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FILED BY CLERK
U.S. DISTRICT COURT
THIRD JUDICIAL DIST
2000 AUG -3 P 3:48
GENERAL JURISDICTION
TOPEKA, KANSAS

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 5

STATE OF KANSAS, *ex rel.*
CARLA J. STOVALL, Attorney General

Plaintiff,

vs.

CHRISTOPHER L. VALENTINE,
d/b/a NATIONAL AIR DEFENSE SYSTEMS,

Defendant.

Case No. 00 C 935

Petition Pursuant to K.S.A. Chapter 60

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 3RD day of Aug., 2000, Plaintiff's Petition for Approval of Consent Judgment comes before the Court pursuant to K.S.A. 50-632(b). Plaintiff, the State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, appears by and through James J. Welch, Assistant Attorney General. Defendant Christopher L. Valentine, d/b/a National Air Defense Systems, appears by his attorney, Steven K. Blackwell.

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

1. Carla J. Stovall 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 Christopher L. Valentine, d/b/a National Air Defense Systems is a sole proprietorship operating within the state of Kansas. The principal office of the business is located at 909 East Wayne Avenue, Salina, Kansas 67401. Defendant Christopher L. Valentine, d/b/a National Air Defense Systems, may be served with process by serving Christopher L. Valentine at the principal office of the business (same as above).

4. Defendant is a supplier within the definition of K.S.A. 50-624(i) and has engaged in consumer transactions in Kansas within the definition of K.S.A. 50-624(c) and (h).

5. Defendant admits the Court has personal and subject matter jurisdiction over the parties.

6. Venue is proper in Shawnee County because an act or practice declared to be a violation of the Kansas Consumer Protection Act occurred in such county and because Defendant has no principal place of business in the state of Kansas.

7. Defendant advertises and sells air purification systems to consumers and has made solicitations connected with such sales through contest promotions by way of flyers containing prize notifications delivered to persons receiving the Salina Journal.

8. The Attorney General alleges and Defendant admit Defendant engaged in the following acts and practices which are deceptive and/or unconscionable and violate the Kansas Consumer Protection Act:

- a. Defendant caused 9,335 promotional flyers to be distributed to consumers via the Salina Journal which, among other things, indicate that the consumer is entitled to claim his/her prize by calling Defendant's toll-free number. A true and correct copy of said flyer is attached hereto and marked as Exhibit A. This flyer constitutes a prize notice, as defined by K.S.A. §50-692(a)(2).
- b. Defendant's solicitation flyer represents to consumers that they have been selected to receive a prize and, immediately thereafter, solicits consumers to telephone Defendant, National Air Defense Systems. The solicitation does not contain: (1)

the name and address of the solicitor (although Defendant is listed as sponsor); (2) the verifiable retail value of each prize, as defined by K.S.A. §50-692(a)(5); (3) the requirement /invitation for consumers to hear a sales presentation in order to claim a prize, the approximate length of such sales presentation and a description of the property that is the subject of the sales presentation; or (4) the restriction/limitation on eligibility (specifically, the requirements that consumers be (a) employed or retired; and (b) married or a single/widowed/divorced female), in violation of K.S.A. §50-692(c). This is also in violation of K.S.A. §50-626(b)(3), in that it is the failure to state material facts and the willful concealment, suppression and omission of material facts.

- c. Defendant's flyer does includes neither statements of odds of winning, nor of verifiable retail values of prizes in the formats required by K.S.A. §50-692(c)(2)(B) and (C).
- d. Defendant's flyer misrepresents the verifiable retail value of prizes, as evinced by Defendant's response to the Attorney General's subpoena, a true and correct copy of which is attached hereto and marked as Exhibit B (see response to directive #9). This is in violation of K.S.A. §50-626(b)(2), in that it is the willful use of exaggeration, falsehood, innuendo, and ambiguity as to material fact.
- e. Defendant began sales presentations to consumers prior to awarding the prizes, in violation of K.S.A. §50-692(d)(2).

