

AUTHORITY

3. This action is brought by Attorney General Greg Abbott, through his Consumer Protection Division, in the name of the STATE OF TEXAS and in the public interest pursuant to the authority granted by §17.47 of the Texas Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE ANN. §§17.41, *et seq.*, (West 2011)(“DTPA”) upon the ground that Defendant has engaged in false, deceptive and misleading acts and practices in the course of trade and commerce as defined in, and declared unlawful by, §§17.46(a) and (b) of the DTPA. In enforcement suits filed pursuant to Section 17.47 of the DTPA, the Attorney General is further authorized to seek civil penalties, redress for consumers and injunctive relief. This enforcement action is further brought by Attorney General Greg Abbott, through his Consumer Protection Division, in the name of the State and in the public interest, for violations involving the legal representation of others and the accreditation of representatives by the United States Board of Immigration Appeals (hereinafter, “BIA”). This enforcement action is further brought pursuant to the State Bar Act, TEX. GOV’T CODE ANN. §§81.001, *et seq.* (West 2005) (hereinafter, “SBA”).

PARTY DEFENDANT

4. Defendant JORGE A. ZAMARRIPA is an individual residing in El Paso County, Texas, is the owner of UNIDAD IMMIGRANT ADVOCACY CENTER, a sole proprietorship, and may be served with process at 1529 E. Yandell, El Paso, Texas 79902, or wherever he may be found.

VENUE

5. Venue of this action lies in El Paso County on the basis of §17.47(b) of the DTPA because Defendant has his principal place of business and has done business in El Paso County.

PUBLIC INTEREST

6. Because Plaintiff STATE OF TEXAS has reason to believe that Defendant has engaged in, and will continue to engage in, the unlawful practices set forth below, Plaintiff STATE OF TEXAS has reason to believe Defendant has caused and will cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State and further, will cause damage to the STATE OF TEXAS and to persons from whom monies or properties are unlawfully acquired by Defendant. Therefore, the Consumer Protection Division of the office of the Attorney General of the State of Texas believes and is of the opinion that these proceedings are in the public interest.

TRADE AND COMMERCE

7. Defendant has, at all times described below, engaged in conduct which constitutes "trade" and "commerce" as those terms are defined by § 17.45(6) of the DTPA.

ACTS OF AGENTS

8. Whenever in this Petition it is alleged that Defendant did any act, it is meant that:
- a. Defendant performed or participated in the act, or
 - b. Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of Defendant.

NOTICE BEFORE SUIT

9. Pursuant to § 17.47(a) of the DTPA, contact has been made with Defendant JORGE ZAMARRIPA to inform Defendant in general of the unlawful conduct alleged herein.

NATURE OF DEFENDANT'S CONDUCT

10. Defendant operates a business in El Paso County, Texas that purports to provide authorized legal services, and specifically immigration advice and services, to persons who purchase his services, when he is not authorized to provide such services.

SPECIFIC FACTUAL ALLEGATIONS

11. Defendant is engaging in and has engaged in the business of providing immigration services. Defendant solicits and charges those persons who seek and/or purchase his services (hereafter "customers"). Defendant has solicited customers by representing that he has the skill or knowledge and the certification necessary to handle immigration matters.

12. Defendant's customers are persons who sought to obtain legal benefits, including but not limited to, change in immigration status or other immigration matters. The legal services rendered by Defendant include the following activities:

- a. interviewing and advising customers as to what immigration documents would need to be filed;
- b. selecting and preparing immigration forms or other immigration matters on behalf of customers requiring a careful determination of legal consequences;
- c. gathering the supporting documentation for customer's application;
- d. exercising discretion and/or analysis in selecting and preparing legal documents for immigration; and
- e. giving advice and rendering services requiring the use of legal skill or knowledge.

13. Defendant is not presently, nor ever has been, an attorney at law duly licensed by the State of Texas to engage in acts, practices and/or conduct which constitute the practice of law.

