

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
ABIO FINANCIAL GROUP, INC.	§	
Defendant	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of ABIO FINANCIAL GROUP, INC. (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) (“DTPA”).

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant ABIO Financial Group, Inc. is a corporation incorporated under the laws of the State of Texas with its principal place of business at 10670 N. Central Expressway, #440, Dallas, Texas. Defendant may be served by serving its registered agent, John M. Abio at 11551 Forest Central Dr., #330, Dallas, Texas, 75243.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

**VII.
ACTS OF AGENTS**

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

**VIII.
STATEMENT OF FACTS**

8.1 Defendant is in the business of selling financial planning services for senior citizens. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes. On information and belief, Defendant's telemarketing calls, many of which are conducted through a prerecorded voice message, are made using an automated telephone dialing system.

8.2 Despite the fact that Defendant routinely makes telemarketing calls as part of its regular business model, Defendant has failed to register and purchase the Texas no-call list.

8.3 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.4 Defendant's telemarketing calls in violation of the TTDDPA were not isolated occurrences.

**IX.
CAUSE OF ACTION**

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.4.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDDPA by making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

**X.
PRAYER**

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPa and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

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FAX No. (512) 473-8301

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
MILTON M. NELSON d/b/a ALL AMERICAN	§	
BUILDERS, INC.	§	_____ JUDICIAL DISTRICT
Defendant		

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of MILTON M. NELSON d/b/a ALL AMERICAN BUILDERS, INC. (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) ("DTPA").

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant Milton M. Nelson is an individual doing business in the State of Texas as All American Builders, Inc. Defendant may be served at his principle place of business, 227 NE Loop 820 #171 (or #6-A), Hurst, Texas, 76053.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

VII.
ACTS OF AGENTS

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

VIII.
STATEMENT OF FACTS

8.1 Defendant is in the business of selling house siding. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes.

8.2 Despite the fact that Defendant routinely makes telemarketing calls as part of its regular business model, Defendant has failed to register and purchase the Texas no-call list.

8.3 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.4 Defendant's telemarketing calls in violation of the TTDDPA were not isolated occurrences.

IX.
CAUSE OF ACTION

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.4.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDDPA by

making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

X.
PRAYER

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

PEDRO PEREZ, JR.
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State Bar No. 24008000
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FAX No. (512) 473-8301

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
ALL AMERICAN SIDING OF AUSTIN, INC.	§	
Defendant	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of ALL AMERICAN SIDING OF AUSTIN, INC. (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices – Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) (“DTPA”).

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant All American Siding of Austin, Inc. is a corporation incorporated under the laws of the State of Texas with its principal place of business at 3007 Longhorn Blvd., #109, Austin, Texas, 78758. Defendant may be served by serving its registered agent, Ken Kirks at 1810 N. Glenville Drive #102, Richardson, Texas, 75081.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

**VII.
ACTS OF AGENTS**

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

**VIII.
STATEMENT OF FACTS**

8.1 Defendant is in the business of selling house siding. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes.

8.2 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.3 Defendant's telemarketing calls in violation of the TTDPDA were not isolated occurrences.

IX.
CAUSE OF ACTION

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.3.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDPA by making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

X.
PRAYER

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

D. ESTHER CHAVEZ
State Bar No. 04162200
C. BRAD SCHUELKE
State Bar No. 24008000
Assistant Attorneys General
Consumer Protection Division
P.O. Box 12548
Austin, TX 78711-2548
(512) 475 4628
FAX No. (512) 473-8301

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
JOSEPH C. SPARKS d/b/a AREA WIDE	§	
AUTO GLASS	§	_____ JUDICIAL DISTRICT
Defendant		

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of JOSEPH C. SPARKS d/b/a AREA WIDE AUTO GLASS (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices – Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) (“DTPA”).

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant Joseph C. Sparks is an individual doing business in the State of Texas as Area Wide Auto Glass. Defendant may be served at 3911 Flatwood Dr., Katy, Texas 77449.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

**VII.
ACTS OF AGENTS**

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

**VIII.
STATEMENT OF FACTS**

8.1 Defendant is in the business of selling automobile glass repair services. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes.

8.2 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.3 Defendant's telemarketing calls in violation of the TTDPA were not isolated occurrences.

