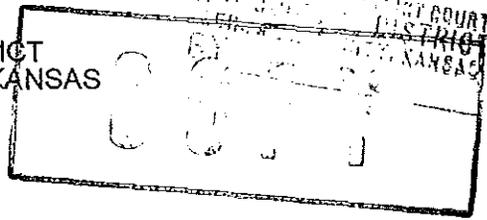
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IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CIVIL DEPARTMENT



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

vs.
HECHINGER INVESTMENT COMPANY
OF DELAWARE, INC. a Delaware corporation,
dba Builders Square and Home Quarters
Defendant.

Case No.
99 01022

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW, on this 6th day of April, 1999, the above matter comes on for disposition on the joint motion of the plaintiff and defendant corporation Hechinger Investment Company of Delaware, Inc., hereafter referred to as the 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. The defendant appears by and through Robert T. Stephan, Attorney at Law.

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, Hechinger Investment Company of Delaware, Inc. does business within the State of Kansas as the defendant has retail locations within the State, including two locations doing business as "Builders Square" in Sedgwick County, Kansas, one location that did business as "Builders Square" in Shawnee County (recently closed), and one location doing business as "Home Quarters Warehouse" in Johnson County.
2. That the defendant, at all times mentioned herein was, and now is, engaged in the business, inter alia, of advertising for sale and the retail sale of various building materials, home improvement products, consumer goods and services within the State of Kansas.

2. That the defendant, at all times mentioned herein was, and now is, engaged in the business, inter alia, of advertising for sale and the retail sale of various building materials, home improvement products, consumer goods and services within the State of Kansas.

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 several occasions over the past 9 months, representatives of the Kansas Department of Agriculture, in cooperation with the Office of the District Attorney of the Eighteenth Judicial District of Kansas, and the Office of the Attorney General for the State of Kansas, visited the defendant's retail stores located at within the State of Kansas, for the purpose of investigating, inspecting and reviewing the pricing, signage, price scanning and customer check-out procedures of said store. These investigations found a significant number of discrepancies between the declared and/or displayed price of certain items and the price recorded at the defendant's point of sale register. These discrepancies included both overcharges and undercharges. A summary of those inspections is as follows:

| <u>Inspection Date</u> | <u>Overcharges</u> | <u>Undercharges</u> | <u>TOTAL RATE OF ERROR</u> |
|---|--------------------|---------------------|----------------------------|
| 9609 East Kellogg, Wichita, Sedgwick County, Kansas | | | |
| 09-01-98 | 10 | 12 | 22% |
| 10-08-98 | 8 | 2 | 10% |
| 11-04-98 | 9 | 6 | 15% |
| 01-06-99 | 8 | 3 | 11% |

613 South Dugan Road, Wichita, Sedgwick County, Kansas

| | | | |
|----------|----|----|-----|
| 07-21-98 | 14 | 9 | 23% |
| 08-26-98 | 4 | 10 | 14% |
| 11-17-98 | 9 | 13 | 22% |
| 01-05-99 | 8 | 12 | 20% |

1900 Wanamaker, Topeka, Shawnee County, Kansas

| | | | |
|----------|---|----|------|
| 08-13-98 | 5 | 8 | 26%* |
| 10-01-98 | 3 | 10 | 13% |

12381 West 95th, Lenexa, Johnson County, Kansas

| | | | |
|----------|----|----|-----|
| 07-09-98 | 24 | 16 | 40% |
| 08-05-98 | 6 | 11 | 17% |
| 09-08-98 | 9 | 2 | 11% |
| 10-12-98 | 8 | 6 | 14% |
| 11-19-98 | 12 | 9 | 21% |
| 01-06-99 | 18 | 6 | 24% |

* This 08-13-98 inspection at the Topeka location involved a sampling of 50 items. All other inspections involved a sampling of 100 items.

8. 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.

9. 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 Twenty-Five Thousand Dollars (\$25,000.00) for violations of K.S.A. 50-626 and K.S.A. 83-219. Upon receipt thereof, the Clerk shall disburse \$12,500.00 to the Treasurer of the State of Kansas and to be credited to the "Weights and Measures Fee Fund." The Clerk shall disburse the other \$12,500.00 to the Sedgwick County General Fund.

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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 Fifteen Thousand Dollars (\$15,000.00) as provided by K.S.A. 50-636(c), which amount is hereby found to be reasonable. Upon receipt thereof, the Clerk shall disburse \$7,500.00 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 \$7,500.00 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, and 9 above.

IT IS SO ORDERED.


JUDGE OF THE DISTRICT COURT



APPROVED BY

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


Robert T. Stephan, #05340
Attorney for the Defendant

Certificate of Clerk of the District Court. The above is a true and correct copy of the original instrument which is on file or of record in this court.
Dated this 6th day of April, 19 99
CLERK OF THE DISTRICT COURT
18th JUDICIAL DISTRICT
SEDGWICK COUNTY, KANSAS
By 