

David L. Harder, #18344  
Assistant Attorney General  
Office of the Attorney General  
Kansas Judicial Center  
Topeka, Kansas 66612-1597  
(785) 296-3751

IN THE DISTRICT COURT OF JACKSON COUNTY, KANSAS

LISA A. WILSON  
CLERK OF  
DISTRICT COURT  
JACKSON COUNTY, KS

2001 JUL 13 A 8:32

FILED THIS DAY

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

Plaintiff,

v.

Case No. 01C11

NORTHSTAR INDUSTRIES, INC., and  
ROBERT L. PAUL, individually, and  
d/b/a NORTHSTAR INDUSTRIES, d/b/a  
FASHION CONNECTION

Defendants.

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 13 day of July, 2001, comes before the Court the Journal Entry of Consent Judgment entered into between the parties, pursuant to K.S.A. 50-632(b). Plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, appears by and through David L. Harder, Assistant Attorney General. Defendant appears by and through Gregory A Lee, Davis, Unrein, Hummer, McCallister, Biggs and Head, L.L.P. There are no other appearances.

WHEREUPON, the parties advise the Court 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 statutory and common law of Kansas, specifically, the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*

3. Defendant Robert L. Paul is a sole proprietor doing business as Northstar Industries and Fashion Connection, selling merchandise at various locations in Kansas and adjacent states.

4. Defendant is a supplier within the definition of K.S.A. 50-624(i) and has engaged in consumer transactions in Kansas within the definitions of K.S.A. 50-624(c).

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

6. 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. Defendants willfully used exaggeration, falsehood, innuendo or ambiguity as to a material fact, in violation of K.S.A. 50-626(b)(2), in that:
  - i. Defendants represented they had available for sale Plugg, Boff, Addidas, Polo and Nike, when they did not, in fact, have such merchandise, as issued by such companies;
  - ii. Defendants represented products to be originals when, in fact, products were of an inferior quality and factory-returned or second products;
  - iii. Defendants represented that they had the "Best Brands at the Best Price" when in fact they did not.
- b. Defendants willfully failed to state, or willfully concealed, suppressed, or omitted material facts, in violation of K.S.A. 50-626(b)(3), in that:
  - i. Consumers were not informed prior to the purchase transaction that the products offered were factory seconds, non-original, and/or inferior quality merchandise;
  - ii. Defendants advertised property without the intent to sell it, in violation of K.S.A. 50-626(b)(5), in that Defendants represented it had available for sale genuine Plugg, Boff, Addidas, Polo and Nike, and other name-brand clothing, when they did not.
  - iii. Defendants offered property without the intent to supply reasonable, expectable public demand, in violation of K.S.A. 50-626(b)(6), in that many of the advertised items were not available in sufficient quantities, and/or sizes.
  - iv. Defendants failed to advise consumers of the true identity of products as "factory renewal," seconds or non-originals, in violation of K.S.A.

50-626(b)(1)(B), in that they represented to have sponsorship, approval, status, affiliation and connection that they did not have, specifically with the manufacturer of the name-brand merchandise.

- c. Defendants violated the Kansas Consumer Protection Act, K.S.A. 50-640(a) and (b), including, but not limited to the following:
- i. On at least March 17, 2001, Defendants solicited and sold merchandise to consumers in Holton, Kansas at a place other than the usual place of business of Defendants, and for a purchase price of \$25.00 or more. Such solicitations constitute door-to-door sales and are subject to the provisions of K.S.A. 50-640.
  - ii. Defendant's contract failed to have in close proximity of the signature line, in boldface type of a minimum of 10 points, a statement in substantially the following form: "YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT," in violation of K.S.A. 50-640(b)(1);
  - iii. Defendant failed to provide each and every consumer with a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the contract or receipt and be easily detachable, and which shall contain in 10-point boldface type a general statement of consumer's right to cancel, in violation of K.S.A. 50-640(b)(2);
  - iv. Defendant failed to inform each consumer orally of such consumer's right to cancel in violation of K.S.A. 50-640(b)(5);

7. Defendant denies the allegations contained in the Journal Entry of Consent and Petition, but agrees to this Consent Judgment without trial or adjudication of any issue of fact or law in order to bring this matter to a mutually beneficial conclusion.

8. Defendant agrees to refrain from and to be permanently enjoined from engaging in acts and practices described in paragraph six (6) above in violation of the Kansas Consumer Protection Act. Defendant agrees that engaging in such acts after the date of this Consent Judgment shall constitute a violation of this Order.

9. The provisions of this Consent Judgment will be applicable to Defendant, and every employee, agent or representative of Defendant acting within the course of their authorized employment.

10. 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.

11. Defendant agrees to pay \$1,000.00 (\$500.00 in civil penalties, and \$500.00 in investigative fees and expenses) to the "Office of the Attorney General" of the State of Kansas. Defendant agrees that failure to make such payment, after the date of this Consent Judgment, shall constitute a violation of this Order. Payment shall be by cashier's check.

12. 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.

13. 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.

14. 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.

15. The parties understand 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 Robert L. Paul, d/b/a Northstar Industries, d/b/a Fashion Connection, and in favor of Plaintiff in the amount of \$1,000.00.

**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.**

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

**PREPARED AND APPROVED BY:**

*Carla J Stovall*

CARLA J. STOVALL, #11433  
Attorney General

*David L Harder*

David L. Harder, #18344  
Assistant Attorney General  
Kansas Judicial Center  
Topeka, Kansas 66612-1597  
(785) 296-3751  
Attorney for Plaintiff

**APPROVED BY:**

*Robert L Paul*

Robert L. Paul  
d/b/a Northstar Industries, d/b/a Fashion Connection  
Defendant

*Gregory A Lee*

Gregory A. Lee, #09960  
DAVIS, UNREIN, HUMMER, MCCALLISTER  
BIGGS & HEAD, L.L.P.  
100 SE 9<sup>th</sup> Street  
P.O. Box 3575  
Topeka, KS 66601-3575  
Attorney for Defendant