



Court: Shawnee County District Court
Case Number: 2017-CV-000023
Case Title: State of Kansas ex rel Derek Schmidt Atty General
vs. SearchTec Inc, et al.
Type: Journal Entry of Consent Judgment as to Defendant
Farven Inc

SO ORDERED.

A handwritten signature in black ink, appearing to read "T. Watson", is written in a cursive style.

/s/ Honorable Teresa L Watson, District Court Judge

Kimberley Davenport Megrail, #28078
Assistant Attorney General
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**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT
DIVISION 3**

STATE OF KANSAS, *ex rel.*)
Derek Schmidt, Attorney General,)
)
Plaintiff,)
)
v.)
)
THE CORPORATION COMPANY, INC., *et al.*)
)
Defendants.)

Case No. 2017-CV-000023

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

JOURNAL ENTRY OF CONSENT JUDGMENT
AS TO DEFENDANT FARVEN INC.

COMES NOW the parties in the present matter and proffer a consent judgment to the Court. Plaintiff State of Kansas, *ex rel.* Derek Schmidt, Kansas Attorney General, appears by and through counsel, Assistant Attorney General Kimberley Davenport Megrail. Defendant Farven Inc. appears by Anne M. Kindling, Joseph, Hollander & Craft LLC.

Being duly advised in the premises, the Court enters the following findings of fact and conclusions of law, as agreed and stipulated by the parties:

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 common law and statutes of the State of Kansas, specifically the Kansas Consumer Protection Act ("KCPA"), K.S.A. 50-623, *et seq.* and the Wayne Owen Act, K.S.A. 50-6,139 *et seq.*, which is part of and supplemental to the KCPA.

3. All references to Defendant Farven Inc. herein include Defendant Farven Inc.'s employees, agents, representatives, affiliates, assignees and successors.

4. This Court has personal and subject matter jurisdiction over this controversy through the KCPA, K.S.A. 50-623, *et seq.*, specifically K.S.A. 50-638(a), and venue is proper in Shawnee County, pursuant to K.S.A. 50-638(b).

5. On January 10, 2017, Plaintiff filed a Petition herein alleging certain defendants breached the requirements of the Wayne Owen Act. Violations of the Wayne Owen Act have been deemed unconscionable acts pursuant to the KCPA. A First Amended Petition was filed on July 14, 2017 adding Farven Inc. as a defendant, with subsequent further amendments culminating in a Third Amended Petition filed on March 27, 2018.

6. The parties have reached an agreement to compromise, adjust, settle and release their respective rights and liabilities before the Court without trial or adjudication of any issue of fact or law to avoid the uncertainty, distraction and expense of protracted litigation, on the following terms and conditions.

7. Defendant Farven Inc. voluntarily agrees to this Consent Judgment solely for the purpose of settlement and without admitting any allegations contained herein.

INJUNCTIVE RELIEF

8. Defendant Farven Inc. and its officers, agents, employees, and all other persons in active concert or participation with it, whether acting directly or indirectly, are permanently restrained and enjoined from violating the KCPA, K.S.A 50-623 *et seq.*, and specifically the Wayne Owen Act, K.S.A. 50-6,139 *et seq.*

SPECIFIC PERFORMANCE RELIEF - SUSPENDED

9. Farven Inc. does not currently do business in the state of Kansas.

10. In regards to paragraphs 11 through 16, all specific performance relief described therein will be suspended on the condition that Defendant Farven Inc. does not operate any business within the state of Kansas. Should Defendant Farven Inc. decide to engage in any business in the state of Kansas, they shall notify the Plaintiff of their intent to engage in any business in the state of Kansas prior to entering into any transactions in the state. At that point, all previously suspended affirmative relief provisions of this consent judgment as outlined in paragraphs 11-16, below will be in effect for five (5) years following the filing of this Journal Entry or such remaining period of the five (5) years as then exists.

11. Defendant Farven Inc. shall, when engaged in the handling documents or data for clients and customers related to service of process or registered agent operations in Kansas, including the collection, maintenance and/or possession of records containing the personal information of other persons:

- a. implement and maintain reasonable procedures and practices to protect the personal information in their custody from unauthorized access, use, modification or disclosure;
- b. exercise reasonable care to protect the personal information from unauthorized access,

use, modification or disclosure; and

c. take reasonable steps to destroy or arrange for the destruction of any records within Defendant Farven Inc.'s custody or control containing personal information when Defendant no longer intends to maintain or possess those records. Such destruction shall be by shredding, erasing, or otherwise modifying the personal information in the records to make it unreadable or undecipherable through any means.

12. Defendant Farven Inc. shall deliver annually a copy of this Consent Judgment for five (5) years after the filing of this Journal Entry or such remaining period of the five (5) years as then exists, to all officers, agents and employees directly involved in providing service of process or registered agent services in Kansas.

