



Court: Sedgwick County District Court
Case Number: 2017-CV-000555-OT
Case Title: State of Kansas ex rel Derek Schmidt Atty General
vs. John R Provenzano DDS
Type: Journal Entry of Consent Judgment

SO ORDERED.

A handwritten signature in black ink, reading "Warren M. Wilbert". The signature is written in a cursive style.

/s/ Honorable Warren Wilbert

IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS

STATE OF KANSAS, *ex rel.*)
DEREK SCHMIDT, Attorney General,)
)
Plaintiff,)
)
v.)
)
JOHN R. PROVENZANO, DDS)
)
Defendant.)
)

Case No. 2017-CV-00055-OT

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this _____ day of _____, 2017, the parties' Journal Entry of Consent Judgment comes before the Court pursuant to K.S.A. § 50-632(b). The Plaintiff, State of Kansas, *ex rel.* Derek Schmidt, Attorney General, appears by and through Sarah M. Dietz, Assistant Attorney General.

WHEREUPON the parties advise the Court that they have stipulated and agreed to the following:

PARTIES, JURISDICTION AND VENUE

1. Derek Schmidt is the duly elected, qualifying and acting Attorney General for 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 ("KCPA"), K.S.A. § 50-623 *et seq.*
3. Defendant John R. Provenzano, DDS is a Kansas sole proprietorship with a principal place of business at 1515 S. Clifton Ave, Wichita, Kansas 67218.

4. All references to the Defendant herein include acts performed individually, in concert, or by or through employees, directors, officers, owners, managers, agents, assigns, and all other persons or entities acting in concert with them or on their behalf, including their predecessors, subsidiaries, affiliates and successors.

5. Jurisdiction and venue are appropriate in District Court of Sedgwick County, Kansas, pursuant to K.S.A. § 50-638(a) and (b), respectively.

ALLEGATIONS

6. Plaintiff alleges that the Defendant has acted as a “supplier” in Kansas, as that term is defined by K.S.A. § 50-624(l).

7. Plaintiff alleges that the Defendant has engaged in “consumer transactions” in Kansas, as that term is defined by K.S.A. § 50-624(c).

8. Plaintiff alleges that at all times relevant hereto, the Defendant engaged in acts and practices in violation of the Kansas Consumer Protection Act, K.S.A. § 50-623 *et seq.*, which acts and practices include, but are not limited to:

- a. The Defendant engaged in a consumer transaction in which the Defendant willfully used, in an oral or written representation, an exaggeration, falsehood, innuendo or ambiguity as to a material fact.
- b. The Defendant engaged in a consumer transaction in which the Defendant willfully failed to state a material fact.
- c. The Defendant failed to exercise reasonable care to protect the personal information of a consumer from unauthorized disclosure.

INJUNCTIVE RELIEF

9. The Defendant agrees to comply with all Kansas laws, statutes, rules and regulations

relating to consumer transactions in Kansas, specifically, but not limited to, the Kansas Consumer Protection Act, K.S.A. § 50-623 *et seq.*

10. The Defendant shall not cause or encourage third parties, nor knowingly permit third parties acting on their behalf, to engage in practices from which Defendants are prohibited by this Consent Judgment.

11. The Defendant shall not participate, directly or indirectly, in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices which are prohibited in this Consent Judgment or for any other purpose which would otherwise circumvent the spirit or purposes of this Consent Judgment.

12. The Defendant agrees that the terms of this Consent Judgment apply to acts performed individually, in concert, or by or through its employees, agents, representatives, affiliates, assignees and successors.

13. The parties voluntarily agree to this Consent Judgment without trial or adjudication of any issue of fact or law as a compromise settlement of all issues raised herein. It is further understood that the execution of and compliance with this Consent Judgment is not an admission of guilt by Defendant.

