

2072 99-030

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COPY

IN THE DISTRICT COURT OF FORD COUNTY, KANSAS
DIVISION 3

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

Plaintiff,

vs.

Case No. 99 C 78

DONALD "DON" DEMUTH, individually
and d/b/a CROWN EXTERMINATING,
CROWN EXTERMINATING II, and
CROWN EXTERMINATION, and
REGINA P. DEMUTH, individually and
d/b/a CROWN EXTERMINATING,

Defendants.

CLERK DISTRICT COURT

Nov 3 8 49 AM '99

FILED

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 3rd day of November, 1999, comes before the Court the Journal Entry of Consent Judgment, entered into between Plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, and Defendant Donald "Don" V. DeMuth, individually, d/b/a Crown Exterminating, d/b/a Crown Exterminating II and d/b/a Crown Extermination, pursuant to K.S.A. 50-632(b). Plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, appears by and through Derek L. Schmidt, Assistant Attorney General. Defendant Donald "Don" V. DeMuth appears *pro se*. Defendant Regina P. Demuth, individually, and d/b/a Crown Exterminating, is not a party to this Consent Judgment, and approval and entry of this Journal Entry of Consent Judgment shall not diminish, reduce or otherwise alter the liability of Defendant Regina P.

Demuth, individually, and d/b/a Crown Exterminating, for the acts and practices alleged in Plaintiff's Petition filed in this case.

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

1. On March 25, 1999, Plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, filed a Petition in the District Court of Ford County, Kansas, (hereinafter "Plaintiff's Petition") naming Donald DeMuth (hereinafter "Defendant DeMuth") and Regina DeMuth (hereinafter "Defendant Murray" because she has changed her name to Regina Murray) as defendants.

2. Plaintiff's Petition alleged numerous violations of the Kansas Consumer Protection Act committed by Defendants.

3. Defendant DeMuth stipulates and admits paragraphs one (1) through seven (7) as set forth in Plaintiff's Petition, and such paragraphs are hereby incorporated by reference.

4. Defendant DeMuth waives service of process related to this Consent Judgment and enters his voluntary general appearance as allowed by K.S.A. 60-303(d).

5. The Attorney General has set forth numerous allegations against Defendant DeMuth in paragraphs eight (8) through thirty (30) of Plaintiff's Petition, including all subparagraphs thereof, and such paragraphs are hereby incorporated by reference. Defendant DeMuth stipulates and admits to each such allegation of the Attorney General.

6. For the purpose of settlement, Plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, and Defendant DeMuth have agreed to entry of this Journal Entry of Consent Judgment.

7. This Consent Judgment settles only the claim made by the Plaintiff against Defendant DeMuth. Plaintiff expressly reserves the right to proceed with its claim against Defendant Murray, and entry of this Consent Judgment does not settle, affect or diminish the claim made by Plaintiff against Defendant Murray. This Consent Judgment with Defendant

DeMuth shall in no way release Defendant Murray, who is responsible for certain acts of Defendant DeMuth under the legal doctrine of *respondeat superior*, nor does this Consent Judgment in any way release Defendant Murray from liability for her own wrongful acts.

INJUNCTIVE RELIEF

8. Defendant DeMuth agrees to refrain from and to be permanently enjoined from those acts and practices set forth in paragraph twenty-six (26) of Plaintiff's Petition, including all subparagraphs thereof. Defendant DeMuth agrees that engaging in such acts, or similar acts, after the date of this Consent Judgment shall constitute a violation of this Order.

9. Defendant DeMuth agrees to refrain from and to be permanently enjoined from those acts and practices set forth in paragraph twenty-eight (28) of Plaintiff's Petition, including all subparagraphs thereof. Defendant DeMuth agrees that engaging in such acts, or similar acts, after the date of this Consent Judgment shall constitute a violation of this Order.

10. Defendant DeMuth agrees to refrain from and to be permanently enjoined from those acts and practices set forth in paragraph thirty (30) of Plaintiff's Petition, including all subparagraphs thereof. Defendant DeMuth agrees that engaging in such acts, or similar acts, after the date of this Consent Judgment shall constitute a violation of this Order.

11. Defendant DeMuth agrees to refrain from and to be permanently enjoined from the use, application, provision, purchasing, transportation, sale, advertising, and/or distribution of any pesticides, pesticide products or other pest control products of any sort or nature. Defendant DeMuth 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 DeMuth agrees to refrain from and to be permanently enjoined from representing in any manner to any person that he uses, applies, provides, purchases, transports, sells, advertises, and/or distributes any pesticides, pesticide products, or other pest control products of any sort or nature. Defendant DeMuth agrees that engaging in such acts, or similar acts, after the date of this Consent Judgment shall constitute a violation of this Order.

13. Defendant DeMuth agrees to refrain from and to be permanently enjoined from assisting any other person or entity in the use, application, provision, purchasing, transportation, sale, advertising, and/or distribution of any pesticides, pesticide products or other pest control products of any sort or nature. Defendant DeMuth agrees that engaging in such acts, or similar acts, after the date of this Consent Judgment shall constitute a violation of this Order.

