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FILED BY CLERK
 KS. DISTRICT COURT
 THIRD JUDICIAL DISTRICT
 TOPEKA, KS
 2018 JUN 18 A 11:01

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
 DIV. 7**

STATE OF KANSAS, *ex rel.*
DEREK SCHMIDT, Attorney General,

Plaintiff,

v.

EDDIE RAYMOND TIPTON, *et al.*

Defendants.

Case No. 2017-CV-000096

(Pursuant to K.S.A. Chapters 60 and 75)

JOURNAL ENTRY AND ORDER OF CONSENT JUDGMENT

NOW on this day, the Journal Entry of Consent Judgment agreed and proposed by Plaintiff, State of Kansas *ex rel.* Derek Schmidt, Attorney General, and Defendant Christopher McCoulskey comes before the Court pursuant to K.S.A. 60-254. Plaintiff appears by and through Derek Schmidt, Attorney General, and Meghan D. Markey, Assistant Attorney General. Defendant Christopher McCoulskey (“Defendant McCoulskey”) appears by and through counsel Arthur E. Palmer.

WHEREUPON Plaintiff and Defendant McCoulskey (“the Parties”) advise the Court that they have stipulated and agreed to the following:

PARTIES, JURISDICTION AND VENUE

1. Derek Schmidt is the duly elected, qualified and acting Attorney General for 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 False Claims Act, 2017 Supp. 75-7501 *et seq.*

3. Defendant McCoulskey is an individual with a residential address located at 1624 W. Oak, Denton, Texas 76201.

4. Defendant McCoulskey may be served by and through counsel.

5. Defendant McCoulskey stipulates and admits that the Court has subject matter jurisdiction over this case and *in personam* jurisdiction over the parties.

6. Defendant McCoulskey stipulates and admits that venue is proper in this Court.

SCOPE OF THE CONSENT JUDGMENT

7. Pursuant to K.S.A. 2017 Supp. 75-7509, liability is joint and several for any violation of the Kansas False Claims Act done by two or more persons. This Consent Judgment resolves the Attorney General's claims only against Defendant McCoulskey and does not alter, diminish or resolve the Attorney General's claims against Defendant Tipton or Defendant Demoney, as set forth in the Petition. Defendants Tipton and Demoney remain jointly and severally liable for their violations of the Kansas False Claims Act.

8. The parties agree and understand that this Consent Judgment shall not be made a ground of objection by these parties in regard to any future settlement approval, verdict, judgment, or any other order entered by the Court in this action involving Defendants Tipton or Demoney.

ALLEGATIONS

9. At all times relevant hereto, Defendant McCoulskey acted as a "person" in Kansas, as that term is defined by K.S.A. 2017 Supp. 75-7502(d).

10. At all times relevant hereto, Defendant McCoulskey made or caused to be made a “claim” for payment, as that term is defined in K.S.A. 2017 Supp. 75-7502(b), specifically in the form of a lottery “Ticket,” as that term is defined in K.S.A. 2017 Supp. 74-8702(ff).

11. At all times relevant hereto, Defendant McCoulskey made or caused to be made a Claim for payment to the State, as that term is defined in K.S.A. 2017 Supp. 75-7502(b), or to a “political subdivision” of the State of Kansas, as that term is defined in K.S.A. 2017 Supp. 75-7502(c), specifically, the Kansas Lottery, as that term is defined in K.S.A. 2017 Supp. 74-8702(h).

12. At all times relevant hereto, Defendant McCoulskey “knowingly” made the aforementioned claim for payment, as that term is defined in K.S.A. 2017 Supp. 75-7502(e).

13. At all times relevant hereto, Defendant McCoulskey engaged in acts and practices in violation of the Kansas False Claims Act, 2017 Supp. 75-7501 *et seq.*, which acts and practices include:

