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KS DISTRICT COURT
3rd DISTRICT
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TOPEKA, KANSAS
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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 6

STATE OF KANSAS, *ex rel.*,)
CARLA J. STOVALL, Attorney General,)
)
Plaintiff,)
v.)
)
FOCUS MEDICAL GROUP, INC., d/b/a)
focus-medical.com, SENIOR CARE)
PHARMACY, INC., formerly LTC)
PHARMACY, INC., and KIAU KAEUH, M.D.,)
)
Defendants.)

Case No. 99-C-749

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

JOURNAL ENTRY OF DEFAULT JUDGMENT

NOW, on this 29th day of NOVEMBER, 1999, comes before the Court the Motion for Judgment by Default of the Plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General. Plaintiff appears by and through counsel, Derek L. Schmidt, Assistant Attorney General. There are no other appearances.

Upon review of the file and the statements of counsel, and being fully apprised of the particulars in this matter, the Court finds and concludes as follows:

1. On June 9, 1999, the Plaintiff filed a Petition alleging that all Defendants committed violations of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, and that

Defendant Senior Care Pharmacy, Inc., committee violations of the Kansas Pharmacy Practice Act, K.S.A. 65-1626 *et seq.*

2. Defendant Focus Medical Group, Inc., was served with a copy of the summons and petition by certified mail on or about June 11, 1999. Defendant Focus Medical Group, Inc., was served a duplicate copy of the summons and the petition by serving the same on the Kansas Secretary of State on June 10, 1999.
3. Defendant Senior Care Pharmacy, Inc., was served with a copy of the summons and petition by certified mail on or about June 11, 1999. Defendant Senior Care Pharmacy, Inc., was served with a duplicate copy of the summons and the petition by serving the same on the Kansas Secretary of State on June 10, 1999.
4. Plaintiff has been unable to locate Defendant Kiau Kaeuh, M.D., to attempt service of process.
5. Kiau Kaeuh, M.D., should be dismissed, without prejudice, as a defendant in this case.
6. Plaintiff has requested that judgment by default be entered in favor of Plaintiff and against Defendants Focus Medical Group, Inc., and Senior Care Pharmacy, Inc.
7. This Court has subject matter jurisdiction over this case under the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, and under the Kansas Pharmacy Practice Act, K.S.A. 65-1626 *et seq.*
8. This Court has jurisdiction over the parties pursuant to the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, and over Defendant Senior Care Pharmacy, Inc., pursuant to the Pharmacy Practice Act, K.S.A. 65-1626 *et seq.*

9. More than thirty (30) days have elapsed since each Defendant was served with a copy of the summons and a copy of the Petition.
10. No Defendant has filed an answer.
11. Defendants Focus Medical Group, Inc., and Senior Care Pharmacy, Inc., are in default.
12. More than ten (10) days prior to the filing of the Motion for Judgment by Default, Defendant Senior Care Pharmacy, Inc., and Defendant Focus Medical Group, Inc., were each notified of the amount of monetary judgment that would be entered against them in the event of default.
13. Judgment by default should be entered in favor of Plaintiff and against Defendants Focus Medical Group, Inc., and Senior Care Pharmacy, Inc., for all relief to which Plaintiff is by law entitled.
14. Plaintiff has properly shown that Plaintiff's Motion for Judgment by Default has merit. Plaintiff's Motion for Judgment by Default should be granted and sustained.

IT IS THEREFORE BY THE COURT ORDERED, ADJUDGED AND DECREED that the Plaintiff's Motion for Judgment by Default is granted and sustained.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Kiau Kaeuh, M.D., is hereby dismissed without prejudice as a defendant in this case.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is hereby entered in favor of Plaintiffs and against Defendant Focus Medical Group, Inc., and Senior Care Pharmacy, Inc., as set forth in this Journal Entry of Default Judgment, on all claims.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the acts and practices alleged in paragraphs seventeen (17) and eighteen (18) of the Petition filed in this case, including

all subparagraphs thereof, are hereby declared to be deceptive and in violation of the Kansas Consumer Protection Act. Each such paragraph, including all subparagraphs thereof, is hereby incorporated by reference as if set forth fully in this Order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the acts and practices alleged in paragraphs nineteen (19) and twenty (20) of the Petition filed in this case, including all subparagraphs thereof, are hereby declared to be unconscionable and in violation of the Kansas Consumer Protection Act. Each such paragraph, including all subparagraphs thereof, is hereby incorporated by reference as if set forth fully in this Order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the acts and practices alleged in paragraphs twenty-one (21) and twenty-two (22) of the Petition filed in this case, including all subparagraphs thereof, are hereby declared to be in violation of the Kansas Pharmacy Practice Act. Each such paragraph, including all subparagraphs thereof, is hereby incorporated by reference as if set forth fully in this Order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants Focus Medical Group, Inc., and Senior Care Pharmacy, Inc., together with each such Defendant's officers, directors, employees, shareholders, agents, successors, servants and assigns, are hereby permanently enjoined from engaging in the acts and practices alleged in paragraphs seventeen (17) through twenty-two (22) of the Petition filed in this case, including all subparagraphs thereof. Each such paragraph, including all subparagraphs thereof, is hereby incorporated by reference as if set forth fully in this Order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants Focus Medical Group, Inc., and Senior Care Pharmacy, Inc., together with each such Defendant's officers, directors, employees, shareholders, agents, successors, servants and assigns, are hereby permanently

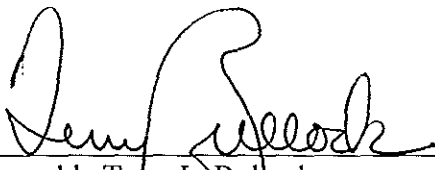
enjoined from the unlawful advertising, selling, prescribing, dispensing, and delivering of prescription-only drugs to consumers within the State of Kansas.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is hereby entered in favor of Plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, and against Defendant Focus Medical Group, Inc., for civil penalties in the amount of \$20,000.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is hereby entered in favor of Plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, and against Defendant Senior Care Pharmacy, Inc., for civil penalties in the amount of \$10,000.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment in addition to the amounts set forth, *supra*, is hereby entered in favor of Plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, and against Defendants Focus Medical Group, Inc., and Senior Care Pharmacy, Inc., jointly and severally, for investigation fees and expenses in the additional amount of \$1,000.00.

IT IS SO ORDERED.



Honorable Terry L. Bullock
District Court Judge

Prepared by:



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