

E-03-0000007

FILED
BUTLER COUNTY
DISTRICT COURT

James R. McCabria, #16563
Assistant Attorney General
Office of the Attorney General
120 SW 10th Street, 2nd Floor
Topeka, KS 66612-1597
(785) 296-3751

'03 AUG 25 P3:49

CLERK OF DISTRICT COURT
BY _____

**IN THE DISTRICT COURT OF BUTLER COUNTY, KANSAS
Division 2**

STATE OF KANSAS, *ex rel.*)
PHILL KLINE, Attorney General)
)
Plaintiff)
)
v.)
)
Jack Pittaway Jr., d/b/a)
Pittaway Construction)
)
Defendants,)

Case No. 03-C-53

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

ORDER FOR DEFAULT JUDGMENT

NOW on this ___ day of August, 2003, there comes before the Court the Plaintiff's Motion for Default Judgment. Plaintiff appears by and through counsel James R. McCabria, Assistant Attorney General. There are no other appearances.

WHEREUPON, the Court, after reviewing the Motion and hearing the statements of counsel, finds as follows:

1. February 11, 2003, Plaintiff filed a Petition alleging, *inter alia*, that Defendant Jack Pittaway, Jr., committed unconscionable acts or practices in violation of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

2. A copy of the summons and a copy of the Petition were duly and lawfully

served upon Defendant Jack Pittaway, Jr. on May 1, 2003.

3. Defendant Jack Pittaway, Jr. did not file an Answer within twenty (20) days after being served with process, as required by K.S.A. 60-212(a).

4. More than thirty (30) days have elapsed since Defendant Jack Pittaway, Jr. was served with a copy of the summons and a copy of the Petition, but he has not filed an Answer. Pursuant to K.S.A. 60-308(a)(3), Defendant Jack Pittaway, Jr. is in default.

5. Defendant Jack Pittaway, Jr. has not appeared in this action and, therefore, no notice of the hearing on this Motion for Judgment by Default need be served on Defendant Jack Pittaway, Jr. pursuant to K.S.A. 60-255(a) and K.S.A. 60-205(a).

6. Defendant Jack Pittaway, Jr. is neither a minor nor an incapacitated person.

7. Plaintiff is entitled to entry of judgment by default in favor of Plaintiff State of Kansas and against Defendant Jack Pittaway, Jr. and for all remedies to which Plaintiff is entitled, as prayed for in the demand for judgment, pursuant to K.S.A. 60-255(a) and K.S.A. 60-254(c).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendant Jack Pittaway, Jr. violated the KCPA as follows:

- A. Defendant, despite accepting payment from consumers and representing to consumers that Defendants would provide services pursuant to contracts, knew or had reason to know, either at the time of making such contract, or failing to timely perform any services thereunder, that the Langs would receive no material benefit from the transaction, all in violation of K.S.A. 50-627(a).
- B. Defendant Jack Pittaway, Jr. and his employees and agents be permanently

