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CLOUD COUNTY, KS
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CLERK OF
DISTRICT COURT

IN THE DISTRICT COURT OF CLOUD COUNTY, KANSAS

STATE OF KANSAS, *ex rel.*)
DEREK SCHMDIT, Attorney General,)
)
Plaintiff,)
)
v.)
)
Gary Leroy Haynes,)
Todd Haynes, Eddie Jones,)
Quality Road Construction)
)
Defendants)

Case No. 2011-CV-41

(Pursuant to K.S.A. Chapter 60

JOURNAL ENTRY OF DEFAULT JUDGMENT
AGAINST DEFENDANTS TODD HAYNES AND EDDIE JONES

NOW, on this ____ day of _____, 2011, the Plaintiff's Motion for Default Judgment against Defendants Todd Haynes and Eddie Jones, comes before this Court for consideration. The State of Kansas, *ex rel.* Derek Schmidt, appears by and through Deputy Attorney General, James J. Welch. Defendants appear not.

WHEREUPON, after reviewing the Court's file and Plaintiff's Motion for Default Judgment, the Court finds the following:

1. On July 12, 2011, Plaintiff filed a Petition alleging Defendants violated provisions of the Kansas Consumer Protection Act, K.S.A. §50-626(b) (3) *et seq.*

2. A copy of the Summons, the original Petition and the Ex Parte Order for Sequestration of Assets and Restraining Order to Seize and Hold Property and Enjoining Defendant from Soliciting Business in Kansas were served upon Defendant Todd Haynes at 702 Lyon Street, Hannibal, MO 63401 on July 13, 2011, pursuant to K.S.A. §60-304(a) and §60-303(c).

3. A copy of the Summons, the original Petition and the Ex Parte Order for Sequestration of Assets and Restraining Order to Seize and Hold Property and Enjoining Defendant from Soliciting Business in Kansas were served upon Defendant Eddie Jones at 94 Meadows Street, Hannibal, MO 63401 on July 13, 2011, pursuant to K.S.A. §60-304(e) and §60-303(c).

4. Defendants failed to file an Answer within thirty days after being served with process, as required by K.S.A. §60-308(a) (3). As such, Defendants are in default as set forth in K.S.A. §60-255.

5. Defendants have not appeared in this action.

6. Pursuant to Supreme Court Rule 118 the Plaintiff has provided Notice to the Defendants that Plaintiff will take Default judgment against the Defendants in Total amount of One Hundred One Thousand Eight Hundred Dollars Ten and no cents (\$101,810.00).

7. Defendants are not minors or incapacitated persons.

8. Plaintiff is entitled to entry of Judgment by Default, and to all remedies Plaintiff has requested in its Petition, pursuant to K.S.A. §60-255(a) and K.S.A. §60-254(c).

9. Defendant Todd Haynes (“Defendant Haynes”) is an individual working for or operating asphalt paving company under the name “Quality Road Construction” with an

unknown place of business. Defendant Haynes, is, or is principally employed by, a supplier as that term is defined by K.S.A. 50-624(j).

10. Defendant Eddie Jones (“Defendant Jones”) is an individual working for or operating an asphalt paving company under the name “Quality Road Construction” with an unknown principal place of business. Defendant Jones is, or is principally employed by, a supplier as that term is defined by K.S.A. 50-624(j).

11. Defendants, individually or in concert, solicited Kansas consumers for asphalt paving services at Kansas residences.

12. On June 29, 2011, Defendants, jointly and in concert, within the State of Kansas, entered into a consumer transaction with a Kansas resident, Arvid Flewelling (“Flewelling”), for the sale and installation of asphalt and charged Flewelling \$1000.00.

13. The transaction with Flewelling constitutes a door-to-door sale within the definition of K.S.A. 50-640(c) (1).

14. In the transaction, Defendants failed to furnish the consumer with a fully completed receipt or copy of any contract that contained the language required by K.S.A. 50-640(b) (1), advising consumers of their right to cancel the transaction.

15. In the transaction, Defendants failed to furnish the consumer with a “NOTICE OF CANCELLATION” required by K.S.A. 50-640(b)(2).

16. Defendants failed to inform Flewelling, orally, of his right to cancel the transaction at the time of purchase, as required by K.S.A. 50-640(b)(5).