**IX.
CAUSE OF ACTION**

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.3.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDPA by

making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

**X.
PRAYER**

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
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PAUL D. CARMONA
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NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
AUTOPRO NETWORK, INC.	§	
Defendant	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of AUTOPRO NETWORK, INC. (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) (“DTPA”).

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant Autopro Network, Inc. is a corporation incorporated under the laws of the State of Oklahoma with its principal place of business at 4815 S. Harvard Ave. #225, Tulsa, Oklahoma, 74135. This cause of action arises out of the business Defendant has done in this state. Defendant does not maintain a regular place of business in this state and has not designated an agent for service of process. Therefore, pursuant to section 17.044(b) of the TEX. CIV. & PRAC. REMEDIES CODE ANN., Defendant may be served by certified mail, return receipt requested, directed to Defendant through the Texas Secretary of State as an agent for service of process at Citations Division, 1019 Brazos, Austin, Texas 78701.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will

also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

**VII.
ACTS OF AGENTS**

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

**VIII.
STATEMENT OF FACTS**

8.1 Defendant is in the business of selling financing for automobiles. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes or to solicit the extension of credit for a consumer good or service.

8.2 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.3 Defendant's telemarketing calls in violation of the TTDPA were not isolated occurrences.

**IX.
CAUSE OF ACTION**

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.3.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDPA by making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

**X.
PRAYER**

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

C. BRAD SCHUELKE
State Bar No. 24008000
Assistant Attorney General
Consumer Protection Division
P.O. Box 12548
Austin, TX 78711-2548
(512) 463-1269
FAX No. (512) 473-8301

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
AUTO FINANCE 4 PRE-OWNED CARS,	§	
INC.	§	_____ JUDICIAL DISTRICT
Defendant		

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of AUTO FINANCE 4 PRE-OWNED CARS, INC. (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) (“DTPA”).

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant Auto Finance 4 Pre-owned Cars, Inc. is a corporation incorporated under the laws of the State of Texas with its principal place of business at 12725 Murphy Rd., Stafford, Texas, 77477. Defendant may be served by serving its registered agent, Roark Ashie at 4511 Westray Dr., Missouri City, Texas, 77459.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

**VII.
ACTS OF AGENTS**

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

**VIII.
STATEMENT OF FACTS**

8.1 Defendant is in the business of selling financing for automobiles. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes or to solicit the extension of credit for a consumer good or service.

8.2 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.3 Defendant's telemarketing calls in violation of the TTDPA were not isolated occurrences.

IX.
CAUSE OF ACTION

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.3.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDPA by making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

X.
PRAYER

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

C. BRAD SCHUELKE
State Bar No. 24008000
Assistant Attorney General
Consumer Protection Division
P.O. Box 12548
Austin, TX 78711-2548
(512) 463-1269
FAX No. (512) 473-8301

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
HOUSTON ALLSTATE, INC.	§	
Defendant	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of HOUSTON ALLSTATE, INC. (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) (“DTPA”).

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant Houston Allstate, Inc. is a corporation incorporated under the laws of the State of Texas with its principal place of business at 5750 Bintliff, #200, Houston, Texas 77036. Defendant may be served by serving its registered agent, James C. Lagrappe, Jr. at 5750 Bintliff, #200, Houston, Texas 77036.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

**VII.
ACTS OF AGENTS**

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

**VIII.
STATEMENT OF FACTS**

8.1 Defendant is in the business of selling home improvement products and services, including vinyl siding, overhang and eaves, windows, doors, roofing and insulation. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes.

8.2 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.3 Defendant's telemarketing calls in violation of the TTDPA were not isolated occurrences.

IX.
CAUSE OF ACTION

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.3.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDPA by making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

X.
PRAYER

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

C. BRAD SCHUELKE
State Bar No. 24008000
Assistant Attorney General
Consumer Protection Division
P.O. Box 12548
Austin, TX 78711-2548
(512) 463-1269
FAX No. (512) 473-8301

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
JOE COOKSTON & SONS, INC.	§	
Defendant	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of JOE COOKSTON & SONS, INC. (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) ("DTPA").

