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

2005 DEC 15 P 12:41

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division _____

STATE OF KANSAS, ex rel.,)
Phill Kline, Attorney General,)
Plaintiff,)
v.)
Falley's, Inc.)
Defendant.)

Case No. 05 C 1607

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this ^{14th}~~15th~~ day of ~~November~~ ^{DECEMBER}, 2005, Plaintiff's Journal Entry of Consent Judgment comes before the Court pursuant to K.S.A. §50-632(b). Plaintiff, the State of Kansas, *ex rel.* Phill Kline, Attorney General, appears by and through Bryan J. Brown, Deputy Attorney General. Defendant appears by and through James M. Warden, Attorney.

Whereupon, the parties advise the Court that they have stipulated and agreed to the following matters:

1. Phill Kline is the Attorney General of the State of Kansas.
2. The Attorney General's authority to bring this action is derived from the statutory and common law of the State of Kansas, specifically the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, K.S.A. 50-670 (2002 Supp.) and K.S.A. 50-670a (2002 Supp.).
3. Defendant is a corporation organized under the laws of the state of Kansas. The principal office of the corporation is located at 3120 South Kansas Avenue, Topeka, Kansas 66611.

4. All references to Defendant herein includes acts individually, in concert, or by or through its employees, agents, representatives, or affiliates.

5. The Court has personal and subject matter jurisdiction over the parties for the sole purpose of entering into this Consent Judgment and any subsequent enforcement thereof.

6. Defendant stipulates and waives any objection to venue in Shawnee County for the sole purpose of entering into this Consent Judgment and any subsequent enforcement thereof.

ALLEGATIONS

7. The Attorney General alleges that the Defendant has marketed a "food plan", as defined by K.S.A. 50-901, to Kansas consumers since at least January 1, 2003 through the date hereof (hereinafter "marketing period") and therefore the Attorney General alleges that Defendant is required to comply with K.S.A. 50-903.

8. The Attorney General alleges that during the Defendant's marketing period, certain products offered through Defendant's "food plan" have failed to provide the appropriate price per pound on the products' individual labels or on the labels placed on or around the cooler or freezer where the product are stored or displayed, all of which the Attorney General alleges are deceptive practices in violation of K.S.A. 50-903(b)(4).

9. The Attorney General alleges that Defendant had been found by the Attorney General to be in violation of K.S.A. 50-903(b)(4) during audits in 2003 and 2004.

INJUNCTIVE RELIEF

10. Defendant voluntarily agrees to this Consent Judgment without trial, without adjudication of any issue of fact or law, and without any admission or finding of guilt or liability.

11. Defendant agrees to refrain from and to be permanently enjoined from engaging in acts and practices in violation of K.S.A. 50-903(b)(4).

12. Defendant agrees to be permanently enjoined from entering into, forming, organizing or reorganizing into any partnership, corporation, sole proprietorship or any other legal structures, for the purpose of avoiding compliance with the terms of this Consent Judgment.

13. Defendant agrees to comply with the Kansas Consumer Protection Act.

PENALTIES AND FEES

14. Defendant agrees to pay \$15,000 in civil penalties and investigative fees to the "Office of the Attorney General" of the State of Kansas. The Defendant shall tender and deliver, in the form of a cashier's check, \$15,000 to the Office of the Attorney General, payable to the "Office of the Attorney General" at the time of signing this agreement.

15. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Consent Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations thereof.

16. If any portion, provision, or part of this Consent Judgment is held to be invalid, unenforceable, or void for any reason whatsoever, that portion shall be severed from the remainder and shall not affect the validity or enforceability of the remaining provisions, portions or parts.

17. Compliance with this Consent Judgment does not relieve Defendant of any obligation imposed by applicable federal, state, or local law, nor shall the Attorney General be precluded from taking appropriate legal action to enforce civil or criminal statutes under his jurisdiction for matters arising subsequent to the marketing period.

18. The parties understand that this Consent Judgment shall not be construed as an approval of or sanction by the Attorney General of the business practices of Defendant nor shall Defendant represent the decree as such an approval. The parties further understand that any failure by the State of Kansas or by the Attorney General to take any action in response to any information submitted pursuant to the Consent

Judgment shall not be construed as an approval of or sanction of any representations, acts or practices indicated by such information, nor shall it preclude action thereon at a later date.

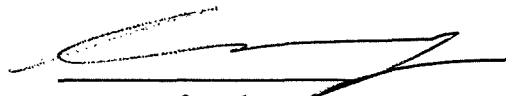
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the stipulation and agreement of the parties contained herein are adopted and approved as the findings of fact and conclusions of law of the Court and any monies owed hereunder by Defendant immediately become a judgment upon filing and this Consent Judgment shall be deemed to be a full adjudication of all alleged violations by Defendant of the Kansas Consumer Protection Act, including without limitation K.S.A. 50-903(b)(4) thereof occurring during the marketing period or prior thereto, and the Attorney General shall be estopped from bringing any further action relating to such matters and time periods.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant in favor of Plaintiff in the amount of \$15,000.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant pay all court costs associated with this action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, and the provisions of K.S.A. §50-632 (b), the Court hereby approves the terms of the Consent Judgment and adopts the same as the order of the Court.

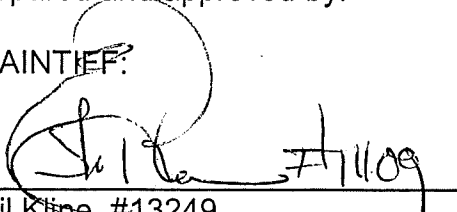
IT IS SO ORDERED

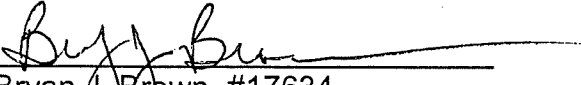


12/14/05

Prepared and approved by:

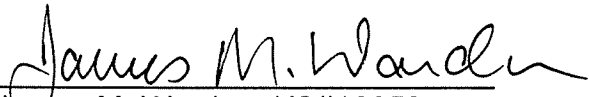
PLAINTIFF:


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