

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

STATE OF TEXAS,

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IN THE DISTRICT COURT OF

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Plaintiff,

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vs.

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**FREDDRICK RAY CARTWRIGHT** aka  
 FREDERICK DWAYNE REESE aka FRED  
 CARTWRIGHT aka FREDRICK R.  
 CARTWRIGHT aka FREDERICK R.  
 CARTWRIGHT aka FREDRICK RAY  
 CARTWRIGHT aka FREDRICK CARTWRIGHT  
 aka FREDDERICK R. CARTWRIGHT aka  
 FREDDRICK CARTWRIGHT aka FREDERICK  
 REESE aka FREDRICK REESE aka FRED  
 REESE, Individually and d/b/a TRINITY  
 SOUTH BUILDERS and TRINITY SOUTH  
 BUILDERS, INC.; **BETTIE SUE BAILEY** aka  
 BETTIE SUE CARTWRIGHT aka BETTIE J.  
 BAILEY aka BETTY J. BAILEY aka BETTY J.  
 CARTWRIGHT aka BETTY S. BAILEY aka  
 BETTY S. CARTWRIGHT aka BETTY BAILEY  
 aka BETTIE S. BAILEY aka BETTIE  
 CARTWRIGHT aka BETTIE BAILEY,  
 Individually; **JOSE DEMETRIO**  
**MURRUGARRA** aka JOSE DEMETRIO  
 MURRUGARRA MEDINA aka JOSE D.  
 MURRUGARRA aka JOSE MURRUGARRA,  
 Individually and d/b/a BENTA DE CASAS;  
**FRANCIS CARROLL**, Individually and dba  
 D & G Properties; **FCI EQUITIES, INC.; R.I.C.H.**  
**BUSINESS AND BUILDING SYSTEMS, INC.;**  
 and **JOSE MENJAREZ**,

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Defendants.

DALLAS COUNTY, TEXAS

\_\_\_\_\_th JUDICIAL DISTRICT

**PLAINTIFF’S ORIGINAL PETITION AND APPLICATION FOR  
 TEMPORARY INJUNCTION AND PERMANENT INJUNCTION AND OTHER  
 RELIEF**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, THE STATE OF TEXAS, Plaintiff, acting by and through Attorney General GREG ABBOTT, filing Plaintiff's Original Petition and Application for Temporary Injunction and Permanent Injunction and Other Relief complaining of an elaborate real estate fraud conceived and carried out by Defendants FREDDRICK RAY CARTWRIGHT aka FREDERICK DWAYNE REESE aka FRED CARTWRIGHT aka FREDRICK R. CARTWRIGHT aka FREDERICK R. CARTWRIGHT aka FREDRICK RAY CARTWRIGHT aka FREDRICK CARTWRIGHT aka FREDDERICK R. CARTWRIGHT aka FREDDRICK CARTWRIGHT aka FREDERICK REESE aka FREDRICK REESE aka FRED REESE, Individually and d/b/a TRINITY SOUTH BUILDERS and TRINITY SOUTH BUILDERS, INC. ("Defendant CARTWRIGHT"); BETTIE SUE BAILEY aka BETTIE SUE CARTWRIGHT aka BETTIE J. BAILEY aka BETTY J. BAILEY aka BETTY J. CARTWRIGHT aka BETTY S. BAILEY aka BETTY S. CARTWRIGHT aka BETTY BAILEY aka BETTIE S. BAILEY aka BETTIE CARTWRIGHT aka BETTIE BAILEY, Individually ("Defendant BAILEY"); JOSE DEMETRIO MURRUGARRA aka JOSE DEMETRIO MURRUGARRA MEDINA aka JOSE D. MURRUGARRA aka JOSE MURRUGARRA, Individually and d/b/a BENTA DE CASAS ("Defendant MURRUGARRA"); FRANCIS CARROLL, Individually and dba D & G Properties ("Defendant CARROLL"); FCI EQUITIES, INC. ("Defendant FCI"); and, R.I.C.H. BUSINESS AND BUILDING SYSTEMS, INC. ("Defendant R.I.C.H."); JOSE MENJAREZ ("Defendant MENJAREZ") and would respectfully show the court the following:

