



2. Defendant Bernstein was served with a copy of the summons and Petition by certified mail delivered to 7306 Coldwater Canyon, North Hollywood, California 91602, on March 25, 2002.

3. Plaintiff has requested that judgment by default be entered in favor of Plaintiff and against Defendant Bernstein.

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 Bernstein was served with a copy of the summons and Petition.

7. Defendant Bernstein has not filed an answer.

8. Defendant Bernstein is in default.

9. More than ten (10) days prior to the filing of the Motion for Judgment by Default, Defendant Bernstein 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 Bernstein 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 Petition that the following acts and practices by Defendant Bernstein are violations of the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*, and are deceptive and unconscionable:

- a. Defendant Bernstein engaged in an unlawful deceptive act or practice by making oral and written representations to a Kansas consumer that the box of Liprageous lip balm sent to the consumer would be free of charge knowingly or with reason to know that Defendant's property had characteristics, uses, and benefits that they did not have, all in violation of K.S.A. 50-626(b)(1)(a),
- b. Defendant Bernstein engaged in a deceptive and unlawful unconscionable act or practice by failing to make any refund to a Kansas consumer after the consumer returned unsold merchandise to Defendant Bernstein and made demand for a refund after Defendant Bernstein represented that the transaction was a "risk free" opportunity and the products came with a money back guarantee, in violation of K.S.A. 50-626(b)(1)(A), 50-626(b)(2), and 50-627(b)(3).

**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 Rick Bernstein, d/b/a 21<sup>st</sup> Century Sales, 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 deceptive and unconscionable and in violation of the Kansas Consumer Protection Act.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant Rick Bernstein, d/b/a 21<sup>st</sup> Century Sales, together with such Defendant's officers, directors, employees,

shareholders, agents, successors, servants and assigns, are hereby permanently enjoined from engaging in the above-cited deceptive and unconscionable acts and practices.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant Rick Bernstein, d/b/a 21<sup>st</sup> Century Sales, together with such Defendant's officers, directors, employees, shareholders, agents, successors, servants and assigns, are hereby restrained from the sale or advertisement of any merchandise or services within the State of Kansas, pursuant to K.S.A. §50-631(e), until Defendant satisfies the Court that he has obeyed the subpoena served upon him by Plaintiff.

**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 Rick Bernstein, d/b/a 21<sup>st</sup> Century Sales, for consumer restitution in the amount of \$467.02.

**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 Rick Bernstein, d/b/a 21<sup>st</sup> Century Sales, for civil penalties in the amount of \$10,000.00.

**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 Rick Bernstein, d/b/a 21<sup>st</sup> Century Sales, for expenses and investigative fees in the amount of \$150.00.

**IT IS SO ORDERED.**

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The Honorable Eric S. Rosen  
District Court Judge

Prepared by:

  
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