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IN THE CIRCUIT COURT OF CAMDEN COUNTY, MISSOURI

STATE OF MISSOURI ex rel.,)
CHRIS KOSTER, Attorney General)
of Missouri, the MISSOURI)
DEPARTMENT OF NATURAL)
RESOURCES,)

Plaintiff,)

v.)

Case No. 11CM-CC00039

KMS DEVELOPMENT, LLC, and)
DENNIS KARL,)

Defendants.)



NOTICE

PLEASE BE ADVISED that counsel for Plaintiff will call up Plaintiff's Motion for Default Judgment on the 28th day of August, 2012, at 9:00 am in the Circuit Court of Camden County, Missouri.

Respectfully submitted,

CHRIS KOSTER
Attorney General

Don Willoh, Assistant Attorney General
Missouri Bar No 44331
P.O. Box 899
Jefferson City, MO 65102
Phone: 573-751-8795
Fax: (573) 751-8796
Email: don.willoh@ago.mo.gov
ATTORNEYS FOR PLAINTIFF

029. wpc. Village of Summers Point. MO 01301081

IN THE CIRCUIT COURT OF CAMDEN COUNTY, MISSOURI

STATE OF MISSOURI ex rel.,)
CHRIS KOSTER, Attorney General)
of Missouri, the MISSOURI)
DEPARTMENT OF NATURAL)
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Plaintiff,)

v.)

KMS DEVELOPMENT, LLC, and)
DENNIS KARL,)

Defendants.)

Case No. 11CM-CC00039



MOTION FOR DEFAULT JUDGMENT

COMES NOW Plaintiff, by and through the Missouri Attorney General and, pursuant to Missouri Rule of Civil Procedure 74.05, requests this Court to enter a judgment of default against Defendants in the above-styled case, and states the following in support thereof:

1. Plaintiff's *Petition for Injunctive Relief and Civil Penalties* in the above-styled action was filed with this Court in 2011.
2. Defendant KMS Development, LLC refused service of the petition and summons issued in this matter on or about July 21, 2011. A true and correct copy of the Secretary of State's affidavit regarding service is attached hereto as Exhibit A.
3. Rule 54.20(f) provides that a defendant's refusal of service constitutes proof of service.

4. Missouri Rule of Civil Procedure Rule 55.25 provides in relevant part that “defendant shall file an answer within thirty days after the service of the summons and petition.”

5. Defendant KMS Development, LLC has filed no responsive pleading or motion and is in default.

6. In light of Defendant’s failure to file an answer with this Court, Defendant is subject to entry of a default judgment pursuant to Missouri Rule of Civil Procedure 74.05.

WHEREFORE, Plaintiff requests this Court enter Judgment in favor of Plaintiff State of Missouri and against Defendant KMS Development, LLC and to grant the following relief:

A. Find that Defendant violated the Missouri Clean Water Law and its implementing regulations as alleged in Plaintiff’s *Petition*;

B. Enjoin Defendant to immediately comply with the Missouri Clean Water Law;

C. Assess a civil penalty as authorized in § 644.076.1, RSMo up to \$10,000.00 per day for each day of each violation;

D. Assess against Defendant all costs of these proceedings;

E. Award Plaintiff its costs expended in this case and for such other relief the Court deems just and proper under the circumstances.



Respectfully submitted,

CHRIS KOSTER
Attorney General



Don Willoh
Assistant Attorney General
Missouri Bar No 44331
P.O. Box 899
Jefferson City, MO 65102
Phone: 573-751-8795
Fax: (573) 751-8796
Email: don.willoh@ago.mo.gov
ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice and Motion were mailed via First Class mail, on this 20th day of August 2012, to:

Dennis J. Karl
Registered Agent
310 Water Street
Fenton, Missouri 63026



Don Willoh
Assistant Attorney General





State of Missouri

AUG 22 2011

Office of Secretary of State

MISSOURI ATTORNEY GENERAL

No. 7009 3410 0001 9098 0773

To KMS DEVELOPMENT LLC / DENNIS J. KARL, RA

Name of defendant

310 WATER ST., FENTON, MO 63026

Last known residence or place of abode

You will take notice that original process in suit against you, a copy of which is hereto attached was duly served upon you at Jefferson City, Cole County, Missouri, by serving same on the Secretary of State, State of Missouri, or a Deputy.

Dated at Jefferson City, Missouri, this 20TH day of JULY, 2011.

STATE OF MISSOURI, DEPARTMENT OF NATURAL RESOURCES

Plaintiff

Robin Carnahan

Secretary of State

DONALD ANTHONY WILLOH, JR.

Attorney for Plaintiff

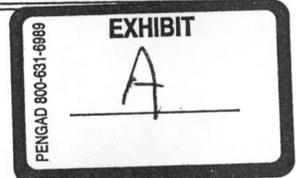
P.O. BOX 899, JEFFERSON CITY, MO 65102

Address of Attorney for Plaintiff

Mailed by restricted United States mail "Deliver to Addressee Only."

Process was served on Secretary of State or Deputy on JULY 19TH 2011 at 9:00 A.M.
(Date) (Hour)

AFFIDAVIT



State of Missouri, } ss.
County of Cole }

The undersigned, Robin Carnahan, Secretary of State of Missouri, hereby makes oath and certifies that the original of above notice to defendant was mailed at the United States Post Office in Jefferson City, Missouri,

on JULY 20TH 2011, by restricted registered or certified mail which carried on the face thereof in a conspicuous place where it will not be obliterated the endorsement, "Deliver to Addressee Only," and which also required a return receipt therefor, or a statement by the Postal authorities as to the disposition thereof.

- Attached hereto is the return receipt for said mail.
- Attached hereto is said registered or certified mail marked "Refused" by the Postal authorities as the reason delivery was not completed.

Robin Carnahan

Secretary of State

Carol Fischer

by Carol Fischer, Deputy Secretary of State for Business Services

Subscribed and sworn to before me at my office in Jefferson City, Cole County, Missouri, this 16th day of August, 2011.

CAROLYN COOK
My Commission Expires
January 4, 2014
Cole County
Commission #10519221

Carolyn Cook Notary Public



COPY — B

STATE OF MISSOURI
JEFFERSON CITY, MO 65101

7009 3410 0001 9098 0773



UNITED STATES
PRIMEY HOWES
02 1M
0004219489 JUL 20 2011
MAILED FROM ZIP CODE 65101
\$ 11.130

RECEIVED
RETURN RECEIPT REQUESTED
RESIGNED DELIVERY

*Off. Fisher
Carter
7/21/11
1144N*

DENNIS J. KARL, RA
KMS DEVELOPMENT LLC
310 WATER ST.
FENTON, MO 63026

RECEIVED
AUG 2012
DEQ/SWRO
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

RECEIVED

AUG 22 2011

MISSOURI
ATTORNEY GENERAL

RECEIVED

AUG 1 2011

CORPORATE SECRETARY

1st NOTICE 7-22
2nd NOTICE 8-28

PLACE STICKER AT TOP END OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

DENNIS J. KARL, RA
KMS DEVELOPMENT LLC
310 WATER ST.
FENTON, MO 63026

COMPLETE THIS SECTION ON DELIVERY

- A. Signature X Agent Addressee
- B. Received by (Printed Name) C. State of Delivery
- D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below: No

3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number

(Transfer from service label)

PS Form 3811, February 2004

7009 3410 0001 9098 0773
Domestic Return Receipt

102595-02-M-1540