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IN THE DISTRICT COURT OF MARSHALL 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-40

(Pursuant to K.S.A. Chapter 60

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

NOW, on this 15th day of November 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 26, 2011, Plaintiff filed a Petition alleging Defendants violated provisions of the Kansas Consumer Protection Act, K.S.A. §50-626(b) (3) *et seq.*

FILED
MARSHALL COUNTY KANSAS
DISTRICT COURT
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HARRY J. KOCH
CLERK OF DISTRICT COURT
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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 August 1, 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 29, 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 Three Hundred Twenty Four Thousand Five Hundred Dollars (\$324,500.00).

7. Defendants are not minors or incapacitated persons.

8. Plaintiff has requested that Judgment be entered by Default in the amount of Two Hundred Eighteen Thousand Five Hundred Dollars and No cents (\$218,500.00) and for other remedies.

9. Defendant Todd Haynes ("Defendant Haynes") is an individual working for or operating an 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 20 and 21, 2011, Defendants, jointly and in concert, within the State of Kansas, entered into separate consumer transactions with Kansas residents Ron Schmitz and Jean Merrill. Mr. Schmitz and Ms. Merrill were charged and paid the defendant's \$9000.00 and \$9500.00, respectively, for the substandard installation of asphalt.

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

14. In each transaction the 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 each transaction the Defendants failed to furnish either consumer with a "NOTICE OF CANCELLATION" required by K.S.A. 50-640(b)(2).

16. Defendants failed to inform each consumer, orally, of his or her 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 each consumer's check prior to midnight of the fifth business day following the transaction, in violation of K.S.A. 50-640(b)(8).

18. In each transaction the 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 of cancellation as 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.

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, should 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 should pay restitution to Ron Schmitz and Jean Merrill in the amounts of Nine Thousand Dollars and No Cents (\$9000.00) and Nine Thousand Five Hundred Dollars and No Cents (\$9500.00), respectively.

25. Defendants have committed ten violations of the Kansas Consumer Protection Act alleged in Plaintiff's Petition, pursuant to K.S.A. 50-636(a).

26. Defendants should pay enhanced civil penalties for each of the ten violations of the Kansas Consumer Protection Act committed against an "elder person", because the defendants knew or should have known that the defendants conduct was directed at an elder person pursuant to K.S.A. 50-677 ;

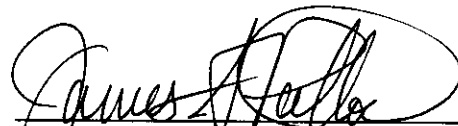
27. Defendants should pay all court costs.

28. Defendants should 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 \$5,000.00.

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 for violations of the Kansas Consumer Protection Act, 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 ordered to pay restitution to Jean Merrill and Ron Schmitz. Ms. Merrill was charged and paid the defendant's Nine Thousand Five Hundred Dollars and No Cents (\$9500.00) and Mr. Schmitz was charged and paid Nine Thousand Dollars and No Cents (\$9000.00) to the defendants. The total restitution amount is Eighteen Thousand Dollars (\$18,500.00). Pursuant to the Consent Judgment between the Plaintiff and Gary Leroy Haynes, if the restitution for Jean Merrill and Ron Schmitz is collected

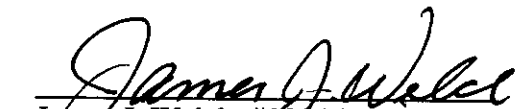
and paid to the consumers as a result of the sale of the equipment by the Sherriff of Cloud County, that amount shall be offset against the restitution portion of this judgment; Pursuant to K.S.A. 50-632, just, fair, and reasonable investigative fees and expenses in the amount of Five Thousand Dollars and No Cents (\$5,000.00) are awarded to the Office of the Kansas Attorney General; Pursuant to K.S.A. 50-636 ten civil penalties in the amount of Nine Thousand Seven Hundred Fifty Dollars and No Cents (\$9,750.00) each are awarded to the plaintiff for violations of the Kansas Consumer Protection Act for a total penalty of Ninety Seven Thousand Five Hundred Dollars and No Cents (\$97,500.00); Since each of the ten violations were committed against an "elder person" pursuant to K.S.A. 50-677 the Court hereby enhances each penalty in the amount of Nine Thousand Seven Hundred Fifty Dollars and No Cents (\$9,750.00) for a total enhancement of Ninety Seven Thousand Five Hundred Dollars and No Cents (\$97,500.00); Judgment is hereby entered jointly and severally against Todd Haynes and Eddie Jones in the total amount of Two Hundred Eighteen Thousand Five Hundred Dollars and No Cents (\$218,500.00) in favor of the State of Kansas ex rel., Derek Schmidt Attorney General.

IT IS SO ORDERED.



Judge of District Court Judge

Submitted by:


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