

Stacy A. Jeffress, #12460  
David L. Harder, #18344  
Assistant Attorneys General  
Office of the Attorney General  
120 SW 10<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Topeka, Kansas 66612-1597  
(785) 296-3751

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KS. DISTRICT COURT  
THIRD JUDICIAL DIST.  
TOPEKA, KS

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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
Division 6

STATE OF KANSAS, *ex rel.*, )  
CARLA J. STOVALL, Attorney General, and )  
KANSAS BOARD OF PHARMACY, )  
Plaintiffs, )

v. )

Case No. 99-C-737

DVM ENTERPRISES, INC., d/b/a )  
CYBRXPRESS, JOHN S. STIVERSON, a/k/a )  
SCOTT STIVERSON, d/b/a STIVERCORP )  
and d/b/a ONLINE PHYSICIANS, )  
DANIEL THOMPSON, M.D., and )  
HOME PRESCRIPTION SERVICES, INC., )  
Defendants. )

AS TO  
John Stiverson

99-047

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

JOURNAL ENTRY OF DEFAULT JUDGMENT

NOW on this 29<sup>th</sup> day of October, 2001, comes before the Court the Motion for Judgment by Default Against Defendant John S. Stiverson, a/k/a Scott Stiverson, d/b/a Stivercorp and d/b/a Online Physicians filed herein by the Plaintiff State of Kansas, *ex rel.* Carla J. Stovall, Attorney General. Plaintiff appears by and through counsel, Stacy A. Jeffress and David L. Harder, Assistant Attorneys 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 June 7, 1999, the Plaintiff filed a Petition alleging that Defendant John S. Stiverson, a/k/a Scott Stiverson, d/b/a Stivercorp and d/b/a Online Physicians (hereafter "Defendant Stiverson") committed violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

2. Defendant Stiverson was served with a copy of the summons and Petition by certified mail on or about June 15, 1999.

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

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

7. Defendant Stiverson has not filed an answer.

8. Defendant Stiverson is in default.

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

a. Defendant Stiverson advertised prescription-only medications from his website to Kansas consumers, thereby representing that he and his services had sponsorship and approval to do so in the State of Kansas, when in truth and in fact the physician who wrote the prescriptions, Defendant Thompson, was not licensed by the Kansas State Board of Healing Arts to engage in the practice of the healing arts as required by K.S.A. 65-2803, and the pharmacy which dispensed the prescriptions, Defendant HPS, was not registered with the Kansas Board of Pharmacy as a nonresident pharmacy as required by K.S.A. 65-1657.

b. Defendant Stiverson advertised for sale on his website prescription-only medications which are controlled substances, but willfully failed to state, concealed, suppressed and/or omitted the material facts that these medications were controlled substances with potential for addiction and other side effects.

c. Defendant Stiverson advertised for sale on his website to Kansas consumers, prescription-only medications which are controlled substances, but willfully failed to state, concealed, suppressed and/or omitted the material facts that the physician prescribing the medications was not licensed by the Kansas Board of Healing Arts to engage in the practice of the healing arts, and that the pharmacy which dispensed

the prescriptions was not registered with the Kansas Board of Pharmacy as a nonresident pharmacy.

d. Defendant Stiverson took advantage of the inability of Kansas consumers to reasonably protect consumers' interests because of consumers' inability to understand the language of an agreement or similar factor in that he and his website were parties to consumer transactions in Kansas in which the prescription-only medications which are controlled substances, Meridia and Phentermine, were advertised for sale, prescribed, sold and caused to be dispensed to consumers without requiring an examination by or actual consultation with a physician to determine the medical need for those medications and to explain the proper administration, potential side-effects, dangers and contraindications for these medications.

**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 Stiverson, 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/or unconscionable and in violation of the Kansas Consumer Protection Act.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant Stiverson, 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 Stiverson, together with such Defendant's officers, directors, employees, shareholders, agents, successors, servants and assigns, are hereby permanently enjoined from the unlawful advertising, selling, prescribing, dispensing, and delivering of prescription-only drugs to consumers within the State of Kansas.

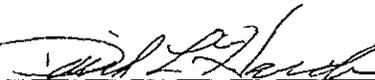
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is hereby entered in favor of Plaintiff State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, and against Defendant Stiverson for civil penalties in the amount of \$20,000.00.

IT IS SO ORDERED.

  
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The Honorable Terry L. Bullock  
District Court Judge

Prepared by:

  
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Stacy A. Jeffress/#12460  
Assistant Attorney General  
120 SW 10<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Topeka, Kansas 66612-1597  
(785) 296-3751

  
\_\_\_\_\_  
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Assistant Attorney General  
120 SW 10<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Topeka, Kansas 66612-1597  
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Attorneys for Plaintiff