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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 7

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

Plaintiff,

vs.

TELCO PARTNERS, INC.,

Defendant.

Case No. 01 C 673

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 28th day of May, 2002, this Journal Entry of Consent Judgment comes before the Court pursuant to K.S.A. 50-632(b) (K.S.A. 2001 Supp.). The Plaintiff, the State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, appears by and through Kristy L. Hiebert, Assistant Attorney General. Defendant, Telco Partners Inc., (hereinafter "Defendant" or "Telco Partners"), appears by and through Robert E. Hiatt. Whereupon the parties advise the Court that they have stipulated and agreed to the following:

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, Telco Partners, is a foreign corporation incorporated in Pennsylvania with its principal office located at 484 Norristown Road, Suite 123, Blue Bell, PA 19422. Telco Partners, applied with the Kansas Secretary of State for authority to do business in Kansas in February 1997, by filing a Foreign Corporation Application and by obtaining a Certificate of Public Convenience and Necessity to operate as an Interexchange Telecommunications Service Provider from the Kansas Corporation Commission in July 1997.

4. Each of the Defendant's representatives, 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 Defendant.

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

6. Venue is proper in Shawnee County because an act or practice alleged to be a violation of the Kansas Consumer Protection Act occurred in such county and because Defendant has no principal place of business in the State of Kansas.

7. Defendant Telco Partners, was engaged in business as a telecommunications service provider offering, among other services, calling card services and a personal 800-number service.

8. Defendant is a supplier within the definition of K.S.A. 50-624(j) (K.S.A. 2001 Supp.) and engaged in consumer transactions in Kansas within the definition of K.S.A. 50-624(c) (K.S.A. 2001 Supp.).

9. Beginning at a time unknown to Plaintiff, but at least since February 1998, Defendant, through its agents, employees and representatives, solicited Kansas consumers to use its Personal Toll Free P.I.N. Number Program through a promotional program utilizing sweepstakes drop boxes.

10. The sweepstakes drop boxes enticed consumers to complete an application on top of the box. The upright flap of the box contained a color picture of an automobile and stated in bright yellow ½ inch to 1 ¾ inch tall letters "REGISTER TO WIN \$30,000 OR NEW BMW ROADSTER." The front of the box says "FREE ENTRY."

11. The application was entitled Benefits USA Personal Toll Free PIN Number Application. It asked for the consumer's full name, phone number and address. The signature was "Required to Apply."

In very small print similar to that below, the application stated, under the consumer signature line, that:

By signing, I certify that I am at least 18 years of age and financially responsible for the home phone number above. I further attest that I have read, understand and agree to all terms, conditions and charges listed herein. This number will ring at and be billed to the Home Telephone number I have selected above. I will pay for the long distance charges incurred, with a flat cost per minute of \$.199 for domestic calling. An FCC mandated pay-phone surcharge may apply per call as tariffed. A \$4.95 monthly service fee will apply with a one-time activation fee of \$5.00. All usage and service charges will be billed by TELCO PARTNERS. Eligibility restricted to pre-approved LEC outclearing areas only. I understand that if I am not 100% satisfied I may cancel at any time by calling, toll free, 888-820-9152 to receive a refund of the monthly service charge.

(A true and correct copy of the application is attached hereto as Exhibit 1).

12. Every consumer who completed the application to win the car or the \$30,000 would become obligated for the Personal 800# and monthly service fee.

13. The sweepstakes rules listed on the back of the sweepstakes drop box stated that no purchase was necessary to enter or win and provided a procedure for submitting an entry by mail.

14. Effective June 4, 1998, K.S.A. 50-6,103 (K.S.A. 1999 Supp.) stated:

"(c) No local exchange carrier, telecommunications carrier or third party utilized to verify an order to change a consumer's telecommunications carrier or local exchange carrier to another carrier shall: (2) employ a box or container used to collect entries for sweepstakes, contests or drawings to gather letters of agency or other

documents that constitute authorizations by consumers to change the consumers' telecommunications carrier or local exchange carrier to another carrier or to change or add to the consumers' other telecommunications services[.]"