## DISCOVERY CONTROL PLAN

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

## JURISDICTION

2. This suit is brought by the ATTORNEY GENERAL through the Consumer Protection and Public Health Division in the name of the STATE OF TEXAS and in the public interest under the authority granted to him by § 17.47 of the Deceptive Trade Practices-Consumer Protection Act (“DTPA”), TEX. BUS. & COM. CODE ANN. 17.41 *et seq.*

## PARTY DEFENDANTS

3. Defendant **FREDDRICK RAY CARTWRIGHT** (“CARTWRIGHT”) aka FREDERICK DWAYNE REESE aka FRED CARTWRIGHT aka FREDRICK R. CARTWRIGHT aka FREDERICK R. CARTWRIGHT aka FREDRICK RAY CARTWRIGHT aka FREDRICK CARTWRIGHT aka FREDDERICK R. CARTWRIGHT aka FREDDRICK CARTWRIGHT aka FREDERICK REESE FREDRICK REESE aka FRED REESE, Individually and d/b/a TRINITY SOUTH BUILDERS and TRINITY SOUTH BUILDERS, INC. is an individual and does business as, owns and operates TRINITY SOUTH BUILDERS and TRINITY SOUTH BUILDERS, INC. Defendant CARTWRIGHT has a Texas drivers license number [REDACTED] in the name of FREDDRICK RAY CARTWRIGHT, 5901 Sumatra Drive, Dallas, Texas 75241. Defendant CARTWRIGHT has another Texas drivers license number

[REDACTED] in the name of FREDERICK DWAYNE REESE, 201 South Joe Wilson Road, Apt. 1218, Cedar Hill, Texas 75104. Defendant CARTWRIGHT has an Identification Card issued by Texas Department of Public Safety number [REDACTED] in the name of FREDDRICK RAY CARTWRIGHT, 205 Boulder Creek Dr., DeSoto, Texas 75115. Defendant CARTWRIGHT has another Identification Card issued by Texas Department of Public Safety number [REDACTED] in the name of FREDERICK DWAYNE REESE, 6401 Duck Creek Dr., Apt. 1464, Garland, Texas 75043. However, **it is believed that Defendant CARTWRIGHT currently resides at either 2201 Cains Lane, Mansfield, Texas 76063 or 2772 Gaston Ave., Apt. 1517, Dallas, Texas 75226.** The business address for TRINITY SOUTH BUILDERS and TRINITY SOUTH BUILDERS, INC. is 1342 S. Main St., Duncanville, Texas 75137 and other business addresses that Defendant CARTWRIGHT has used are P.O. Box 1383, Cedar Hill, Texas 75106, 434 W. Kiest, Suite B-100, Dallas, Texas 75224, and 15950 Dallas Parkway, Dallas, Texas 75248.

4. Defendant **BETTIE SUE BAILEY** (“BAILEY”) aka BETTIE SUE CARTWRIGHT aka BETTIE J. BAILEY aka BETTY J. BAILEY aka BETTY J. CARTWRIGHT aka BETTY S. BAILEY BETTY S. CARTWRIGHT aka BETTY BAILEY aka BETTIE S. BAILEY aka BETTIE CARTWRIGHT aka BETTIE BAILEY is an individual and believed to be the sister of CARTWRIGHT. BAILEY has a Tennessee drivers license number [REDACTED] in the name of BETTIE SUE BAILEY, 3328 Chesapeake Circle, Nashville, TN 37207. Her business address is 1342 South Main Street, Duncanville, Texas 75137.