14. Defendant DeMuth agrees to refrain from and to be permanently enjoined from the provision, sale, advertising, and/or distribution of any and all services related to the use, application, provision, purchasing, transportation, sale, advertising, and/or distribution of any pesticides, pesticide products or other pest control products or services of any sort or nature. Defendant DeMuth agrees that engaging in such acts, or similar acts, after the date of this Consent Judgment shall constitute a violation of this Order.

15. Defendant DeMuth agrees to refrain from and to be permanently enjoined from representing in any manner to any person that he provides, sells, advertises, distributes, offers, engages in, assists with, provides consultation for, advises, solicits, or participates in pest control services of any sort or nature, without regard to whether such services are performed by Defendant DeMuth or by any other person or entity. Defendant DeMuth agrees that engaging in such acts, or similar acts, after the date of this Consent Judgment shall constitute a violation of this Order.

16. Defendant DeMuth agrees to refrain from and to be permanently enjoined from doing business, or assisting in the doing of business, using the name Crown Exterminating, Crown Exterminating II, Crown Extermination, Crown, or any similar name. Defendant DeMuth agrees that engaging in such acts, or similar acts, after the date of this Consent Judgment shall constitute a violation of this Order.

17. Defendant DeMuth agrees to refrain from and to be permanently enjoined from representing in any manner to any person that he does business, or assists in the doing of business, using the name Crown Exterminating, Crown Exterminating II, Crown Extermination,

Crown, or any similar name. Defendant DeMuth agrees that engaging in such acts, or similar acts, after the date of this Consent Judgment shall constitute a violation of this Order.

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

19. Defendant DeMuth agrees to refrain from and to be permanently enjoined from representing, in any manner whatsoever and to any person or entity whatsoever, that this Consent Judgment constitutes approval by, endorsement by or authority from the State of Kansas and/or the Attorney General of the State of Kansas for any act or practice of Defendants. Defendant Demuth agrees that the making of any such representation, after the date of this Consent Judgment, shall constitute a violation of this Order.

CONSUMER DAMAGES

20. Defendant DeMuth agrees to pay \$696.50 to the "Office of the Attorney General" of the State of Kansas as restitution for damages to consumers as set forth in paragraph twenty-one (21). Defendant DeMuth agrees that failure to make such payment shall constitute a violation of this Order.

21. The consumers to receive restitution pursuant to paragraph twenty (20) and the amounts of such restitution are as follows:

Mr. and Mrs. Paul Priddy 415 East Crawford Stafford, Kansas 67578-1912	\$324.00
Mr. Kris Wilkinson 106 Stafford Spearville, Kansas 67876	\$372.50

INVESTIGATIVE FEES AND CIVIL PENALTIES

22. Defendant DeMuth agrees to pay \$401.75 in investigation fees and expenses to the "Office of the Attorney General" of the State of Kansas.

23. In addition to the amount described in paragraph twenty-two (22), Defendant DeMuth agrees to pay \$401.75 in civil penalties to the "Office of the Attorney General" of the State of Kansas.

PAYMENT SCHEDULE

24. Payment to the "Office of the Attorney General" of the sums stipulated and required in paragraphs twenty (20), twenty-two (22) and twenty-three (23) shall be made by Defendant Demuth as follows. Each payment shall be by cashier's check:

<u>DATE OF PAYMENT</u>	<u>AMOUNT OF PAYMENT</u>
At Signing of Consent Judgment	\$500.00
November 1, 1999	\$1,000.00

OTHER PROVISIONS

25. Defendant DeMuth agrees to be bound by this Journal Entry of Consent Judgment at all times after the date of entry without regard to whether Defendant DeMuth acts individually and/or through representatives, agents, servants, employees, partners, assigns, or whether acting through any corporation or other entity whose acts, practices or policies are directed, formulated, or controlled by Defendant DeMuth.

26. 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.

27. 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 portions, provisions, or parts.


28. Compliance with this Consent Judgment does not relieve Defendant DeMuth 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.

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 DeMuth immediately become a judgment upon filing.

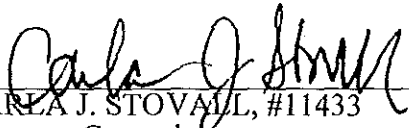
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant DeMuth and in favor of Plaintiff in the amount of \$1,500.00.

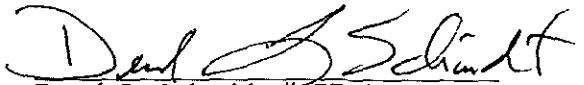
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, including the provisions of K.S.A. 50-632(b), the Court hereby approves the terms of the Consent Judgment and adopts the same as the Order of the Court.

IT IS SO ORDERED.



HONORABLE VAN Z. HAMPTON
Judge of the District Court

Approved by:


CARLA J. STOVALL, #11433
Attorney General


Derek L. Schmidt, #17781
Assistant Attorney General
Kansas Judicial Center
Topeka, Kansas 66612-1597
(785) 296-3751

Attorneys for Plaintiff


DONALD "DON" V. DEMUTH

Defendant