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TOPEKA, KS

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**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS**  
**Division 6**

STATE OF KANSAS, *ex rel.* )  
DEREK SCHMIDT, Attorney General, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
DAVID GOTTERUP, an individual )  
d/b/a )  
EMPIRE HOME SAVINGS )  
a/k/a )  
EXPRESS HOME SOLUTIONS )  
 )  
Defendant. )

Case No. 11 C 804

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

**ORDER OF DEFAULT JUDGMENT**

NOW, on this 14<sup>th</sup> day of September 2011, Plaintiff's Motion for Default Judgment comes before this Court for consideration. The State of Kansas, *ex rel.* Derek Schmidt, appears by and through Assistant Attorney General, Meghan E. Stoppel. Defendant appears not.

WHEREUPON, after reviewing the Court's file and Plaintiff's Motion for Default Judgment and Memorandum in Support, the Court finds the following:

1. Plaintiff filed its Motion for Default Judgment and Memorandum in Support on September 13, 2011.

2. Plaintiff's Motion for Default Judgment is predicated upon Defendant's failure to file an Answer to Plaintiff's Petition which was filed on July 8, 2011.

3. A copy of the Summons and the original Petition were served upon Defendant at 11030 198<sup>th</sup> Street, Saint Albans, New York 11412 on August 5, 2011, pursuant to K.S.A. §60-304(a) and §60-303(c).

4. Defendant failed to file an Answer within thirty days after being served with process, as required by K.S.A. §60-308(a)(3).

5. Pursuant to K.S.A. §60-255, Defendant is in default.

6. The legal arguments and authorities set forth in Plaintiff's Motion for Default Judgment and Memorandum in Support are adopted by the Court as its findings of fact and conclusions of law as though fully set forth herein.

**IT IS THEREFORE ORDERED, ADJUDICATED AND DECREED** Plaintiff's Motion for Default Judgment against Defendant is granted.

**IT IS FURTHER ORDERED, ADJUDICATED AND DECREED** that judgment is hereby entered against Defendant, in favor of Plaintiff on all counts of the Petition.

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

**IT IS FURTHER ORDERED, ADJUDICATED AND DECREED** that Defendant pay restitution to Doug Merz in the amount of one thousand, two hundred dollars (\$1,200.00), and that Defendant and Defendant's owners, operators, board members and principals be restrained from advertising, soliciting and selling any services, goods or property in Kansas until such time that full restitution is made.

**IT IS FURTHER ORDERED, ADJUDICATED AND DECREED** that Defendant pay reasonable investigative fees and expenses to the Office of the Kansas Attorney General, pursuant to K.S.A. §50-632, in this case amounting to \$5,000.00.

**IT IS FURTHER ORDERED, ADJUDICATED AND DECREED** that Defendant pay \$10,000.00 in civil penalties for each violation of the Kansas Consumer Protection Act alleged in Plaintiff's Petition, pursuant to K.S.A. §50-636, in this case amounting to \$40,000.00.

**IT IS FURTHER ORDERED, ADJUDICATED AND DECREED** that Defendant pay all court costs and all costs associated with distributing and executing on any restitution or judgment made by this Court

**IT IS SO ORDERED.**

  
Larry D. Hendricks  
District Court Judge

Submitted by:

  
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