5. Defendant **JOSE DEMETRIO MURRUGARRA** (“MURRUGARRA”) aka JOSE DEMETRIO MURRUGARRA MEDINA aka JOSE D. MURRUGARRA aka JOSE MURRUGARRA is an individual and d/b/a BENTA<sup>4</sup>DE CASAS. MURRUGARRA holds a Texas drivers license number [REDACTED] in the name of JOSE DEMETRIO MURRUGARRA, 411 Bonnie View Road, Dallas, Texas 75203. He also holds a Texas identification card number [REDACTED] in the name of JOSE DEMETRIO MURRUGARRA, 3603 Wheeler St., Apt. 140, Dallas, Texas 75209. **It is believed that he now lives at 4027 Marsallis, Dallas, Texas. His business address is 2025 S. Beckley Ave., Dallas, Texas 75224.**

6. **FRANCIS CARROLL** dba D & G Properties (“CARROLL”) is an individual residing at 1211 Boca Chica Dr., Dallas, Texas 75232.

7. **FCI EQUITIES, INC.** (“FCI”) is a Texas corporation with a principal place of business at 434 W. Keist, Ste. B100, Dallas, Texas 75224. FCI’s Certificate of Authority to conduct business in the State of Texas was forfeited by the Texas Secretary of State on February 14, 2003. The registered agent for service is Fredrick R. Cartwright, 434 W. Keist, Ste. B100, Dallas, Texas 75224.

8. **R.I.C.H. BUSINESS AND BUILDING SYSTEMS, INC.** (“R.I.C.H.”) is a Texas corporation with registered agent for service as Tiffany M. Reese, 5255 Freestone, Dallas, Texas

75227. R.I.C.H.'s Certificate of Authority to conduct business in the State of Texas was forfeited by the Texas Secretary of State on February 11, 2005.

9. **JOSE MENJAREZ** ("MENJAREZ") is an individual residing at 527 S. Clinton Avenue, Dallas, Texas 75208-5918.

### **VENUE**

10. Venue of this action lies in Dallas County pursuant to § 17.47(b) of the DTPA because the transactions and events giving rise to this action occurred in Dallas County and/or because Defendants are doing business in Dallas County.

### **PUBLIC INTEREST**

11. Plaintiff STATE OF TEXAS has reason to believe that Defendants are engaging in, have engaged in, or are about to engage in, the unlawful acts or practices set forth below, that Defendants have, by means of these unlawful acts and practices, caused damage to and acquired money or property from consumers, and that Defendants adversely affect the lawful conduct of trade and commerce, thereby directly or indirectly affecting the people of this State. Therefore, the Consumer Protection and Public Health Division of the Office of the Attorney General of the State of Texas believes and is of the opinion that these proceedings are in the public interest.

## **DEFINITIONS**

12. Defendants have, 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 and “goods” as defined by § 17.45(1) of the DTPA.

## **ACTS OF AGENTS**

13. Whenever in this petition it is alleged that Defendants did any act or thing, it is meant that Defendants performed or participated in such act or thing or that such act was performed by the officers, agents or employees of said Defendants, and in each instance, the officers, agents or employees of said Defendants that were then authorized to and did in fact act on behalf of Defendants or otherwise acted under the guidance and direction of the Defendants.

## **NOTICE BEFORE SUIT**

14. Pursuant to DTPA §17.47(a), the Consumer Protection and Public Health Division informed Defendants in general of the alleged unlawful conduct described below, at least seven days before filing suit.

## **REAL ESTATE SCAM**

15. Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H. engaged in false, misleading, or deceptive conduct by participating in a scheme of fraudulent real estate sales. These Defendants take advantage of trusting consumers convincing them to buy

certain residential real estate parcels to which Defendants purport to have clear and marketable title, but which are in fact encumbered and/or for which there is no clear title. It is believed that Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H. also operate often out of their residences, directly in the community and under various fictitious names, including but not limited to TRINITY SOUTH BUILDERS, TRINITY SOUTH BUILDERS, INC. and BENTA DE CASAS.

16. Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI, and R.I.C.H. have perpetrated an elaborate shell game designed to hide the true ownership and status of the residential properties they peddle. Acting on their own behalf and as strawmen on behalf of other Defendants and using fictitious names such as TRINITY SOUTH BUILDERS, TRINITY SOUTH BUILDERS, INC. and BENTA DE CASAS these Defendants advertised and/or initiated contact with consumers for the purpose of selling residential real estate to consumers. See business card attached as Exhibit A incorporated herein by reference While discussing the potential real estate sale, Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI, and R.I.C.H. repeatedly made certain false representations concerning the properties.

17. Thereafter, Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H. entered into agreements with consumers whereby Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H. would sell and the consumers would purchase from Defendants real estate in Dallas County, Texas which Defendants

CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H. represented or inferred that Defendants owned. In some instances, one Defendant negotiated the sale and implied ownership, yet another Defendant actually signed the Warranty Deed as Grantor. On the date for closing or the date that the consumers were to pay Defendants for the real estate, Defendants and consumers appeared at the hour and place agreed upon and Defendants tendered what Defendants represented to be, and consumers, relying on Defendants representation, believed to be, a good and sufficient deed of clear title to the property to be purchased. Some of the consumers had known Defendant Murrugarra for some time and trusted him to treat them fairly. In fact, Defendant MURRUGARRA advised consumers that a “title check” was not necessary. Moreover, Defendant MURRUGARRA told consumers that it was not necessary for the consumers to talk to an attorney or a notary for the land transfer. The consumers paid the purchase price to the Defendants. In some instances, consumers paid the full purchase price in advance of receiving the deed and in other instances the consumers paid an advance payment and paid the purchase price balance over a period in installments. See attached Exhibit B incorporated by referenced.

18. In some cases, the Defendants would negotiate the sale even before they had title to the property and then, if the consumers agreed to purchase the property, Defendants would purchase the property on the same date that they would sell it to the consumer, thereby “flipping” the property within a day or so. In other cases, Defendant MURRUGARRA represented that he

would pay all ad valorem property taxes and thereafter failed to do so. The consumer, in those instances, was forced to pay the past due taxes to avoid foreclosure of a tax lien.

19. As an inducement to the consumers entering into the purchase agreement, Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H. represented to consumers that they held title free and clear. A further inducement, Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H. gave consumers documents that the Defendants held out to be current, valid deeds. Relying upon those representations of Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H. and documents produced to them by Defendants, the consumers entered into agreements to purchase various real estate parcels from the Defendants.

20. Unaware that they had been defrauded, some consumers began improvements on the real property they had purchased from the Defendants. These consumers have paid out-of-pocket thousands of dollars for home improvements on property they thought they owned, only to lose the property.

21. Pursuant to the agreement of Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H. with the consumers, Defendants were to convey good and marketable title to the premises purchased. At all times relevant, Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H. led the consumers to believe,

including making representations, that Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H. were the owners in fee simple absolute of the premises in question and were ready, willing and able to perform the transfer of good title for the sale and that there were no defects clouding the title. Consumers have received and accepted documents that purport to be Warranty Deeds and that the consumers believed were valid deeds. The Warranty Deeds that were produced, however, are defective. Some deeds are technically defective. More important, the deeds do not transfer clear, marketable title to the consumers due to encumbrances clouding the title. In at least one instance, a property that Defendant CARTWRIGHT individually and d/b/a TRINITY SOUTH BUILDERS, INC. and TRINITY SOUTH BUILDERS had purchased by owner financing was conveyed back to the seller by a Foreclosure Sale Deed. Within a couple of weeks after the Foreclosure Sale Deed was filed, Defendant CARTWRIGHT individually and d/b/a TRINITY SOUTH BUILDERS, INC. and TRINITY SOUTH BUILDERS “sold” the same property to consumers.

22. Sometime after the consumers paid the purchase price for the real estate, the consumers discovered for the first time, either by checking with the county clerk deed records themselves or when notified by the foreclosing party, that Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H. did not have clear title to the premises as represented by the Defendants. At the time that Defendants represented to consumers that they held clear title to the premises, Defendants knew there were encumbrances and clouds on the title to the premises and knowingly delivered to consumers false and fraudulent deeds. All this was

done with the intent that the consumers rely upon it and enter into an agreement to purchase the real estate.

