

01-017

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KS. DISTRICT COURT
THIRD JUDICIAL DIST.
TOPEKA, KS.

2001 MAY 31 P 3:13

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 06

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

Plaintiff,

vs.

VICTOR J. LANG, JR, individually; and
HAYS FIRE EXTINGUISHER SALES AND
SERVICE, INC.

Defendant.

Case No. 01C625

Petition Pursuant to K.S.A. Chapter 60

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 31 day of MAY, 2001, Plaintiff's Petition for Approval of Consent Judgment comes before the Court pursuant to K.S.A. §50-632(b). Plaintiff, the State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, appears by and through James J. Welch, Assistant Attorney General. Defendant Hays Fire Extinguisher Sales and Service, Inc. appears by and through Mr. ^{W.} Robert ~~V.~~ Alderson.

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

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 Hays Fire Extinguisher Sales and Service Inc. is a Kansas corporation organized under the laws of the state of Kansas. The principal office of the corporation is located at 221 East 10th Street, Hays, Kansas 67061.

4. Defendant is a supplier, as defined by K.S.A. §50-624(i), and has engaged in consumer transactions within the definition of K.S.A. §50-624(c) and (h).

5. Defendant admits the Court has personal and subject matter jurisdiction over the parties.

6. Defendant stipulates and waives any objection to venue in Shawnee County.

7. Defendant's engage in the business of servicing, recharging, installing, and inspecting fixed extinguishing systems; servicing, recharging, installing, and inspecting portable fire extinguishing equipment; hydrostatic testing of cylinders as used in fire extinguishing equipment wet or dry chemicals; and servicing, recharging and inspecting fixed extinguishing equipment.

8. The Attorney General alleges Defendant engaged in the following acts and practices which are deceptive and/or unconscionable and violate the Kansas Consumer Protection Act:

a. Defendant installed new, fixed extinguishing systems which Defendant was not licensed by the State of Kansas to install, in violation of K.S.A. §50-626 (b)(1)(B).

b. Defendant billed consumers and accepted payment for servicing fixed extinguishing systems, including the replacement of fusible links, when in fact, the Defendant had not changed the links for many years. This is in violation of §50-627(b)(3).

c. Defendant billed consumers and accepted payment for the six-year maintenance and recharging of cylinders, portable fire extinguishers, and fixed fire extinguishing equipment, when in fact, Defendant had not performed the required maintenance. This is in violation of K.S.A. §50-627(b)(3).

- d. Defendant billed consumers and accepted payment for hydrotesting of DOT and non-DOT cylinders, when in fact, Defendant had not performed the testing. This is in violation of K.S.A. §50-627(b)(3).
- e. Defendant serviced fixed extinguishing systems, and billed customers and accepted payment for that service, including the "Safety First" brand system, when Defendant knew that servicing these systems was prohibited by the State of Kansas. This is in violation of .§50-626 (b)(1)(B).

9. Defendant voluntarily agrees to this Consent Judgment without trial or adjudication of any issue of fact or law. Defendant, by entering into this Consent Judgment, shall not be deemed to admit the violations of the Kansas Consumer Protection Act alleged herein, or any violation of state or federal law. Defendant has agreed to entry of this Consent Judgment without admitting any wrongdoing and for settlement purposes only.

10. Defendant agrees to refrain from and to be permanently enjoined from engaging in those acts and practices alleged to be deceptive or unconscionable in paragraph eight (8) of this Consent Judgment, and Defendant agrees that engaging in such acts or similar acts, after the date of this Consent Judgment, shall constitute a violation of this Order.

11. The provisions of this Consent Judgment will be applicable to Defendant, and every employee, agent or representative of Defendant.

12. Defendant agrees to make available and/or disclose the provisions of this Consent Judgment to its employees, agents and representatives within five days of signing the Consent Judgment.

13. Defendant agrees to resolve any future complaints filed with the Office of the Attorney General regarding Defendant after the date of this Consent Judgment to the satisfaction of the Attorney General within 30 days of the date such complaint is forwarded to Defendant for resolution.

14. 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. Defendant agrees to pay \$6,000.00 to the "Office of the Attorney General" of the State of Kansas. Payment of \$500.00 per month shall commence on or before June 1, 2001, with subsequent \$500.00 payments thereafter due on or before the first (1st) day of each month, until the entire amount payable is satisfied. Payment shall be made by certified checks and shall be delivered to the Attorney General of the State of Kansas.

16. Defendant agrees to pay all expenses and reasonable attorney's fees in connection with the collection of any amounts in this judgment, provided Defendant does not pay the amounts as agreed herein within the time frame stated.

17. Defendant agrees to maintain all business records for a period of five years and to allow the Attorney General to inspect all of Defendant's business records in the future.

18. 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 for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations thereof, or for modification of this Consent Judgment upon agreement of the parties. The parties agree that this Consent Judgment resolves all issues known to parties under the Kansas Consumer Protection Act relating to the acts and practices alleged to be deceptive or unconscionable in paragraph eight (8), including sub-paragraphs, of this Consent Judgment up through the date of the execution of this Consent Judgment. Pursuant to the terms of this Consent Judgment, the Kansas Attorney General agrees that she and her office will not pursue any claims, demands or civil causes of action under the Kansas Consumer Protection Act against Defendant for the acts and practices alleged to be deceptive and/or unconscionable in paragraph eight (8) of this Consent Judgment up through the date of the execution of this Consent Judgment, excepting only any action which may be required to enforce the provisions of this Consent Judgment.

19. 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.

20. 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 her jurisdiction.

21. 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 Defendant nor shall 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 and any monies owed hereunder by Defendant immediately become a judgment upon filing.

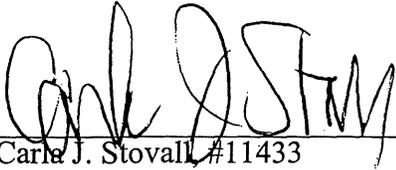
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant in favor Plaintiff in the amount of \$ 6,000.00

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.

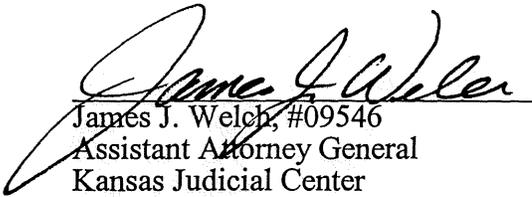
IT IS SO ORDERED.

/s/ Hon. Bullock
DISTRICT COURT JUDGE

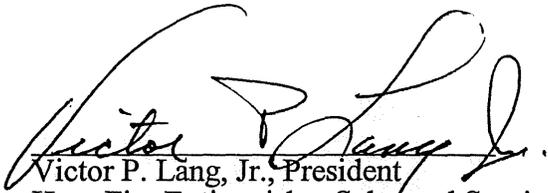
Approved by:



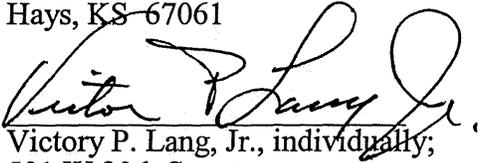
Carl J. Stovall, #11433
Attorney General



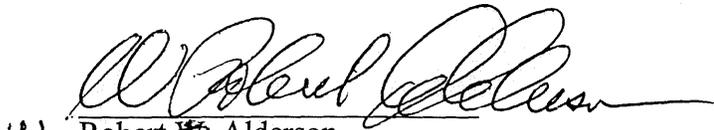
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