



IT IS FURTHER ORDERED that David Crowson be appointed Trustee of the following institutions owned by Defendants:

Spring Season of Elkhart, Inc.;  
 Hillside Health and Rehab, Inc.;  
 Crestview Villa, Inc.; and  
 Spring Season of Mart, Inc.  
 Spring Season of Vidor, Inc.;

IT IS FURTHER ORDERED that David French be appointed Trustee of the following institutions owned by Defendants:

Sunbranch Nursing Center, Inc.;  
 Spring Season of Cuero, Inc.; and  
 Spring Season of Beeville, Inc.  
 Rivercrest Nursing and Rehab, Inc.;

The Trustees are hereby invested with the following powers, to be used in the sole discretion of the Trustees:

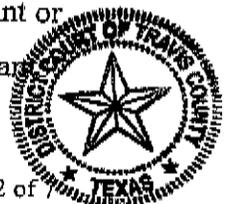
A. To enter, occupy, administer and fully control the facility for that period of time necessary to eliminate the threat to the health and safety of the residents of Defendants' facilities listed above, until such time as DADS has determined that the facilities can ensure continued compliance with the minimum standards for certification, or until further order of the Court. In addition, if appropriate and necessary in the sole opinion of each Trustee, the Trustees will provide for and assure an orderly and safe relocation of some or all of the residents of the Defendants' facilities for which they are each responsible as listed above.

B. To hire and fire assistants, consultants and employees of the facilities, as reasonably necessary in the sole opinion of each Trustee, to assist each Trustee in carrying out the duties described in this order.

C. To direct the notification of residents, persons responsible for their support and nearest relatives of the residents prior to any residents being relocated.

*WJ*  
 D. *Amended 6/2005,*  
 To receive any ~~money~~ *billings* currently held by DADS and owed to Defendants, for each Trustee to perform or cause to be performed the above described duties; and to enter into contracts with DADS to carry out this provision.

E. To take possession, control and custody of all patient records, books of account or other written material, or material stored in computers, relating to the operation of Defendants.



facilities.

F. To open accounts, as necessary to the orderly operation of Defendants' facilities, with any financial institution whose accounts are federally insured.

G. To receive, collect and open all mail directed to Defendants, or contained in any post office box held by Defendants or any of their agents or employees.

H. Upon request, to receive and to cause issuance of all checks and other instruments withdrawing, depositing or transferring funds with respect to all of Defendants accounts, insofar as such funds arise out of, are related to or derived from the business operation of Defendants' facilities.

I. To approve or deny access to Defendants' facilities by Defendants and Defendants' agents, servants and employees, as appropriate for carrying out each Trustee's duties and preventing interference.

J. To negotiate and contract directly with DADS for Medicaid services, as each Trustee deems necessary for the efficient and orderly management of Defendants' facilities and for the well-being of their residents.

K. To make any records the Trustees consider appropriate documenting the condition of residents at the facilities, including photographic, video-graphic, or sound recordings, as long as the privacy rights of residents are protected under Texas law, provided that records tending to invade any resident's privacy shall not be disclosed except to the resident or the resident's responsible party, or to agents of state or federal agencies whose access to these confidential records is authorized by law.

L. To enter employment contracts on Defendants' behalf, after giving notice to Defendants, with Certified Nurse's Aides, Licensed Vocational Nurses, Registered Nurses, and other employees deemed necessary for operation of the facilities in a manner that assures compliance with state and federal standards, on behalf of Defendants, so that staffing arrangements established by each Trustee will be reasonably permanent.

M. To enter any service contracts deemed necessary for training of facility staff, including the Administrator, so staff will know how to care for residents without causing physical, emotional or mental harm to the residents.

N. To work with the Chapter 11 Trustee to the extent necessary to assure the orderly transfer of funds, accounts, records, and any other relevant assets and documents which he controls.



on behalf of any of the Defendant entities to assure an orderly transition of these facilities from his control to the control of the Trustees appointed by this Order, *provided however that notwithstanding any other provision of this Order the Chapter 11 Trustee may retain copies of my books*

IT IS FURTHER ORDERED that Defendants, their officers, agents, servants, employees and attorneys, and all persons in active concert or participation with them as well as anyone claiming an ownership interest in the facilities and/or any attendant property, are hereby enjoined from: *an records necessary to carry out his duties and responsibility as Chapter 11 Trustee*

- A. Interfering with the discharge of the duties of each Trustee or any person acting for each Trustee;
- B. Destroying, altering, concealing, hypothecating, pledging, assigning, transferring or removing any books, records, property or assets of Defendants located at Defendants' facilities without the consent of the Trustee;
- C. Conceal from the Trustees or remove from the Trustees' control any money related to operation of the facilities.