14. In certain circumstances, the U.S. immigration laws permit a “representative” to assist undocumented immigrants in their cases. However, Defendant is not qualified by the Bureau of Citizenship & Immigration Services under 8 C.F.R. §292.1 to represent consumers because he is not an attorney, law student or accredited person, he is receiving remuneration, he has no pre-existing relationship or connection with the person entitled to the representation, and he failed to obtain permission from the immigration officials to act as the representative of said consumers.

15. Defendant does not possess, and has not at all relevant times possessed, the certification, license, or other qualifications necessary to perform such services.

VIOLATION OF TITLE 8 CFR PART 292

16. Federal law provides that undocumented immigrants may be represented by either a licensed attorney, an appropriately supervised law student or a person accredited by the Board of Immigration Appeals (BIA), who may charge or accept a fee for representing them in immigration proceedings. §292.3, Title 8, Part 292, Code of Federal Regulations (hereinafter, “CFR”)¹. Engaging in such business without a license as an attorney or accreditation by the BIA is a violation of the DTPA.

¹ Accredited Representatives. An accredited representative is a person who is approved by the Board of Immigration Appeals to represent aliens before the Board, the Immigration Courts, and the Department of Homeland Security. He or she must be a person of good moral character who works for a specific nonprofit religious, charitable, social service, or similar organization which has been recognized by the Board to represent aliens. Accreditation is valid for a period of up to three years and can be renewed. *See* 8 C.F.R. §§ 1292.1(a)(4), 1292.2(d) Accredited representatives must file a Notice of Entry of Appearance as Attorney or Representative before the Immigration Court (Form EOIR-28) in order to represent an individual before the Immigration Court. *See* Chapter 2 3(c) (Appearances). Accredited representatives should be careful to use the most current version of the Form EOIR-28, which is available on the Executive Office for Immigration Review website at www.usdoj.gov/eoir. (a) *Qualifying Organizations*, - The Board of Immigration Appeals officially recognizes certain nonprofit religious, charitable, social service and or similar organization as legal service providers. *See* 8 C.F.R. §1292.2(a), Chapter 2 2(b) (Legal Service Providers) To be recognized by the Board, an organization must affirmatively apply for that recognition. Such an organization must establish to the satisfaction of the Board that its fees are only nominal, that it does not assess excessive membership dues for persons given assistance, and that it has at its disposal adequate knowledge, information and experience in Immigration law and procedure. The qualifications and procedures for organizations seeking Board recognition are set forth in the regulations at 8 C.F.R. §1292.2(a) and (b). Questions regarding recognition may be directed to the Executive Office for Immigration Review, Office of the General Counsel. *See* Appendix B (EOIR Directory) (b) *Qualifying representatives*. The Board of Immigration Appeals accredits persons of good moral character as representatives of qualifying organizations. *See* 8 C.F.R. § 1292.2(d)

17. Defendant, as alleged and detailed above, has violated and will continue to violate 8 C.F.R. §292.1 by falsely claiming that he has the authority to represent others before the DHS and its immigration officers.²

18. Defendant, as alleged and detailed above, is not and at all relevant time has not been, affiliated with any organization recognized by the BIA as providers of legal services. Thus, Defendant is in violation of Section 292.2(d) of Title 8, Part 292, of the CFR because he is not accredited by the BIA as a representative of any such organizations.

19. Defendant, as alleged and detailed above, has violated and will continue to violate section 292.4 of Title 8, Part 292, of the CFR by falsely claiming that he is authorized to appear as a representative of others.

STATE BAR ACT VIOLATION

20. The State Bar of Texas Act ("SBA") provides that a person may not engage in the practice of law in the State of Texas unless that person is a member of the State Bar of Texas as a licensed attorney. TEX. GOV'T CODE ANN. § 81.102 (West 2005). *See Unauthorized Practice Committee v. Cortez*, 692 S. W.2d 47 (Tex. 1985). Failure to comply with this requirement is a violation of the DTPA.

