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KS. DISTRICT COURT
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GENERAL JURISDICTION
TOPEKA, KANSAS

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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 6

STATE OF KANSAS, ex rel.
CARLA J. STOVALL, Attorney General,

Plaintiff,

vs.

U.S. REPUBLIC COMMUNICATIONS, INC.,

Defendant.

Case No. 01C185

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 20th day of February, 2001, the Petition for Approval of Consent Judgment comes before the Court pursuant to K.S.A. 50-632(b). The Plaintiff, the State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, appears by and through Kristy L. Hiebert, Assistant Attorney General. Defendant U.S. Republic Communications, Inc. (hereinafter referred to as "Defendant" or "USRC") appears by and through James Scott Kreamer, Baker, Sterchi, Cowden, and Rice, Kansas City, Missouri.

WHEREUPON the parties advise the court that they have stipulated and agreed to the following:

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 USRC is a foreign corporation organized under the laws of the State of Texas. The principal office of the corporation, at all times relevant to this proceeding, was located at 4800 Sugar Grove Blvd., Suite 500, Stafford, Texas 77477. Defendant USRC applied with the Kansas Secretary of State for authority to do business in Kansas in August 1996, by filing a Foreign Corporation Application.

4. The Defendant's representative, signing this Journal Entry of Consent Judgment, warrants that the representative has been duly authorized by the Defendant for whom the representative appears to be acting to enter and execute this Journal Entry of Consent Judgment on behalf of such Defendant.

5. Defendant stipulates and admits that 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).

ALLEGATIONS

8. Beginning at a time unknown to Plaintiff but at least since January 1998, Defendant, through its agents, employees and representatives, has been conducting telemarketing contacts with Kansas consumers in an effort to induce consumers to use its telecommunications

services. Specifically, Defendant telemarketed free web-page designs for small businesses. It also telemarketed long distance telephone service.

9. The Attorney General has received complaints from Kansas consumers alleging that telecommunication services were added by Defendant without their authorization, otherwise known as "cramming," or that their long distance carrier was switched without their authorization, otherwise known as "slamming."

10. 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 and K.S.A. 50-627, including, but not limited to:

- a. Adding services and charges to consumers' telephone accounts without having obtained the express authorization of the consumers;
- b. Representing that Defendant's web-page design services were free without clearly and adequately disclosing that the consumer would automatically be charged a monthly fee at the end of the "free trial" period;
- c. Failing to honor cancellation requests of Defendant's services by Kansas consumers and continuing to charge consumers a monthly fee for such canceled services;
- d. Switching consumers' long distance telephone service to the Defendant's service without having obtained the express authorization of the consumers or obtaining authorization through the use of misrepresentations regarding Defendant's service.

11. Defendant, by entering into this Consent Judgment, makes no admission of liability as to any practice set forth in paragraph ten (10) herein.

12. Defendant agrees to this Consent Judgment without trial or adjudication of any issue of fact or law.

INJUNCTIVE RELIEF

13. The Defendant agrees to refrain from, and to be permanently enjoined from, engaging in those acts and practices set forth in paragraph ten (10) 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.

14. 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.

15. The Defendant and Defendant's successors or assigns, if any, agree 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 and Defendant's successor.

CONSUMER RESTITUTION

16. The 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 the 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 the Defendant and has outstanding bills, the Defendant will credit the account so that it has a zero balance. 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 the adding of services by Defendant and subsequent billing for such

complainants, and agree to forego any collection of present outstanding amounts owed to Defendant by the listed consumers.

17. Defendant agrees to provide, at the time of signing this Consent Judgment, an affidavit signed by an officer of USRC which acknowledges that all action required in paragraph sixteen (16) herein has been taken by Defendant and which provides a listing of the refund/credit amounts provided to each consumer listed in Exhibit 1.

18. For any future complaints, involving the services described in paragraphs eight (8) through ten (10) of this Consent, which are filed with or supplied to the Office of the Attorney General, and which complaints are meritorious as determined by the Office of the Attorney General, regarding an act 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 sixteen (16) above. With regard to such future complaints involving Defendant's long distance service, the full refund or credit provision described in paragraph sixteen (16) above will only apply to charges incurred by the consumer during the first ninety (90) days after the date the consumer is switched to Defendant's long distance service. Following the ninety (90) day period, the consumer will be provided with a refund or credit, whichever is appropriate as determined in paragraph sixteen (16) above, in an amount equal to the difference between the amount charged for the Defendant's service and the amount the consumer would have been charged by his/her long distance carrier prior to the switch to Defendant, if Defendant's rates were higher than those of the previous long distance service provider, less any credits or refunds previously issued by Defendant.

INVESTIGATIVE FEES AND CIVIL PENALTIES

19. The Defendant agrees to pay to the "Office of the Attorney General" of the State of Kansas \$75,000 in investigative fees and expenses and civil penalties. Payment shall be made by a

cashier's check and shall be delivered to the Attorney General of the State of Kansas at the time of signing the Consent Judgment.

OTHER PROVISIONS

20. The provisions of this Consent Judgment will be applicable to the Defendant and Defendant's successors, assigns, officers, agents, servants, representatives, and all other persons or entities acting through any corporation or any other business entity on behalf of Defendant, who were specifically engaged in the business of Defendant.

21. 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.

22. 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.

23. 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. The parties agree that this Consent Judgment constitutes a full and final resolution of all claims relating to the acts and practices alleged to be deceptive and unconscionable under the Kansas Consumer Protection Act in paragraph ten (10) up to the date of the signing of this Consent Judgment. The Kansas Attorney General agrees that she and her office will not pursue any claims, demands or civil cause of action under the Kansas Consumer Protection Act against Defendant for the acts and practices alleged to be deceptive and/or unconscionable in paragraph ten (10) of this Consent Judgment up through the date of signing of this Consent Judgment,

excepting only any action which may be required to enforce the provisions of this Consent Judgment.

24. 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 and in favor of Plaintiff in the amount of \$75,000.

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/ Hon. Terry Bullock
DISTRICT COURT JUDGE

Approved by:

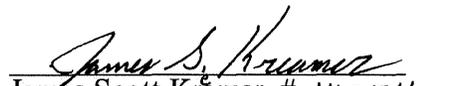
PLAINTIFFS


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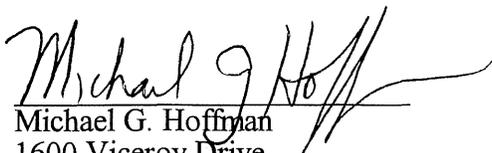
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DEFENDANT


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Attorney for Defendant

U.S. Republic Communications, Inc.
BY: Michael G. Hoffman, Secretary


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