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Stacy A. Jeffress, #12460
Assistant Attorney General
Office of the Attorney General
120 West 10th Avenue, 2nd Floor
Topeka, Kansas 66612-1597
(785) 296-3751

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 6

STATE OF KANSAS, *ex rel.*,)
CARLA J. STOVALL, Attorney General, and)
KANSAS BOARD OF PHARMACY,)
Plaintiffs,)

v.)

Case No. 99 C 751

ROY C. ALIVIO, BO PLATT, and)
MALE CLINIC, L.L.C., d/b/a MALE CLINIC,)
DAVID HAIRHOGER,)
d/b/a COMMUNITY DRUG OF PITTSBURGH,)
MILES JONES, M.D., and)
RICK WILLIAMS, M.D.,)
Defendants.)

AS to
Miles Jones,
M.D.

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

JOURNAL ENTRY OF DEFAULT JUDGMENT

NOW on this 29th day of October, 2001, comes before the Court the Motion for Judgment by Default Against Defendant Miles Jones, M.D., and Memorandum in Support Thereof filed herein by the Plaintiff State of Kansas, *ex rel.* Carla J. Stovall, Attorney General. Plaintiff appears by and through counsel, Stacy A. Jeffress, Assistant Attorney General. There are no other appearances.

Upon review of the file and the statements of counsel, and being fully apprised of the particulars in this matter, the Court finds and concludes as follows:

1. On June 21, 1999, the Plaintiff filed an Amended Petition alleging that Defendant Miles Jones, M.D., committed violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

2. Defendant Miles Jones, M.D., was served with a copy of the summons and Amended Petition by certified mail delivered to 1704 SE 11th Street, Lees Summit, Missouri 64081, on June 28, 1999; to P.O. Box 1251, Clayton, Georgia 30525, on June 29, 1999; and to 404 South Logan Street, West Frankfort, Illinois 62896, on June 28, 1999.

3. Plaintiff has requested that judgment by default be entered in favor of Plaintiff and against Defendant Miles Jones, M.D.

4. This Court has subject matter jurisdiction over this case under the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

5. This Court has jurisdiction over the parties pursuant to the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

6. More than thirty (30) days have elapsed since Defendant Miles Jones, M.D., was served with a copy of the summons and a copy of the Amended Petition.

7. Defendant Miles Jones, M.D., has not filed an answer.

8. Defendant Miles Jones, M.D., is in default.

9. More than ten (10) days prior to the filing of the Motion for Judgment by Default, Defendant Miles Jones, M.D., was notified of the amount of monetary judgment that would be entered against him in the event of default.

10. Judgment by default should be entered in favor of Plaintiff and against Defendant Miles Jones, M.D., for all relief to which Plaintiff is by law entitled.

11. Plaintiff has properly shown that Plaintiff's Motion for Judgment by Default has merit. Plaintiff's Motion for Judgment by Default should be granted and sustained.

12. Plaintiff has alleged in the Amended Petition that the following acts and practices by Defendant Miles Jones, M.D., are violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, and are unconscionable:

- a. Defendant Miles Jones, M.D., engaged in an unlawful unconscionable act or practice by dispensing a prescription-only drug to a Kansas consumer without conducting any examination or consultation to determine the medical need for such prescription-only drug, in violation of K.S.A. 50-627.
- b. Defendant Miles Jones, M.D., engaged in an unlawful unconscionable act or practice by dispensing a prescription-only drug to a Kansas consumer without conducting any examination or consultation to explain to the consumer the proper administration, potential side effects, dangers and contraindications of such prescription-only drug, in violation of K.S.A. 50-627.

IT IS THEREFORE BY THE COURT ORDERED, ADJUDGED AND DECREED that the Plaintiff's Motion for Judgment by Default is granted and sustained.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is hereby entered in favor of Plaintiff and against Defendant Miles Jones, M.D., as set forth in this Journal Entry of Default Judgment, on all claims.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the acts and practices alleged in Paragraph 12 above are hereby declared to be unconscionable and in violation of the Kansas Consumer Protection Act.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Miles Jones, M.D., together with such Defendant's officers, directors, employees, shareholders, agents, successors, servants and assigns, are hereby permanently enjoined from engaging in the above-cited unconscionable acts and practices.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Miles Jones, M.D., together with such Defendant's officers, directors, employees, shareholders, agents, successors, servants and assigns, are hereby permanently enjoined from the unlawful advertising, selling, prescribing, dispensing, and delivering of prescription-only drugs to consumers within the State of Kansas.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is hereby entered in favor of Plaintiff State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, and against Defendant Miles Jones, M.D., for civil penalties in the amount of \$10,000.00.

IT IS SO ORDERED.

TS/
The Honorable Terry L. Bullock
District Court Judge

Prepared by:
Stacy A. Jeffress
Stacy A. Jeffress, #12460
Assistant Attorney General
120 SW 10th Avenue, 2nd Floor
Topeka, Kansas 66612-1597
(785) 296-3751
Attorney for Plaintiff