

Joseph N. Molina, #20934
Assistant Attorney General
Office of the Attorney General
120 SW 10th Avenue, 2nd Floor
Topeka, Kansas 66612-1397
(785) 296-3751

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

2004 FEB 23 A 9: 57

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

Division 6

STATE OF KANSAS, ex rel.,)
PHILL KLINE, Attorney General,)
)
Plaintiff,)
)
v.)
)
BANKERS LIFE AND CASUALTY)
COMPANY)
)
Defendant.)

Case No. 04C 263

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 23rd day of February, 2004, 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 Steven Imber.

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 K.S.A. 50-670 through K.S.A. 50-670a *et seq.* (2002 Supp.).

3. Defendant Bankers Life and Casualty Company is an Illinois Company. Its principal place of business is located at 222 Merchandise Mark Plaza, 19th Floor, Chicago, IL 60655-2001.

4. Defendant is a telephone solicitor, as defined by Kansas No-Call Act, ch. 179, § 1(a)(3) (2002 Session Laws) and is alleged to have 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 date of April 4, 2003, Defendant made or caused to be made one unsolicited consumer telephone call 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 call, the consumer's telephone number was registered on the Kansas No-Call list as published by the National Do Not Call Registry.

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

9. Defendant, by entering into this Consent Judgment, makes no admission of liability as to any practice set forth in Paragraph Seven (7).

10. Defendant agrees to refrain from and to be permanently enjoined from engaging in those acts and practices alleged to be unconscionable in Paragraph Seven (7) of this Consent Judgment.

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

12. 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.

13. 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 purpose of avoiding compliance with the terms of this Consent Judgment.

14. Defendant agrees to pay \$5,000.00 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.

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 enforcement of compliance herewith.

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 his jurisdiction. However, the Attorney General agrees that by entering into this Consent Judgment, no additional civil or criminal actions, except for actions necessary to enforce compliance herewith, will be pursued for any alleged violation occurring prior to January 13, 2004.


18. 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. 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 submitted pursuant to the Consent Judgment shall not be construed as an approval of or sanction of any representations, acts or practices indicated by such information.

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 \$5,000.00, which amount include all cost and fees 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.

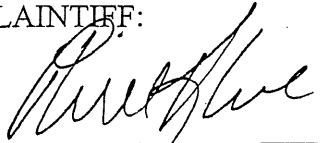
IT IS SO ORDERED



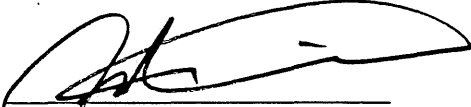
DISTRICT COURT JUDGE

Prepared and approved by:

PLAINTIFF:



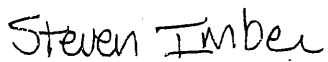
Phill Kline, #13249
Attorney General



Joseph N. Molina, #20934
Assistant Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, Kansas 66612-1597
(785) 296-3751

Attorneys for Plaintiff

DEFENDANT:



Steven Imber, #13914
Blackwell Sanders Peper Martin, LLP
9401 Indian Creek Parkway, Suite 1200
Overland Park, KS 66210
(913) 696-7000

Attorney for Defendant