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FILED BY CLERK
KS. DISTRICT COURT
THIRD JUDICIAL DIST.
TOPEKA, KS

2016 MAY 25 P 3: 28

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 1

STATE OF KANSAS, *ex rel.*)
DEREK SCHMIDT, Attorney General,)
)
Plaintiff,)
)
v.)
)
TREVOR C. TURNER, an individual)
)
)
Defendant.)

Case No. 2016 CV 402

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 25th day of May, 2016, the Petition for Approval of Journal Entry of Consent Judgment comes before the Court pursuant to K.S.A. 50-632(b). The Plaintiff, State of Kansas, *ex rel.* Derek Schmidt, Attorney General, appears by and through James Welch, Deputy Attorney General. Defendant appears by and through counsel, Todd E. Shadid of Klenda Austerman LLC.

WHEREUPON 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 Consumer Protection Act, K.S.A. 50-623, *et seq.*

3. Defendant Trevor C. Turner is a licensed car salesman in Kansas, he currently carries on business as TNK Autos from premises at 112 North Main Street in Inman, Kansas.

4. Defendant has previously sold motorized vehicles in Kansas on behalf of Mid-Kansas Investment Inc. d/b/a Midwest Ford Lincoln Mercury, the Crimson Auto Group (an Alabama entity), 5th Gear Motorsports in Topeka, and on his own behalf from residence(s) in Kansas.

5. All references to Defendant herein include acts performed individually, in concert, or by or through employees, agents, assigns, and all other persons or entities acting in concert with him or on his behalf.

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

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

ALLEGATIONS

8. Defendant is a “supplier” in Kansas, as that term is defined by K.S.A. 2014 Supp. 50-624(l).

9. Defendant is engaged in “consumer transactions” in Kansas, as that term is defined by K.S.A. 2014 Supp. 50-624(c).

10. At all times relevant to Plaintiff’s Petition, Defendant acted as a “vehicle dealer” in Kansas, as that term is defined by K.S.A. 8-2401(a).

11. At all times relevant to Plaintiff's Petition, and while transacting with consumers in Kansas, Defendant engaged in acts and practices in violation of the Kansas Consumer Protection Act, K.S.A. 50-639, which acts and practices include, but are not limited to: limiting the implied warranties of merchantability and fitness on motor vehicles sold by him within the State of Kansas.

12. At all times relevant to Plaintiff's Petition, and while soliciting Kansas consumers, Defendant engaged in acts and practices in violation of the Kansas Consumer Protection Act, K.S.A. 50-665 which acts and practices include, but are not limited to: failing to disclose that a vehicle offered for sale by him is being offered for sale by a vehicle dealer.

13. Pursuant to K.S.A. 50-632(b), this Consent Judgment is not an admission by Defendant of a violation of the KCPA or any other applicable law or regulation as alleged by Plaintiff. Notwithstanding, Defendant agrees to this Consent Judgment without trial or adjudication of any issue of fact or law solely for the purpose of settlement.

INJUNCTIVE RELIEF

14. Defendant agrees to refrain, and to be permanently enjoined, from engaging in those acts and practices set forth in paragraphs eleven (11) and twelve (12), and Defendant agrees that engaging in any such acts or similar acts, after the date of this Consent Judgment, shall constitute a violation of this Consent Judgment.

15. Defendant agrees to comply with all Kansas laws, statutes, rules and regulations, relating to consumer transactions in Kansas, specifically, but not limited to, the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*

16. Defendant agrees to cooperate with the Office of the Kansas Attorney General in investigating and remediating any complaints filed with the Consumer Protection Division.

17. Defendant agrees to make available and/or disclose the provisions of this Consent Judgment to each employee, agent, independent contractor and representative having responsibilities with respect to the subject matter of this Consent Judgment within ten (10) days of signing the Consent Judgment or within fifteen (15) days after any person assumes such position or responsibilities.

