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FILED
U.S. DISTRICT COURT

2005 JUN 23 PM 2:14

JAMES R. McCABRIA
CLERK OF
THE DISTRICT COURT

06CV150

**IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
TENTH JUDICIAL DISTRICT
Division 2**

STATE OF KANSAS, *ex rel.*,
PHILL KLINE, Attorney General,

Plaintiff,

v.

DAN CASEY, Individually and DAN CASEY,
d/b/a K.C. LAWN & TREE

Defendants.

Case No. 05 CV 04485

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

ORDER FOR DEFAULT JUDGMENT

^{4th}
NOW on this ___ day of October, 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 June 7, 2005, Plaintiff filed a Petition alleging, *inter alia*, that Defendant Dan Casey, Individually and Dan Casey, d/b/a K.C. Lawn & Tree 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

CERTIFICATE OF CLERK OF THE DISTRICT COURT THE
ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL INSTRUMENT
FILED ON THE 4th DAY OF Oct 20 05 AND
RECORDED IN THIS COURT, 10th JUDICIAL DISTRICT, JOHNSON
COUNTY, KANSAS
DATED THIS 4th DAY OF Jun 20 06
BY [Signature] CLERK OF THE DISTRICT COURT
DEPUTY

CLERK OF DISTRICT COURT
JOHNSON COUNTY, KS

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served upon Defendant Dan Casey on June 14, 2005.

3. Defendant Dan Casey 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 Dan Casey 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 Dan Casey is in default.

5. Plaintiff did mail a copy of the Motion for Default Judgement to Defendant Dan Casey, on July 19, 2005, at 31180 Metcalf Rd., Louisburg, KS 66053. Service is evidenced by the Certificate of Service attached thereto.

6. Defendant Dan Casey 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 Dan Casey 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 Dan Casey 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 in violation of 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).

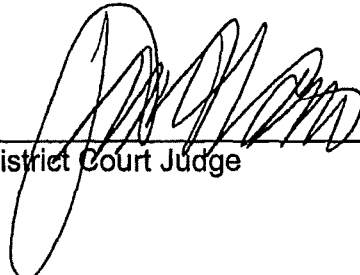
B. Defendant Dan Casey and his employees and agents are permanently enjoined from these and other deceptive or unconscionable acts and practices, pursuant

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STATE OF KANSAS

to K.S.A. 50-632(a)(2);

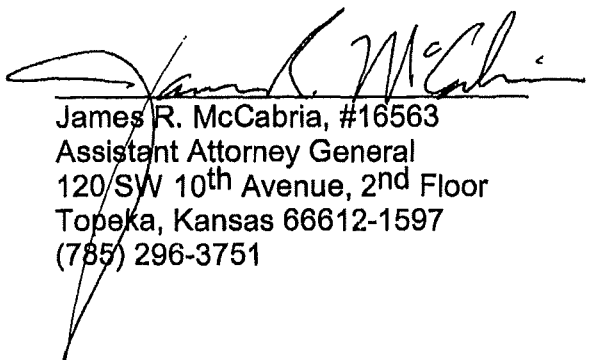
- C. Defendant Dan Casey pay restitution to consumers as provided in K.S.A. 50-632(a)(3) in the amount of six-thousand, one-hundred eighty dollars (\$6,180.00).
- D. Defendant Dan Casey pay to the Office of the Attorney General of the State of Kansas the sum of \$20,000 (Twenty thousand Dollars) as civil penalties for violations of the Kansas Consumer Protection Act pursuant to K.S.A. 50-636(a) 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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