

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION 12

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

2010 JUN -9 P 2:14

STATE OF KANSAS, *ex rel.*)
STEVE SIX, Attorney General,)
)
Plaintiff,)
)
v.)
)
GENESIS CAPITAL MANAGEMENT, INC.)
and)
DAVID D. ALLEN, an individual,)
)
Defendants.)

Case No. 09 C 2012

(Pursuant to K.S.A. Chapter 60

ORDER OF DEFAULT JUDGMENT

NOW, on this 8th day of June, 2010, the Plaintiff's Motion for Default Judgment against Defendants comes before this Court for consideration. The State of Kansas, *ex rel.* Steve Six, appears by and through Assistant Attorney General, Meghan E. Barnds. Defendants appear not.

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 and Memorandum in Support on June 8, 2010.
2. Plaintiff's Motion for Default Judgment is predicated upon Defendants failure to file an Answer to Plaintiff's Petition which was filed on December 29, 2009.
3. A copy of the Summons and the original Petition were served upon Defendant Genesis Capital Management, Inc. c/o Kenneth Hamner, Registered Agent at 419 North

Magnolia Avenue, Orlando, Florida 32801, on January 8, 2010, pursuant to K.S.A. §60-304(e) and §60-303(c).

4. A copy of the Summons and the original Petition were served upon Defendant David D. Allen at 8832 Southern Breeze Drive, Orlando, Florida 32836, on January 26, 2010, pursuant to K.S.A. §60-304(a) and §60-303(c).

5. Defendants failed to file an Answer within thirty days after being served with process, as required by K.S.A. §60-308(a)(3).

6. Pursuant to K.S.A. §60-255, Defendants are in default.

7. The legal arguments and authorities set forth in Plaintiff's Motion and Memorandum of Default Judgment are adopted by the Court as its conclusions of law as though fully set forth herein.

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

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that judgment is hereby entered against Defendants, in favor of Plaintiff on all counts of the Petition.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that the alleged violations of the Kansas Consumer Protection Act are declared to be deceptive and unconscionable.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants and Defendants' employees and agents be permanently enjoined from engaging in the acts alleged in Plaintiff's Petition to be violations of the Kansas Consumer Protection Act.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants pay restitution to Teresa Fortney in the amount of \$995.00.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants pay restitution to Dorothy Miller in the amount of \$995.00.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants be restrained from advertising, soliciting and selling any services, goods or property in Kansas until such time that full restitution is made to Teresa Fortney and Dorothy Miller.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants pay reasonable investigative fees and expenses to the Office of the Kansas Attorney General, pursuant to K.S.A. §50-632, in this case amounting to \$5,000.00.


IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants pay \$10,000.00 in civil penalties for each violation of the Kansas Consumer Protection Act alleged in Plaintiff's Petition, pursuant to K.S.A. §50-636, in this case amounting to \$60,000.00.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendants pay all court costs and all costs associated with distributing and executing on any restitution or judgment made by this Court

IT IS SO ORDERED.


David E. Bruns
District Court Judge

Submitted by:


Meghan E. Bands, #23685

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