

02-020

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KS. DISTRICT COURT  
THIRD JUDICIAL DIST

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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

Division 9

STATE OF KANSAS, *ex rel.* )  
CARLA J. STOVALL, Attorney General )  
 )  
Plaintiff )  
 )  
Tommy Brown Gorman, )  
Defendant, )

Case No. 02C1668

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 7 day of ~~July~~, 2002, 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, *AWAYST* *ex rel.* Carla J. Stovall, Attorney General, appears by and through James R. McCabria, Assistant Attorney General. Defendant Tommy Brown Gorman appears pro se. 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 Tommy Brown Gorman is a resident of the State of Tennessee and his residence address is 4550 Deer Lane, Memphis, TN 38118.

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

5. Defendant admits that this Court has personal and subject matter jurisdiction over all matters and parties hereto.

6. The nature of Defendant's business is making door-to-door sales, as defined by K.S.A. 50-640(c)(1), of painting or repair services on the exterior of buildings.

7. The Attorney General alleges Defendant engaged in the following acts and practices in conjunction with the solicitation of his services to Kansas consumers, which acts and practices violate the Kansas Consumer Protection Act:

- (a) Defendant fails to furnish consumers with a fully completed receipt or copy of any contract pertaining to the sale of services which sets forth the Defendants name and address and advises the consumer that they may cancel the transaction within three days, all in violation of K.S.A. 50-640(b)(1).
- (b) Defendant fails to furnish consumers with the Notice of Cancellation required by K.S.A. 50-640(b)(2).
- (c) Defendant fails to inform consumers orally, at the time of the sale of services, of the consumers three day right to cancel, all in violation of K.S.A. 50-640(b)(5).

8. Defendant agrees to this Consent Judgment without trial or adjudication of any issue of fact or law, but specifically deny each act, or that any described act constitutes a violation of law or that any intent to willfully commit any act or practice prohibited by the Kansas Consumer Protection Act existed.

9. Defendant agrees to refrain from and to be permanently enjoined from engaging in the acts and practices described in paragraph seven.

10. Defendant further agrees that this order enjoins Defendant from doing business in the State of Kansas unless Defendant complies with all the mandates of K.S.A. 50-640.

11. Defendant agrees to pay \$918.00 in civil penalties and investigative fees and expenses to the "Office of the Attorney General" of the State of Kansas. Payment shall be by cashier's check and shall be delivered to the Attorney General of the State of Kansas upon signing this Consent Judgment.

12. Defendant shall pay restitution to Kansas Consumers Beverly Noonan in the amount of \$400 and Mary or Donald Oliver in the amount of \$350 within seventy-two hours of being notified by the Attorney General that such restitution must be paid, which notice must be given on or before August 1, 2002. Payment shall be by cashier's check and shall be delivered to the Attorney General of the State of Kansas upon signing this Consent Judgment.

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

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, where such restructuring is done for the purpose or object of avoiding compliance with the terms of this Consent Judgment.

15. 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 hereof.

16. 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.

17. 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. Each Defendant further understands that nothing in this Consent Judgment shall preclude the Attorney General from taking further action against these Defendant in operating this program upon belief that the program is being promoted or operated in a fashion that otherwise violates the law.

18. 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 which the Attorney General now has in its possession and believes forms the basis for a violation of this 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 the Defendant and in favor of Plaintiff in the amount of \$918.00.

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.

3/ Charles E Andrews  
Judge of the District Court

PREPARED AND APPROVED BY:

Carla J. Stovall  
CARLA J. STOVALL, #11433  
Attorney General



James R. McCabria  
James R. McCabria, #16563  
Assistant Attorney General  
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(785) 296-3751  
Attorney for Plaintiff

STATE OF KANSAS, COUNTY OF SHAWNEE, S.S.

I hereby certify the above and foregoing to be a true and correct copy, the original of which is filed and entered of record in the court

Dated 8-7-07

CLERK of the DISTRICT COURT

By [Signature]  
DEPUTY

APPROVED BY:

Tommy B. Gorman  
Tommy Brown Gorman