

**BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS**

In the Matter of SPORTWORX, INC.)

Docket No. 2816-SO

ORDER TO RESCIND

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 1998 Supp. § 40-2,125, and in accordance with the Kansas Administrative Procedure Act (as amended), K.S.A. §§ 77-501, *et seq.*,

I, Kathleen Sebelius, the duly elected, qualified and acting Commissioner of Insurance of the State of Kansas, hereby assert the following findings of fact, conclusion of laws, and order, to wit:

Findings of Fact

1. SportWorx, Inc. (“SportWorx”) is a corporation organized and existing under the laws of the State of Georgia since 1997 and is engaged in the business of prize insurance and event promotion conducted from its principal place of business at 6438 Cannon Drive, Flowery Branch, Georgia, 30566 and through its Internet website at www.sportworx.com.

2. John Hoffer Chrysler-Plymouth (“Hoffer”) is a corporation organized and existing under the laws of the State of Kansas and is engaged in the business of selling new and used automobiles and motor vehicles and conducts its business in the State of Kansas with its principal place of business in Topeka, Shawnee County, Kansas.

3. As part of Hoffer’s sales promotions, it offered a driver’s license match contest whereby a contestant, at least 18 years of age or older, and in possession of a valid U.S. driver’s license who matched the last six digits of the contestant’s driver’s license number in exact order with the six digit number of a Plymouth “Prowler” vehicle identification number, was considered to be the winner of the contest.

4. On or about March 9, 1999, SportWorx transacted business within this state and contracted to insure a risk in this state when it entered into a contract of insurance with Hoffer whereby SportWorx agreed to reimburse Hoffer for the value of the prize awarded in conjunction with Hoffer's promotional contest in the amount of Forty Eight Thousand and 00/100 Dollars (\$48,000.00).

5. As consideration for such agreement, Hoffer paid SportWorx the sum of One Thousand Two Hundred and 00/100 Dollars (\$1,200.00).

6. When one Richard Hofaker proceeded to Hoffer's place of business, produced his Kansas driver's license and the last six digits of his driver's license matched the last six digits of the Prowler vehicle identification number, Hoffer made demand upon SportWorx for reimbursement of the \$48,000.00 but SportWorx has failed, refused, and neglected to pay the same.

7. The records of the Georgia Department of Insurance reveal that SportWorx is not licensed or authorized to transact any type of business of insurance in the state of Georgia.

8. The records of the Georgia Department of Insurance also reveal that Trent Gaites, the chief financial officer and registered agent of SportWorx was previously licensed to transact the business of insurance in the State of Georgia but has not been licensed since 1997.

9. The records of the Kansas Insurance Department reveal that SportWorx is not, nor ever has been, licensed or authorized to transact any type of business of insurance in the state of Kansas.

10. On November 30, 1999, the Commissioner of Insurance issued a Summary Order against SportWorx, notifying the company that it had violated Kansas statutes by transacting the business of insurance in Kansas without being licensed or authorized to do so.

11. At the request of SportWorx a hearing on this matter was scheduled for June 27, 2000 at 9:00 a.m. at the offices of the Kansas Insurance Department.

12. On June 26, 2000, the Kansas Insurance Department elected to cancel the June 27, 2000 hearing in order to provide SportWorx with a detailed Notice of Hearing that clearly states the remedies available to the Department under Kansas law.

Based upon the Findings of Fact contained in paragraphs #1 through #12 above, it appears justification exists for rescinding the Summary Order referred to herein.

IT IS THEREFORE ORDERED, BY THE COMMISSIONER OF INSURANCE, that the Summary Order, issued November 30, 2000, and referred to herein, is hereby rescinded.

IT IS SO ORDERED THIS 28th DAY OF JUNE, 2000 IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Kathleen Sebelius
Commissioner of Insurance

BY:

Linda J. Sheppard
Staff Attorney


Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing Notice of Hearing was mailed on this 28th day of June, 2000 via U.S. mail, first class postage prepaid, to:

Trent Gaites
Chief Financial Officer and Registered Agent
SportWorx, Inc.
6438 Cannon Drive
Flowery Branch, GA 30542

R. Thad McCormack
Attorney at Law
311 Green Street, Suite 101
Gainesville, GA 30501

Carol Foreman
Presiding Officer
Department of Administration
610 West 10th Street, 2nd Floor
Topeka, KS 66612


Linda J. Sheppard, Staff Attorney