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2021 Mar 14 PM 3:36
CLERK OF THE SHAWNEE COUNTY DISTRICT COURT
CASE NUMBER: 2020-CV-000615



Court: Shawnee County District Court
Case Number: 2020-CV-000615
Case Title: State of Kansas ex rel Derek Schmidt Atty General
vs. Terry Clay, et al.
Type: Order for Default Judgment

SO ORDERED.

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

/s/ Honorable Teresa L Watson, District Court Judge

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**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT**

STATE OF KANSAS, *ex rel.*,)
DEREK SCHMIDT, Attorney General,)
)
Plaintiff,)
)
v.)
)
TERRY CLAY, an individual AND)
PRESTIGE CONTRACTING SERVICES . LLC,)
A Kansas Limited Liability Company,)
)
Defendants)

Case No.: 2020-CV-000615

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

ORDER FOR DEFAULT JUDGMENT

NOW on this date, this matter comes before the Court on for Plaintiff's Motion for Default Judgment against Defendant Terry Clay, an individual, and Defendant Prestige Contracting Services . LLC. State of Kansas, *ex rel.* Derek Schmidt, Attorney General, appears by and through counsel, Kimberley A. Davenport, Assistant Attorney General. Defendant Terry Clay and Defendant Prestige Contracting Services . LLC appear not and are in default.

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

1. Plaintiff filed its Motion for Default Judgment on February 17, 2021.
2. Plaintiff's Motion for Default Judgment is predicated on Defendants' failure to file an answer to the Plaintiff's Petition, which was filed on December 3, 2020. A copy of the Summons and the Petition were served on the Defendants on or about January 6, 2021, by U.S. Certified Mail at the Defendants' P.O. Box, Berryton, Kansas after being forwarded from Defendants' last known address on file with the Court, as authorized by K.S.A. 60-303(c)(1). Defendants acknowledged receiving the documents to the Plaintiff.
3. Defendants failed to file an Answer within twenty-one (21) days after being served with process, as required by K.S.A. 60-212(a).
4. Defendants are not minors or incapacitated persons.
5. Defendants are in default pursuant to K.S.A. 60-255.
6. The factual allegations set forth in the Plaintiff's Motion for Default Judgment are adopted by the Court as its findings of fact and conclusions of law as though fully set forth herein.

IT IS THEREFORE ORDERED, ADJUDICATED AND DECREED that Plaintiff's Motion for Default Judgment is granted.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that judgment is hereby entered against Defendants and in favor of Plaintiff.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants' acts and practices referred to in Plaintiff's Petition are deceptive and unconscionable, and as such, are in violation of the Kansas Consumer Protection Act, pursuant to K.S.A. 50-632(a)(1).

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants and their officers, directors, employees, shareholders and agents, if any, are permanently enjoined from these and other practices in violation of the Kansas Consumer Protection Act, pursuant to K.S.A. 50-632(a)(2).

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants should be held jointly and severally liable for the aforementioned violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant Terry Clay is hereby notified that they are permanently enjoined and expressly prohibited from conducting and making door-to-door sales, as defined by K.S.A. 50-640, in Kansas pursuant to the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, K.S.A. 21-6423, and pursuant to this Order.

Defendant Terry Clay is hereby notified that so long as this Order remains in place, if the Defendant Terry Clay, directly or indirectly, in any door-to-door sales in the state of Kansas in violation of this Order, Defendant Terry Clay may be subject to prosecution pursuant to K.S.A. 21-6423, a Level 9, Person Felony.

Defendant Terry Clay is hereby notified so long as this Order remains in place, if the Defendant Terry Clay causes, directs, employs, enables or assists others in engaging in door-to-door sales in the state of Kansas in violation of this Order Defendant Terry Clay is committing a crime and may be subject to prosecution pursuant to K.S.A. 21-6423, a Level 9, Person Felony.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant be permanently enjoined from conducting consumer transactions in the state of Kansas as defined by K.S.A. 50-624(c).

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants pay consumer restitution in the amount of One Hundred and Fifty Three Thousand and Seventy One Dollars (\$153,071.00) to be disbursed through the Plaintiff in the following manner:

1. T.K.: \$5,000.00;
2. B.G.: \$80,621.00;
3. J.H.: \$14,700.00;
4. S.M.: \$36,200.00;
5. D.S.: \$6,150.00;
6. C.W.: \$6,000.00; and
7. M.M.: \$4,400.00.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants pay civil penalties in the amount of Three Hundred and Seventy Thousand Dollars (\$370,000.00) or such other amount as the Court finds reasonable in civil penalties for each violation of the KCPA which the Court determines occurred, pursuant to K.S.A. 50-636(a).

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants pay enhanced civil penalties in the amount of Two Hundred and Fifty Thousand Dollars (\$250,000.00) or such other amount as the Court finds reasonable in enhanced civil penalties for each violation of the KCPA which the court determines was committed against a protected class pursuant to K.S.A. 50-676 and K.S.A. 50-677.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants pay investigative fees and expenses in the amount of Three Thousand Three Hundred and Thirty-Seven Dollars and Fifty Cents (\$3,337.50) to the Office of the Kansas Attorney General, pursuant to K.S.A. 50-632(a)(4) and K.S.A. 50-636(c).

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants pay court costs and all other costs associated with collecting, distributing and executing on any restitution or judgment made by this Court and such other relief as the Court may deem just and appropriate.

IT IS SO ORDERED.

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

Respectfully submitted,

/s/ Kimberley A. Davenport
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