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 KS. DISTRICT COURT
 THIRD JUDICIAL DIST.
 TOPEKA, KS

2018 SEP 24 P 3:08

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

STATE OF KANSAS, <i>ex rel.</i>)	
DEREK SCHMIDT, Attorney General,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2017-CV-586
)	Division No. 7
SUNIL PAHOUJA, an individual)	
and)	
SMART CLUB, LLC.)	
aka SMART CLUB, LLC)	
and)	
AROMA SENSES, LLC)	
)	
Defendants.)	
)	

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

ORDER OF DEFAULT JUDGMENT AGAINST THE DEFENDANT, AROMA SENSES, LLC

NOW, on this date, Plaintiff’s Motion for Default Judgment against the Defendant, Aroma Senses, LLC and Memorandum in Support (“Motion for Default Judgment”) comes before this Court for consideration. The State of Kansas *ex rel.* Derek Schmidt, appears by and through counsel, Assistant Attorney General Sarah M. Dietz. The Defendant, Aroma Senses, LLC appears not.

WHEREUPON, after reviewing the Court’s file and Plaintiff’s Motion for Default Judgment, the Court finds the following:

1. Plaintiff filed a Motion for Default Judgment on July 25, 2018.

2. Plaintiff's Motion for Default Judgment is predicated on Defendant's failure to file an Answer to the Plaintiff's Petition, which was filed on September 7, 2017.

3. Plaintiff's Petition was served to Sue E. Denney the resident agent of Defendant Aroma Senses at the address of 3220 Summertime Crt, Columbus, Ohio 43221 on October 12, 2017 pursuant to K.S.A. 60-304(f).

4. Defense counsel took action on behalf of Defendant Aroma Senses by filing a Notice of Attorney's Change of Firm on January 12, 2018 and Motion for Leave to Withdraw on March 6, 2018.

5. Once counsel formally takes action on defendants' behalf, before filing any responsive pleading, service is deemed effective. *Jenkins v. City of Topeka*, 136 F.3d 1274, 1276 (10th Cir. 1998).

6. Defendant Aroma Senses, LLC has failed to file an Answer within 30 (thirty) days after being served with process, as required by K.S.A. 60-308(a)(3).

7. The Defendant is not a minor or an incapacitated person.

8. Defendant is in default pursuant to K.S.A. 60-255.

9. The factual allegations set forth in the Plaintiff's Motion for Default Judgment are adopted by the Court as its findings of fact and conclusions of law as though fully set forth herein.

10. Defendant Aroma Senses is an Ohio limited liability company.

11. Defendant Aroma Senses acted as a "supplier" in Kansas, as that term is defined by K.S.A. 60-624(1).

12. Defendant Aroma Senses made "consumer transactions" in Kansas, as that term is defined by K.S.A. 50-624(c).

13. Defendant Aroma Senses made “door to door sales” in Kansas, as that term is defined by K.S.A. 50-640(c)(1).

14. Defendant Aroma Senses engaged in the business of door to door sales at the KANSAS EXPOCENTRE in Topeka, Kansas.

15. Defendant Aroma Senses made or caused to be made consumer transactions in Kansas around June of 2015.

16. Defendant Aroma Senses accepted payment for the seventy (70) consumer transactions without furnishing the consumers with a receipt providing the consumers with notice or duplicate notice of the consumers’ rights to cancel the transaction at any time until the third business day following the sale in violation of KSA 50-640(b). *See* Plaintiff’s September 9, 2017 Affidavit Exhibits 2 and 4.

IT IS THEREFORE ORDERED, ADJUDICATED AND DECREED that Plaintiff’s Motion for Default Judgment is granted.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Judgment is hereby entered against Defendant Aroma Senses, LLC and in favor of Plaintiff on all Counts of the Petition.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that the actions and practices alleged are declared to be deceptive and unconscionable and in violation of the Kansas Consumer Protection Act.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant Aroma Senses, LLC and any employees, agents, representatives, affiliates, assignees and successors are permanently enjoined from engaging in acts and practices alleged in the Plaintiff’s Petition to be violations of the Consumer Protection Act.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant Aroma Senses, LLC and any employees, agents, representatives, affiliates, assignees and successors are permanently enjoined from doing business in the State of Kansas.

~~**IT IS FURTHER ORDERED, ADJUDICATED AND DECREED** that Defendant Aroma Senses, LLC pay reasonable investigative fees and expenses of the Office of the Kansas Attorney General, pursuant to K.S.A. 50-632(c)(7), in this case amounting to \$8,831.25, jointly and severally liable with other defendants.~~

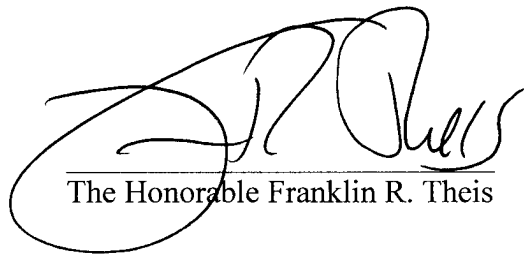
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IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant Aroma Senses, LLC pay \$1,000.00 in civil penalties for each violation of the Kansas Consumer Protection Act alleged in the Plaintiff's Petition, pursuant to K.S.A. 50-636(a), in this case amounting to \$70,000.00, jointly and severally liable with other defendants.

IT IS FURTHER ORDERED, ADJUDICATED AND DECREED that Defendant Aroma Senses, LLC pay all Court Costs and all costs associated with distributing and executing this judgment.

IT IS SO ORDERED.

9/24/2018
Date


The Honorable Franklin R. Theis

Respectfully submitted,

/s/ Sarah M. Dietz

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