

E-04-000019

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FILED

2004 APR 30 PM 2:33

CLERK OF DISTRICT COURT
RENO COUNTY KANSAS

BY _____

IN THE DISTRICT COURT OF RENO COUNTY, KANSAS
Division _____

STATE OF KANSAS, *ex rel.*)
PHILL KLINE, Attorney General)
)
Plaintiff)
)
Laird Noller of Huthchinson, Inc.)
)
Defendant,)
)

Case No. **04 CV 0239**

(Pursuant to K.S.A. Chapter 60)

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 29th day of April, 2004, comes before the Court the Journal Entry of Consent Judgment entered into between the parties, pursuant to K.S.A. 50-632(b). Plaintiff, State of Kansas, *ex rel.* Phill Kline, Attorney General, appears by and through James R. McCabria, Assistant Attorney General. There are no other appearances.

WHEREUPON, the Parties advise the Court they have stipulated and agree to the following matters:

1. Phill Kline is the Attorney General of the State of Kansas.
2. The Attorney General's authority to bring this action is derived from statutory and common law of Kansas, specifically, the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*

3. Defendant Laird Noller of Hutchinson, Inc. ("Noller" or Defendant) is a Kansas corporation with its principal place of business being located at 1421 E. 30th Street, Hutchinson, Kansas 67502.

4. Defendant is a supplier within the definition of K.S.A. 50-624(j) and has engaged in consumer transactions in Kansas within the definition of K.S.A. 50-624(c). The nature of Defendant's business is selling and soliciting for sale property and/or services to consumers at retail prices within this State.

5. Defendant admits that this Court has personal and subject matter jurisdiction over all matters and parties hereto.

6. On or about February 15, 2003 Defendant entered into a consumer transaction with Melinda Peer for the purchase of a 2002 Nissan Altima, VIN 1N4AL11D52C136070.

7. The Attorney General alleges the following described facts relating to the above transaction constitutes violations of the Kansas Consumer Protection Act:

Noller had reason to know that the vehicle it sold to Peer had prior body damage and/or damage to the front wheels to the extent it constituted a material fact to a consumer and willfully failed to state that fact to the consumer prior to the sale and/or knew or should have known of such damage and failed to disclose the information, all in violation of K.S.A. 50-626(b)(3) and/or K.S.A. 50-626(b)(1)(D).

8. Defendant agrees to this Consent Judgment without trial or adjudication of any issue of fact or law. Furthermore, Defendant specifically denies each allegation, or that any described act constitutes a violation of the Kansas Consumer Protection Act.

9. Defendant agrees to refrain from and to be permanently enjoined from engaging in the acts and practices described in Paragraph Seven hereof in any future transactions.

10. Defendant agrees that engaging in acts or similar acts to those described in Paragraph Seven hereof without adhering to the requirements of Paragraph Ten shall constitute a violation of this Order and hereby stipulates, in that event, to civil penalties of \$10,000.00 per violation.

11. Defendant agrees to pay \$3,000.00 in investigative fees, expenses and civil penalties to the "Office of the Attorney General" of the State of Kansas. Payment shall be by cashier's check and shall be delivered to the Attorney General of the State of Kansas upon signing this Consent Judgment.

12. Defendant shall pay \$4,543.56 in restitution to Kansas Consumer Melinda Peer. Payment shall be by cashier's check and shall be delivered to the Attorney General of the State of Kansas upon signing this Consent Judgment.

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

14. Defendant agrees to be permanently enjoined from entering into, forming, organizing or reorganizing into any partnership, corporation, sole proprietorship or any other legal structures, where such restructuring is done for the purpose or object of avoiding compliance with the terms of this Consent Judgment.

15. 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 modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

16. 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.

17. Compliance with this Consent Judgment does not relieve Defendant of any obligation imposed by applicable federal, state or local law, nor shall this Consent Judgment preclude the Attorney General from taking appropriate legal action to enforce civil or criminal statutes under his jurisdiction. Defendant further understands that nothing in this Consent Judgment shall preclude the Attorney General from taking further action against Defendant in operating this or any other program upon belief that the program is being promoted or operated in a fashion that otherwise violates the law.

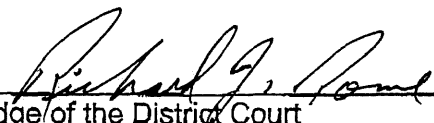
18. The parties understand this Consent Judgment shall not be construed as an approval of or sanction by the Attorney General of the business practices of Defendant nor shall Defendant represent the decree as such an approval. The parties further understand that any failure by the State of Kansas or by the Attorney General to take any action in response to any information which the Attorney General now has in its possession and believes forms the basis for a violation of this 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 shall immediately become a judgment upon filing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against the Defendant and in favor of Plaintiff in the amount of \$7,543.56.

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.

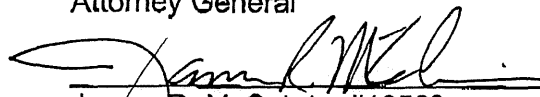
IT IS SO ORDERED.



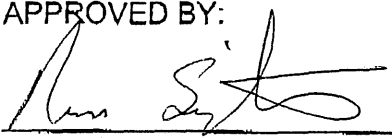
Judge of the District Court

PREPARED AND APPROVED BY:


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APPROVED BY:


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