

PARTIES, JURISDICTION AND VENUE

1. Carla J. Stovall 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 ATN is a foreign corporation organized under the laws of the State of Delaware. The principal office of the corporation is located at 720 Hembree Place, Roswell, Georgia 30076. Defendant ATN applied with the Kansas Secretary of State for authority to do business in Kansas in June, 1996 by filing a Foreign Corporation Application.
4. Defendant's representative, signing this Journal Entry of Consent Judgment, warrants that the representative has been duly authorized by the Defendant to enter and execute this Journal Entry of Consent Judgment on behalf of such Defendant.
5. Defendant stipulates and admits that for the purposes of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, the Court has subject matter jurisdiction over this case and *in personam* jurisdiction over the parties.
6. Defendant stipulates and admits that venue is proper in this Court.
7. Defendant is a supplier within the definition of K.S.A. 50-624(i) and engaged in consumer transactions in Kansas within the definition of K.S.A. 50-624(c).
8. Defendants ATN is engaged in business as a provider of long distance telecommunication services, hereinafter referred to as "long distance service," to Kansas consumers.
9. Defendant is involved in determining the nature, quality and price of the long distance services provided to its customers.

ALLEGATIONS

10. Beginning at a time unknown to Plaintiff but at least since October 1996, Defendant, through its agents, employees and representatives, has been conducting telemarketing contacts with Kansas consumers in an effort to induce consumers to use its long distance service.

11. The Attorney General has received complaints from Kansas consumers alleging that their long distance telephone service was switched to Defendant's service without their authorization, otherwise known as "slamming."

12. The Attorney General alleges that the Defendant, its agents and representatives, committed deceptive and unconscionable acts and practices in consumer transactions in violation of K.S.A. 50-626, K.S.A. 50-627, and K.S.A. 50-6,103 (K.S.A. 1999 Supp.), including, but not limited to:

- a. Engaging in activity, conduct or representation while soliciting changes in consumers' telecommunications carriers to Defendant that had the capacity to mislead, deceive or confuse the consumers by: i) telemarketers representing to be with AT&T, Southwestern Bell or the consumer's current local or long distance carrier; ii) telemarketers claiming to be consumers' current long distance or local carriers only calling to offer slamming protection; iii) telemarketers offering low per minute rates without disclosing limitations; iv) telemarketers failing to disclose all material terms and conditions of the calling card, personal 800 number service, pagers, fees or rate information; v) telemarketers promising to send a welcome package with more information that many consumers never received; vi) telemarketers and verifiers failing to disclose that the true purpose of the call was to obtain the consumers' authorizations to switch their long distance service; vii)

telemarketers misrepresenting that they were calling to offer the consumers a blocking service for telemarketing calls;

- b. Submitting orders to change consumers' telecommunications carriers to Defendant without having obtained the express authorization of the consumers authorized to make the change and recapturing or switching consumers back to Defendant's service without the consumers' authorizations after they switch away from Defendant;
- c. Taking advantage of the inability of consumers to reasonably protect the consumers' interests because of the consumers' physical infirmity, ignorance, illiteracy, inability to understand the language of an agreement or similar factor during telemarketing calls and verifying calls;
- d. Making representations knowingly or with reason to know that the services had a sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they did not have by: i) telemarketers representing to be with AT&T, Southwestern Bell or the consumer's current local or long distance carrier; ii) telemarketers claiming to be consumers' current long distance or local carriers only calling to offer slamming protection; iii) telemarketers offering low per minute rates without disclosing limitations; iv) telemarketers failing to disclose all material terms and conditions of the calling card, personal 800 number service, pagers, fees or rate information; v) telemarketers promising to send a welcome package with more information that many consumers never received; vi) telemarketers and verifiers failing to disclose that the true purpose of the call was to obtain the consumers' authorizations to switch their long distance service; vii) telemarketers

misrepresenting that they were calling to offer the consumers a blocking service for telemarketing calls;

- e. Willfully failing to state a material fact, or the willful concealment, suppression or omission of a material fact by: i) telemarketers representing to be with AT&T, Southwestern Bell or the consumer's current local or long distance carrier; ii) telemarketers claiming to be consumers' current long distance or local carriers only calling to offer slamming protection; iii) telemarketers offering low per minute rates without disclosing limitations; iv) telemarketers failing to disclose all material terms and conditions of the calling card, personal 800 number service, pagers, fees or rate information; v) telemarketers promising to send a welcome package with more information that many consumers never received; vi) telemarketers and verifiers failing to disclose that the true purpose of the call was to obtain the consumers' authorizations to switch their long distance service; vii) telemarketers misrepresenting that they were calling to offer the consumers a blocking service for telemarketing calls;
- f. Willfully using, in any oral or written representation, exaggeration, falsehood, innuendo or ambiguity as to a material fact by: i) telemarketers representing to be with AT&T, Southwestern Bell or the consumer's current local or long distance carrier; ii) telemarketers claiming to be consumers' current long distance or local carriers only calling to offer slamming protection; iii) telemarketers offering low per minute rates without disclosing limitations; iv) telemarketers failing to disclose all material terms and conditions of the calling card, personal 800 number service, pagers, fees or rate information; v) telemarketers promising to send a welcome package with more information that many consumers never received; vi)

telemarketers and verifiers failing to disclose that the true purpose of the call was to obtain the consumers' authorizations to switch their long distance service; vii) telemarketers misrepresenting that they were calling to offer the consumers a blocking service for telemarketing calls.