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant Joe Cookston & Sons, Inc. is a corporation incorporated under the laws of the State of Texas. Defendant may be served by serving its registered agent, Joe Cookston at 3603 Broadway Blvd., Garland, Texas, 75043.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

**VII.
ACTS OF AGENTS**

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

**VII.
STATEMENT OF FACTS**

8.1 Defendant is in the business of selling house siding. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes.

8.2 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.3 Defendant's telemarketing calls in violation of the TTDDPA were not isolated occurrences.

**IX.
CAUSE OF ACTION**

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.3.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDDPA by making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

X.
PRAYER

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

LEELA R. FIRESIDE
State Bar No. 07038750
and **C. BRAD SCHUELKE**
State Bar. No. 24008000
Assistant Attorneys General
Consumer Protection Division
P.O. Box 12548
Austin, TX 78711-2548
(512) 475-4233
FAX No. (512) 473-8301

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
KIWI SERVICES, INC.	§	
Defendant	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of KIWI SERVICES, INC. (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) (“DTPA”).

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant Kiwi Services, Inc. is a corporation incorporated under the laws of the State of Texas with its principal place of business at 4951 Airport Freeway, Fort Worth, Texas, 76117. Defendant may be served by serving its registered agent, Hassan M. Avu-Eideh at 4951 Airport Park Way, #800, Dallas, Texas, 75248.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

**VII.
ACTS OF AGENTS**

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

**VIII.
STATEMENT OF FACTS**

8.1 Defendant is in the business of selling carpet, upholstery, and duct cleaning services. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes.

8.2 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.3 Defendant's telemarketing calls in violation of the TTDPDA were not isolated occurrences.

IX.
CAUSE OF ACTION

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.3.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDPA by making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

X.
PRAYER

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

PEDRO PEREZ, JR.
State Bar No. 00788184
C. BRAD SCHUELKE
State Bar No. 24008000
Assistant Attorney General
Consumer Protection Division
P.O. Box 12548
Austin, Texas 78711-2548
(512) 475-4656
Fax No. (512) 473-8301

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
LAKEFRONT PROPERTIES, INC.	§	
Defendant	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of LAKEFRONT PROPERTIES, INC. (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) (“DTPA”).

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant Lakefront Properties, Inc. is a corporation incorporated under the laws of the State of Texas with its principal place of business at 3724 West FM 1960, #335, Houston, Texas, 77068. Defendant may be served by serving its registered agent, Margaret T. Hatcher, 720 Charter Oaks, Conroe, Texas, 77302.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

**VII.
ACTS OF AGENTS**

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

**VIII.
STATEMENT OF FACTS**

8.1 Defendant is in the business of selling timeshares. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes or to obtain information that may be used to solicit a sale of a consumer good or service.

8.2 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.3 Defendant's telemarketing calls in violation of the TTDPA were not isolated occurrences.

**IX.
CAUSE OF ACTION**

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.3.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDPA by making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

**XI.
PRAYER**

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

NANETTE DINUNZIO
State Bar No. 24036484
C. BRAD SCHUELKE
State Bar No. 24008000
Assistant Attorneys General
Consumer Protection Division
P.O. Box 12548
Austin, TX 78711-2548
(512) 475-4654
FAX No. (512) 473-8301

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
LIFE CORPORATION	§	
Defendant	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of LIFE CORPORATION (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) (“DTPA”).

III. JURISDICTION and VENUE

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

IV. DEFENDANT

4.1 Defendant Life Corporation is a corporation incorporated under the laws of the State of South Dakota with its principal place of business at 1527 S. Cooper St., Arlington, Texas, 76010. Defendant may be served by serving its registered agent, Walter Monk, at 1001 W. Mitchell St., Ste 101, Arlington, Texas, 76013.

V. PUBLIC INTEREST

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

**VII.
ACTS OF AGENTS**

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

**VIII.
STATEMENT OF FACTS**

8.1 Defendant is in the business of selling personal dating services. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes.

8.2 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.3 Defendant's telemarketing calls in violation of the TTDPDA were not isolated occurrences.