23. Certain consumers confronted the Defendants regarding the title defects and demanded a refund. The Defendants failed and refused to provide the consumers with a refund. In some instances, the Defendants told the consumers that the title defects did not render the title unmarketable and that the consumers would have to take title as it stood or not at all. In other instances, the Defendants failed to fulfill promises to exchange the property with the defective title with property with good title and failed to fulfill promises to refund the purchase price to the consumers. Again, many consumers demanded Defendants return the advance payments made by the consumers and again, Defendants failed and refused to refund the payments of the consumers.

#### **UNAUTHORIZED PRACTICE OF LAW**

24. Defendant MENJAREZ is not a licensed attorney. Nevertheless, he provided legal counseling regarding the real estate scam to Defendant MURRUGARRA and to consumers, for a fee. Defendant MENJAREZ targeted and solicited persons, who were “victims” of this real estate scam. Defendant MENJAREZ even offered to represent a consumer against Defendant MURRUGARRA.

25. Defendant MENJAREZ represented to consumers that he was qualified to prepare legal documents and to represent them in a court of law. In fact, Defendant MENJAREZ drafted certain legal affidavits related to this real estate scam and appeared in court with consumers in their attempt to prevent a foreclosure of the property they had purchased from Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and/or R.I.C.H.

26. Defendant MENJAREZ failed to inform consumers that he was not authorized or qualified to provide such legal services. Defendant MENJAREZ is not an attorney licensed to practice as an attorney in the State of Texas, nor has he at any relevant time worked under the direct daily supervision of a licensed attorney. Defendant MENJAREZ charged real estate consumers several hundred dollars to represent them at a foreclosure hearing and to draft affidavits related to this real estate scam.

27. Defendant MENJAREZ's failure to disclose his lack of authority and licensure is intended to induce consumers to enter into transactions which they would not have entered into if the information had been disclosed to them.

### **DTPA VIOLATIONS**

28. Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI and R.I.C.H., as alleged above, have in the course of trade and commerce engaged in false,

misleading and deceptive acts and practices declared unlawful in §§ 17.46(a) and (b) of the DTPA as follows:

A. By representing that the real estate sales had an approval, characteristic, use, benefit or quality which they did not in violation of DTPA § 17.46(b)(5);

B. By representing that the title documentation to the real estate sale was of a particular standard, quality or grade which it did not in violation of DTPA § 17.46(b)(7);

C. By representing to consumers that the real estate sale documentation had rights, remedies or obligations which it did not have in violation of DTPA § 17.46(b)(12); and

D. By failing to disclose that information concerning the real estate sale and title documentation which was known at the time of the real estate sale which was intended to induce the consumer into signing the contract which the consumer would not have entered into if the information had been disclosed in violation of § 17.46(b)(24) of the DTPA.

29. Additionally, Defendant CARTWRIGHT, as alleged above, has in the course of trade and commerce engaged in false, misleading and deceptive acts and practices declared unlawful in §§ 17.46(a) and (b) of the DTPA as follows:

A. By using the term “corporation,” “incorporated,” or an abbreviation of either of those terms in the name of a business entity that is not incorporated under the laws of this state or another jurisdiction in violation of DTPA § 17.46(b)(25) of the DTPA.

