

Kristy L. Hiebert, #14716
Assistant Attorney General
Office of the Attorney General
Kansas Judicial Center
301 W. Tenth Street
Topeka, Kansas 66612-1597
(785) 296-3751

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KS. DISTRICT COURT
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GENERAL JURISDICTION
TOPEKA, KANSAS

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 7

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

Plaintiff,)

vs.)

Case No. 00C 518

FEIST LONG DISTANCE SERVICE, INC.,)
and ADVANCED COMMUNICATIONS)
GROUP, INC.,)

Defendants.)

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 4th day of May, 2000, the Petition for Approval of Consent Judgment comes before the Court pursuant to K.S.A. 50-632(b). The Plaintiff, the State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, appears by and through Kristy L. Hiebert, Assistant Attorney General. Defendants Feist Long Distance Service, Inc. and Advanced Communications Group, Inc. (hereinafter referred to as "Defendants") appear by and through undersigned counsel from the law firm of Blackwell Sanders Peper Martin, LLP. Whereupon the parties advise the court that they have stipulated and agreed to the following:

PARTIES, JURISDICTION & VENUE

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 Feist Long Distance Services, Inc. (FLDS) is a Kansas corporation and was formerly a wholly owned subsidiary of Advanced Communications Group, Inc. (ACG), a Delaware corporation. The principal office of FLDS is located at 110 S. Main Street, Suite 1000, Wichita, KS 67202. The principal office of ACG is located at 390 South Woods Mill Road, St. Louis, MO 63017.

4. FLDS was granted a certificate to provide intrastate interexchange telecommunications service in Kansas by the Kansas Corporation Commission (KCC) on July 7, 1992 and a certificate to provide local exchange telecommunications service by the KCC on February 13, 1997.

5. Each of the Defendants' representatives, signing this Journal Entry of Consent Judgment, warrants that the representative has been duly authorized by the Defendant for whom the representative appears to be acting to enter and execute this Journal Entry of Consent Judgment on behalf of such Defendant.

6. Defendants stipulate and admit that the Court has subject matter jurisdiction over this case and *in personam* jurisdiction over the parties.

7. Defendants stipulate and admit that venue is proper in this Court.

8. Defendant Feist is and Defendant ACG was a supplier within the definition of K.S.A. 50-624(i). Feist is and ACG was engaged in consumer transactions in Kansas within the definition of K.S.A. 50-624(c).

9. Defendant Feist is and Defendant ACG was engaged in business as providers of local and long distance telecommunication services, including both intrastate and interstate service, to Kansas consumers.

10. Defendant Feist controls and Defendant ACG formerly controlled the nature, quality and price of the long distance services provided to their customers.

ALLEGATIONS

11. Beginning at a time unknown to Plaintiff but at least since January 1, 1998 and ending in December 31, 1998, Defendants, through its agents, employees and representatives, conducted telemarketing activities in Kansas to induce consumers to use FLDS's local and long distance telecommunications service.

12. The Attorney General has received complaints from Kansas consumers alleging that their local and/or long distance telephone service was switched to Defendants' service without their authorization, otherwise known as "slamming."

13. The Attorney General alleges that the Defendants, its agents and representatives, committed deceptive and unconscionable acts and practices in consumer transactions in violation of K.S.A. 50-626, K.S.A. 50-627, K.S.A. 50-640 and K.S.A. 50-6,103, including, but not limited to:

- a. Telemarketers and sales agents misrepresenting the relationship between FLDS and the incumbent local exchange carrier;
- b. Telemarketers promising to send information in the mail before submitting a switch, but submitting a switch anyway;
- c. Submitting unauthorized letters of agency;

- d. Submitting an order to change local service when authorization had been properly obtained from the consumer only for long distance service or vice versa;
- e. Switching the service of elderly individuals when they obviously were confused as to what was being requested of them in the telemarketing/verification call;
- f. Failing to comply with the requirements of K.S.A. 50-640 for door-to-door sales.

14. Defendants, by entering into this Consent Judgment, make no admissions of liability as to any practice set forth in paragraph thirteen (13) herein. Defendants state that their policy has always been to conduct telemarketing efforts by communicating complete and accurate information to Kansas consumers, and to switch a consumer's telecommunications service to FLDS from another carrier only after having obtained the consumer's informed consent. Defendants state that whenever credible evidence has arisen concerning the propriety of any telemarketer acting on their behalf, the Defendants' policy has been to take steps either to correct the behavior of such telemarketers or to terminate their business relationships with such telemarketers.

15. Defendants agree to this Consent Judgment without trial or adjudication of any issue of fact or law.

INJUNCTIVE RELIEF

16. The Defendants agree to refrain from, and to be permanently enjoined from, engaging in those acts and practices set forth in paragraph thirteen (13) herein and Defendants agree that engaging in any such acts or similar acts as alleged in paragraph thirteen (13), after the date of this Consent Judgment, shall constitute a violation of this Consent Judgment.

