

99-005

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TOPEKA, KANSAS

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 11

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

Plaintiff,

vs.

DARREN MORHAIM,
d/b/a TDM CREDIT CORPORATION, INC.

Defendant.

Case No. 99 C 130

Petition Pursuant to K.S.A. Chapter 60

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 21 day of July, 1999, 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 Darren Morhaim, d/b/a TDM Credit Corporation, Inc., after having the competent advice and counsel of Gilbert Greenberg, appears pro se.

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 Darren Morhaim, d/b/a TDM Credit Corporation, Inc. is an individual conducting a business organized under the laws of the State of Delaware. The principal office of the business is located at 17 Warren Road, Suite #26B, Pikesville, Maryland 21208. Defendant Darren Morhaim, d/b/a TDM Credit Corporation, Inc. has not applied with the Kansas Secretary of State for authority to do business in Kansas. Defendant can be served with process by serving its President, Darren D. Morhaim, at the principal office or at 4601 Embassy Circle T-2, Owings Mills, Maryland 21117.

4. The officer/director/owner of TDM Credit Corporation, Inc. is Darren D. Morhaim (President/Treasurer/CEO), who is a resident of Maryland.

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 operates as a credit services organization, within the definition of K.S.A. §50-1102.

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

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

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

- a. As a credit services organization, as defined in K.S.A. §50-1102, Defendant charged consumers for services before completing performance agreed upon without filing a surety bond in the amount of \$25,000.00 with the Kansas Consumer Credit Commissioner, in violation of K.S.A. §50-1103 and K.S.A. §50-1104.

- b. Defendant advertised and caused to be advertised the services of a credit services organization without filing a registration statement with the consumer credit commissioner, in violation of K.S.A. §50-1103(f).
- c. Defendant represented that Defendant company is "bonded and insured"; however, while Defendant is insured, Defendant is not bonded. This is in violation of K.S.A. §50-626(b)(2), in that it is the willful use of exaggeration, falsehood, innuendo and ambiguity as to a material fact.
- d. Defendant failed to provide buyers with a statement in writing containing: (1) a complete and detailed description of services to be performed and the total cost of the services; (2) a statement explaining the buyers' rights to proceed against the bond or surety account; (3) the name and address of the surety company that issued the bond; (4) a complete and accurate statement of the buyers' rights to review files maintained by the consumer reporting agency; and (5) a complete and accurate statement of the availability of nonprofit credit counseling services, in violation of K.S.A. §50-1106(a).
- e. Defendant failed to provide to buyers a contract which included statement of buyers' rights to cancel the transaction, and the terms and conditions of payment, including the total of all payments to be made by the buyer, in violation of K.S.A. §50-1107(a).
- f. Defendant failed to provide to buyers a contract which included two easily detachable copies of a notice of cancellation, in violation of K.S.A. §50-1107(b).
- g. Defendant offered consumers the opportunity to save \$20.00 off of their next monthly payment for each person who joined Defendant's program after having been referred by that consumer. A true and correct copy of Defendant's "Client Referral Incentive Program," as provided to consumers by Defendant is attached hereto and marked as Exhibit B. This is in violation of K.S.A. §50-626(b)(1)(E),

in that it is the representation that the consumer will receive a rebate, discount or other benefit as an inducement for entering into a consumer transaction in return for giving Defendant the names of prospective consumers or otherwise helping Defendant to enter into other consumer transactions, when receipt of the benefit is contingent on an event occurring after the consumer enters into the transaction.

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

11. Defendant agree to refrain from and to be permanently enjoined from engaging in those acts and practices alleged to be deceptive or 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. Defendant agrees to refrain from and to be permanently enjoined from engaging in any and all deceptive and/or unconscionable 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 other successors to the business, and its every employee, agent or representative.

14. Defendant agrees to make available and to disclose the provisions of this Consent Judgment to its employees, agents and representatives within five days of signing the Consent Judgment.

15. Defendant agrees to resolve any future complaints 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.

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

17. Defendant agrees to pay \$ 2,500 in investigation fees and expenses to the "Office of the Attorney General" of the State of Kansas. In addition, Defendant agrees to pay \$ 2,500 in civil penalties to the "State of Kansas." Payment shall be made by certified checks or attorney escrow funds and shall be delivered to the Attorney General of the State of Kansas within thirty days of all parties executing this Consent Judgment.

18. Defendant agrees to pay the total sum of \$4,284.00 as restitution to the twelve consumers listed on Exhibit A in their respective amounts, pursuant to K.S.A.Sec.50-632. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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 \$9,284.00.

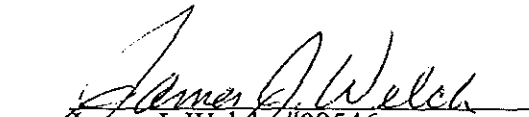
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, and the provisions of K.S.A. §50-632(b), the Court hereby approves the terms of the Consent Judgment and adopts the same as the order of the Court.

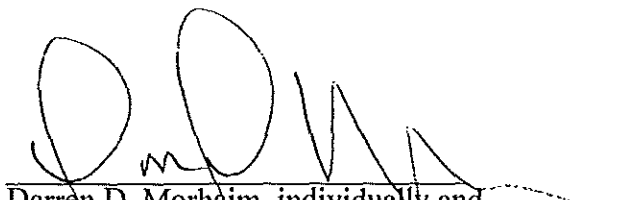
IT IS SO ORDERED.

/s/ Hon. Matthew J. Dool
DISTRICT COURT JUDGE

Approved by:


Carla J. Stovall, #17433
Attorney General


James J. Welch, #09546
Assistant Attorney General
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Darren D. Morhaim, individually and
d/b/a TDM Credit Corporation, Inc.
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Defendant