

Order should be issued to restrain and prevent the continuing acts and practices of Defendants that may be violating the DTPA. DTPA § 17.47(b). The 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 a 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 citizens caused by the Defendants' sale of dangerous synthetic drugs from a retail establishment. This injury is irreparable because the sale dangerous synthetic drugs 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 Plaintiffs' claims to abate a common nuisance under Chapter 125 of the Texas Civil Practice and Remedies Code, the Court **FINDS** Plaintiff is likely to succeed on the merits under Section 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 post a bond in support of injunctive relief, and 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 PN SUPER TEXAS, INC.; SUPER TEXAS STORE, INC.; THE REAL PROPERTY KNOWN AS 506 HOUSTON BLVD., SOUTH HOUSTON, TEXAS; ANSE INVESTMENT GROUP LLC; PHONG DUC NGUYEN; HUE CONG HUYNH; and GAM K. NGO.

2. "Controlled substance" means a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Groups 1, 1-A, or 2 through 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, 1-A, or 2; 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 1, 1-A, or 2, 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 section 481.002 of the Texas Health and Safety Code;

(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 section 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 result in 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, expose for sale, keep for the purpose of sale, deliver for or after sale, 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.

II. PRESERVATION OF EVIDENCE

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 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 506 Houston Boulevard, South Houston, Texas.

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 Temporary Restraining Order by personal service or otherwise, shall not fail to operate and maintain surveillance cameras monitoring the store location at 506 Houston Boulevard, South Houston, Texas. The cameras shall capture the interior and exterior of the business, including but not limited to the area where the cashier is located, and be capable of recording. The recordings shall be maintained and operated any time the business is open to the public and shall display the date and time of the recording. The Defendants shall not fail to provide Plaintiffs' counsel or law enforcement with the recordings within 24 hours of request to review and copy the recording along with any passcodes or passwords necessary to view the recordings.

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) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any i) Controlled Substance or Controlled Substance Analogue or Illicit Synthetic Drug or ii) Ingestible Product or Herbal Incense containing a Controlled Substance or Controlled Substance Analogue or Illicit Synthetic Drug;

(b) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any products labeled as potpourri, incense, bath salts, or herbal cigarettes, that contain a Controlled Substance, a Controlled Substance Analogue, or an Illicit Synthetic Drug as defined herein;

(c) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any Ingestible Products labeled as “not for human consumption” when the product is intended to be used by consumers to inhale, ingest, or introduce into the human body;

(d) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any Ingestible Products labeled as “legal” when Defendants know or have reason to suspect the products contain a Controlled Substance, a Controlled Substance Analogue, or Illicit Synthetic Drug, as defined herein;

(e) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any Ingestible Products labeled as “lab certified” unless Defendants know that the product is certified by an actual, bona-fide laboratory, the operations and practices of which are certified by a generally-recognized third-party accreditation organization;

(f) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any Ingestible Products that do not contain the name and location of the manufacturer or distributor on the package labeling;

(g) Failing to provide a copy of this Temporary Restraining Order to all employees and agents of Defendants and a signed receipt that the employees and agents have read and understand its terms.

IV.

It is ORDERED that Defendants produce the following to Plaintiffs’ counsel, Celena Vinson, 1019 Congress, 15th Floor Houston, Texas 77002 on or before 5 p.m., September 21, 2015:

- Produce a copy of all video, digital, electronic and magnetic surveillance recordings depicting the exterior and interior of the premises located at 506 Houston Blvd, South Houston, Texas (“506 Houston Boulevard store”) from August 1, 2014 through the present. The recordings should be produced on a standard DVD capable of being played or viewed on standard computer equipment without the need for a password.
- Produce all purchase orders, invoices, and documents reflecting payments of invoices for the synthetic marijuana products sold at the 506 Houston Boulevard store since August 1, 2014;
- All documents reflecting communications with the supplier of synthetic marijuana products sold at the 506 Houston Boulevard store;
- Produce all agreements, including lease agreements and amendments for the 506 Boulevard store;
- A copy of a list of current and former employees working at the 506 Boulevard store.

Defendants are ordered to produce for deposition upon three days' notice by Plaintiff the following witnesses at the date, time and location in the notice:

- 1) the corporate representatives of the Defendants;
- 2) the employees currently working at the 506 Houston Boulevard, South Houston, Texas store.

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 forthwith 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 in this cause is hereby set for the 28th day of September,
2015, at 1:30 o'clock P. M.

SEP 16 2015



JUDGE PRESIDING

ENTRY REQUESTED BY:

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**ATTORNEYS FOR PLAINTIFF,
STATE OF TEXAS**



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this September 16, 2015

Certified Document Number: 67065060 Total Pages: 10

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com