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KS. DISTRICT COURT
THIRD JUDICIAL DIST
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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 4

STATE OF KANSAS, ex rel.,
PHILL KLINE, Attorney General,

Plaintiff,

HEARTLAND HOME FINANCE INC.,

Defendant.

Case No. 03C385

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 12 day of March, 2003, Plaintiff's Journal Entry of Consent Judgment comes before the Court pursuant to K.S.A. §50-632(b). Plaintiff, the State of Kansas, *ex rel.* Phill Kline, Attorney General, appears by and through Joseph N. Molina, Assistant Attorney General. Defendant appears through counsel John H. Hutton.

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

1. Phill Kline 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.*, and the Kansas No-Call Act, ch. 179, § 1-2 (2002 Session Laws).
3. Defendant Heartland Home Finance Inc., is a corporation licensed under the laws of the State of Illinois. The principal place of business is located at 1401 Branding Lane, Suite 300, Downers Grove, Illinois 60515.

4. Defendant is a telephone solicitor, as defined by Kansas No-Call Act, ch. 179, § 1(a)(3) (2002 Session Laws) and has engaged in unsolicited consumer telephone calls within the definition of the Kansas No-Call Act, ch. 179, § 1(a)(1) (2002 Session Laws).

5. The Court has personal and subject matter jurisdiction over the parties for the sole purpose of entering into this Consent Judgment and any subsequent enforcement thereof.

6. Defendant stipulates and waives any objection to venue in Shawnee County for the sole purpose of entering into this Consent Judgment and any subsequent enforcement thereof.

7. The Plaintiff alleges Defendant engaged in the following unconscionable acts and practices in violation of the Kansas Consumer Protection Act, specifically the Kansas No-Call Act, ch. 179, § 1-2 (2002 Session Laws):

- a. That on or about the dates of November 15, 2002 through December 5, 2002, Defendant made or caused to be made 8 unsolicited consumer telephone calls for the purpose of soliciting a sale of property or services, an extension of credit for the sale of property or services or for obtaining information that will or may be used for the direct solicitation of a sale of property or services.
- b. At the time of the unsolicited consumer telephone calls, each of the consumer telephone numbers were registered on the Kansas No-Call list published on October 1, 2002.
- c. Prior to making the unsolicited consumer telephone calls Defendant failed to consult the Kansas No-Call list.

8. Defendant voluntarily agrees to this Consent Judgment without trial or adjudication of any issue of fact or law.

9. Plaintiff agrees that as an inducement to entering into this Consent Judgment, any alleged violations during the period of November 15, 2002, through December 5, 2002, and discovered or filed with Plaintiff after the entry of this Consent Judgment shall be construed as and made a part of this Consent Judgment and shall not be used to modify the amount of the civil penalties and investigative fees agreed to in Paragraph 13. Defendant agrees to refrain from engaging in those acts and practices alleged to be unconscionable in Paragraph Seven (7) of this

Consent Judgment. Defendant agrees to implement procedures and practices to insure compliance with the Kansas No-Call Act.

10. The provisions of this Consent Judgment will be applicable to Defendant, and the actions of every employee, agent or representative of Defendant during the course and within the scope of their business relationship with Defendant.

11. Defendant agrees to make available and/or disclose the provisions of this Consent Judgment to its employees, agents and representatives within five days of signing the Consent Judgment.

12. 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 primary purpose of avoiding compliance with the terms of this Consent Judgment. Plaintiff agrees to enter into any agreement necessary to satisfy the Court, or third parties if such reformation is being pursued by the Defendant to serve legitimate business purposes.

13. Defendant agrees to pay \$4,000.00 in civil penalties and investigative fees to the "Office of the Attorney General" of the State of Kansas. Payment shall be made by cashier's check, payable to the Office of the Attorney General, and shall be delivered to the Attorney General of the State of Kansas at the time of Defendant's signing this Consent Judgment.

14. 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.

15. 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.

16. 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 his jurisdiction.

17. 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 Defendant nor shall Defendant represent the decree as such an approval. Likewise, the parties agree this Consent Judgment shall not be construed as an admission of liability or fact by the Defendant.

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 Defendant in favor of Plaintiff in the amount of \$4,000.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant pay all costs associated with this action.

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

1/9/
DISTRICT COURT JUDGE

Prepared and approved by:

PLAINTIFF:



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Attorney General



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DEFENDANT:



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