30. Defendant MENJAREZ, as alleged above, has in the course of trade and commerce engaged in false, misleading and deceptive acts and practices declared unlawful in §§ 17.46(a) and (b) of the DTPA as follows:

A. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services, in violation of § 17.46(b)(2), by representing that Defendant MENJAREZ's legal services possess the certification or qualifications necessary to counsel persons regarding their rights when Defendant MENJAREZ did not have such qualification or certification;

B. Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another, in violation of § 17.46(b)(3), by representing that Defendant MENJAREZ possessed the certification or qualifications necessary to counsel persons regarding their legal rights or to represent them when Defendant MENJAREZ does not have such qualification or certification;

C. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not have, in violation of §17.46(b)(5), by representing that Defendant MENJAREZ possessed the certification or qualifications necessary to counsel persons regarding their rights or to represent them in legal real estate matters when Defendant MENJAREZ did not have such qualifications or certification;

D. Representing that services are of a particular standard, quality, or grade if they are of another, in violation of § 17.46(b)(7), by leading consumers to believe that Defendant MENJAREZ was qualified as an expert in legal and/or real estate matters;

E. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law, in violation of § 17.46(b)(12), by telling consumers that Defendant MENJAREZ will provide representation or legal counseling when Defendant MENJAREZ was prohibited by law from doing so; and

F. Failing to disclose information concerning services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed, in violation of § 17.46(b)(24), by failing to disclose to consumers that Defendant MENJAREZ was not qualified to counsel them regarding their legal rights or to represent them in real estate matters, with the intention of inducing consumers into transactions which they would not have entered into had this information been disclosed.

**APPLICATION FOR TEMPORARY INJUNCTION  
AND PERMANENT INJUNCTION**

31. Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI, R.I.C.H. and MENJAREZ have engaged in the unlawful acts and practices described above. Unless immediately restrained by this Honorable Court, Defendants will continue to violate the laws of the State of Texas and cause immediate, irreparable injury, loss and damage to the State of Texas

and to the general public. Therefore, the Attorney General requests a Temporary Injunction and Permanent Injunction as indicated in subsequent paragraphs.

### **INJURY TO CONSUMERS AND RESTITUTION**

32. By means of the foregoing unlawful acts and practices, Defendants have acquired the money or property of identifiable persons to whom such money or property should be restored, or who in the alternative are entitled to an award of damages.

### **CONSTRUCTIVE TRUST**

33. A constructive trust should be placed upon all of the assets of Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI, R.I.C.H. and MENJAREZ until this Court determines the appropriate amount of restitution.

### **EQUITABLE RESCISSION**

34. All agreements between consumers and Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI, R.I.C.H. and MENJAREZ should be subject to the remedy of equitable rescission.

### **PRESERVATION OF RECORDS**

35. The records of Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI, and R.I.C.H relating to the organization, operation, advertising, marketing, sale, and/or offer

for sale of real estate should be conserved and preserved during the pendency of these legal proceedings. The records of Defendant MENJAREZ relating to the promotion, offer for and providing of legal services should be conserved and preserved during the pendency of these legal proceedings. Unless injunctive relief is granted, said records of Defendants may be dissipated, lost, altered, removed or materially injured. The interests of the **STATE OF TEXAS** and the public require an injunction in light of the harmful activities of Defendants.

### **THIS COURT’S POWER TO GRANT RELIEF**

36. Section 17.47(b), (c) and (d) of the DTPA, empowers this Court to grant injunctive relief, civil penalties, and such other relief as the Court may deem appropriate to compensate identifiable persons for actual damages or to restore money or property, real or personal, which may have been acquired by means of any unlawful act or practice.

37. Section 402.006(c) of the TEX. GOV’T. CODE ANN. (Vernon 1990) empowers this court to grant Plaintiff the costs of Court, reasonable attorney fees and such other relief to which Plaintiff may be justly entitled.

### **DISGORGEMENT**

38. All of Defendant CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI, R.I.C.H.’s assets are subject to the equitable remedy of disgorgement, which is the forced relinquishment of all benefits that would be unjust for Defendants CARTWRIGHT, BAILEY,

MURRUGARRA, CARROLL, FCI, R.I.C.H. and MENJAREZ to retain, including all ill-gotten gains and benefits. Defendants CARTWRIGHT, BAILEY, MURRUGARRA, ESPINOZA, FCI, R.I.C.H. and MENJAREZ should be ordered to disgorge all monies secured through deception, together with all of the proceeds, profits, income, interest and accessions thereto. Such disgorgement should be for the benefit of the victimized consumers and the State of Texas.