13. Defendant, by entering into this Consent Judgment, makes no admission of liability as to any practice set forth in paragraph twelve (12) herein, and denies it engaged in such practices.

14. Defendant has consented to the entry of this Consent Judgment without trial or adjudication of any issues of fact or law solely in the interest of avoiding the expense, time and uncertainty of litigation.

INJUNCTIVE RELIEF

15. The Defendant agrees that it is to refrain from, and that it is to be permanently enjoined from, engaging in those acts and practices set forth in paragraph twelve (12) herein 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.

16. Defendant agrees that it is to be permanently enjoined from switching a consumer's current long distance service provider to Defendant, or switching a consumer back that has switched away from Defendant (recapture), without having obtained the consumer's express authorization to make the change as defined in K.S.A. 50-6,103 (K.S.A. 1999 Supp.).

17. The Defendant 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.

18. The Defendant agrees to make available and/or disclose the provisions of this Consent Judgment to each officer, director and employee of management level that is involved in Kansas operations of Defendant ATN within ten (10) days of signing the Consent Judgment.

19. The Defendant agrees to maintain all business records for a period of two years and to allow the Attorney General on reasonable notice and during normal business hours, to inspect all of the Defendant's business records, with respect to Kansas operations, in the future.

CONSUMER RESTITUTION

20. Defendant agrees to provide a full refund or credit for each consumer in Exhibit 1, attached hereto and incorporated herein as though fully set forth herein, to the extent such full refund or credit has not already been received by each consumer from Defendant. Any refunds shall be provided to the Office of the Attorney General in checks made payable to such consumers at the time of signing this Consent Judgment. If the complainant has not paid Defendant and has outstanding bills, Defendant will credit the account so that it has a zero balance. Defendant will also reimburse such complainants for any switching charges incurred. Defendant also agrees that no negative credit information has been or will be reported to any credit reporting agency for nonpayment of a bill from Defendant for such complainants. Defendant agrees to take all action necessary to remove and correct any negative information already reported related to a switch by Defendant and subsequent billing for such complainants, and agrees to forego any collection of present outstanding amounts owed to Defendant by the listed consumers.

21. Defendant agrees to provide, at the time of signing this Consent Judgment, an affidavit signed by an officer of ATN which acknowledges that all action required in paragraph twenty (20) herein has been taken by Defendant and which provides a listing of the refund/credit amounts provided to each consumer listed in Exhibit 1.

22. For any future complaints filed with or supplied to the Office of the Attorney General within ninety (90) days of the date of this Consent Judgment, which complaints are meritorious as determined by the Office of the Attorney General, regarding a switch of long

distance services occurring prior to the date of this Consent Judgment, Defendant agrees to resolve such complaints by providing relief consistent with the type of relief provided to consumers in paragraph twenty (20) above.

INVESTIGATIVE FEES AND CIVIL PENALTIES

23. The Defendant agrees to pay, to the "Office of the Attorney General" of the State of Kansas, \$200,000 to be allocated pursuant to K.S.A. 50-623 *et seq.* A check in the amount of \$25,000 shall be delivered to the Attorney General of the State of Kansas along with this Consent Judgment signed by Defendant on or before February 12, 2001. Thereafter, three (3) more payments of \$25,000 each shall be delivered to the Attorney General on or before February 19, 2001, February 26, 2001 and March 5, 2001, respectively. Thereafter, the remaining \$100,000 shall be paid in four (4) payments of \$25,000 each and shall be delivered to the Attorney General on or before March 26, 2001, April 26, 2001, May 26, 2001 and June 26, 2001, respectively.

OTHER PROVISIONS

24. The provisions of this Consent Judgment will be applicable to the Defendant, its employees, agents and representatives.

25. 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.

26. 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.

27. 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 her jurisdiction.

28. 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.

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.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant ATN and in favor of Plaintiff in the amount of \$200,000.

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.

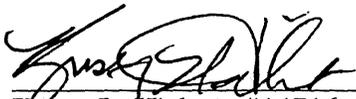
IT IS SO ORDERED.

 / s /
DISTRICT COURT JUDGE

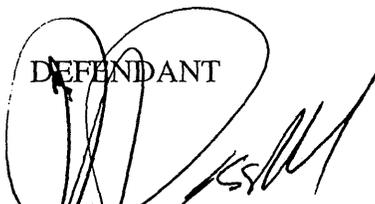
Approved by:

PLAINTIFF


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