

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 7

KENOSHA COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No.: 11-CX-1

Complex Forfeiture: 30109

EDWARD M. ZAPENCKI,
d/b/a Fun Treasure Maps,
1813 Roe Street
Racine, WI 53103,

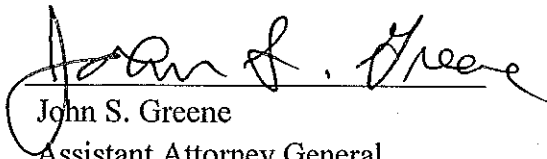
Defendant.

STIPULATION TO ENTRY OF CONSENT JUDGMENT

Plaintiff State of Wisconsin and Defendant Edward M. Zapencki, by their respective counsel, hereby stipulate to the entry of the attached Consent Judgment without further pleading, notice or appearance.

J.B. VAN HOLLEN
Attorney General

BY:


John S. Greene

Assistant Attorney General
State Bar No. 1002897

DATED: 1-30-12

Attorneys for Plaintiff State of
Wisconsin



DATED: 1/21/12

BY: Edward M. Zapencki
Edward M. Zapencki

Approved as to form:

SPANSAIL LAW OFFICES

DATED: 1/24/2012

BY: Jon G. Spansail
Jon G. Spansail
State Bar No. 1021166

Attorneys for Defendant Edward M.
Zapencki

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Defendant.

CONSENT JUDGMENT

Based on the pleadings filed in this matter, and on the attached Stipulation for Entry of Consent Judgment, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

1. The Stipulation for Entry of Consent Judgment is approved.
2. This court has jurisdiction over the parties.
3. Defendant Edward M. Zapencki is an adult residing at 1813 Roe Street, Racine, Wisconsin 53103.
4. Zapencki was the subject of an investigation by the Wisconsin Department of Agriculture, Trade and Consumer Protection ("DATCP") which investigation was referred to the Wisconsin Department of Justice ("DOJ"). DOJ brought this action, alleging that Zapencki, doing business as Fun Treasure Maps, violated Special Order 06-C-41, issued by the Wisconsin

Department of Agriculture, Trade and Consumer Protection in April 2007, and also violated Wis. Stat. § 100.18(1) in connection with his sales of advertising maps to businesses.

INJUNCTION

5. The terms of this injunction apply to Zapencki and to all employees or agents working under his supervision or on his behalf.

6. Zapencki is hereby permanently enjoined and restrained from failing to comply with DATCP Special Order 06-C-41 and Wis. Stat. § 100.18.

7. Zapencki is further permanently enjoined and restrained from engaging in any sales activities, either directly or through any third-parties such as employees, agents or contractors, which result in the acceptance of advance payments from Wisconsin consumers for goods or services to be delivered in the future.

8. The preceding paragraph shall not preclude Zapencki from being employed as a sales representative for a business that accepts advance payments for goods or services to be delivered in the future only if all of the following apply:

- a) Zapencki has no ownership interest in the business;
- b) Zapencki exercises no supervisory or managerial authority in the business;
- c) Zapencki does not exercise custody or control over the advance payments;
and
- d) Zapencki does not exercise any control over the timing of the delivery of the goods or services.

9. If Zapencki intends to resume engaging in any sales activities in Wisconsin, he shall notify the Wisconsin Department of Agriculture, Trade and Consumer Protection prior to commencing such activities.

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10. Zapencki shall cooperate with the state in connection with requests for information about his business activities, and shall comply with provide all requests for information by the state within 15 days of the request.

11. Within 30 days of entry of judgment, Zapencki shall provide the state with the following:

- a) A complete list of all Wisconsin communities in which Zapencki sold advertising on Fun Treasure Maps since April 2007;
- b) A complete list of all maps that have been produced and distributed since April 2007, and the date of such distributions, and copies of such maps; and
- c) A complete list of all businesses that placed orders for advertising on maps since April 2007, including business name, address, contact person, amount paid, date of transaction, and amount of any refunds that have been made.

MONETARY RELIEF

12. JUDGMENT is hereby entered against defendant Edward M. Zapencki in the amount of \$250,000.00, which is comprised of the following:

- a) \$200,000 for consumer restitution, pursuant to Wis. Stat. §§ 100.20(6) and 100.18(11)(d);
- b) \$5,000 to reimburse the state for its attorney's fees and costs, pursuant to Wis. Stat. § 100.263;
- c) \$29,496.38 in civil forfeitures, pursuant to Wis. Stat. §§ 100.26(4) & (6);
- d) A consumer protection surcharge of \$7,374.10, pursuant to Wis. Stat. § 100.261 (25 percent of forfeiture);
- e) A penalty surcharge of \$7,669.06 pursuant to Wis. Stat. § 757.05 (26 percent of forfeiture);
- f) A jail surcharge of \$294.96, pursuant to Wis. Stat. § 302.46 (1 percent of forfeiture);

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- g) A crime laboratories and drug enforcement surcharge of \$26.00, pursuant to Wis. Stat. § 165.755;
- h) A court fee of \$50.00, pursuant to Wis. Stat. § 814.63;
- i) A court support services surcharge of \$68.00, pursuant to Wis. Stat. § 814.85; and
- j) A justice information system surcharge of \$21.50, pursuant to Wis. Stat. § 814.86.

13. In the event Zapencki distributes all outstanding advertising maps (i.e. those for which advance payments have been made) to Wisconsin customers by July 1, 2012, the monetary portion of this Judgment shall be reduced by \$50,000.00, with Zapencki entitled to a satisfaction of judgment upon payment of the total sum of \$200,000.00, plus any applicable interest.

14. If Zapencki demonstrates to the state that he has made good faith efforts to distribute the outstanding maps but has been unable to meet the July 1, 2012, deadline, the state may agree to a one-time extension of the deadline for up to six months—i.e. up to January 1, 2013.

15. If Zapencki believes that the state has unreasonably refused to grant a requested extension under the preceding paragraph, it may request the court to review the matter and determine whether Zapencki is entitled to an extension up to, at the latest, January 1, 2013. It will be Zapencki's burden to establish that despite his good-faith efforts to distribute the maps by July 1, 2012, he was unable to do so.

EFFECT OF JUDGMENT AND CONTINUING JURISDICTION

16. Nothing contained in this Consent Judgment shall be construed to deprive any customer, consumer or other person or entity of any private right under the law.

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17. Nothing in this Consent Judgment shall be construed to limit the authority of the State of Wisconsin, the Wisconsin Department of Justice, the Wisconsin Department of Agriculture, Trade and Consumer Protection or any other agency or department of the State of Wisconsin to enforce any and all laws, regulations or rules against Zapiencki, except that this Consent Judgment shall serve as full and final adjudication of the claims asserted by the state in its complaint in this action.

18. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this proceeding to apply to this Court for any other such further orders and directions as may be necessary and appropriate for the enforcement of, or compliance with, this Consent Judgment.

THIS IS A FINAL ORDER/JUDGMENT FOR PURPOSES OF APPEAL UNDER WIS. STAT.
§ 808.03(1).

Dated at Kenosha, Wisconsin, this _____ day of _____, 2012.

BY THE COURT:

Kenosha County Circuit Court Judge