

99-011

FILED BY CLERK  
KS. DISTRICT COURT  
3rd JUDICIAL DISTRICT

FEB 2 1 02 PM '99

TOPEKA, KANSAS

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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
Division 1

STATE OF KANSAS, *ex rel.*  
CARLA J. STOVALL, Attorney General

Plaintiff,

vs.

FUTURE VISION, INC.,

Defendant.

Case No. 99c145

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this \_\_\_\_\_ day of \_\_\_\_\_, 1998, 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 Kelli J. Benintendi, Assistant Attorney General. Defendant Future Vision, Inc., appears by and through counsel Ronald P. Wood.

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 Future Vision, Inc., is a corporation organized under the laws of the State of Kansas with its principal office located at 3059 Southwest Boulevard, Kansas City,

Missouri 64108. Defendant Future Vision, Inc. applied with the Kansas Secretary of State for authority to do business in Kansas in August 1988, by filing its Articles of Incorporation, and may be served with process at its registered agent, John Weber, 7101 E Street, Route 2, Feeman, Missouri 64746.

4. John Weber is the president and principal of Future Vision, Inc.

5. 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).

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

7. Defendant stipulates and waives any objections to venue in Shawnee County.

8. Defendant is engaged in the business of selling satellite television systems, products, and services to individuals in Kansas for personal, family, household or business purposes.

9. 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, K.S.A. 50-623 *et seq.*:

a. Defendant's employees committed deceptive acts and practices in violation of the Kansas Consumer Protection Act, K.S.A. 50-626(a) and (b), in that:

i. Defendant's employees willfully used exaggeration, falsehood, innuendo or ambiguity as to a material fact, in violation of K.S.A. 50-626(b)(2) in that during the initial sales presentation, employees of Defendants misrepresented the total price of the satellite system and the amount of the monthly payments, or led consumers to believe installation was free;

ii. Defendant's employees willfully failed to state a material fact, or willfully concealed, suppressed or omitted a material fact in

violation of K.S.A. 50-626(b)(3) in that during the initial sales presentation, employees of Defendants failed to disclose the installation price to consumers.

- b. Defendant's employees committed unfair and deceptive acts and practices by failing to provide each and every consumer with a three day right to cancel in violation of the Kansas Consumer Protection Act, K.S.A. 50-640(a) and (b), in that:
  - i. Defendant's employees failed to furnish each consumer with a fully completed contract with a notice of cancellation statement in immediate proximity to the space reserved for the signature, in violation of K.S.A. 50-640(b)(1);
  - ii. Defendant's employees failed to furnish each consumer with a separate completed form in duplicate, captioned "NOTICE OF CANCELLATION," in violation of K.S.A. 50-640(b)(2); and
  - iii. Defendant's employees failed to inform each consumer orally of such consumer's right to cancel, in violation of K.S.A. 50-640(b)(5).
- c. Defendant's employees violated the Kansas Consumer Protection Act, K.S.A. 50-670(b), in that Defendant's employees failed to ask within 30 seconds after beginning a telephone solicitation conversation, whether the person being solicited is interested in listening to a sales presentation and failed to immediately discontinue the solicitation when the person being solicited gave a negative response, in violation of K.S.A. 50-670(b)(2).

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 to be deceptive and unconscionable in paragraph nine (9) 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. The provisions of this Consent Judgment will be applicable to Defendant, and every officer, employee, agent or representative of Defendant.

13. Defendant agrees to make available and/or disclose the provisions of this Consent Judgment to its officers, employees, agents and representatives within thirty days (30) of signing the Consent Judgment.

14. Defendant agrees to resolve any future complaints filed with the Office of the Attorney General, after the date of this Consent Judgment, to the satisfaction of the Attorney General within thirty (30) days of the date such complaint is forwarded to Defendant for resolution. However, such complaint resolution shall not be construed to relieve Defendant of any enforcement action by the Attorney General of this Consent Judgment.

15. 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.

16. Defendant agrees to pay the total sum of \$1,906.88 in restitution to the consumers listed ( Exhibit A attached) in their respective amounts pursuant to K.S.A. 50-632(a)(3).

17. Defendant agrees to pay \$1,546.56 in investigation fees and expenses and \$1,546.56 in civil penalties to the "Office of the Attorney General" of the State of Kansas.

18. With regard to the amounts payable in paragraphs 17 and 18 above, Defendant agrees to make a payment of \$2,500.00 at the time of signing this Journal Entry of Consent Judgment with subsequent \$500.00 payments thereafter due on or before the first (1st) day of each month until the entire amount payable is satisfied. Said payments are personally guaranteed by John Weber, as provided in the "Personal Guaranty," (Exhibit B attached) which is hereby

incorporated by reference as though fully set forth herein. Payment for investigative fees and expenses and civil penalties shall commence after payments for restitution to consumers have been completed. Defendant agrees that failure to make timely payments, as set out above, will result in the entire outstanding balance becoming due within five (5) days of the first payment missed. Defendant also agrees that in the event of a missed payment, failure to remit the entire outstanding balance within five (5) days shall constitute a violation of this order.

19. Defendant agrees to maintain all business records that were not destroyed by flood in 1998, for a period of three (3) years and to allow the Attorney General to inspect all of Defendant's business records with respect to any future complaints filed with the Office of the Attorney General.

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 or for the enforcement of compliance herewith, and for punishment of violations thereof.

21. If any portion, provisions, 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 obligations 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 of Defendant, 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.

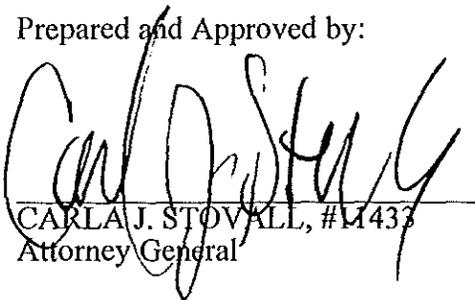
**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that judgment is entered against Defendant in favor of Plaintiff in the amount of \$5,000.00.

**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.**

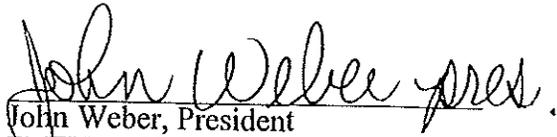
JUDGE OF THE DISTRICT COURT

Prepared and Approved by:

  
CARLA J. STOVALL, #14433  
Attorney General

  
Kelli J. Benintendi, #16032  
Assistant Attorney General  
301 SW 10th Street  
Topeka, Kansas 66612-1597  
(785) 296-3751

Attorney for Plaintiff

Handwritten signature of John Weber in cursive script, appearing to read "John Weber pres." with a horizontal line underneath.

John Weber, President  
FUTURE VISION, INC.  
3059 Southwest Blvd.  
Kansas City, Missouri 64108

Defendant

Handwritten signature of Ronald P. Wood in cursive script, appearing to read "Ronald P. Wood" with a horizontal line underneath.

Ronald P. Wood  
Clyde & Wood, L.L.C.  
11600 College Blvd., Ste. 201  
Overland Park, Kansas 66210  
(913) 663-4446

Attorney for Defendant Future Vision, Inc.