18. Defendant shall not cause or encourage third parties, nor knowingly permit third parties acting on his behalf, to engage in practices from which Defendant is prohibited by this Consent Judgment.

19. Defendant shall require his independent contractors comply with the terms set forth in this Consent Judgment.

20. Defendant shall not participate, directly or indirectly, in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices which are prohibited in this Consent Judgment or for any other purpose which would otherwise circumvent the spirit or purposes of this Consent Judgment.

21. Defendant agrees that the terms of this Consent Judgment apply to acts performed individually, in concert, or by or through its employees, agents, representatives, affiliates, assignees and successors.

INVESTIGATIVE FEES AND CIVIL PENALTIES

22. Defendant agrees to pay to the Office of the Kansas Attorney General the following amounts, due within ten (10) days of the Court approving this Consent Judgment:

- a. Five thousand dollars (\$5,000.00) in civil penalties for violations of the KCPA, pursuant to K.S.A. 2014 Supp. 50-636; and
- b. Five thousand dollars (\$5,000.00) in investigative fees, pursuant to K.S.A. 2014 Supp. 50-632(c)(7).

23. Upon receipt of the payments required under paragraph twenty-two (22), Plaintiff agrees to release and discharge Defendant from all claims Plaintiff could have brought for civil penalties, costs, and/or investigative fees under the KCPA based on Defendant's conduct prior to the date of entry of this Consent Judgment.

24. Payment shall be made in the form of a cashier's check, money order or other certified funds payable to the Office of the Kansas Attorney General, mailed to:

James Welch, Deputy Attorney General
Consumer Protection/Antitrust Division
Office of the Kansas Attorney General
120 SW 10th Ave, 2nd Floor
Topeka, Kansas 66612

25. Defendant agrees that pursuant to 11 U.S.C. § 523(a)(2)(A) and § 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

26. 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 thereof.

27. 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.

28. Compliance with this Consent Judgment does not relieve the Defendant 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.

29. 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 the Defendant nor shall the 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 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, nor shall it preclude action thereon at a later date.

30. This Consent Judgment represents the entire agreement between Plaintiff and Defendant, 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.

31. Nothing in this Consent Judgment shall be construed to create, waive or limit any private right of action.

32. The Defendant represents that he has had an opportunity to consult with and obtain the advice of private legal counsel prior to entering into this Consent Judgment.

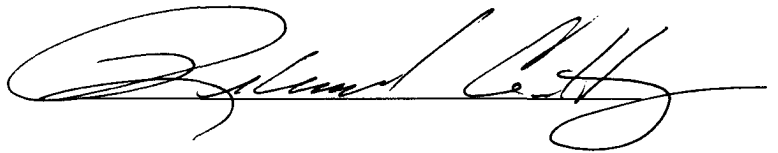
33. This Consent Judgment may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect, as an original signature.

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 immediately become a judgment upon filing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendants and in favor of Plaintiff in the amount of \$10,000.00.

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.

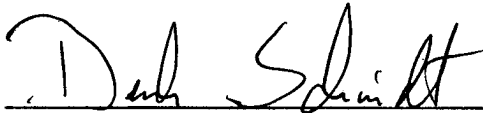
IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Richard C. H.", written over a horizontal line.

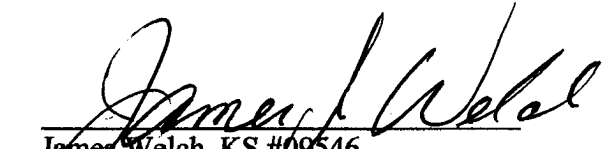
DISTRICT COURT JUDGE

Prepared and approved by:

PLAINTIFF:

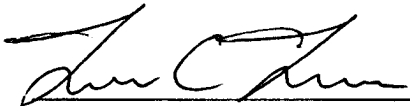


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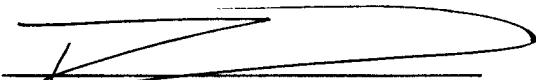


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