21. The "practice of law" means the preparation of a pleading or other document incident to an action or special proceeding or the management of the action or proceeding on behalf of a client before a judge or judicial officer in a court or administrative tribunal as well as a service rendered out of court, including the giving of advice or the rendering of any service requiring the

Representatives of the recognized organizations are not automatically accredited by the Board. Rather, the recognized organization must affirmatively apply for accreditation on each representative's behalf. *See* 8 C.F.R. §1292.2(d). No individual may apply on his or her own behalf. Accreditation is not transferrable from one representative to another, and no individual retains accreditation upon his or her separation from the recognized organization. Section 2.4 Accredited Representatives, *Immigration Court Practice Manual*. www.usdoj.gov/eoir.

² Section 292 of Title 8 provides identical regulations for who may appear before the Executive Office of Immigration Appeals.

use of legal skill or knowledge, such as preparing a will, contract, or other instrument, the legal effect of which under the facts and conclusions involved must be carefully determined. *See* TEX. GOV'T CODE ANN. § 81.101(a) (West 2005).

22. Defendant, as alleged above, was practicing law in the State of Texas while not being a member of the State Bar of Texas, in violation of §81.102 of the SBA.

VIOLATIONS OF THE TEXAS DECEPTIVE TRADE PRACTICES ACT

23. Defendant, as alleged above and detailed below, has in the course of trade and commerce engaged in false, misleading and deceptive acts and practices declared unlawful in §§17.46(a) and (b) of the DTPA. Such acts include:

A. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services by stating or implying falsely that Defendant is:

1. an attorney licensed to practice law in this State or that Defendant has an attorney on staff to assist him with immigration related matters in violation of DTPA § 7.46(b)(2); and
2. able to otherwise comply with the requisites of 8 C.F.R. § 292 by functioning as a properly supervised law student, or by accreditation by the U.S. Board of Immigration Appeals in violation of DTPA §17.46(b)(2);Com:§ 81.101(a).

B. Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another, by Defendant:

1. advertising, offering for sale, selling, or providing an immigration service in violation of DTPA §17.46(b)(3);
2. accepting money or valuable consideration for performing an immigration service in violation of DTPA § 17.46(b)(3);

3. accepting money or valuable consideration from any person seeking assistance to obtain a benefit under U.S. immigration laws for himself or any other person in violation of DTPA §17.46(b)(3);
 4. advising any person whether or not to file a petition, application, or other form to obtain a benefit under U.S. immigration laws for himself or any other person in violation of DTPA § 17.46(b)(3); and
 5. preparing for any person a petition, application or other form to obtain a benefit under U.S. immigration laws for himself or any other person in violation of DTPA § 17.46(b)(3).
- C. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have by:
1. representing, directly or by implication, that Defendant can obtain legal status, a work permit, or other benefit under U.S. immigration laws for a person who purchases his services in violation of DTPA § 17.46(b)(5); and
 2. representing to any person, expressly or by implication, that Defendant can or will represent the interest of another in a judicial or administrative proceeding, including a proceeding relating to immigration to the United States, U.S. citizenship, or any other Immigration related matter (including alien temporary or permanent employment or travel) in violation of DTPA §17.46(b)(5).
- D. Representing that goods or services are of a particular standard, quality or grade, if they are of another, by Defendant:
1. holding himself out, by advertising or by any means, to the public as an "immigration specialist," "immigration counselor," "immigration services

provider" or "immigration consultant" or by any title or designation incorporating the word "immigration" or an abbreviation thereof in violation of DTPA § 17.46(b)(7); and

2. representing, directly or by implication, that Defendant has the skill, expertise, or competence to handle immigration matters in violation of DTPA § 17.46(b)(7).

E. Failing to disclose information concerning goods or services which was known at the time of the transaction, to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed, by Defendant:

1. providing or giving persons advice and counsel regarding their rights under the immigration laws of the United States or any other sort of legal matter while falsely purporting to be qualified to do so in violation of DTPA § 17.46(b)(24);

2. soliciting, collecting, or accepting fees or compensation of any type, for providing any type of immigration or legal services to consumers while falsely purporting to be qualified to do so in violation of DTPA § 17.46(b)(24); and

3. representing, expressly or by implication, that Defendant is able to provide or obtain undetectable counterfeit documents for persons wishing to immigrate to the U.S. which will aid such person to gain employment, residency, citizenship, or other benefit in violation of DTPA § 17.46(b)(24).