IT IS FURTHER ORDERED that if any of the Trustees deem it necessary for the performance of his duties, Defendants will, upon request by the Trustee, surrender to the Trustee all books, records, property, accounts and assets in their possession or under their control that may be located at or pertain to the operation of Defendants' facilities.

IT IS FURTHER ORDERED that Defendants pay the Trustees, from earnings of the property held under this order, a reasonable fee, plus reasonable expenses, pursuant to TEX. CIV. PRAC. & REM. CODE, §64.051(a)(1), including reasonable attorney fees incurred by the Trustees in performing their duties under this order or effecting payment of amounts owed them by Defendants.

IT IS FURTHER ORDERED that, pursuant to § 242.096, TEXAS HEALTH AND SAFETY CODE, DADS disburse \$600,000.00 to Don Miller, \$200,000.00; to David Crowson; and \$200,000.00 to David French, for the Trusteeships of Defendants' facilities listed above, from the Emergency Nursing and Convalescent Trust Fund. Each Trustee shall open a separate checking account for this case and shall deposit all trust fund disbursements into it. Each Trustee shall file a copy of the bank statement, his check register and all cancelled checks from this account within five (5) days of receipt of the monthly bank statement. Each Trustee shall send a copy of these documents to the attention of Leela Fireside and James Custer, Assistant Attorneys General, Office of the Attorney General's Consumer Protection and Public Health Division, 300 West 15<sup>th</sup> Street



9<sup>th</sup> Floor, Austin Texas 78701.

IT IS FURTHER ORDERED that Defendants reimburse DADS for any emergency assistance received or spent for care of the residents of Defendants' facilities, pursuant to § 242.094(a)(5), TEX. HEALTH AND SAFETY CODE.

IT IS FURTHER ORDERED that each Trustee will report to the Court at the end of the first week and then at least every two weeks thereafter, documenting conditions in the facility and actions made by the facility and by the Trustees to alleviate threats to resident health and safety and to assure continued compliance, in the future, with state and federal standards. Each Trustee will send a copy of each report to DADS, the Office of the Attorney General, and Defendants' attorney(s). The Trustees are ordered to coordinate reporting so that their reports are sent in to the Court and parties as one document.

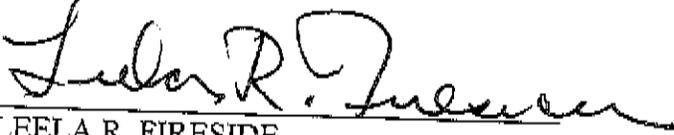
No bond is required pursuant to TEXAS CIVIL PRACTICE AND REMEDIES CODE § 6.001.

Hearing on the State's application for temporary injunction is hereby set for the 14<sup>th</sup> day of July, 2005 at 2:00 P.m.

SIGNED this 1<sup>st</sup> day of July, 2005, at 3:10 p.m.

[Signature]  
JUDGE PRESIDING

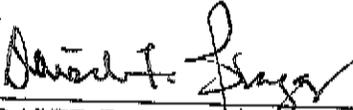
APPROVED:



LEELA R. FIRESIDE  
 SBN 07038750  
 Assistant Attorney General  
 P.O. Box 12548  
 Austin, Texas 78711  
 (512) 475-4233 Telephone  
 (512) 473-8301 Facsimile

JAMES E. CUSTER  
 SBN 24004605  
 Assistant Attorney General  
 P.O. Box 12548  
 Austin, Texas 78711  
 (512) 936-1316 Telephone  
 (512) 473-8301 Facsimile

ATTORNEYS FOR PLAINTIFF



DAVID F. BRAGG  
 SBN 02857300  
 Bragg Chumlea McQuality  
 823 Congress Avenue, Suite 1100  
 Austin, Texas 78701-2454  
 (512) 474-5573 Telephone  
 (512) 474-5580 Facsimile

ATTORNEY FOR TRUSTEES David Crowson and David French



JEFF COOK  
 SBN 04734495  
 Sullivan, Parker & Cook, L.L.C.  
 2911 Turtle Creek Plaza, Suite 1200  
 Dallas, Texas 75219-5315  
 (214) 520-7494 Telephone  
 (214) 528-6925 Facsimile

ATTORNEY FOR TRUSTEE Don Miller

TRO  
 State v. Foremost



*David W Parham*

DAVID W. PARHAM

SBN: 15459500

Baker & McKenzie, L.L.P.

2300 Trammel Crow Center

2001 Ross Avenue

Dallas, Texas 75201

(214) 978-3000 Telephone

(214) 978-3099 Facsimile

ATTORNEY FOR William F. Herzog, Chapter 11 Trustee for Defendant Corporations.

*[Faint, illegible text]*

TRO  
State v. Foremost

