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FILED BY CLERK
K.S. DISTRICT COURT
THIRD JUDICIAL DIST.
TOPEKA, KS. *gla*

2003 DEC -8 P 4:36

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 7

STATE OF KANSAS, ex rel.,)
PHILL KLINE, Attorney General,)
)
Plaintiff,)
)
TAKE TIME FOR BRANSON INC., d/b/a)
BRANSON BOUND)
)
Defendant.)

Case No. 03-C-1417

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

JOURNAL ENTRY OF DEFAULT JUDGMENT

NOW on this 4th day of December, 2003, comes before the Court the Motion for Judgment by Default Against Defendant Take Time for Branson, Inc., d/b/a Branson Bound, and Memorandum in Support Thereof filed herein by the Plaintiff State of Kansas, ex rel. Phill Kline, Attorney General. Plaintiff appears by and through counsel, Joseph N. Molina, Assistant Attorney General. There are no other appearances.

Upon review of the file and the statements of counsel, and being fully apprised of the particulars in this matter, the Court finds and concludes as follows:

1. On September 17, 2003, the Plaintiff filed a Petition alleging that Defendant Take Time for Branson, Inc., d/b/a Branson Bound, committed violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, and failed to obey a subpoena issued under authority of K.S.A. 50-631(a) and (b).

2. A copy of the summons and a copy of the Petition were served upon Defendant by certified mail directed to the foreign corporation's resident agent on or about September 22, 2003.

3. Plaintiff has requested that Judgment by Default be entered in favor of Plaintiff and against Defendant Take Time for Branson, Inc., d/b/a Branson Bound.

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 Take Time for Branson, Inc., d/b/a Branson Bound, was served with a copy of the summons and a copy of the Petition.

7. Defendant Take Time for Branson, Inc., d/b/a Branson Bound has not filed an answer.

8. Defendant Take Time for Branson, Inc., d/b/a Branson Bound is in default.

9. Judgment by Default should be entered in favor of Plaintiff and against Defendant Take Time for Branson, Inc., d/b/a Branson Bound, for all relief to which Plaintiff is by law entitled.

10. 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.

11. Plaintiff has alleged in the Petition that the following acts and practices by Defendant Take Time for Branson, Inc., d/b/a Branson Bound, are violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, and are unconscionable:

- a. Defendant made or caused to be made not less than fifteen (15) 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. Defendant failed to consult the Kansas No-Call list before making unsolicited consumer telephone calls as proscribed by K.S.A. 50-670a(b).

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 Take Time for Branson, Inc., d/b/a Branson Bound, 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 11 above are hereby declared to be unconscionable and in violation of the Kansas Consumer Protection Act.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Take Time for Branson, Inc., d/b/a Branson Bound, together with such Defendant's officers,

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

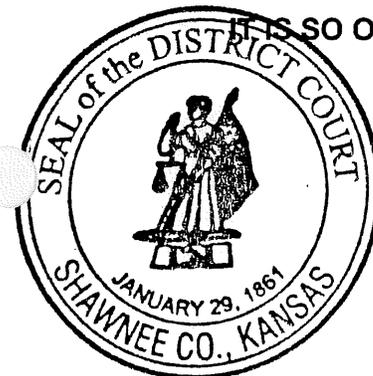
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Take Time for Branson, Inc., d/b/a Branson Bound, together with such Defendant's officers, directors, employees, shareholders, agents, successors, servants and assigns, are hereby permanently enjoined from the sale or advertisement of any merchandise or services within the State of Kansas, pursuant to K.S.A. 50-631(e), until Defendant satisfies the Court that it has obeyed the subpoena served upon him by Plaintiff.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Take Time for Branson, Inc., d/b/a Branson Bound pay additional penalties of \$100.00 per day to the Office of the Kansas Attorney General for each day Defendant fails to comply with the Subpoena, commencing the sixth day after service of the Court's order commanding the same, and continuing each day thereafter until compliance with such order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant be enjoined from destroying, disposing of or otherwise concealing the evidence commanded by the subpoena.

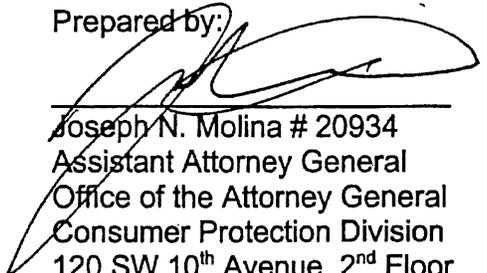
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is hereby entered in favor of Plaintiff State of Kansas, *ex rel.* Phill Kline, Attorney General, and against Defendant Take Time for Branson, Inc., d/b/a Branson Bound, for civil penalties in the amount of \$150,000.00 for committing fifteen violations of the Kansas Consumer Protection Act as provided by K.S.A. 50-636.

IT IS SO ORDERED.



STATE OF KANSAS, COUNTY OF SHAWNEE
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 January 20, 2004
The Honorable Judge Theris
District Court Judge
CLERK of the DISTRICT COURT
By Patricia A. Sanchez
DEPUTY

Prepared by:



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