17. Defendants negotiated, transferred, sold or assigned Flewelling’s note of indebtedness to his financial institution prior to midnight of the fifth business day following the transaction, in violation of K.S.A. 50-640(b)(8).

18. In the transaction, Defendants willfully failed to disclose material facts as to the services being performed and/or the charges that would be levied for the services, a deceptive act in violation of K.S.A. 50-626(b)(3).

19. Defendants have entered into other consumer transactions with Kansas consumers and Defendants have used deceptive and/or unconscionable acts in transacting with those consumers. More specifically, the Defendants failed to provide consumers with written notices for cancellation required by K.S.A. 50-640(b)(1)&(2), or to advise consumers of those rights orally K.S.A. 50-640(b)(5).

20. Defendants failed to disclose certain material facts to consumers prior to entering into the transactions, including but not limited to the total price that would be charged and the method and timing of payment for the services, all in violation of K.S.A. 50-626(b)(3).

21. Plaintiff is entitled to all relief requested in its Petition pursuant to K.S.A. §50-632, including the following:

22. The acts and practices alleged in Plaintiff's Petition are declared to be both deceptive and unconscionable and in violation of the Kansas Consumer Protection Act, pursuant to K.S.A. §50-632(a)(1).

23. Defendants and their officers, directors, employees, shareholders and agents, if any, be permanently enjoined from engaging in the acts and practices alleged in Plaintiff's Petition and other practices in violation, pursuant to K.S.A. 50-632(a)(2).

24. Defendants pay restitution to Avird and/or Alice Flewelling in total amount of One Thousand Dollars (\$1,000).

25. Defendants pay \$9,500.00 in civil penalties for each violation of the Kansas Consumer Protection Act alleged in Plaintiff's Petition, pursuant to K.S.A. 50-636(a), totaling \$47,500.00.

26. Defendants pay \$9,500.00 in enhanced civil penalties for each violation of the Kansas Consumer Protection Act committed against an "elder person" pursuant to K.S.A. 50-677, totaling \$47,500.00.

27. Defendants pay all court costs.

28. Defendants pay reasonable expenses and investigative fees to the Office of the Attorney General pursuant to K.S.A. 50-632(a) (4) in the amount of \$5,810.00.

IT IS THEREFORE ORDERED, ADJUDICATED AND DECREED that the Plaintiff's Motion for Default Judgment is granted; Judgment is hereby entered against the Defendants jointly and severally as follows: Paragraphs one through twenty-eight above are hereby made Findings of Fact and or Conclusions of Law by this Court; Notice of the entry of this Default Judgment and Service of Process have been proper in all respects; Defendants are permanently enjoined from engaging in any acts declared to be violations of the Kansas Consumer Protection Act; Defendants are ordered to pay restitution to Arvid Flewelling in the amount of \$1,000 (pursuant to the Consent Judgment between the Plaintiff and Gary Leroy Haynes if the restitution for the Flewelling's is collected and paid as a result of the sale of the equipment by the Sherriff of Cloud County then that payment shall be offset against the restitution portion of this judgment.); Investigative fees and expenses in the amount of Five Thousand Eight Hundred and Ten dollars (\$5,810.00) are found to be just, fair and reasonable and are awarded to the Office of the Kansas Attorney General pursuant to K.S.A. 50-632; Judgment for civil penalties is entered pursuant to K.S.A. §50-636 against the Defendants in the

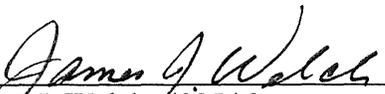
total amount of Forty-Seven Thousand Five Hundred Dollars (\$47,500.00) for five (5) violations of the Kansas Consumer Protection Act alleged in Plaintiff's Petition; Because the consumer is an elder person, as defined by the statute, and the defendants knew or should have known that their conduct was directed at an elder person the Court also enhances the penalties under KSA 50-777 on the violations, for a total penalty enhancement of Forty-Seven Thousand Five Hundred dollars (\$47,500.00); Judgment is hereby entered jointly and severally against Todd Haynes and Eddie Jones in the total amount of One Hundred One Thousand Eight Hundred Ten Dollars and No Cents (\$101,810.00) in favor of the State of Kansas ex rel., Derek Schmidt Attorney General.

IT IS SO ORDERED.

**ORIGINAL SIGNED
BY
KIM W. CUDNEY
JUDGE OF THE DISTRICT COURT**

Judge of District Court Judge

Submitted by:


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