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KS. DISTRICT COURT
THIRD JUDICIAL DISTRICT

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GENERAL JURISDICTION
TOPEKA, KANSAS

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division 5

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

Plaintiff,

vs.

GULF INDUSTRIES, INC.,

Defendant.

Case No. DC 1391

Petition Pursuant to K.S.A. Chapter 60

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 18th day of October, 2000, 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 Gulf Industries, Inc., appears by and through H. David Barr of Berkowitz, Feldmiller, Stanton, Brandt, Williams & Stueve, LLP.

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 Gulf Industries, Inc. is a foreign corporation organized under the laws of the state of California. The principal office of the corporation is located at 1445 West

Sepulveda Boulevard, Torrance, California 90501-5094. Defendant Gulf Industries, Inc., has not applied with the Kansas Secretary of State for authority to do business in Kansas.

4. Defendant admits, for the purpose of this Consent Judgment, that the Court has personal and subject matter jurisdiction over the parties.

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

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

a. Defendant is a supplier, as defined by K.S.A. §50-624(i), and has engaged in consumer transactions within the definition of K.S.A. §50-624(c) and (h).

b. Defendant solicits small businesses - some of which are sole proprietors and, therefore, "consumers" within the definition of K.S.A. §50-624(b) - to purchase signs for their businesses from Defendant through local representatives/dealers.

c. Defendant solicited Kansas merchant-consumers by visiting such consumers' places of business. Defendant's transactions with consumers within the State of Kansas constitute door-to-door sales, as defined by K.S.A. §50-640. A true and correct copy of Defendant's Sales Agreement forms (which serve as consumers' receipts) is attached hereto and marked as Exhibit A. Defendant failed to furnish consumers with fully completed receipts which contained, in immediate proximity to the space reserved for the consumers' signatures, notices of consumers' rights to cancel, in violation of K.S.A. §50-640(b)(1).

d. Defendant failed to furnish consumers with a completed "Notice of Cancellation" form in duplicate, attached to consumers' receipts which was easily detachable and which contained the consumers' right to cancellation form in 10-point boldface type, in violation of K.S.A. §50-640(b)(2).

e. Defendant failed to inform consumers orally of such consumers' rights to cancel, at the time such consumers signed the contracts and purchased signs from Defendant, in violation of K.S.A. §50-640(b)(5).

7. Defendant, by entering into this Consent Judgment, shall not be deemed to admit the violations of the Kansas Consumer Protection Act alleged herein

8. Defendant agrees to refrain from and to be permanently enjoined from engaging in those acts and practices alleged to be deceptive or unconscionable in paragraph six (6) 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.

9. The provisions of this Consent Judgment will be applicable to Defendant, and every employee, agent or representative of Defendant.

10. Defendant agrees to make available and disclose the provisions of this Consent Judgment to its employees, agents, dealers, independent contractors, and all other representatives within fifteen (15) days of signing the Consent Judgment.

11. Defendant agrees to resolve any future complaints filed by a consumer 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.

12. Defendant agrees 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.

13. Defendant agrees to pay \$20,000.00, pursuant to K.S.A. §50-632, to the "Office of the Attorney General" of the State of Kansas. Payment shall be made by cashier's check and shall be delivered to the Attorney General of the State of Kansas at the time of Defendant's signing this Consent Judgment.

14. Defendant agrees to maintain all business records relating to the sale of any of its products in the state of Kansas for a period of five years and to allow the Attorney General to inspect all of Defendant's business records related to any sales of its products in Kansas in the future.

15. 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.

16. 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.

17. 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.

18. 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.

19. Defendants agree that the Consent Judgment has been entered into with the consent and approval of the Board of Directors of Gulf Industries, Inc.

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 \$20,000.00, and that such monetary judgment has been paid in full at the time of entry of this Consent Judgment.

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. James U. Moelshagen
DISTRICT COURT JUDGE

Approved by:

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