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FILED BY CLERK
KS. DISTRICT COURT
THIRD JUDICIAL DIST
2001 NOV 13 A 11: 07
GENERAL JURISDICTION
TOPEKA, KANSAS

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.

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.

Case No. 99 C 751

AS TO
Roy Alivio &
Bo Platt

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

99-048

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this ¹³ ~~12~~ day of November, 2001, comes before the Court the Journal Entry of Consent Judgment entered into between the Plaintiff State of Kansas and Defendants Roy C. Alivio and Bo Platt, pursuant to K.S.A. 50-632(b). The State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, appears by and through Stacy A. Jeffress, Assistant Attorney General. Defendants Roy C. Alivio and Bo Platt appear *pro se*.

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

THE PARTIES

1. Carla J. Stovall is the Attorney General of the State of Kansas.
2. Defendant Roy C. Alivio was at the time of the filing of the Amended Petition in this case an individual residing in the State of California.
3. Defendant Bo Platt was at the time of the filing of the Amended Petition in this case an individual residing in the State of California.

JURISDICTION AND VENUE

4. Defendants Roy C. Alivio and Bo Platt enter their voluntary general appearances.
5. Defendants Roy C. Alivio and Bo Platt admit the Court has jurisdiction over the parties and the subject matter.
6. Defendants Roy C. Alivio and Bo Platt admit venue is proper in the Third Judicial District of Kansas (Shawnee County).

ALLEGATIONS

7. The Attorney General alleges Defendants Roy C. Alivio and Bo Platt are suppliers as defined by K.S.A. 50-624(j) (2001 Kansas Session Laws).
8. The Attorney General alleges that at all times relevant hereto, and in the ordinary course of business, Defendants Roy C. Alivio and Bo Platt have engaged in consumer transactions in Kansas as defined by K.S.A. 50-624(c).
9. The Attorney General has alleged that Defendants Roy C. Alivio and Bo Platt have violated the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, as set forth in Paragraphs twenty-three (23) and twenty-five (25) of the Amended Petition filed in this case, including all subparagraphs thereof.
10. Defendants Roy C. Alivio and Bo Platt deny each of the Attorney General's allegations but agree 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.

INJUNCTIVE RELIEF

11. Defendants Roy C. Alivio and Bo Platt agree to refrain from and to be permanently enjoined from engaging in those acts and practices alleged in Paragraphs twenty-three (23) and twenty-five (25) of Plaintiff's Amended Petition, including all subparagraphs thereof. Defendants Roy C. Alivio and Bo Platt agree that engaging in such acts or similar acts, after the date of this Consent Judgment, shall constitute a violation of this Order.

12. Defendants Roy C. Alivio and Bo Platt agree to refrain from and to be permanently enjoined from the unlawful advertising, selling, prescribing, dispensing and/or delivering of prescription-only medications, including but not limited to controlled substances, to consumers and/or other persons in Kansas. Defendants Roy C. Alivio and Bo Platt agree that any failure to so refrain, after the date of this Consent Judgment, shall constitute a violation of this Order.

13. Defendants Roy C. Alivio and Bo Platt agree to refrain from, and be permanently enjoined from, advertising, selling, prescribing, dispensing and/or delivering prescription-only medications, including but not limited to controlled substances, to consumers, patients and/or other persons in Kansas unless such medications are properly prescribed by a physician who is in compliance with all requirements of the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*, specifically including but not limited to all requirements set forth in K.S.A. 65-2803 related to licensing. Defendants Roy C. Alivio and Bo Platt agree that any failure to so refrain, after the date of this Consent Judgment, shall constitute a violation of this Order.

14. Defendants Roy C. Alivio and Bo Platt agree to refrain from, and be permanently enjoined from, advertising, selling, prescribing, dispensing and/or delivering prescription-only medications, including but not limited to controlled substances, to consumers, patients and/or other persons in Kansas unless Defendants Roy C. Alivio and Bo Platt have complied fully with all applicable requirements of the Kansas Pharmacy Practices Act, K.S.A. 65-1626 *et seq.*, specifically including but not limited to all requirements for nonresident pharmacies set forth in

K.S.A. 65-1657. Defendants Roy C. Alivio and Bo Platt agree that any failure to so refrain, after the date of this Consent Judgment, shall constitute a violation of this Order.

