

James J. Welch, #09546  
Assistant Attorney General  
Office of the Attorney General  
301 SW 10th  
Topeka, Kansas 66612-1597  
(913) 296-3751

FILED BY CLERK  
KS DISTRICT COURT  
RD 30010  
OCT 10 10 01 AM '96  
GENERAL JURISDICTION  
TOPEKA KANSAS

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
Division 2

STATE OF KANSAS, *ex rel.* )  
CARLA J. STOVALL, Attorney General )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
PAMIDA, INC. )  
 )  
Defendant. )

Case No. 96CV1121

Petition Pursuant to K.S.A. Chapter 60

**JOURNAL ENTRY OF CONSENT JUDGMENT**

NOW on this 10th day of October, 1996, Plaintiff's Petition for Approval of Consent Judgment comes before the Court pursuant to K.S.A. 50-632(b). Plaintiff, the State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, appears by and through James J. Welch, Assistant Attorney General. Defendant Pamida, Inc., appears pro se, having received the competent advice and assistance of Harvey B. Cooper of the Law Offices of Abrahams Kaslow and Cassman, 8712 West Dodge Road, Suite 300, Omaha, Nebraska.

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

1. Carla J. Stovall 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.*

3. Defendant Pamida, Inc. is a foreign corporation organized under the laws of the state of Nebraska. The corporate office of the defendant is located at 8800 F Street, Omaha, Nebraska 68103-0856. Defendant Pamida, Inc. does business within the state of Kansas at two locations: Klema Plaza, Highway 281 South in Russell, Kansas, and 505 West Holmes in Norton, Kansas.

4. Defendant is a supplier within the definition of K.S.A. 50-624(i) and has engaged in consumer transactions in Kansas within the definition of K.S.A. 50-624(c) and (h).

5. Defendant admits the Court has personal and subject matter jurisdiction over the parties.

6. Defendant stipulates and waives any objection to venue in Shawnee County.

7. Defendant is a discount store which, during the summers of 1992 through 1996, has offered steaks for sale.

8. The Attorney General alleges Defendant engaged in the following acts and practices which are deceptive and/or unconscionable and violate the Kansas Consumer Protection Act:

a. Defendant offered for sale and sold meat in quantities larger than one pound, representing the total price of such meat without disclosing the price-per-pound. This constitutes a violation of K.S.A. §50-903(b)(4).

b. Defendant advertised meat for sale by newspapers and handbills. Because such advertising did not disclose price-per-pound of such meat, such advertising was misleading or deceiving in respect to price-per-pound. This constitutes a violation of K.S.A. §50-902.

9. Defendant, by entering into this Consent Judgment, shall not be deemed to admit the violations of the Kansas Consumer Protection Act alleged herein.

10. Defendant voluntarily agrees to this Consent Judgment without trial or adjudication of any issue of fact or law.

11. Defendant agrees to refrain from and to be permanently enjoined from engaging in those acts and practices alleged deceptive or misleading in paragraph eight (8) of this Consent Judgment, and Defendant agrees that engaging in such acts or similar acts, after the date of this Consent Judgment, shall constitute a violation of this Order.

12. Defendant agrees to refrain from and to be permanently enjoined from engaging in any and all deceptive or misleading acts and practices in violation of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, as it now exists or as amended in the future and Defendant agrees that engaging in such acts or practices after the date of this consent judgment shall constitute a violation of this Order.

13. The provisions of this Consent Judgment will be applicable to Defendant, and every employee, agent or representative of Defendant.

14. Defendant agrees to make available and/or disclose the provisions of this Consent Judgment to its management employees in the State of Kansas within five days of signing the Consent Judgment.

15. Defendant agrees to resolve any future complaints of alleged violations of the Kansas Consumer Protection Act filed with the Office of the Attorney General regarding Defendant after the date of this Consent Judgment to the satisfaction of the Attorney General within 30 days of the date such complaint is forwarded to Defendant for resolution. Defendant designates Executive Vice President Frank Washburn as the person to receive any complaint as set forth above. A copy of any complaint shall also be served upon the store manager of the Pamida store alleged to be the subject of the complaint.

16. 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.

17. Defendant agrees to pay \$3,750 in investigation fees and expenses to the "Office of the Attorney General" of the State of Kansas. In addition, Defendant agrees to pay \$ 1,250 in

civil penalties to the "State of Kansas". Payment shall be made by certified checks and shall be delivered to the Attorney General of the State of Kansas at the time of signing this Consent Judgment.

18. Defendant agrees to pay all expenses and reasonable attorney's fees in connection with the collection of any amounts in this judgment, provided Defendant does not pay the amounts as agreed herein within the time frame stated.

19. Defendant agrees to maintain all business records for a period of five years and to allow the Attorney General to inspect all of Defendant's business records in the future relating to the sales of meat in Kansas. The Attorney General understands that such records are maintained at Defendant's headquarters in Omaha, Nebraska.

20. 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.

21. 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.

22. 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 her jurisdiction.

23. 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.

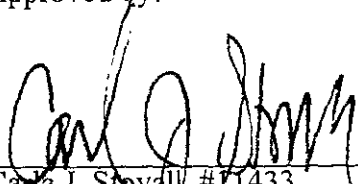
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant in favor Plaintiff in the amount of \$ 5,000.00.

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.

  
DISTRICT COURT JUDGE

Approved by:

  
\_\_\_\_\_  
Carla J. Stovall, #11433  
Attorney General

*James J. Welch*

James J. Welch, # 09546  
Assistant Attorney General  
Kansas Judicial Center  
Topeka, Kansas 66612-1597  
(913) 296-3751

Attorney for Plaintiff

*Richard M. Tidwell*

Richard M. Tidwell, Vice President of Operations, for  
Pamida, Inc.  
8800 F Street  
Omaha, NE 68127  
Defendant

F:\USERS\WELCH\PUBLIC\PAMIDA\PAMIDA.CJ