9. Defendant voluntarily agrees to this Consent Judgment without trial or adjudication of any issue of fact or law.

10. Defendant agrees to refrain from and to be permanently enjoined from engaging in those acts and practices alleged to be deceptive or unconscionable in paragraph eight (8) of this Consent Judgment, and Defendant agrees that engaging in such acts or similar acts, after the date of this Consent Judgment, shall constitute a violation of this Order.

11. Defendant agrees to refrain from and to be permanently enjoined from engaging in any and all deceptive and/or unconscionable acts and practices in violation of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, as it now exists or as amended in the future and Defendant agrees that engaging in such acts or practices after the date of this consent judgment shall constitute a violation of this Order.

12. The provisions of this Consent Judgment will be applicable to Defendant, and every employee, agent or representative of Defendant.

13. Defendant agrees to make available and disclose the provisions of this Consent Judgment to its employees, agents and representatives within five days of signing the Consent Judgment.

14. Defendant agrees to cooperate with the Office of the Attorney General in resolving any future complaints concerning Defendant.

15. 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 Consent Judgment.

16. Defendant agrees to pay \$1,500.00 in investigation fees and expenses to the "Office of the Attorney General" of the State of Kansas. In addition, Defendant agrees to pay \$1,500.00 in civil penalties to the "State of Kansas". Payments shall be made by cashiers checks and shall commence at the time of signing this Consent Judgment with a payment of \$300.00. Defendants agree to make monthly payments of \$300.00 until the entire remaining balance of \$3,000.00 is satisfied. Payment of \$300.00 per month shall commence at the time of Defendant's signing of this Consent Judgment, with subsequent \$300.00 payments thereafter due on or before the first (1st) day of each month, until the entire amount payable is satisfied.

17. Parties agree that payment of investigation fees and expenses and civil penalties, as set out in paragraph nineteen (16) of this Consent Judgment shall not be subject to interest as long as all payments are timely made. Defendants agree that failure to make timely payments of

investigative fees and expenses and civil penalties, as set out in paragraph nineteen (16) of this Consent Judgment, will result in the amount of the entire unpaid balance becoming due within five (5) days of the first payment missed and subject to interest, as provided in K.S.A. §16-204.

18. Defendant agrees to pay all expenses and reasonable attorney's fees in connection with the collection of any amounts in this judgment, provided Defendant does not pay the amounts as agreed herein within the time frame stated

19. If Defendant does further business in the State of Kansas, Defendant agrees to maintain all business records for a period of five years and to allow the Attorney General to inspect such records.

20. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Consent Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the enforcement of compliance herewith, and for the punishment of violations thereof.

21. If any portion, provision, or part of this Consent Judgment is held to be invalid, unenforceable, or void for any reason whatsoever, 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 Consent Judgment 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 her jurisdiction.

23. The parties understand that this Consent Judgment shall not be construed as an approval of or sanction by the Attorney General of the business practices of Defendant nor shall Defendant represent the decree as such an 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 Consent Judgment 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 \$3,000.

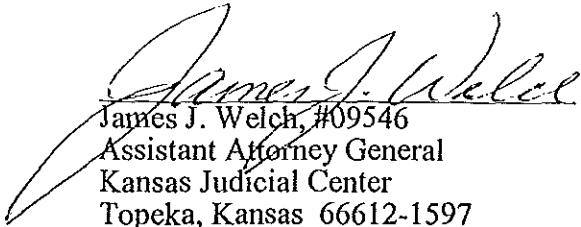
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, and the provisions of K.S.A. 50-632(b), the Court hereby approves the terms of the Consent Judgment and adopts the same as the order of the Court.

IT IS SO ORDERED.

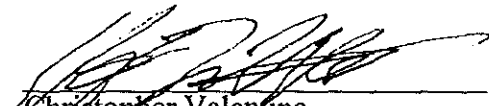
15/ Hon. James M. Nish
DISTRICT COURT JUDGE

Approved by:


Carla J. Stovall by John Campbell
Carla J. Stovall #11433
Attorney General


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