



Court FINDS from the evidence set forth in Plaintiff's Original Petition, the affidavits, and attached exhibits that unless Defendants are immediately restrained from the acts prohibited below, Defendants will continue to commit such acts before notice can be given and a hearing can be held on Plaintiff's request for temporary injunction. The State will suffer the following immediate and irreparable injury, loss, or damage: interference with the public health, safety, peace, comfort and convenience of its citizen caused by the Defendants sale of dangerous synthetic drugs from a retail establishment. This injury is irreparable because the sale of dangerous synthetic is harmful to the public and is unlawful. Issuance of a temporary restraining order is in the public interest. The Court FINDS that there is good cause to believe irreparable loss or injury would occur unless Defendants are immediately enjoined. DTPA § 17.47(a). The Court FINDS this Temporary Restraining Order may be issued without bond posted by the State. DTPA § 17.47(b).

With respect to the Plaintiff's claims to abate a common nuisance under Chapter 125 of the Texas Civil Practice & Remedies Code, the Court FINDS plaintiff is likely to succeed on the merits under § 125.002 and that a temporary restraining order is necessary to prevent the Defendants from maintaining a common nuisance. The Court further FINDS that the State is not required to verify the allegations in support of its petition to abate the nuisance. Tex. Civ. Prac. & Rem. Code § 125.002(a); Tex. Civ. Prac. & Rem. Code § 6.002.

## I. DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. "Defendants" shall mean AARSHIYA MEMON, ABDUL SHAKIR MEMON A/K/A SHAKIR MEMON, AND KASSI BUSINESS, INC. d/b/a TOBACCO JUNCTION #1 and TOBACCO JUNCTION #2, THE REAL PROPERTY KNOWN AS 9858 LEOPARD ST.,

CORPUS CHRISTI, TEXAS, and THE REAL PROPERTY KNOWN AS 4346 AYERS,  
CORPUS CHRISTI, TEXAS.

2. "Controlled substance" means a substance, including a drug, an adulterant, and a diluent, listed in Schedules I through V or Penalty Groups I, I -A, 2, 2A, 3, or 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance, as defined in Tex. Health & Safety Code § 481.002(5).

3. "Controlled substance analogue" means (A) a substance with a chemical structure substantially similar to the chemical structure of a controlled substance in Schedule I or II or Penalty Group 1, I -A, 2, or 2A; or (b) a substance specifically designed to produce an effect substantially similar to, or greater than, the effect of a controlled substance in Schedule I or II or Penalty Group I, 1 -A, 2 or 2-A, as defined in Tex. Health & Safety Code § 481.002(6).

4. "Illicit Synthetic Drug" means:
- (i) Any vegetative material, or herbal or plant material, however constituted, designed, intended, marketed, manufactured, or engineered, that contains any quantity of a synthetic chemical or synthetic chemical compound that has no legitimate relation to the advertised use of the product;
  - (ii) Any vegetative material, or herbal or plant material, with packaging or labeling that indicates, suggests, or implies that the substance is a substitute for or otherwise mimics the pharmacological effects of marijuana, a controlled substance or a controlled substance analogue as defined by § 481 .002 of the Texas Health and Safety Code; and
  - (iii) Any vegetative material, or herbal or plant material offered for sale or sold

with verbal or written representations regarding the purpose, methods, use, or effect of the substance that indicates, suggests, or implies that the substance mimics the pharmacological effects of marijuana, a controlled substance as defined by § 481 .002 of the Texas Health and Safety Code.

5. "Herbal Incense" means aromatic plant material, whether referred to as potpourri or otherwise, that is distributed in a loose, leafy, powder, or granular form or in a compressed block or blocks that can be crushed to resulting a powder or granular form, and can be placed into a pipe, cigarette paper, or other drug paraphernalia for purposes of ingestion by smoking, inhaling or other method, regardless of how the substance is labeled or marketed, including, but not limited to, whether or not such product is labeled as "not for human consumption ."

6. "Sell" and "sale" include offer for sale, advertise for sale, display for sale, keep for the purpose of sale, deliver, transfer, solicit and offer to buy, and every disposition for value.

7. "Ingestible Product" means a product that is intended to be inhaled, ingested, swallowed, or otherwise introduced into the human body.

8. "Subject Products" means products seized by law enforcement from Defendants' store locations, corporate office or residence, including the following named products: 6X KLIMAX or KLIMAX 6XX "Juicy Pink."

## II. PRESERVATION OF EVIDENCE

IT IS ORDER ED that the Defendants and their officers, agents, servants, employees, and any other person or entity in active concert or participation with them-whether acting directly or through any corporation, company, partnership, trust, entity, subsidiary, division, or other device-who receive actual notice of this Order by personal service or otherwise, arc hereby prohibited from the following:

a) Transferring, concealing, destroying, altering or removing from the jurisdiction of this Court any books, records, documents, invoices or other written materials including electronic documents--relating to the wholesale or retail purchase or sale of any Ingestible Products containing Controlled Substances or Controlled Substance Analogues or Illicit Synthetic Drugs as defined herein, that are currently or hereafter in the possession, custody or control of any Defendant, except in response to further orders or subpoenas in this cause.

b) Deleting, concealing, destroying, altering or removing from the jurisdiction of this Court any video recordings and surveillance depicting the interior and/or exterior of the store location at 4346 Ayers, Corpus Christi, Texas and 9858 Leopard, Corpus Christi, Texas. The Defendants shall not fail to provide Plaintiffs' counsel with the recordings within 24 hours of request to review and copy the recording.

