

94-25

FILED BY ALBERT
K.S. DISTRICT COURT
NOV 9 3 17 PM '94
GENERAL JUDICIAL DISTRICT
TOPEKA, KANSAS

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FINELIN.CJ/SHELLYG/MEAT

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

STATE OF KANSAS, ex rel.,
ROBERT T. STEPHAN, Attorney General,

Plaintiff,

vs.

FINE-LINE DISTRIBUTORS, INC.

Defendant.

Case No. 94CV1190

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 25th day of October, 1994, the plaintiff's petition for approval of consent judgment comes before the court for consideration under K.S.A. 1993 Supp. 50-632(b). The State of Kansas ex rel. Robert T. Stephan, Attorney General, appears by and through Shelly Gasper, Assistant Attorney General. The defendant appears by and through Gerald Haberkorn.

Whereupon, the parties advise the court that they have stipulated and agreed to the following matters:

1. Robert T. Stephan is the Attorney General of the State of Kansas.
2. Defendant is a Florida corporation. Defendant's business is located at 711 North Schifferdecker Ave., Joplin, Mo 64801. The defendant enters its voluntary general appearance.

The defendant admits the court has jurisdiction over the parties and the subject matter.

3. The Attorney General alleges the following acts and practices by the defendant are violations of the Kansas consumer protection act and are deceptive:

a) Defendant gives a price for the entire package and does not provide a price per pound in violation of the Food Advertising and Sales Practices act, K.S.A 50-903(b)(4).

b) Defendant states that the meat is "leftover" from some other sale and that he will sell it for a "reduced" price so that he does not have to go back with the product. This statement is not true and all known sales of defendant have been door-to-door. This is the willful use of exaggeration, innuendo or ambiguity as to a material fact, in violation of K.S.A. 1991 Supp. 50-626(b)(2).

c) Defendant indicates to the consumer that the case of product is "usually" or "regularly" a higher price, but because of the concocted need to get rid of the product, the salesman can discount the price. This is the use of a false reference price in violation of K.S.A. 1993 Supp. 50-626(b)(7).

d) Defendant fails to inform consumers that the cuts of meat contain tenderizers and seasonings. This is the willful failure to state a material fact in violation of K.S.A. 1993 Supp. 50-626(b)(3).

e) Defendant does not inform consumers of the number of pounds of product. Defendant also removes the meat from the boxes which state the weight. This is the willful concealment of a material fact, in violation of K.S.A. 1993 Supp. 50-626(b)(3).

f) Defendant sells meat door-to-door in quantities over \$25. Defendant does not provide every consumer with both an oral and written three-day cancellation as provided by K.S.A. 50-640.

4. The defendant denies liability, but voluntarily agrees to this consent judgment without trial or adjudication of any issue of fact or law.

5. The provisions of this consent judgment will be applicable to the defendant, and every employee, agent or representative of the defendant.

6. The defendant agrees to make available and/or disclose the provisions of this consent judgment to its employees, agents and representatives, including independent contractors.

7. The defendant agrees to change its brochure to comply with this consent judgment by making the reference price that

amount for which the salesmen actually sell the package. That price will be determined by taking the average of the price of packages sold within the last six months, more or less. Defendant also agrees to publish the price per pound in the brochure at the new reference price. If the package is sold for a different amount than in the brochure, a new price per pound will be calculated and written on a receipt which will be given to the consumer. Defendant further agrees to refrain from and be enjoined from engaging in all acts and practices alleged by the State of Kansas to be in violation of the consumer protection act, the door-to-door sales act or the food advertising and sales practices act, in paragraph number three.

8. The defendant agrees to resolve all consumer complaints currently on file with the Attorney General's Office to the satisfaction of the Attorney General within thirty (30) days of the date of this consent judgment.

9. The defendant agrees to resolve all consumer complaints to the satisfaction of the Office of the Attorney General after the date of this consent judgment whether brought to defendant's attention by the State of Kansas or by consumers complaining directly to the defendant. Defendant shall apprise the State of Kansas, through the plaintiff, in a simple and concise manner, of the disposition of those complaints and disputes within thirty (30) days after resolved.

10. This consent judgment shall be binding on any partnership, corporation, sole proprietorship or any other legal

structures which Edgar Tello is associated in an ownership or managerial capacity.

11. The defendant agrees to pay \$1,500 in investigation fees and expenses to the Attorney General of the State of Kansas and \$1,500 civil penalty to the State of Kansas. The first installment of \$1,500 is paid at the time of filing this consent judgment, the balance to be paid in October 1994. Payment will be by certified checks.

12. The defendant agrees to allow the Attorney General to inspect relevant business records in the future.

13. The defendant agrees to pay all court costs and filing fees.

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 the court.

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 THEREFORE ORDERED, ADJUDGED AND DECREED that the defendant will pay all court costs and filing fees.

IT IS SO ORDERED.

Original Signed By:
Marla J. Luckert

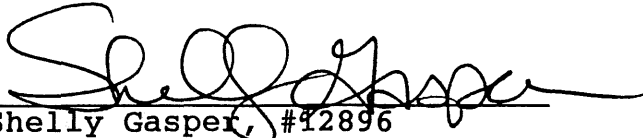
DISTRICT COURT JUDGE

Approved:

STATE OF KANSAS BY:



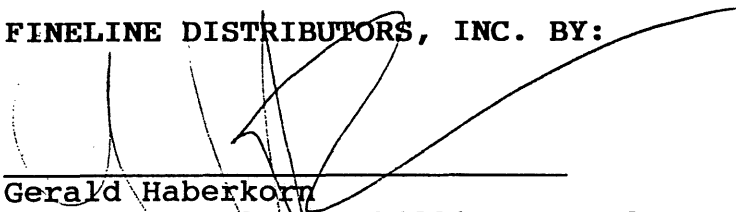
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