- a. Knowingly presenting or causing to be presented a false or fraudulent claim for payment, in the form of a lottery ticket, for payment or approval to employees, officers or agents of the State of Kansas or political subdivisions thereof, in violation of K.S.A. 2017 Supp. 75-7503(a)(1), or, in the same manner, becoming a beneficiary of an inadvertent submission of a false claim and failing to disclose the false claim and make satisfactory arrangements for the repayment to the state or affected political subdivision thereof within a reasonable time after the discovery of the false claim, in violation of K.S.A. 2017 Supp. 75-7503(a)(7);
- b. Knowingly presenting or causing to be presented a false or fraudulent claim for payment, in the form of a lottery ticket, for payment or approval to employees,

officers or agents of the State of Kansas or political subdivisions thereof and, in doing so, defrauded the State of Kansas or political subdivision thereof by getting the false or fraudulent claim allowed or paid, in the amount of \$22,004.00, in violation of K.S.A. 2017 Supp. 75-7503(a)(3), or, in the same manner, becoming a beneficiary of an inadvertent submission of a false claim and failing to disclose the false claim and make satisfactory arrangements for the repayment to the state or affected political subdivision thereof within a reasonable time after the discovery of the false claim, in violation of K.S.A. 2017 Supp. 75-7503(a)(7);

- c. Conspiring to commit the violations set forth in K.S.A. 2017 Supp. 75-7503(a)(1) and K.S.A. 2017 Supp. 75-7503(a)(3)

14. As agreed by the parties, this Consent Judgment is not an admission by Defendant McCoulskey of any violation of the Kansas False Claims Act or any other applicable law or regulation as alleged by Plaintiff. Notwithstanding, Defendant McCoulskey agrees to this Consent Judgment without trial or adjudication of any issue of fact or law and solely for the purpose of settlement.

MONETARY RELIEF

15. Defendant McCoulskey agrees to pay \$14,000.00 to the Office of the Kansas Attorney General (\$7,402.80 in damages, \$4,097.20 civil penalties and \$2,500.00 in costs and attorney fees).

16. Payment shall be made as follows:

- a. On or before fifteen (15) days after the date this Judgment is entered, Defendant McCoulskey shall pay \$2,500.00 to the Office of the Kansas

Attorney General, in the form of cashier's check, money order or other certifiable payable funds.

- b. The remaining balance of \$11,500.00 shall be paid in full on or before sixty (60) days thereafter.
- c. Each payment shall be delivered to:

Office of the Kansas Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612

17. Defendant McCoulskey understands that pursuant to 11 U.S.C. § 523(a)(7), and due to the nature of the conduct underlying this settlement, any unpaid penalties and/or fees shall not be dischargeable in any bankruptcy proceeding commenced after the entry of this Consent Judgment.

OTHER PROVISIONS

18. 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 herein, for the enforcement of compliance herewith, and/or for the punishment of violations of this Consent Order.

19. 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.

20. The parties understand that this Consent Judgment shall not be construed as an

approval of or sanction by the Attorney General of the practices of Defendant McCoulskey nor shall Defendant McCoulskey represent the decree as such an approval.

21. This Consent Judgment represents the entire agreement between Plaintiff and Defendant McCoulskey, and there are no representations, agreements, arrangements, or understandings, oral or written, between the parties relating to the subject matter of this Consent Judgment which are not fully expressed herein or attached hereto.

22. Defendant McCoulskey's representative, signing this Journal Entry of Consent Judgment, warrants that the representative has been duly authorized by Defendant McCoulskey for whom the representative appears to be acting to enter and execute this Journal Entry of Consent Judgment on behalf of Defendant McCoulskey.

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 McCoulskey immediately become a judgment upon filing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant McCoulskey in the amount of \$14,000.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas False Claims Act, the Court hereby approves the terms of this Consent Judgment and adopts the same as the Order of the Court.

IT IS SO ORDERED.

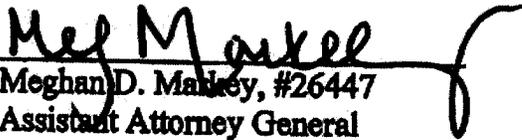
**THIS ORDER IS EFFECTIVE AS OF THE DATE AND ~~TIME~~ OF THE
ELECTRONIC FILE STAMP.**

Signature.
JTZ Pullis
District Judge
6/15/2018

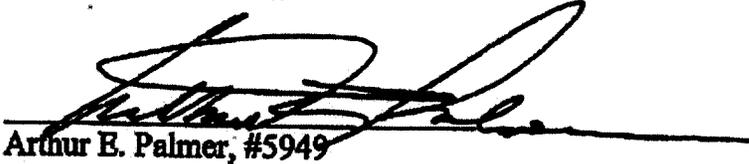
Prepared and approved by:



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KANSAS ATTORNEY GENERAL



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