

FILED
DOUGLAS COUNTY
DISTRICT COURT

IN THE SEVENTH JUDICIAL DISTRICT
DISTRICT COURT OF DOUGLAS COUNTY, KANSAS 2005 JUN -8 P 1:19
CIVIL DEPARTMENT

| | | |
|-----------------------------------|---|------------------|
| STATE OF KANSAS, <i>ex rel.</i> |) | |
| PHILL KLINE, Attorney General |) | |
| |) | |
| Plaintiff |) | |
| |) | |
| v. |) | Case No. 04-C-74 |
| |) | |
| EXCALIBER AUTO ACCESSORIES |) | |
| d/b/a MICHAEL J. JACKSON |) | |
| |) | |
| and |) | |
| |) | |
| MICHAEL J. JACKSON, an individual |) | |
| |) | |
| Defendants |) | |

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

JOURNAL ENTRY PURSUANT TO SUPREME COURT RULE 170

This matter came on for trial on the 14th day of March, 2005.

The State appeared through counsel Bryan J. Brown and was assisted by Special Agent Angela Nordhus.

Defendant Michael Jackson appeared *pro se*.

Defendant Michael Jackson stipulated to the State's case in chief, which was brought pursuant to the Kansas Consumer Protection Act ("KCPA"), K.S.A. 50-623, *et. seq.*

The State presented its case through affidavit testimony. Those affidavits are preserved in the Court's file.

The Court did then enter judgment against Defendant Michael Jackson for the following:

1. Sixteen violations of K.S.A. 50-626(b)(2), finding that Defendant Michael Jackson willfully communicated, using exaggeration, falsehood, innuendo or ambiguity as to a material fact, said fact being the ordering of equipment for which he received funds, in his dealings with all sixteen (16) of the victims before the Court.
2. Sixteen violations K.S.A. 50-627(b)(3), alleging that Defendant Michael Jackson knew that his "customers" would be unable to receive a material benefit from the subject of the transaction, given that the product was, in most cases, never ordered, and, if ordered, was never delivered to the customer who had tendered the moneys, for his dealings with all sixteen (16) of the victims before the Court.

The Court having so ruled, argument was then heard as to the proper amount for consumer restitution and civil penalties.

As to consumer restitution, the Court ruled that all sixteen identified consumers should receive 100% of the monies paid to Defendant Michael Jackson. *See* affidavits. This consumer restitution is to be paid off in full before any civil penalties are paid to the State.

After noting that Mr. Jackson had appeared in Court and had assisted the State in the investigation of his failed business entity, the Court ordered that Michael Jackson pay a civil penalty for each transaction which was deemed violative of the KCPA.

In levying that civil penalty, the Court ordered that Michael Jackson pay as civil penalty the amount of consumer restitution owed for each of the sixteen (16) transactions found violative of the KCPA, up to, but not exceeding, \$500 for each of the 16 transactions. If the amount of the consumer restitution is less than \$500, then Michael Jackson is ordered to pay the State, as civil penalty, the amount which Michael Jackson was ordered to pay in restitution for the transaction. If the amount

of the consumer restitution is equal to or greater than \$500, then Michael Jackson is ordered to pay the State, as civil penalty, \$500.

Using this formula, the Court determined that Michael Jackson was to pay \$16,620.69 in consumer restitution and \$5,653.19 in civil penalties.

Michael Jackson is thus ordered to tender to the State for processing, in payments of no less than \$500 or in lump sum, the amount of \$ 22,273.88. This amount is subject to post-judgment interest in keeping with the laws of Kansas.

The Court also awarded statutorily-defined costs to the State.

Finally, this Court orders that Michael Jackson be:

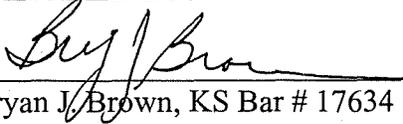
- a. Enjoined from again operating a business in the State of Kansas for five (5) years from the date this order is signed.
2. Enjoined from again managing a business in the State of Kansas for five (5) years from the date this order is signed.
3. Enjoined from again engaging in the sales of products in the State of Kansas for five (5) years from the date this order is signed.
4. Enjoined from again engaging in the sales of services in the State of Kansas for five (5) years from the date this order is signed.

IT IS BY THE COURT SO ORDERED.



DISTRICT JUDGE PAULA MARTIN

PREPARED BY:



Bryan J. Brown, KS Bar # 17634
Deputy Attorney General
Office of the Attorney General
Consumer Protection Division
120 SW 10th Ave., 2nd Floor
Topeka, Kansas 66612-1597
(785) 296-3751
Attorney for Plaintiff

APPROVED BY:

Defendant Michael Jackson

Certificate of Compliance

I hereby certify that the above Journal Entry of Judgment, in Draft format, was served upon Defendants in keeping with Rule 170(a) more than 60 days ago, and that the order, as revised through a recent hearing, has been today mailed to the court and to the *pro se* appearing defendant, including all objections and annotations received from opposing counsel regarding the order. (No objections or annotations having been received by Friday, May 31, 2005.)



Bryan J. Brown

Certificate of Service

I hereby certify that the above Journal Entry of Judgment was served upon Defendant Michael Jackson by depositing the same, postage prepaid, in the U.S. Mail on the 31st day of May, 2005, addressed as follows:

Michael Jackson
10001 E. Evans Ave #51D
Denver, CO 80247



Bryan J. Brown