24. Based on the conduct alleged above, Defendant has additionally directly engaged in false, misleading, and deceptive acts and practices declared unlawful by DTPA § 17.46(a), by engaging in the practice of law in the State of Texas while not a member of the State Bar of Texas as a licensed attorney in violation of TEX. GOV'T CODE ANN. § 81.102 (West 2005).

CONDITIONS PRECEDENT

25. All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

REQUEST FOR DISCLOSURE

26. Pursuant to Rule 194, TEX. R. CIV. P., Defendant is requested to disclose the information or material described in Rule 194.2. Defendant's written responses to the requests for disclosure, along with all copies of documents and other tangible items responsive to these requests, shall be produced at the Office of the Attorney General, Consumer Protection Division, 401 E. Franklin, Suite 530, El Paso, Texas 79901, except as provided by Rule 194.3, within 50 days of service of Plaintiffs' Original Petition.

INJUNCTIVE RELIEF NECESSARY

27. The State's petition for an injunction is authorized by Section 17.47(c) of the DTPA. TEX. BUS. & COM. CODE ANN. § 17.62(b) (West 2011).

28. Pursuant to said statutory authority, the State requests that the Court grant a temporary injunction and permanent injunction, enjoining Defendant, his successors, assigns, officers, agents, servants, employees, and representatives from violating Texas.

ATTORNEY FEES AND COSTS OF COURT

29. This action is brought pursuant to the Deceptive Trade Practices – Consumer Protection Act, TEX. BUS. & COM. CODE ANN. §§ 17.41, *et seq.* (West 2011), under which injunctive relief, penalties, attorney fees and costs of court are recoverable by the Attorney General. Defendant should pay the State attorneys' fees and costs of Court for the prosecution of this injunctive enforcement action, as provided by TEX. GOV'T CODE ANN. § 402.006(c) (West 2005).

PRAYER

30. **WHEREFORE**, Plaintiff prays that Defendant be cited according to law to appear and answer herein; that after due notice and hearing a **TEMPORARY INJUNCTION** be issued; and upon final hearing a **PERMANENT INJUNCTION** be issued, restraining and enjoining Defendant, his officers, agents, servants, employees and attorneys, and any other person in active concert or participation with Defendant who receives actual notice of the injunction by personal service or otherwise from engaging, directly or indirectly, in the following acts or practices:

a. Operating a business or conducting business that provides immigration or immigration matters;

b. Advertising, offering for sale, selling, or providing immigration service(s) or other immigration matters;

c. Accepting money or valuable consideration for preparing immigration forms or other immigration matters;

d. Accepting money or valuable consideration from any person seeking assistance to obtain a benefit under laws of the United States, State of Texas, or any jurisdiction for himself/herself or any other person;

e. Advising or counseling any person whether or not to file a petition, pleading, application, or other form to obtain a benefit under laws of the United States, State of Texas, or any jurisdiction for himself/herself or any other person;

f. Selecting, preparing, or completing for any other person a pleading, document, or other form incident to legal actions or proceedings;

g. Representing, directly or by implication, that Defendant has the skill, expertise, or competence to handle legal matters, including but not limited to immigration matters;

h. Representing, directly or by implication, that Defendant can obtain legal status under the laws of the United States, State of Texas, or any other jurisdiction, for a person who purchases his services;

i. Practicing law in the State of Texas while not being a member of the State Bar of Texas;

j. Advising or counseling any person as to matters of law or legal rights under the laws of the United States, State of Texas, or any jurisdiction, rules, and/or regulations including but not limited to matters relating to legal actions or immigration proceedings.

k. Accepting or soliciting money or valuable consideration for advising or counseling any person as to matters of law, immigration proceedings or legal rights under the laws of the United States, State of Texas, or any jurisdiction; and

l. Representing, directly or by implication, that this Court or the Office of the Attorney General has approved any good or service sold or offered for sale by Defendant, or approved of any of Defendant's business practices.