### III. PROHIBITED BUSINESS CONDUCT

IT IS ORDERED that the Defendants and their officers, agents, servants, employees, and any other person or entity in active concert or participation with them--whether acting directly or through any corporation, company, partnership, trust, entity, subsidiary, division, or other device--who receive actual notice of this order by personal service or otherwise, are hereby enjoined from engaging in the following conduct until further order of this Court:

(a) Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written materials—including electronic documents, whether on computer or cellular phone, relating to the purchase and sale of synthetic cannabinoids that are currently or hereafter in any of the Defendants' possession, custody or control except in response to further orders or subpoenas in this cause;

- (b) Selling, offering for sale, or giving away any product that is a controlled substance, controlled substance analogue, illicit synthetic drug, or herbal incense on Defendants' premises, including but not limited to synthetic substances containing fluoro – AMB and fluoro – ADB;
- (c) Manufacturing, purchasing, delivering, offering for sale, holding, selling, or giving away any products containing controlled substances, controlled substance analogues, illicit synthetic drugs, herbal incense, or synthetic cannabinoids, including but not limited to synthetic substances containing fluoro – AMB and fluoro – ADB;
- (d) Manufacturing, purchasing, delivering, offering for sale, holding, selling, or giving away any product that is labeled “not for human consumption” or words to that effect when the purpose of the product is for consumers to inhale, ingest, or introduce the product into the human body to mimic the effects of controlled substances;
- (e) Manufacturing, purchasing, delivering, offering for sale, holding, selling, or giving away any product that is intended for human consumption and contains deceptive labeling that falsely implies the product is legal when it is not;
- (f) Representing, directly or indirectly, that goods have characteristics, ingredients, uses, or benefits, which they do not have by advertising, offering to sell, or selling any products labeled household products, such as potpourri, incense, or bath salts, when the products contain synthetic substances that mimic the effects of drugs and/or controlled substances;

- (g) Offering for sale or selling products that are false, misleading, or deceptive because of the lack a label with the name and address of the manufacturer, packer or distributor, the ingredients, the net quantity of contents in terms of weight or mass in both pound and metric units, and a statement of the identity of the commodity;
- (h) Offering for sale or selling products intended to serve as alternatives to controlled substances to stimulate, sedate, or cause hallucinations or euphoria when introduced into the body, such as through inhalation or ingestion;
- (i) Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods by advertising, offering to sell, or selling any products with synthetic substances that mimic the effects of controlled substances;
- (j) Failing to disclose information regarding possible side-effects, such as paranoia, hallucinations, pains like a heart attack or rapid heartbeat, seizures, panic, passing out, and suicidal thoughts, from using products with synthetic substances that mimic the effects of drugs and/or controlled substances, which information was known at the time of the transaction, if such failure to disclose was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed;
- (k) Failing to cooperate with authorized representatives of the State and the City Of Corpus Christi Police Department, including law enforcement representatives, in locating and impounding all synthetic marijuana products in Defendants' custody, care and control or located on Defendants' premises, and preserving all documents related to purchase and sale of synthetic marijuana products in Defendants' custody, care or control; and

- (1) Failing to preserve video surveillance, if any, of the Defendants' store premises and to maintain and operate video surveillance of the premises and provide copies of the video surveillance to Plaintiff's counsel upon request.

#### IV. EXPEDITED DISCOVERY

IT IS ORDERED that within three days of this Order, Defendants shall produce to Plaintiff's counsel, Joe Garcia, at 3508 N. Jackson Rd., Suite 1500, Pharr, TX 78577, the following documents: all invoices for Subject Products; all price lists for Subject Products; all documents reflecting communications regarding the Subject Products. Before the hearing on Plaintiff's application for temporary injunction, as scheduled below, Defendants shall appear for deposition upon two days' written notice from the Plaintiff of the date, place and time for the deposition.

#### V. CONCLUSION

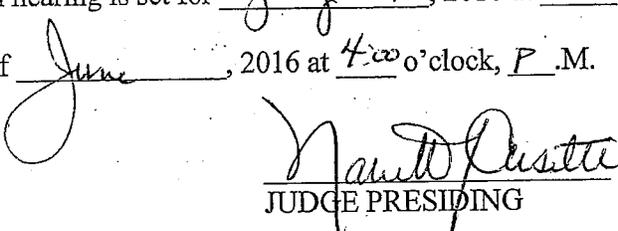
IT IS ORDERED that Defendants in this cause be and hereby are commanded forthwith to comply with this Order from the date of entry until and to the fourteenth (14th) day after entry or until further order of this Court.

The Clerk of the above-entitled Court shall forth with issue a Temporary Restraining Order in conformity with the law and the terms of this Order.

This Order shall be effective without the execution and filing of a bond because Plaintiff, the State of Texas, is exempt from such bond under Tex. Civ. Prac. & Rem. Code § 6.001 and DTPA § 17.47(b).

A temporary injunction hearing is set for July 14, 2016 at 9:00 o'clock A.M.

Signed this 30 day of June, 2016 at 4:00 o'clock, P.M.

  
JUDGE PRESIDING

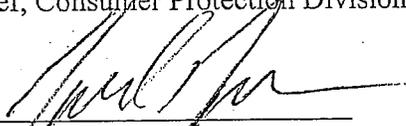
Respectfully submitted,

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