

NO. \_\_\_\_\_

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff	§	
	§	
vs.	§	
	§	
RONALD GENE MORGAN d/b/a	§	COLLIN COUNTY, T E X A S
STATE AND COUNTY TAX	§	
REDUCTION d/b/a STATE AND COUNTY	§	
TAX REDEMPTION CENTER	§	
	§	
Defendant.	§	_____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION AND APPLICATION FOR EX PARTE  
TEMPORARY RESTRAINING ORDER**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, THE STATE OF TEXAS, Plaintiff, acting by and through Attorney General GREG ABBOTT, filing Plaintiff’s Original Petition and Application for Temporary Restraining Order complaining of and against RONALD GENE MORGAN d/b/a STATE AND COUNTY TAX REDUCTION d/b/a STATE AND COUNTY TAX REDEMPTION CENTER (“Defendant Morgan”).

**I. DISCOVERY CONTROL PLAN**

1. Discovery is intended to be conducted under Level 2 of Texas Rule of Civil Procedure 190.

**II. JURISDICTION**

2. This suit is brought by the ATTORNEY GENERAL through the Consumer Protection Division in the name of the STATE OF TEXAS and in the public interest under the authority granted to

him by § 17.47 of the Deceptive Trade Practices-Consumer Protection Act (“DTPA”), TEX. BUS. & COM. CODE ANN. 17.41 *et seq.*

### **III. DEFENDANT**

3. Defendant RONALD GENE MORGAN d/b/a STATE AND COUNTY TAX REDUCTION d/b/a STATE AND COUNTY TAX REDEMPTION CENTER is an individual residing at 5180 County Road 340, McKinney, Texas 75071 and may be served with process at that same address.

### **IV. VENUE**

4. Venue of this action lies in Collin County pursuant to § 17.47(b) of the DTPA because the transactions and events giving rise to this action occurred in Collin County and/or because Defendant does business in Collin County.

### **V. PUBLIC INTEREST**

5. By reason of the institution and operation of the unlawful practices set forth herein, Defendant has caused and will continue to cause immediate and irreparable injury, loss and damage to the STATE OF TEXAS and its citizens, and will also cause adverse effects to legitimate business enterprise which conducts its trade and commerce in a lawful manner in this State. Therefore, Attorney General of the State of Texas believes and is of the opinion that these proceedings are in the public interest.

### **VI. TRADE AND COMMERCE**

6. Defendant RONALD GENE MORGAN d/b/a STATE AND COUNTY TAX REDUCTION d/b/a STATE AND COUNTY TAX REDEMPTION CENTER is engaged in “trade”

and “commerce” as defined by §17.45(6) of the DTPA, in that Defendant Morgan is soliciting consumers in Collin County.

## **VII. NOTICE BEFORE SUIT**

7. There is good cause to believe that immediate and irreparable injury, loss, or damage would occur as a result of a delay in obtaining a temporary restraining order to enjoin Defendant MORGAN from continued violations of the DTPA and Texas Property Code. Sworn affidavits attached hereto establish that Defendant MORGAN is failing to include disclosures required by Texas Property Code §41.0051 in its solicitations; sending solicitations that appear to be correspondence from the Collin County Tax Assessor Collector’s Office; causing confusion or misunderstanding as to his affiliation with the Collin County Tax Assessor Collector’s Office; and misrepresenting directly or indirectly that he is affiliated with the Collin County Tax Assessor Collector’s Office. If Defendant is not immediately restrained, he will continue to use these false, misleading, or deceptive practices and may cause consumers to lose their money by such deception. As such, the State is initiating this action without notice to Defendant as authorized by § 17.47 (a) of the DTPA.

## **VIII. ACTS OF AGENTS**

8. Whenever in this Petition it is alleged that Defendant MORGAN did any act or thing, it is meant that Defendant performed or participated in such act or thing or that such act was performed by the officers, agents or employees of said Defendant, and in each instance, the officers, agents or employees of said Defendant were then authorized to and did in fact act on behalf of Defendant or

otherwise acted under the guidance and direction of the Defendant.

## **IX. NATURE OF DEFENDANT'S CONDUCT**

9. Defendant MORGAN engages in false, misleading, or deceptive conduct by failing to disclose language required by law in its over 65 homestead exemption solicitation letters; sending solicitations that appear to consumers to be correspondence from the Collin County Tax Assessor Collector's Office; causing confusion or misunderstanding as to his affiliation with the Collin County Tax Assessor Collector's Office; and misrepresenting directly or indirectly that he is affiliated with or sponsored by the Collin County Tax Assessor Collector's Office.

10. Defendant MORGAN targets consumers over the age of 65 with direct mail notices titled "NOTICE: PROPERTY TAX FREEZE FOR ELDERLY" and offers to apply for an "Elderly Homestead Exemption" and school district tax freeze for a fee of \$55.00.

11. On December 15 and 16, 2003, the Collin County Tax Assessor Collector's Office received approximately 1,200 telephone calls concerning the over 65 tax exemption and tax freeze solicitations sent by Defendant MORGAN. (See **Exhibit 1**, affidavit of Bea Westbrook, Chief Deputy, Collin County Tax Assessor Collector's Office). Attached to Exhibit 1 are numerous solicitations forwarded to the Tax Assessor Collector's Office by consumers who received them from Defendant MORGAN. The Tax Assessor Collector's Office refers to companies such as Defendant MORGAN's that send these types of solicitations as "tax exemption scams" because they are charging property owners for a service that is provided for free by the Collin County Tax Assessor Collector's Office.

12. Defendant MORGAN's solicitations fail to contain the disclosure required by

Texas Property Code §41.0051, which requires a person delivering a written advertisement offering, for a fee, to designate a property as a homestead to include the following disclosure or a substantially similar statement:

**“THIS DOCUMENT IS AN ADVERTISEMENT OF SERVICES.  
IT IS NOT AN OFFICIAL DOCUMENT OF THE STATE OF TEXAS.”**

13. Texas Property Code §41.0051 requires that this statement or a substantially similar statement be conspicuous and printed in 14-point boldface type or 14-point uppercase typewritten letters.

14. Defendant MORGAN’s solicitations are deceptively similar to the office tax statements sent out by the Collin County Tax Assessor Collector’s Office and thus cause confusion or misunderstanding as to the source of the solicitation and/or Defendant MORGAN’s affiliation with the Collin County Tax Assessor Collector’s Office. Furthermore, the envelope used by Defendant MORGAN to send out its solicitations have “IMPORTANT PROPERTY TAX INFORMATION ENCLOSED” prominently displayed on the front of the envelope.

15. Defendant MORGAN does business under the name State and County Tax Reduction and under the name State and County Tax Redemption Center at 5180 County Road 340, McKinney, Texas 75071. Exhibit 2 is the assumed name record filed by Defendant MORGAN as doing business under the name “State and County Tax Redemption Center.”

#### **X. VIOLATIONS OF THE DECEPTIVE TRADE PRACTICES ACT**

16. Defendant MORGAN, as set out above, in the course and conduct of trade and commerce, has directly and indirectly engaged in false, misleading, or deceptive acts and practices in

violation of Section 17.46(a) and (b) of the Texas Deceptive Trade Practices Act, including but not limited to:

- A. Failing to include the following statement or substantially similar statement in 14-point type as required by Texas Property Code §41.0051 in its solicitations regarding homestead exemption applications:  
“THIS DOCUMENT IS AN ADVERTISEMENT OF SERVICES. IT IS NOT AN OFFICIAL DOCUMENT OF THE STATE OF TEXAS.”
- B. Sending solicitations that appear to consumers to be correspondence from the Collin County Tax Assessor Collector’s Office;
- C. Causing confusion or misunderstanding as to Defendant MORGAN’s affiliation with the Collin County Tax Assessor Collector’s Office;
- D. Misrepresenting, directly or indirectly, that Defendant MORGAN’s services are affiliated with or sponsored by the Collin County Tax Assessor Collector’s Office;

17. Moreover, the Consumer Protection Division has reason to believe that the above actions specifically violate Section 17.46(a) and the following provisions of Section 17.46(b) of the

DTPA:

- A. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services in violation of §17.46(b)(2);
- B. Causing confusion or misunderstanding as to the affiliation, connection, or association with or certification by another in violation of §17.46(b)(3);
- C. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which they do not have in violation of §17.46(b)(5); and
- D. Failing to disclose information concerning goods or services which was known at the time of the transaction when such failure to disclose such information was intended to induce the consumer

into a transaction into which the consumer would not have entered had the information been disclosed in violation of §17.46(b)(24).

**XI. APPLICATION FOR EX PARTE TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION, AND PERMANENT INJUNCTION**

18. The State alleges that by reason of the foregoing, Defendant MORGAN should not continue to send out its over 65 homestead exemption solicitation letters in violation of the laws of the State of Texas and that unless injunctive relief is immediately granted, Defendant will continue to use false, misleading, or deceptive trade practices to entice consumers to pay fees for services provided for free by the Collin County Tax Assessor Collector's Office without the disclosures required by law. Further, Defendant MORGAN will continue to cause confusion and misunderstanding as to his connection, affiliation, and sponsorship by the Collin County Tax Assessor Collector's Office. If Defendant is not immediately restrained, many consumers may lose their money through Defendant's false, misleading, or deceptive practices.

19. Defendant MORGAN, unless immediately restrained by this Honorable Court, will continue violating the laws of the State of Texas and injury, loss, and damage will result to the State of Texas and to the general public. For the reasons set forth above, the STATE OF TEXAS requests an Ex Parte Temporary Restraining Order; and after notice and hearing, a Temporary and Permanent Injunction as set out below, as authorized pursuant to § 17.47(a) of the DTPA.

**XII. REQUEST TO CONDUCT DISCOVERY PRIOR TO TEMPORARY INJUNCTION HEARING**

20. The STATE OF TEXAS requests leave of this Court to conduct telephone, oral,

written, and other depositions of witnesses prior to any scheduled Temporary Injunction Hearing and prior to Defendant's answer date. There are a number of witnesses who may need to be deposed prior to any scheduled Temporary Injunction Hearing. Any depositions, telephonic or otherwise, would be conducted with reasonable shortened notice to Defendant and her attorneys if known.

### **XIII. INJURY TO CONSUMERS**

21. By means of the foregoing unlawful acts and practices, Defendant has acquired money or other property from identifiable persons to whom such money or property should be restored, or who in the alternative are entitled to an award of damages.

22. The State alleges that Defendant MORGAN's false, misleading, or deceptive practices were calculated to acquire or deprive money or other property from consumers 65 years of age or over.

### **XIV. PRAYER**

23. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant RONALD GENE MORGAN d/b/a STATE AND COUNTY TAX REDUCTION d/b/a STATE AND COUNTY TAX REDEMPTION CENTER be cited according to law to appear and answer herein; that before notice and hearing a TEMPORARY RESTRAINING ORDER be issued; that after due notice and hearing a TEMPORARY INJUNCTION be issued; and upon final hearing a PERMANENT INJUNCTION be issued restraining and enjoining Defendant individually and by his agents, servants, employees, and representatives from making the representations, doing the acts, and

engaging in the practices set out in the proceeding paragraphs as well as from making the following representations and doing the following acts and engaging in the following practices in the pursuit and conduct of trade or commerce within the State of Texas as follows:

- A. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written materials relating to business of Defendant currently or hereafter in Defendant's possession, custody or control except in response to further orders or subpoenas in this cause;
- B. Failing to include the following statement or substantially similar statement in 14-point type as required by Texas Property Code §41.0051 in its solicitations regarding homestead exemption applications:

“THIS DOCUMENT IS AN ADVERTISEMENT OF SERVICES.  
IT IS NOT AN OFFICIAL DOCUMENT OF THE STATE OF  
TEXAS.”

- C. Sending solicitations that appear to consumers to be correspondence from the Collin County Tax Assessor Collector's Office;
- D. Causing confusion or misunderstanding as to Defendant MORGAN's affiliation with the Collin County Tax Assessor Collector's Office;
- E. Misrepresenting, directly or indirectly, that Defendant MORGAN's services are affiliated with or sponsored by the Collin County Tax Assessor Collector's Office;
- F. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
- G. Causing confusion or misunderstanding as to the affiliation, connection, or association with or certification by another;
- H. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which they do not have;

- I. Failing to disclose information concerning goods or services which was known at the time of the transaction when such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed;
- J. Failing to provide to any of Defendant's agents, servants, employees or representatives, written notice of the existence and terms of any injunction entered in this case, and of their duty to comply with its terms; and
- K. Accepting any payment from consumers who were solicited using any solicitations that did not include the language required by Texas Property Code §41.0051.

24. Plaintiff further prays that upon final hearing this Court order Defendant to restore all money or other property taken from identifiable persons by means of Defendant's unlawful acts or practices, or, in the alternative, award judgment for damages to compensate identifiable persons for such losses as provided in §17.47(d) of the DTPA.

25. Plaintiff further prays that upon final hearing this Court order Defendant to pay civil penalties of \$20,000.00 per violation of the DTPA to the State of Texas, as authorized by §17.47(c)(1) of the DTPA.

26. Plaintiff further prays that upon final hearing this Court order Defendant to pay additional civil penalties in the amount of \$250,000 for acts or practices calculated to acquire or deprive money or other property from consumers 65 years of age or older to the State of Texas as authorized by §17.47(c)(2) of the DTPA.

27. Plaintiff further prays that this Court grant leave to conduct telephone, oral, written, and other depositions of witnesses prior to any scheduled Temporary Injunction Hearing and prior to Defendant's answer date, with reasonable shortened notice to Defendant and their attorneys if

known.

28. Plaintiff further prays for costs of Court, reasonable attorney fees as provided in TEX. GOV'T. CODE ANN. § 402.006(c), and such other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

GREG ABBOTT  
Attorney General of Texas

BARRY R. MCBEE  
First Assistant Attorney General

ED D. BURBACH  
Deputy Attorney General for Litigation

PAUL D. CARMONA  
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**VERIFICATION**

STATE OF TEXAS §  
COUNTY OF DALLAS §

Before me, the undersigned notary, on this day, personally appeared Everardo J. Cantu, a person whose identity is known to me. After I administered an oath to him, upon his oath, he said he is an investigator for the Office of the Attorney General, and is authorized to make this affidavit, that he has carefully read the allegations in the foregoing Plaintiff's Original Petition and Application for Temporary Restraining Order; and has reason to believe that the facts stated in it are within his personal knowledge and are true and correct to the best of his knowledge and belief and/or are supported by sworn affidavits or documents attached hereto and incorporated by reference.

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EVERADO J. CANTU

SWORN TO and SUBSCRIBED before me by EVERADO J. CANTU on the \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public in and for the State of Texas