

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

2006 OCT 17 PM 4 34

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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 12

STATE OF KANSAS, *ex rel.*)
PHILL KLINE, Attorney General,)
)
Plaintiff,)
)
v.)
)
CARDHOLDER MANAGEMENT SERVICES,)
)
Defendant.)

Case No. 06C1551

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 17th day of October, 2006, Plaintiff's Journal Entry of Consent Judgment comes before the Court pursuant to K.S.A. 50-623(b). Plaintiff, the State of Kansas, *ex rel.* Phill Kline, Attorney General, appears by and through Emilie Burdette Rush, Assistant Attorney General. Defendant Cardholder Management Services appears by Donald M. Berman, President and CEO.

Whereupon, the parties advise the Court that they have stipulated and agreed to the following matters:

1. Phill Kline is the Attorney General of 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 Cardholder Management Services (hereinafter "Defendant CMS") has a principal place of business located at 101 Crossways Park West in Woodbury, New York.
4. Defendant CMS serves as the servicing agent for Provident Bank.
5. The Court has subject matter and personal jurisdiction over this case pursuant to the Kansas Consumer Protection Act, K.S.A. 50-623, et seq.
6. Venue is proper in the Third Judicial District of Kansas (Shawnee County) pursuant to K.S.A. 50-638(b).
7. The Plaintiff alleges that Defendant CMS engaged in the following unconscionable acts or practices in violation of the Kansas Consumer Protection Act, specifically K.S.A. 50-627:
 - (a) Defendant CMS assigned or caused to be assigned the account of Kansas consumer Harold Brown (Acct. No. 5189131005400176), for which Provident Bank is the original creditor and holder of the account, to Federal Bond Collection Services, Inc. (FBCS) for collection when said account had been previously settled by Enhanced Recovery Corporation; and
 - (b) Defendant CMS caused Merrick Bank to be named as the account holder in collection attempts against Kansas consumer Harold Brown, when Merrick Bank was unaffiliated with Mr. Brown's account.
8. Defendant CMS voluntarily agrees to this Consent Judgment without trial or adjudication of any issue of fact or law.
9. Defendant CMS agrees to refrain from and to be permanently enjoined from engaging in those acts and practices alleged to be unlawful and unconscionable in Paragraph Seven (7) of this Consent Judgment. Defendant CMS agrees that engaging in such acts or similar acts, after the

date of this Consent Judgment, shall constitute a violation of this Order and civil penalties will be imposed for each subsequent violation.

10. The provisions of this Consent Judgment will be applicable to Defendant CMS, and every employee, agent or representative of Defendant.
11. Defendant CMS agrees that it will retain a copy of this Consent Judgment in its official corporate records.
12. Defendant CMS agrees to be permanently enjoined from entering into, forming, organizing or reorganizing into any partnership, corporation, sole proprietorship or any other legal structures, for the purpose of avoiding compliance with the terms of this Consent Judgment.
13. Defendant CMS agrees to pay \$2,000.00 in civil penalties and investigative fees to the Office of the Attorney General of the State of Kansas. Payment shall be made by cashiers check(s), payable to the Office of the Attorney General, and shall be delivered to the Attorney General of the State of Kansas at the time of Defendant's signing this Consent Judgment.
14. 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.
15. 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.

16. Compliance with this Consent Judgment does not relieve Defendant CMS 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.
17. The parties understand that this Consent Judgment shall not be construed as an approval of or sanction by the Kansas Attorney General of the business practices of Defendant CMS nor shall Defendant represent the decree of such 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.

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 CMS immediately become a judgment upon filing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant CMS in favor of Plaintiff in the amount of \$2,000.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant CMS pay all costs associated with this action.

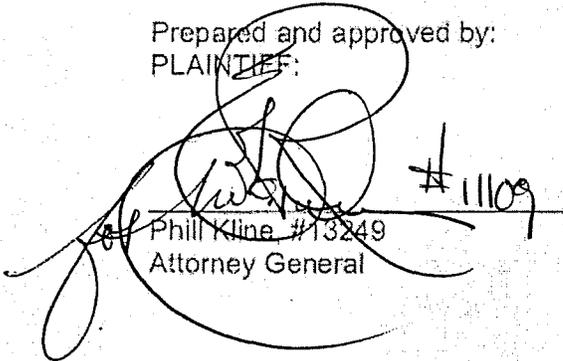
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, and the provisions of K.S.A. 50-632(b), the Court hereby

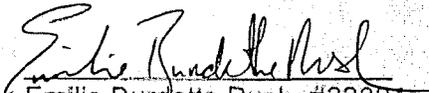
approves the terms of the Consent Judgment and adopts the same as the order of the Court.

IT IS SO ORDERED.


JUDGE
10/17/06

Prepared and approved by:
PLAINTIFF:


#11109
Phill Kline, #13249
Attorney General


Emilie Burdette Rush, #22094
Assistant Attorney General
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Attorneys for Plaintiff

DEFENDANT:

