

E-04-000060

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

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**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT**

STATE OF KANSAS, *ex rel.*)
PHILL KLINE, Attorney General,)
)
Plaintiff)
)
v.)
JEFF BERROTH)
d/b/a CPR SERVICES,)
SHOWCASE HOMES,)
JB'S PAINTING,)
CUSTOM PAINTING AND REMODELING,)
)
Defendant.)

Case No. 04-C-1208
Division 9

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

ORDER FOR DEFAULT JUDGMENT

NOW on this 13th day of January, 2005, there comes before the Court the Plaintiff's Motion and Order 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. On September 2, 2004, Plaintiff filed a Petition alleging, *inter alia*, that Defendant Jeff Berroth d/b/a CPR Services, Showcase Homes, JB's Painting, Custom Painting and Remodeling ("Berroth") 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 Berroth on October 18, 2004.

3. Defendant Berroth did not file a proper 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 Berroth was served with a copy of the summons and a copy of the Petition, but he has not filed a proper Answer. Pursuant to K.S.A. 60-308(a)(3), Defendant Berroth is in default.

5. Plaintiff did mail a copy of this Motion to Defendant Berroth, on January 4, 2004, at 1604 SW Medford, Topeka, Kansas 66604. Service is evidenced by the Certificate of Service attached thereto.

6. Defendant Berroth 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 Berroth 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:


A. Defendant Berroth violated the KCPA as follows:

1. Defendant knew or should have known at the initiation of the contracts that Defendant made willful use of exaggeration, falsehood, innuendo or ambiguity in representing the uses of the payments he requested and received from the consumers, all such actions on the part of Defendant constitutes a deceptive act or practice as prohibited by K.S.A. 50-626 (b)(2).
2. Defendant, Despite accepting payment from consumers and representing to consumers that defendant would provide services pursuant to the

contracts, knew or had reason to know at the time of making such contracts that consumers would receive no material benefit from the transaction, all in violation of K.S.A. 50-627 (a), for which restitution to the consumers should be paid and for which civil penalties should be imposed.

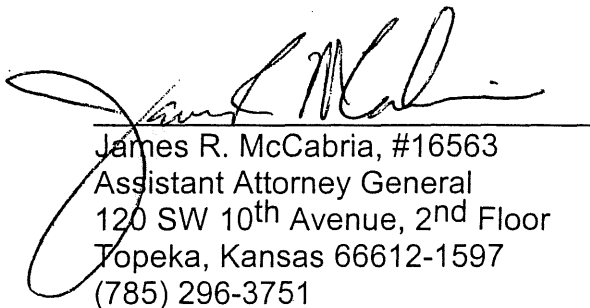
- B. Defendant Berroth and his employees and agents are permanently enjoined from these and other deceptive or unconscionable acts and practices, pursuant to K.S.A. 50-632(a)(2);
- C. Defendant Berroth pay restitution to consumers as provided in K.S.A. 50-632(a)(3) in the amount of four-thousand, nine-hundred seventy-five dollars (\$4,975.00).
- D. Defendant Berroth pay to the Office of the Attorney General of the State of Kansas the sum of \$70,000 (Seventy Thousand Dollars) as civil penalties for violations of the Kansas Consumer Protection Act pursuant to K.S.A. 50-636(a) and investigative fees pursuant to K.S.A 50-632(a)(4).
- E. Notice of this Order shall be served upon Defendant by mailing the same to him.

IT IS SO ORDERED



District Court Judge

Prepared By:



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