15. The Attorney General alleges that the Defendant, its agents and representatives, committed deceptive and/or unconscionable acts and practices in consumer transactions in violation of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, including K.S.A. 50-6,103 (K.S.A. 1999 Supp.), including, but not limited to:

- a. Employing a box or container used to collect entries for sweepstakes, contest or drawings to gather letters of agency or other documents that constitute authorizations by consumers to change the consumers' telecommunications carrier to another carrier;
- b. Using exaggeration, falsehood, innuendo or ambiguity as to the material fact that the primary purpose of the contest drop box and contest entry form was to obtain an authorization from the consumer to enroll them in the Defendant's Personal Toll Free PIN Number Program with its related charges;
- c. Concealing, suppressing or omitting material facts that the primary purpose of the contest drop box and contest entry form was to obtain an authorization from the consumer to enroll them in the Defendant's Personal Toll Free PIN Number Program with its related charges.

16. The Defendant agrees that it is responsible for any future acts of its employees, representatives and agents which violate this Consent Judgment.

17. The Defendant agrees to make available and/or disclose the provisions of this Consent Judgment to each officer, director and employee within ten days of signing the Consent Judgment.

18. The Defendant agrees to refrain from and to be permanently enjoined from engaging in all deceptive and unconscionable acts and practices in violation of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, including, but not limited to, K.S.A. 50-6,103 (K.S.A. 2001 Supp.), as it now exists or as amended in the future, and including, but not limited to, those acts or similar acts set forth in this Consent Judgment and Defendant agrees that engaging in any such prohibited acts shall be a violation of this order.

19. Defendant shall not add to a consumer's telecommunications services or cause any charges for such telecommunications services to be added to a consumer's telephone bill without obtaining the express authorization of the consumer authorized to make the change, and Defendant shall, at a minimum, comply with all Federal laws, statutes, rules and regulations, as they now exist or as amended in the future and all Kansas laws, statutes, rules and regulations, including but not limited to K.S.A. 50-623 *et seq.*, and K.S.A. 50-6,103 (K.S.A. 2001 Supp.), as they now exist or as amended in the future.

20. The Defendant agrees to provide full credits or refunds for monthly service fees to all customers, former or current, whose complaints are forwarded to the Attorney General's Office or who complain to Telco Partners or its agents or representatives directly, within 90 days of the date of this Consent Judgment. Customers with an outstanding amount shall be credited and customers with a zero balance shall receive refunds. The refunds or credits shall be provided to the customers within 30 days of the date Telco Partners receives the complaint, verbal or written, and within 120 days of this Consent Judgment, Telco Partners shall provide the Office of Attorney General, Consumer Protection Division, 120 S.W. Tenth, 2nd Floor, Topeka, KS, 66612-1597

with a list of customer names, address, telephone numbers and refund/credit amounts who were provided restitution pursuant to this paragraph.

21. 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.

22. The Defendant agrees to pay \$50,000.00 to the "Office of the Attorney General" to be used for investigative fees and civil penalties pursuant to K.S.A. 50-632 and K.S.A. 50-6,103 (K.S.A. 2001 Supp.). Payment shall be made by cashier's checks and shall be delivered to the Attorney General of the State of Kansas at the time Defendant signs this Consent Judgment.

23. The Defendant agrees to maintain all business records for a period of three years and to allow the Attorney General to inspect all of the Defendant's business records, with respect to Kansas activities, in the future.

24. 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.

25. 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.

26. 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.

27. 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 \$50,000.00.

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) (K.S.A. 2001 Supp.), the Court hereby approves the terms of the Consent Judgment and adopts the same as the Order of the Court.

IT IS SO ORDERED.

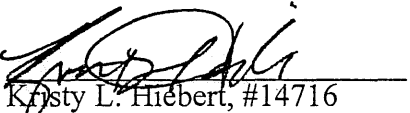

DISTRICT COURT JUDGE

Approved by:

PLAINTIFFS



CARLA J. STOVALL, #11433
Attorney General

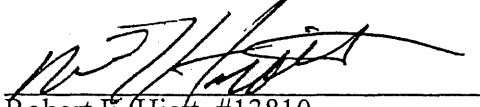


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Attorney for Defendant

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