IX.
CAUSE OF ACTION

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.3.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDPA by making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

X.
PRAYER

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

C. BRAD SCHUELKE
State Bar No. 24008000
Assistant Attorney General
Consumer Protection Division
P.O. Box 12548
Austin, TX 78711-2548
(512) 463-1269
FAX No. (512) 473-8301

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, T E X A S
	§	
LONGHORN YACHT CLUB, INC.	§	
Defendant.	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of LONGHORN YACHT CLUB, INC. (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) (“DTPA”).

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant Longhorn Yacht Club, Inc. is a corporation incorporated under the laws of the State of Texas with its principal place of business at 2150 Westridge Dr., Irving, Texas, 75038. Defendant may be served by serving its registered agent, Masood Eskan Danian, at 505 Bedford Rd., #A, Bedford, Texas, 76022.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

VII.
ACTS OF AGENTS

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

VIII.
STATEMENT OF FACTS

8.1 Defendant is in the business of selling timeshares. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes or to obtain information that may be used to solicit a sale of a consumer good or service.

8.2 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.3 Defendant's telemarketing calls in violation of the TTDPDA were not isolated occurrences.

IX.
CAUSE OF ACTION

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.3.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDPDA by

making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

**X.
PRAYER**

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

PAUL SINGER
State Bar No. 24033197
C. BRAD SCHUELKE
State Bar No. 24008000
Assistant Attorneys General
Consumer Protection Division
P.O. Box 12548
Austin, TX 78711-2548
(512) 936-1791 (telephone)
(512) 473-8301 (facsimile)

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
MARTHA LUKE	§	
Defendant	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of MARTHA LUKE (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) ("DTPA").

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant Martha Luke is an individual doing business in the State of Texas. Defendant may be served at her residence, 1230 Rivercrest Dr., Mesquite, Texas 75181.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

**VII.
ACTS OF AGENTS**

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

**VII.
STATEMENT OF FACTS**

8.1 Defendant is in the business of selling medical products or services. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes. On information and belief, Defendant's telemarketing calls, which are generally conducted through a prerecorded voice message, are made using an automated telephone dialing system.

8.2 Despite the fact that Defendant routinely makes telemarketing calls as part of its regular business model, Defendant has failed to register and purchase the Texas no-call list.

8.3 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.4 Defendant's telemarketing calls in violation of the TTDDPA were not isolated occurrences.

IX.
CAUSE OF ACTION

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.4.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDPA by making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

X.
PRAYER

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

LEELA R. FIRESIDE
State Bar No. 07038750
and C. BRAD SCHUELKE
State Bar. No. 24008000
Assistant Attorneys General
Consumer Protection Division
P.O. Box 12548
Austin, TX 78711-2548
(512) 475-4233
FAX No. (512) 473-8301

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
WILLIAM H. MARRA d/b/a ON WHEELS	§	
COMPUTER REPAIR SERVICE	§	_____ JUDICIAL DISTRICT
Defendants		

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of WILLIAM H. MARRA d/b/a ON WHEELS COMPUTER REPAIR SERVICE (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) (“DTPA”).

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant William H. Marra is an individual doing business in the State of Texas as On Wheels Computer Repair Service. Defendant may be served at 9360 San Fernando Way, Dallas, Texas, 75218.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

VII.
ACTS OF AGENTS

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

VIII.
STATEMENT OF FACTS

8.1 Defendant is in the business of selling in-home personal computer repair services. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes.

8.2 Despite the fact that Defendant routinely makes telemarketing calls as part of its regular business model, Defendant has failed to register and purchase the Texas no-call list.

8.3 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.4 Defendant's telemarketing calls in violation of the TTDPA were not isolated occurrences.

IX.
CAUSE OF ACTION

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.4.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDPA by

making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

**X.
PRAYER**

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff 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

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection Division

NANETTE DINUNZIO
State Bar No. 24036484
C. BRAD SCHUELKE
State Bar No. 24008000
Assistant Attorneys General
Consumer Protection Division
P.O. Box 12548
Austin, TX 78711-2548
(512) 475-4654
FAX No. (512) 473-8301

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
PRO-SOURCE ROOFING, INC.	§	
Defendant	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of PRO-SOURCE ROOFING, INC. (“Defendant”), and for causes of action would respectfully show:

**I.
DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

**II.
SUMMARY OF CASE**

2.1 The Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE § 44.001 *et seq.* (Vernon Supp. 2003) (“TTDPA”) prohibits, among other things, making a telemarketing call to a telephone number that has been published on the Texas no-call list for more than 60 days. Defendant has violated the TTDPA by making repeated telemarketing calls to Texas residents who have paid to have their telephone number included on the Texas no-call list.

