

CHARLES L. RUTTER, #19574  
Assistant Attorney General  
Office of the Attorney General  
Consumer Protection & Antitrust Division  
120 SW 10th Ave., 4<sup>th</sup> Floor  
Topeka, Kansas 66612-1597

FILED  
SALINE COUNTY KS  
2010 MAR 31 AM 11:20  
CLERK DISTRICT COURT

IN THE DISTRICT COURT OF SALINE COUNTY, KANSAS  
CIVIL DEPARTMENT

STATE OF KANSAS, *ex rel.* )  
STEVE SIX, ATTORNEY GENERAL, )  
 )  
 *Plaintiff,* )  
 )  
 v. )  
 )  
 RANDY HOFFMAN, an individual d/b/a )  
 THE FURNITURE STORE OF KANSAS )  
 )  
 *Defendant.* )  
 )

Case No. 10 CV 182

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 31<sup>st</sup> day of March, 2010, the above-captioned matter comes before this Court for approval of a stipulated Journal Entry of Consent Judgment pursuant to K.S.A. 50-632(b). Plaintiff, State of Kansas, *ex rel.* Steve Six, Attorney General, appears by and through counsel, Charles L. Rutter, Assistant Attorney General. Defendant, Randy Hoffman, d/b/a The Furniture Store of Kansas, appears by and through counsel, Tim R. Karstetter, of Karstetter & Klenda, LLC, McPherson, Kansas.

THEREUPON the Court, being fully advised in the premises and taking notice of the parties' stipulations, makes the following findings and conclusions:

**I. PARTIES TO THIS AGREEMENT**

1. Plaintiff, State of Kansas, ex rel. Steve Six is the duly appointed and acting  
Attorney General of the State of Kansas.
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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. 50-632(b).
3. Randy Hoffman is a sole proprietor of The Furniture Store of Kansas ("Defendant"), with a principal place of business located at 915 West Kansas Avenue, McPherson, Kansas 67460.

**II. JURISDICTION AND VENUE**

4. Defendant admits that, at all times relevant to the allegations set forth herein, and, in the ordinary course of business, he acted as a "supplier" as defined by K.S.A. 50-624(j), by soliciting the sale of furniture to consumers in Saline County, Kansas.
5. Defendant admits that, at all times relevant to the allegations set forth herein, and, in the ordinary course of business, it engaged in consumer transactions as defined by K.S.A. 50-624(c), either individually or through employees, representatives, and agents.
6. Defendant further admits and this Court determines there is personal and subject matter of jurisdiction under K.S.A. 50-623 and K.S.A. 50-638(a).
7. Venue is also proper in this Twenty-Eighth Judicial District of Kansas pursuant to K.S.A. 50-638(b).

### III. PURPOSE AND INTENT OF THIS CONSENT JUDGMENT

8. Consistent with the provisions of K.S.A. 50-632(b), the parties agree this Consent

~~Judgment shall constitute a full and final satisfaction of the claims made by~~

Plaintiff in this action; however, this Consent Judgment shall not be deemed to be an admission of any violation of the KCPA by Defendant. Defendant denies all of the Plaintiff's factual and legal conclusions, and denies any liability as to the claims asserted herein. In the interest of avoiding the uncertainty and costs of litigation, however, Defendant voluntarily enters into this stipulated judgment in order to settle all claims that could potentially be asserted by Plaintiff arising out of these specific allegations.

### IV. ALLEGED VIOLATIONS OF THE KCPA

9. Plaintiff alleges that Defendant committed the following acts or practices in violation of the KCPA.
10. From approximately April of 2009 through September of 2009, and all periods relevant hereto, Defendant authorized and/or published advertisements throughout central and south central Kansas, including Saline County, using the Salina Journal newspaper.
11. In these ads, it is alleged that Defendant offered certain financing terms (i.e., "0% Financing for 3 Years") known as trigger terms under the Truth in Lending Act (TILA), 15 U.S.C. 1601 et seq. and its implementing provisions under Regulation Z, 12 C.F.R. § 226. The use of such terms requires clear and conspicuous disclosure of all material terms in close proximity to the offer, such as the annual percentage rate (APR), the amount of down payment required, and the number of

payments. Defendant failed to make the required disclosures; therefore, it is alleged Defendant's business practices constituted deceptive and/or ~~unconscionable acts pursuant to K.S.A. 50-626(b)(3) and/or K.S.A. 50-627(b)(1).~~

for failing to disclose material terms in the advertisement. Defendant does not admit to these allegations.

12. It is further alleged that Defendant's advertisements contained deceptive and/or unconscionable sale pricing in violation of K.S.A. 50-626(b)(7) and/or K.S.A. 50-627(b)(1), in that some former price comparisons were not actual, bona fide prices at which items were offered on a regular basis for a reasonably substantial period of time in the recent regular course of business. Defendant does not admit to these allegations.

