

E-04-00054

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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, )  
 )  
vs. )  
 )  
CTI BUSINESS MANAGEMENT SYSTEMS, )  
LLC, )  
 )  
Defendant. )

Case No. 04-C-1139  
Division 6

\_\_\_\_\_  
Pursuant to K.S.A. Chapter 60

**ORDER FOR DEFAULT JUDGMENT**

**NOW** on this 21 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 August 19, 2004, Plaintiff filed a Petition alleging, *inter alia*, that Defendant CTI Business Management Systems LLC ("CTI") 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 CTI on October 6, 2004.

3. Defendant CTI did not file a proper Answer within thirty (30) 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 CTI was served with a copy of the summons and a copy of the Petition, but it has not filed a proper Answer. Pursuant to K.S.A. 60-308(a)(3), Defendant CTI is in default.

5. Plaintiff did mail a copy of the Motion to Defendant CTI, on December 30, 2004, at 8876 Gulf Freeway, Ste 555, Houston TX 77017, but was returned by the Post Office. Plaintiff mailed a copy of the Motion to Defendant certified to a second address, Featherwood Suite 111, Houston, Texas 77034 on January 18, 2005.

6. Defendant CTI 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 CTI 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 CTI violated the KCPA as follows:

1. Defendant engaged in deceptive trade practices in violation of K.S.A. 50-626 (b)(3) in willfully failing to state a material fact, or in willfully concealing, suppressing or omitting a material fact. Specifically, Defendant failed to disclose and affirmatively misrepresented to consumers that its automatic dialing machine met or complied with the laws of Kansas.

2. Defendant engaged in unconscionable trade practices in violation of K.S.A.

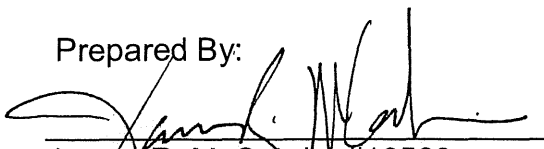
50-670 (b)(6), in that Defendant failed to disclose, and affirmatively misrepresented to consumers the requirement under Kansas law that requires an automatic dial announcing device shall not contain any unsolicited advertisement. Furthermore, once consumer became aware of Kansas's legal requirements and sought to return the automatic dial announcing device to Defendant for a refund, Defendant's response is to refuse delivery, and to advise the consumer of ways to circumvent Kansas Law.

- B. Defendant CTI and its 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 CTI shall pay restitution to the consumer as provided in K.S.A. 50-632(a)(3) in the amount of four-thousand, three-hundred and thirty dollars (\$4,330);
- D. Defendant CTI shall pay to the Office of the Attorney General of the State of Kansas the sum of \$20,000 (Twenty Thousand Dollars) as civil penalties for violations of the Kansas Consumer Protection Act pursuant to K.S.A. 50-636(a);
- E. Notice of this Order shall be served upon Defendant by mailing the same to its corporate address.

**IT IS SO ORDERED**

LS/  
District Court Judge

Prepared By:

  
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