17. Defendants shall not switch a consumer's current local or long distance telecommunications service provider to FLDS, or switch a consumer back that has switched away

from FLDS, without having obtained the consumer's express authorization to make the change as defined in K.S.A. 50-6,103 and Defendants shall comply with all Federal laws, statutes, rules and regulations, including but not limited to 47 C.F.R. 64.1150, as they now exist or as amended in the future, and all Kansas laws, statutes, rules and regulations, as they now exist or as amended in the future.

18. The Defendants agree 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.

19. The Defendants agree to make available and/or disclose the provisions of this Consent Judgment to each officer, director and vice-president level employee that supervises the Kansas operations of Defendants within ten days of signing the Consent Judgment.

20. The Defendants agree to maintain all customer records for one year and to allow the Attorney General to inspect and copy upon reasonable written notice during business hours such customer records in the future. This provision does not relieve the Defendants of their obligation to comply with K.S.A. 50-6,103.

CONSUMER RESTITUTION

21. For any future complaints filed with or supplied to the Office of the Attorney General regarding a switch of long distance services occurring prior to the date of this Consent Judgment, Defendants agree to resolve such complaints, where justified in fact and in law, by providing a full refund or credit for each consumer bringing such complaint, to the extent such full refund or credit has not already been received by each consumer from Defendants. If any such consumer has not paid Defendants and has outstanding bills, Defendants will credit the account so that it has a zero balance. Defendants will also reimburse such consumers for any switching

charges incurred. Defendants also agree that no negative credit information will be reported to any credit reporting agency for nonpayment of a bill from Defendants for such consumers. Defendants agree to take all action necessary to remove and correct any negative information already reported related to a switch by Defendants and subsequent billing for such consumers, and agree to forego any collection of present outstanding amounts owed to Defendants by such consumers.

INVESTIGATIVE FEES AND CIVIL PENALTIES

22. The Defendants agree to pay to the "Office of the Attorney General" of the State of Kansas \$37,500.00 in investigation fees and expenses and \$37,500.00 in civil penalties. Payment shall be made by a cashier's check and shall be delivered to the Attorney General of the State of Kansas at the time of signing the Consent Judgment.

OTHER PROVISIONS

23. Jurisdiction is retained by this Court for two years from the date of this Consent Judgment 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. Defendants understand that thereafter a violation of this Consent Judgment may result in the Attorney General initiating civil proceedings for enhanced penalties under K.S.A. 50-636, civil contempt or otherwise proceeding against either Defendant for any and all violations of Kansas law. Nothing in this paragraph is intended to limit otherwise the legal and equitable powers of the Attorney General under the Kansas Consumer Protection Act, K.S.A. 50-623 et seq., or Kansas law generally.

24. 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.

25. Compliance with this Consent Judgment does not relieve the Defendants 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 with the exception of the consumer protection matters resolved in this Consent Judgment.

26. 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 the Defendants nor shall the Defendants 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.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendants and in favor of Plaintiff in the amount of \$75,000.00.

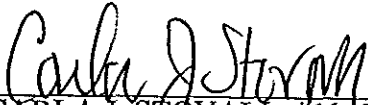
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, and the provisions of K.S.A. 50-632(b), the court hereby approves the terms of the Consent Judgment and adopts the same as the Order of the Court.

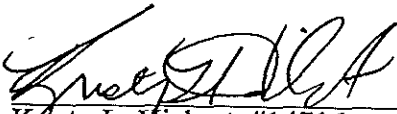
IT IS SO ORDERED.

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DISTRICT COURT JUDGE

Approved by:

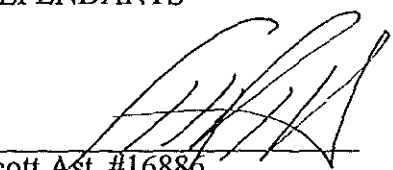
PLAINTIFFS


CARLA J. STOVALL, #11433
Attorney General

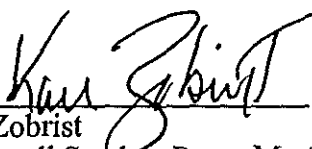

Kristy L. Niebert, #14716
Assistant Attorney General
120 W. 10th
Topeka, Kansas 66612-1597
(785) 296-3751

Attorneys for plaintiff

DEFENDANTS



Scott Ast, #16886
Blackwell Sanders Peper Martin, LLP
40 Corporate Woods
9401 Indian Creek Parkway, Suite 1200
Overland Park, Kansas 66210
(913) 696-7000
(913) 696-7070 (FAX)



Karl Zobrist
Blackwell Sanders Peper Martin, LLP
2300 Main Street, Suite 1000
Kansas City, Missouri 64108
(816) 983-8000
(816) 983-8080 (FAX)

Attorneys for Defendants

Feist Long Distance Service, Inc.
BY: Sue E. Weiske

Sue E. Weiske, General Counsel

Advanced Communications Group, Inc.
BY: Michael Pruss

Michael Pruss, Vice President
and Chief Financial Officer

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Blackwell Sanders Peper Martin, LLP
40 Corporate Woods
9401 Indian Creek Parkway, Suite 1200
Overland Park, Kansas 66210
(913) 696-7000
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