MONETARY RELIEF

14. The Defendant agrees to issue a refund in the amount of \$128.00 in the form of a cashier's check, money order or other certified funds payable to The Office of the Kansas Attorney General, to be dispersed to the consumer, mailed to:

Sarah M. Dietz, Assistant Attorney General
Office of the Kansas Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, Kansas 66612

15. The Defendant agrees to pay the Office of the Kansas Attorney General \$7,000.00 in investigative costs for violations of the Kansas Consumer Protection Act pursuant to K.S.A. § 50-636 in a second and separate payment in the form of a cashier's check, money order or other certified funds payable to the Office of the Kansas Attorney General, mailed to:

Sarah M. Dietz, Assistant Attorney General
Office of the Kansas Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, Kansas 66612

OTHER PROVISIONS

16. 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.

17. 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.

18. Compliance with this Consent Judgment does not relieve Defendant of any obligation imposed by applicable federal, state, or local law, nor shall this Consent Judgment preclude the Plaintiff from taking appropriate legal action to enforce any other statutes under his jurisdiction or from any other Federal or State agency to enforce any other federal, state, or local law under its jurisdiction.

19. The parties understand that this Consent Judgment shall not be construed as an approval of or sanction by the attorney general of the Defendant's business practices, nor shall the Defendant represent the Consent Judgment as such approval. The parties further understand

and agree 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 this Consent Judgment shall not be construed to be an approval of or sanction of any representations, acts, or practices of the Defendant, nor shall any inaction by the Attorney General be considered a waiver by the attorney general of any rights under this Consent Judgment or applicable law.

20. This Consent Judgment represents the entire agreement between Plaintiff and the Defendant, and there are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Consent Judgment which are not fully expressed herein or attached hereto.

21. Defendant hereby represents and warrants that Defendant has had the opportunity to consult with and receive the advice of legal counsel regarding all matters relative to this Consent Judgment, including the rights and obligations of Defendant under this Consent Judgment and the consequences of breach hereunder. Defendant represents that Defendant has read the Consent Judgment and knows and understands the contents thereof. Defendant further represents and warrants that Defendant is signing this Consent Judgment as the result of his own free act, and that Defendant has not relied on any statement(s) or representation(s) of the Attorney General or anyone acting on his behalf, except for those contained in this Consent Judgment.

22. By signing this Consent Judgment, the representative of Defendant represents and warrants that such person is duly and legally authorized to execute this Consent Judgment on behalf of this Defendant, thus binding the Defendant to the provisions of this Consent Judgment.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the

stipulation and agreement of the parties contained herein are adopted and approved as findings of fact and conclusions of law of the Court and any monies owed hereunder by the Defendant immediately becomes a judgment upon filing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against the Defendant in favor of Plaintiff in the amount of \$7,128.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the Kansas Consumer Protection Act, 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.

District Court Judge

Prepared and respectfully submitted by:



Dereck Schmidt, Attorney General
Office of the Kansas Attorney General
120 S.W. 10th Avenue
Topeka, Kansas 66612-1597



Sarah M. Dietz, #27457
Assistant Attorney General
Office of the Kansas Attorney General
120 S.W. 10th Avenue, 2nd Floor
Topeka, Kansas 66612-1597
Tel: (785) 296-3751
Fax: (785) 291-3699
sarah.dietz@ag.ks.gov

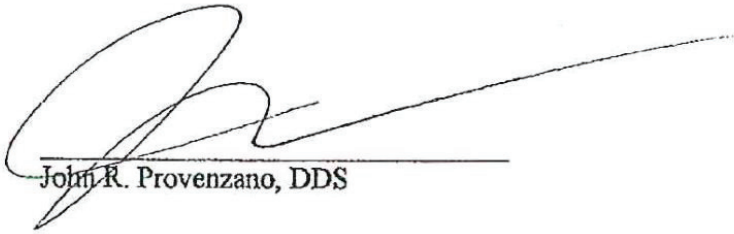
Approved by:

John R. Provenzano, DDS

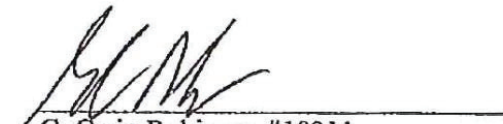
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G. Craig Robinson #10311
Attorney for Defendant

Approved by:



John R. Provenzano, DDS



G. Craig Robinson #10311
Attorney for Defendant