13. It is also alleged Defendant advertised some items for sale using pictures of items that were not a part of the actual inventory of the sale without clearly and conspicuously disclosing such material limitations in close proximity to the offer. Such actions are alleged to be deceptive and violative of K.S.A. 50-626(b)(1)(A) and (D). Defendant does not admit to these allegations.

14. Finally, it is alleged Defendant advertised "Free Delivery" for purchases during the sales events, without clearly and conspicuously disclosing in close proximity to the offer all the material limitations required in obtaining the offer (i.e., limited geographic area or minimum purchase amount). Such actions are alleged to be deceptive and violative of K.S.A. 50-626(b)(1)(A) and (D). Defendant does not admit to these allegations.

Y. AGREED REMEDIES

15. Defendant agrees to entry of judgment against it in the amount of Three Thousand ~~Five Hundred Dollars (\$3,500.00), and agrees to pay said amount at the time of~~ the filing of this Consent Judgment.

16. Said payment shall be drafted in the form of a cashier's check, directly payable to the Office of the Kansas Attorney General, for reimbursement of reasonable investigative fees and expenses associated with this case.

17. Defendant further agrees to be permanently enjoined from committing the acts or practices set forth herein in any ongoing or future solicitations or consumer transactions in this State. Defendant further agrees that its agents, employees, and representatives are also permanently enjoined from committing the acts or practices described above in any ongoing or future solicitations or consumer transactions in this State.

18. Compliance with this Consent Judgment does not relieve 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.

19. The parties understand this Consent Judgment shall not be construed as an approval or sanction by the Kansas Attorney General of the business practices of Defendant, 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.

~~20. Nothing in this Consent Judgment shall be construed to limit the rights of any~~

consumers from pursuing any and all legal remedies they may be entitled to assert individually through a private cause of action.

21. Defendant acknowledges and agrees this Court has continuing jurisdiction over this matter pursuant to K.S.A. 50-632(b) and, any breach any of the terms, conditions, or payment plans set forth herein, shall be treated as a violation of the Court's order and shall be subject to additional penalties under the law.

22. This Court shall also retain such jurisdiction 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 relief as may be necessary or appropriate for the modification or compliance of any provisions contained herein. This Court shall also retain jurisdiction if any violation of any term of this Consent Judgment is committed.

23. Defendant further acknowledges and agrees that, pursuant to the United States Bankruptcy code, specifically 11 U.S.C 523(a)(2)(A) and (a)(7), and due to the nature of the conduct underlying this agreement and the violations set forth herein, this judgment shall not be dischargeable in any federal court bankruptcy proceeding commenced after the entry of this 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.

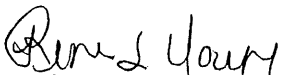
**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** the stipulations and agreements of the parties contained herein are found to be reasonable and ~~are hereby adopted and approved as the findings and conclusions of the Court.~~

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that judgment is hereby stipulated and entered against Defendant, Randy Hoffman d/b/a The Furniture Store of Kansas, in favor of Plaintiff, in the amount Three Thousand Five Hundred Dollars (\$3,500.00).

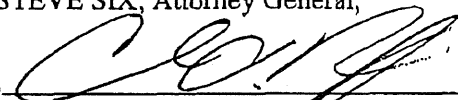
**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this Court shall retain jurisdiction over the parties and subject matter of this action for the purpose of rendering any additional equitable relief, orders, decrees, or judgments as may be requested by the parties or may be deemed appropriate by the Court.

**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**

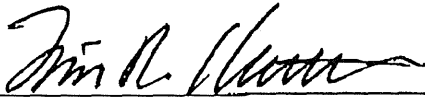
  
\_\_\_\_\_  
Judge of the District Court

Respectfully submitted and approved by:  
STEVE SIX, Attorney General,

By:   
\_\_\_\_\_  
CHARLES L. RUTTER, KS Bar #19574  
Assistant Attorney General  
Office of the Attorney General  
Consumer Protection & Antitrust Division

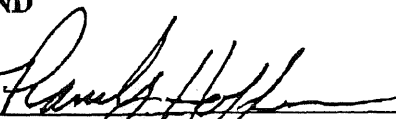
120 SW 10th Ave., 4<sup>th</sup> Floor  
Topeka, Kansas 66612-1597  
Tel: 785-368-8443  
Email: [charles.rutter@ksag.org](mailto:charles.rutter@ksag.org)  
*Attorney for the Plaintiff*

Attorney for Defendant Randy Hoffman d/b/a The Furniture Store of Kansas,

By: 

Tim R. Karstetter, KS Bar #08323  
Karstetter & Klenda, LLC  
100 West Kansas Avenue, Suite 201  
Post Office Box 1103  
McPherson, Kansas 67460  
Tel: 620-241-8800  
Email: [tkarst@ks-usa.net](mailto:tkarst@ks-usa.net)  
*Attorney for Defendant*

AND

By: 

Randy Hoffman, Owner  
The Furniture Store of Kansas