

R. Lee McGowan #09608
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IN THE TENTH JUDICIAL DISTRICT
DISTRICT COURT, JOHNSON COUNTY, KANSAS
CIVIL DEPARTMENT

STATE OF KANSAS, EX REL)	
PAUL J. MORRISON, DISTRICT ATTORNEY,)	
TENTH JUDICIAL DISTRICT,)	
)	
Plaintiff,)	
)	
ULTIMATE POWER SALES, INC.,)	Case No. 03 CV 1623
)	Div # 10
AND)	
)	
UNITED FAMILY CIRCULATIONS, INC.,)	
)	
)	
Defendant(s).)	
)	

Pursuant to Chapter 60 of
the Kansas Statutes Annotated

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW, on this 9th day of June, 2004, the above matter comes on for disposition on the Joint Motion of the Plaintiff and Defendant for approval by the Court of a consent judgment, pursuant to K.S.A.50-632(b). The Plaintiff appears by and through Assistant District Attorney R. Lee McGowan. The defendants appear by and through Douglas P. Wilson, attorney for defendants.

Thereupon, the Court, after being duly advised in the premises, and after hearing statements of counsel, makes the following findings, to-wit:

CLERK OF DISTRICT COURT
JOHNSON COUNTY, KS

2004 JUN -9 AM 11:41

1. Paul J. Morrison is the duly elected, qualified, and acting District Attorney for the Tenth Judicial District of the State of Kansas.

2. The District Attorney's authority to bring this action is derived from statutory and common law of Kansas, specifically, the Kansas Consumer Protection Act, K.S.A. 50-623, et seq.

3. The Defendant, United Family Circulation, Inc., is incorporated under the laws of the State of Georgia.

4. The Defendant, Ultimate Power Sales, Inc., is incorporated under the laws of the State of Georgia.

5. Defendants voluntarily enter their appearance for the purpose of entering into this Consent Judgment and any enforcement thereof.

6. Defendants are suppliers as defined by K.S.A. 50-624(i)(2002 Supp.) and have engaged in consumer transactions as defined by K.S.A. 50-624(c)(2002 Supp.).

7. Defendants admit that the Court has jurisdiction over the parties and the subject matter for the purpose of entering into this Consent Judgment and any subsequent enforcement thereof.

8. Defendants admit that venue is proper in the Tenth Judicial District of Kansas, Johnson County, for the purpose of entering into this Consent Judgment and any enforcement thereof.

9. Defendants agree to this Consent Judgment without trial or adjudication of any issue of law or fact, but deny each act alleged herein.

ALLEGATIONS

10. The Plaintiff alleges that the Defendants are responsible for the acts of their agents and employees under the legal theory of *respondeat superior*.

11. The Plaintiff alleges that the Defendants, through their agents and employees, have committed certain acts and practices in violation of the Kansas Consumer Protection Act, K.S.A. 50-623 et seq., including but not limited to the following: Paragraphs A through FF of Plaintiff's Petition set forth alleged violations of the Kansas Consumer Protection Act and are incorporated herein at this point as if fully set forth verbatim.

12. This Journal Entry of Consent Judgment is entered into as the result of the settlement and compromise of a disputed claim. All parties desire to resolve this matter in an amicable manner in order to avoid the expense, burden, and inconvenience of further proceedings. Defendants have expressly denied liability regarding the above allegations, and this Journal Entry of Consent Judgment shall not be construed as an admission of liability or declaration against interest on Defendant's part.

RELIEF REQUESTED

13. Defendants agree to be permanently enjoined from the acts and practices alleged in paragraphs A through FF of Plaintiff's Petition.

14. Defendants agree not to engage in the business of magazine sales in Johnson County, Kansas without first notifying the Johnson County District Attorney's Office at least 30 days in advance and providing that office with such information about the persons doing such business and the nature and extent of such business as that office deems necessary to

monitor Defendant's business dealings in Johnson County, Kansas.

15. Defendants agree to pay to the Plaintiff \$20,000.00 for fines, penalties and cost of investigation of conduct which could be found to be violations of the Kansas Consumer Protection Act. Payment shall be in the form of two cashier's checks, one payable to the Clerk of the District Court in the amount of \$5,000.00, referencing account number 00111311278058, and one payable to Johnson County District Attorney's White Collar Crime Investigative Fund, in the amount of \$15,000.00 referencing account number 1150-1207220. Payment shall be made at the time of execution of this Consent Judgment. If Defendants do not pay the amount as agreed herein, Defendants agree to pay all expenses and reasonable attorney's fees in connection with the collection of any amounts in this judgment.

16. Defendants agree to pay restitution to consumers in the amount of \$867.00 which shall be paid to the Johnson County District Attorney's Office Trust Account to be disbursed to the named consumers who indicated they wished for their magazines to be sent to nonprofit organizations.

17. 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.

18. 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.


19. Compliance with this Consent Judgment does not relieve Defendant of any obligation imposed by applicable federal, state, or local law, nor shall the Plaintiff be precluded from taking appropriate legal action to enforce civil or criminal statutes under his jurisdiction.

20. The parties understand that this Consent Judgment shall not be construed as an approval of or sanction by the District Attorney of the business practices of Defendant nor shall Defendant represent the decree as such an approval.

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 immediately become a judgment upon filing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, the Court hereby approves the terms of the Consent Judgment and adopts the same as the order of the Court.

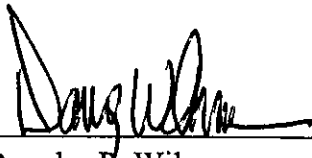
IT IS SO ORDERED.



HONORABLE LARRY MC LAIN
JUDGE OF THE DISTRICT COURT



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Attorney for the Defendant
6405 N. Cosby, Suite #200
Kansas City, MO 64151
(816) 587-1911
(816) 587-3446-Fax

CERTIFICATE OF SERVICE

I hereby certify that I deposited a copy of the foregoing Consent Judgment in the United States Mail, postage prepaid, on this 9th day of June, 2004, and addressed to:

Douglas P. Wilson
Attorney for the Defendant
6405 N. Cosby, Suite #200
Kansas City, MO 64151