31. Plaintiff, STATE OF TEXAS, further prays that this Court order Defendant to post notice at any other place where Defendant may conduct business, which notice shall be on the front-side of the front door, in red bold-faced type of a minimum size of 40 points, in both English and Spanish, and shall state:

NOTICE

BY ORDER OF THE _____ JUDICIAL DISTRICT COURT OF EL PASO COUNTY, TEXAS, JORGE A. ZAMARRIPA IS PROHIBITED FROM PREPARING ANY LEGAL DOCUMENT, FILLING OUT IMMIGRATION DOCUMENTS, OR CONDUCTING BUSINESS AS AN IMMIGRATION OR LEGAL DOCUMENT SERVICE PROVIDER.

IF YOU HAVE ANY QUESTIONS, OR FEEL YOU WERE A VICTIM, PLEASE CALL (915) 834-5800.

THIS NOTICE IS PLACED HERE BY ORDER OF THE COURT.

AVISO

LA CORTE DEL _____ DISTRITO DEL CONDADO DE EL PASO, ESTADO DE TEXAS, PROHIBE A JORGE A. ZAMARRIPA PREPARAR DOCUMENTOS LEGALES, LLENAR FORMULARIOS JURÍDICOS DE INMIGRACIÓN, O PROVEER SERVICIOS DE INMIGRACIÓN.

SI USTED TIENE UNA PREGUNTA O PIENSA QUE FUE VICTIMA, FAVOR DE MARCAR AL (915) 834-5800.

SE HA PUBLICADO ESTE AVISO POR ORDEN DE LA CORTE.

32. Plaintiff further prays that this court award judgment in favor of the Plaintiff and against the Defendant as follows:

- a. Order Defendant to pay civil penalties to the STATE OF TEXAS in the amount of not less than \$2,000 per violation and not more than \$20,000 per each violation of the DTPA;

b. Order Defendant to pay civil penalties to the STATE OF TEXAS in the amount of not more than \$250,000 for violations of the DTPA if the consumer was 65 years of age or older;

c. Order Defendant to pay the STATE of TEXAS its attorneys' fees and costs of court pursuant to TEX. GOV'T. CODE §402.006(c);

d. Order Defendant to restore all money or other property acquired by means of unlawful acts or practices, or in the alternative, to compensate identifiable persons for actual damages; and

e. Order Defendant to pay pre-judgment and post judgment interest on all damages or civil penalties, at the highest allowable rate, as provided by law.

33. In addition, Plaintiff State, respectfully prays that this Court:

a. Appoint a receiver or sequester Defendant's assets if Defendant has been ordered by this Court to make restitution and Defendant has failed to do so within three (3) months after the order to make restitution has become final and non-appealable; and

b. Adjudge that all fines, penalties or forfeitures payable to and for the benefit of the State, are not dischargeable under bankruptcy pursuant to 11 U.S.C. section 523(a)(7).

34. The State further prays that this court grant all other relief to which the Plaintiff STATE OF TEXAS may show itself entitled.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

DANIEL T. HODGE
First Assistant Attorney General

JOHN SCOTT
Deputy Attorney General for Civil Litigation

TOMMY PRUD'HOMME
Chief, Consumer Protection Division



JAMES A. DAROSS
State Bar No. 05391500
Assistant Attorney General
james.daross@texasattorneygeneral.gov

RICHARD L. BISCHOFF
State Bar No. 02343200
Assistant Attorney General
richard.bischoff@texasattorneygeneral.gov

Consumer Protection Division
401 E. Franklin Avenue, Suite 530
El Paso, Texas 79901
(915) 834 5800
FAX (915) 542 1546
ATTORNEYS FOR THE STATE OF TEXAS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was faxed, hand-delivered, or mailed by regular mail or certified mail, return receipt requested, to Tony R. Conde, Jr. via fax no. (915) 595-2435, on this the ~~20~~ day of May, 2014:

21st



RICHARD L. BISCHOFF