

Arthur R. Weiss
Supreme Court #10877
Deputy Attorney General
Office of the Attorney General
Kansas Judicial Center - Lower Level
Topeka, Kansas 66612-1597
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SEP 11 '90

FILED



R. Joan Rehmert
Clerk of District Court

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IN THE DISTRICT COURT OF JEWELL COUNTY, KANSAS
DIVISION _____

STATE OF KANSAS, ex rel.,)
ROBERT T. STEPHAN, Attorney General,)
)
Plaintiff,)
)
vs.)
)
MIDWAY COOP,)
)
Defendant.)

Case No. 90C11

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 7th day of September, 1990, the Petition for approval of Consent Judgment filed by the State of Kansas comes on for hearing. The State of Kansas appears by Robert T. Stephan, Attorney General, by and through Arthur R. Weiss, Deputy Attorney General. The Defendant appears by _____.

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

1. Robert T. Stephan is the duly elected, qualified and acting 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's business is located at 123 West South, Mankato, Kansas 66956. The Defendant enters its voluntary general appearance. The Defendant admits the Court has jurisdiction over the parties and the subject matter.

4. Venue is proper in Jewell County according to K.S.A. 50-638.

5. The Defendant sells motor fuels to the public. It is a "supplier" under K.S.A. 50-624.

6. The Defendant entered into "consumer transactions" as defined under K.S.A. 50-624 (c) and (g).

7. The Attorney General, pursuant to K.S.A. 50-631, has investigated the business activities of the Defendant based on a belief that the Defendant has engaged in, was engaging in or was about to engage in, deceptive and unconscionable acts and practices in violation of the Kansas Consumer Protection Act, K.S.A. 50-626 and K.S.A. 50-627.

8. The Attorney General alleges the following acts and practices by the Defendant are violations of the Kansas Consumer Protection Act and are deceptive and unconscionable:

1) Defendant represented that the octane level of one of its fuels was 88, when in fact the octane level was 86.7; a representation that the fuel had ingredients or characteristics it did not have in violation of K.S.A. 50-626(b)(1)(A); a representation that the fuel was of a particular standard, quality or grade from which it differed materially in violation of K.S.A. 50-626(b)(1)(D).

2) Defendant sold or offered for sale gasoline of an advertised grade when the same was not of such grade in violation of K.S.A. 55-432(b).

9. The Defendant voluntarily agrees to this Consent Judgment without trial or adjudication of any issue of fact or law.

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

11. The Defendant agrees to make available and/or disclose the provisions of this Consent Judgment to their employees, agents and representatives.

12. The Defendant agrees to refrain from and to be enjoined from engaging in all acts and practices alleged by the State of Kansas to be deceptive and unconscionable, in paragraph number 8.

13. The Defendant agrees to resolve any 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.

14. 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.

15. The Defendant shall not enter into, form, organize or reorganize into any partnership, corporation, sole proprietorship or any other legal structures, for the purpose of avoiding compliance with the terms of this Consent Judgment.

16. The Defendant agrees to pay \$250.00 in investigation fees and expenses to the Attorney General of the State of Kansas and \$250.00 civil penalty to the State of Kansas at the time of filing this Consent Judgment. Payment will be by certified check.

17. The Defendant agrees to allow the Attorney General to inspect relevant business records in the future. The Attorney General will give reasonable notice for these inspections.

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 SO ORDERED.

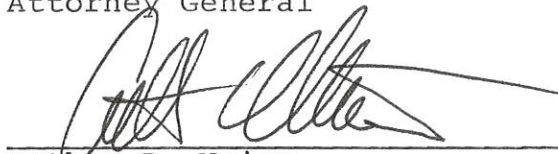


JUDGE OF THE DISTRICT COURT

Approved by:



ROBERT T. STEPHAN
Attorney General



Arthur R. Weiss
Deputy Attorney General

Attorneys for Plaintiff.

MIDWAY COOP

By : *J. J. Boland*

Title: General Manager

Defendant.