13. Defendant Farven Inc. shall maintain corporate policies on the importance of confidentiality and the protection of data and information security, including but not limited to all requirements set out by Kansas law as well as federal law. Any policies regarding information security should be reasonably designed to protect the security, integrity and confidentiality of personal information of all kinds that Defendant Farven Inc. collects, stores, transmits and maintains.

14. Defendant Farven Inc. shall provide documented training to any and all employees, agents or independent contractors pursuant to any agreements who handle any such personal information or protected data in the proper handling and disposal of documents which may include personally protected information. Each employee, agent or independent contractor who completes training shall certify, in writing or electronically, that they have completed the training and include the date upon which training was completed. This training and

corresponding documentation of training should be maintained for the five (5) years following the filing of this Journal Entry.

15. Defendant Farven Inc. shall annually evaluate the information security programs, policies and trainings for effectiveness and establish different protective program, policies and trainings if advisable to protect the security of personal information.

16. Within thirty (30) days of becoming aware of a violation of the Wayne Owen Act, Defendant Farven Inc. shall provide notice to the Office of the Kansas Attorney General of such violation by any officer, agent, employee, or any other person in active concert or participation with any of them, whether acting directly or indirectly, involved in collecting, maintaining, possession or processing records containing personal information.

CIVIL PENALTIES

17. Defendant Farven Inc. agrees to pay the Office of the Kansas Attorney General \$150,000.00 in civil penalties for alleged violations of the Kansas Consumer Protection Act, pursuant to K.S.A. 50-6,139b, K.S.A. 50-627, and K.S.A. 50-636(a), subject to the terms set out in paragraph 18. A portion of that judgment is suspended, as set out in paragraph 18. The unsuspended balance of the judgment, \$15,000.00, is due within five (5) business days of the filing of this Journal Entry.

18. Of the civil penalties against Defendant Farven Inc., \$135,000.00 shall be suspended on the condition that the Defendant Farven Inc. has fully complied with all the terms of this Consent Judgment. Should there be any violation of the terms of this Consent Judgment, a Motion for Contempt will be filed with the Court and a request will be made for the Court to enforce the previously suspended civil penalties.

19. Defendant Farven Inc. agrees to pay the Office of the Kansas Attorney General \$5,550 for investigative fees and expenses, pursuant to K.S.A. 50-632(b).

20. Payment shall be in the form of a cashier's check, money order or other certified funds or a check issued from counsel's attorney trust account payable to the **Office of the Kansas Attorney General**, marked **CP-16-003481** and delivered to:

Office of the Kansas Attorney General
Attn: AAG Kimberley Davenport Megrail
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612

GENERAL PROVISIONS

21. Upon filing and approval of this Consent Judgment, any cross or counter claims brought by Defendant Farven Inc. shall be dismissed against the other Defendants. Settlements have been reached with all the parties in this litigation and all cross and counter claims will be released and dismissed upon the filing and approval of those consent judgments. All consent judgments will be filed at the same time in this matter.

22. 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 any violations hereof.

23. Defendant Farven Inc. shall not cause third parties, acting on their behalf, to engage in practices from which Defendant Farven Inc. are prohibited by the consent judgment.

24. 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.

25. Compliance with this consent judgment does not relieve Defendant Farven Inc. 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 his jurisdiction that occurs subsequent to the filing of this Journal Entry.

26. 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 Farven Inc. nor shall Defendant Farven Inc. 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.

27. Any failure by any party to this consent judgment to insist upon the strict performance by any other party of any of the provisions of this consent judgment shall not be deemed a waiver of any of the provisions of this consent judgment, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this consent judgment. The consent judgment shall represent the full and complete terms of the settlement entered into by the parties hereto.

28. The parties expressly represent and warrant that they are legally authorized to execute this consent judgment, they have each carefully read the entire contents of this consent judgment, they each understand the contents hereof, and they have each consulted, or had the

opportunity to consult with, their own counsel regarding the meaning and effect of each provision hereof.

29. This agreement shall represent the full and complete terms of the settlement entered into between Plaintiff and Defendant Farven Inc.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that, pursuant to the KCPA, and the provisions of K.S.A. 50-632(b), the stipulation and agreement of the parties contained herein, are hereby adopted and approved as the orders of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant Farven Inc. and in favor of Plaintiff in the amount of \$150,000.00 subject to the suspension set out in paragraph 18, for civil penalties for alleged violations of the KCPA, K.S.A. 50-6,139b, K.S.A. 50-627, and K.S.A. 50-636(a).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant Farven Inc. and in favor of Plaintiff in the amount of \$5,550.00 for investigative fees and expenses, pursuant to K.S.A. 50-632(b).

IT IS SO ORDERED.

THIS ORDER IS EFFECTIVE ON THE DATE AND TIME SHOWN BY THE ELECTRONIC FILE STAMP.

Respectfully submitted,

PLAINTIFF:

/s/ Derek Schmidt

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/s/ Kimberley Davenport Megrail

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DEFENDANT:

DocuSigned by:

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Marc Lovenworth
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