CIVIL PENALTIES

15. Defendants Roy C. Alivio and Bo Platt agree to pay, and to be jointly and severally liable for, a total of \$3000.00 which includes any and all civil penalties, investigative fees, and expenses to the "Office of Attorney General" at the time of signing this Consent Judgment, pursuant to K.S.A. 50-623 *et seq.* Payment shall be by cashier's check.

GENERAL PROVISIONS

16. Defendants Roy C. Alivio and Bo Platt agree to be bound by this Journal Entry of Consent Judgment at all times after the date of entry without regard to whether Defendants act through their principals, officers, directors, shareholders, representatives, agents, servants, employees, subsidiaries, successors, assigns or whether acting through any corporation or other entity whose acts, practices or policies are directed, formulated, or controlled by Defendants.

17. Defendants Roy C. Alivio and Bo Platt agree to make available and/or disclose the provisions of this Consent Judgment to their employees, agents and representatives not later than twenty (20) days after the date of this Consent Judgment.

18. Defendants Roy C. Alivio and Bo Platt agree not to enter into, form, organize or reorganize into any partnership, corporation, sole proprietorship or any other legal structures, for the purpose of avoiding compliance with the terms of this Consent Judgment.

19. Defendants Roy C. Alivio and Bo Platt agree to refrain from and to be permanently enjoined from representing, in any manner whatsoever and to any person or entity whatsoever, that this Consent Judgment constitutes approval by, endorsement by or authority from the State of Kansas and/or the Attorney General of the State of Kansas and/or the Kansas State Board of Pharmacy for the business practices of Defendants. Defendants Roy C. Alivio and Bo Platt agree that making of any such representation, after the date of this Consent Judgment, shall constitute a violation of this Order.

20. Jurisdiction is retained by this Court for the sole 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 hereof.

21. If any portion, provision or part of this Consent Judgment is held to be invalid, unenforceable, or void for any reasons whatsoever, that portion shall be severed from the remainder and shall not affect the validity or enforceability of the remaining portions, provisions, or parts.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, the Court hereby approves the terms of the Consent Judgment and adopts the same as the order of the Court.

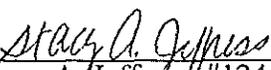
IT IS SO ORDERED.

15/
THE HONORABLE TERRY L. BULLOCK
DISTRICT COURT JUDGE

Approved by:



Carla J. Stovall, #11433
Attorney General

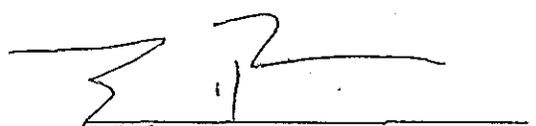


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Consumer Protection/Antitrust Division
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(785) 296-3751

Attorneys for Plaintiff State of Kansas



Roy C. Alivio
Defendant



Bo Platt
Defendant

CASHIER'S CHECK

04037 BRENTWOOD
(OFFICE OF ISSUE) 102 17177

7672084 ¹¹⁻⁴⁹⁻⁷/₁₂₁₀

REMITTER: BO PLATT

DATE: NOVEMBER 5, 2001

PAY TO THE
ORDER OF

****OFFICE OF KANSAS ATTORNEY GENERAL*****

\$ *****1,500.00**

\$1500DLS AND 00CTS

UNION
BANK OF
CALIFORNIA

UNION BANK OF CALIFORNIA, N.A.
SAN FRANCISCO, CALIFORNIA
800-238-4486

(AUTHORIZED SIGNATURE)

FORM 00247 (Rev. 3/2000)

⑈ 76720840 ⑆ 121000497 ⑆ 056500000 7 ⑈

CASHIER'S CHECK

04037 BRENTWOOD
(OFFICE OF ISSUE) 101 17177

7672083 ¹¹⁻⁴⁹⁻⁷/₁₂₁₀

REMITTER: ROY ALVIO

DATE: NOVEMBER 5, 2001

PAY TO THE
ORDER OF

****OFFICE OF KANSAS ATTORNEY GENERAL*****

\$ *****1,500.00**

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