2.2 The TTDPA specifically grants the Texas Attorney General authority to enforce the TTDPA through lawsuits seeking injunctive relief, attorneys’ fees and civil penalties. The TTDPA also grants the Consumer Protection Division of the Attorney General’s Office the authority to

enforce the statute pursuant to section 17.47 of the Texas Deceptive Trade Practices--Consumer Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (VERNON 1987 and Supp.2003) (“DTPA”).

**III.
JURISDICTION and VENUE**

3.1 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 under the authority granted to him by section 44.102(c) of the TTDPA and the authority granted to him by section 17.47 of the DTPA.

3.2 Venue of this suit lies in Travis County, Texas pursuant to section 44.102(e) of the TTDPA.

**IV.
DEFENDANT**

4.1 Defendant Pro-Source Roofing, Inc. is a corporation incorporated under the laws of the State of Texas with its principal place of business at 5820 Alpha Rd, Dallas, Texas, 75240. Defendant may be served by serving its registered agent, Mark A. Cornett, at 1207-C North Grand Ave., Gainesville, Texas, 76240.

**V.
PUBLIC INTEREST**

5.1 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 has reason to believe Defendant has caused and will cause injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State.

**VI.
TRADE AND COMMERCE**

6.1 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.

**VII.
ACTS OF AGENTS**

7.1 Whenever in this Petition it is alleged that a Defendant did any act, it is meant that:

- a. The Defendant performed or participated in the act; or
- b. The Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

**VIII.
STATEMENT OF FACTS**

8.1 Defendant is in the business of selling roofing repairs. Defendant solicits customers for its business through various methods, including unsolicited telephone solicitations. Defendant's telemarketing calls, therefore, are intended to solicit the sale of goods or services that are normally used for personal, family, or household purposes.

8.2 Despite the fact that Defendant routinely makes telemarketing calls as part of its regular business model, Defendant has failed to register and purchase the Texas no-call list.

8.3 In the course of its soliciting customers, Defendant has made, or caused to be made, multiple and repeated unsolicited telemarketing calls to persons whose telephone number appeared on the then-current Texas no-call list for more than 60 days. Such telemarketing calls were made despite the fact that Defendant does not have a current or prior established business relationship with the called person.

8.4 Defendant's telemarketing calls in violation of the TTDPA were not isolated occurrences.

**IX.
CAUSE OF ACTION**

9.1 Plaintiff hereby incorporates the preceding paragraphs 1.1 through 8.4.

9.2 Plaintiff alleges that Defendant has violated section 44.102(a) of the TTDPA by making telemarketing calls to Texas residents whose telephone numbers were included on the then-current Texas no-call list for longer than 60 days.

**X.
PRAYER**

10.1 Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated and will continue to violate the law as alleged in this Petition. Unless enjoined by this Honorable Court, Defendant will continue to violate the laws of the STATE OF TEXAS and cause injury, loss and damage to the STATE OF TEXAS and to the general public.

10.2 WHEREFORE, Plaintiff prays that Defendant be cited according to law to appear and answer herein; and upon notice and hearing TEMPORARY and PERMANENT INJUNCTIONS be issued, restraining and enjoining Defendant, Defendant's agents, servants, employees, and attorneys, and any other person in active concert or participation with Defendant, from further unlawful conduct as set out above.

10.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court adjudge against Defendant civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of:

- a. One Thousand and No/100 Dollars (\$1,000.00) for each violation of the TTDPA; and
- b. Three Thousand and No/100 Dollars (\$3,000.00) for each violation that was committed knowingly or willfully.

10.4 Plaintiff STATE OF TEXAS further prays that this Court order Defendant to pay all costs of Court, costs of investigation, and reasonable attorneys' fees pursuant to section 44.102(c) of the TTDPA and TEX. GOV'T CODE § 402.006(c) (Vernon 1998).

10.5 Plaintiff prays that this Court grant all other relief to which the Plaintiff STATE OF TEXAS may show itself entitled.

Respectfully submitted,

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