### **PRAYER**

**WHEREFORE**, Plaintiff, the **STATE OF TEXAS**, prays that this Court as authorized by §17.47 of the DTPA, and pursuant to its own equitable powers:

- A. Grant Plaintiff's request for a Temporary Injunction hearing;
- B. Temporarily enjoin Defendants CARTWRIGHT, BAILEY, MURRUGARRA, ESPINOZA, CARROLL, FCI, R.I.C.H. and MENJAREZ, and their officers, agents, servants, employees, subsidiaries and any person acting in concert or participation with Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI, R.I.C.H. and MENJAREZ from violating §17.46(a) and (b) of the DTPA and from the following:
  - (1) Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written materials relating to business of Defendants currently or hereafter in Defendants' possession, custody or control except in response to further orders or subpoenas in this cause;
- C. Temporarily and upon final hearing, permanently enjoin Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI, and R.I.C.H., and their officers, agents, servants, employees, subsidiaries and any person acting in concert or participation with Defendants CARTWRIGHT, BAILEY, MURRUGARRA, CARROLL, FCI, and R.I.C.H., upon final hearing, from violating §§ 17.46(a) and (b) of the DTPA, and from engaging in the following practices in the pursuit and conduct of trade or commerce within the State of Texas as follows:

- (1) From representing that real estate sold to consumers and/or the title documentation for such sale has sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have;
- (2) From representing that real estate sold to consumers and/or the title documentation for such sale are of a particular standard, quality, or grade, if they are of another;
- (3) From representing that an agreement for the sale/purchase of real estate confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law; and
- (4) From failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed.

D. Temporarily and upon final hearing, permanently enjoin Defendant CARTWRIGHT, and his officers, agents, servants, employees, subsidiaries and any person acting in concert or participation with Defendant CARTWRIGHT, upon final hearing, from violating §§ 17.46(a) and (b) of the DTPA, and from engaging in the following practices in the pursuit and conduct of trade or commerce within the State of Texas as follows:

- (1) From using the term “corporation,” “incorporated,” or an abbreviation of either of those terms in the name of a business entity that is not incorporated under the laws of this state or another jurisdiction.

E. Temporarily and upon final hearing, permanently enjoin Defendant MENJAREZ, and his officers, agents, servants, employees, subsidiaries and any person acting in concert or participation with Defendant MENJAREZ upon final hearing, from violating §§ 17.46(a) and (b) of the DTPA, and from engaging in the following practices in the pursuit and conduct of trade or commerce within the State of Texas as follows:

- (1) From causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of legal services;
- (2) From causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another;

- (3) From representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not have;
  - (4) From representing that services are of a particular standard, quality, or grade if they are of another;
  - (5) From representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law; and
  - (6) From failing to disclose information concerning services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed by failing to disclose to consumers.
- F. Order all agreements between Defendants and consumers rescinded;
- G. Order a constructive trust and an equitable lien be placed upon all of the assets of Defendants;
- H. Award Plaintiff, the **STATE OF TEXAS**, civil penalties in the amount of \$20,000.00 per defendant per violation of the DTPA, as provided in §17.47(c) of the DTPA;
- I. Order Defendants, to restore all money or other property taken from identifiable persons by means of unlawful acts or practices, or, in the alternative, award judgment for damages to compensate for such losses as consumer restitution, as provided in §17.47(d) of the DTPA;
- J. Award Plaintiff, the **STATE OF TEXAS**, reasonable attorney fees, costs of investigation and court costs as provided in § 402.006(c) of the TEX. GOV'T. CODE ANN.;
- K. Order Defendants to pay pre-judgment and post-judgment interest on all awards of damages or civil penalties, as provided by law. Grant all other relief to which the Plaintiff may show itself entitled; and
- L. Grant such other and additional equitable relief as the Court may deem just and proper.

Respectfully submitted,

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