

2. It appears from the facts set forth in the Plaintiff's Original Petition and exhibits and sworn affidavits attached thereto that unless Defendants are immediately restrained from the acts prohibited below, Defendants will continue to commit such acts before notice can be given and a hearing can be held on the STATE OF TEXAS' request for a Temporary Injunction, and Defendants will continue to use false, misleading, or deceptive trade practices in their tax return preparation businesses. Specifically, Defendants ANTHONY BARBER, KENNETH BARBER, RAMON PEREZ, LARRY RODRIGUEZ, JENS SHOEMER, ANDREW MANNING, TAX WORKS INTER-NATIONAL, INC., and LUCIANO MARTINEZ will probably continue to engage in the following practices:

- A. falsely representing that Defendants will truthfully, correctly, completely and/or accurately prepare consumers' federal income tax returns;
- B. falsely representing that Defendants are always looking out for the consumer clients' best interest;
- C. falsely representing that Defendants will provide consumers with the entire amounts of income tax refunds issued to those consumers by the IRS, less only the Defendants' agreed upon charges/fees;
- D. falsely representing that Defendants will represent consumers before the IRS and assist them in the resolution of claims by the IRS that the consumers' federal income tax returns were prepared showing false expenses, deductions, exemptions and/or credits;
- E. failing to disclose to consumers that Defendants will erroneously, falsely, and/or fraudulently prepare the consumers' income tax returns in efforts to undervalue the

consumers' tax liability, and/or qualify the consumer for an income tax refund, and/or increase the amounts of the consumers' income tax refunds;

F. failing to disclose to consumers that Defendants will obtain erroneously, falsely, and/or fraudulently inflated refund amounts from the IRS and retain the inflated amounts without the consumers' knowledge;

G. failing to disclose to consumers that if Defendants prepare the consumers' federal income tax returns such that false expenses, deductions, exemptions and/or credits are shown on the consumers' federal income tax returns, the Internal Revenue Service will require that the consumers pay additional taxes and interest thereon; and/or

H. failing to disclose to consumers that if Defendants prepare the consumers' federal income tax returns such that false expenses, deductions, exemptions, and/or credits are shown on the consumers' federal income tax returns, the consumers may be subject to penalties and criminal prosecution for the Defendants' erroneous, false, and/or fraudulent preparation of the consumers' federal income tax returns.

3. If Defendants are not immediately restrained, many more consumers may lose their money, become liable for additional taxes and interest, and become subject to penalties and criminal prosecution for the Defendants' erroneous, false, and/or fraudulent preparation of the consumers' federal income tax returns.

4. Defendants ANTHONY BARBER, KENNETH BARBER, RAMON PEREZ, LARRY RODRIGUEZ, JENS SHOEMER, ANDREW MANNING, TAX WORKS INTERNATIONAL, INC., and LUCIANO MARTINEZ will continue to engage in these false, misleading,

or deceptive practices and may well dissipate their assets before a judgment for restitution can be rendered. Such injuries would be irreparable because continued violations of the DTPA may cause many more consumers to lose their money, subject those consumers to additional taxes and interest, and subject those consumers to penalties and criminal prosecution for the Defendants' erroneous, false, and/or fraudulent preparation of the consumers' federal income tax returns. Further, given the likelihood of dissipation of Defendant's assets prior to the rendition of a final judgment, the possibility of restitution for consumers will be remote unless an order freezing assets is granted.

5. **IT IS THEREFORE ORDERED** that Defendants ANTHONY BARBER, KENNETH BARBER, RAMON PEREZ, LARRY RODRIGUEZ, JENS SHOEMER, ANDREW MANNING, TAX WORKS INTER-NATIONAL, INC., and LUCIANO MARTINEZ and their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with Defendants, including but not limited to all financial institutions holding money in the name or for the benefit of the above-named Defendants¹, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be restrained from engaging in the following acts or practices:

- A. transferring, spending, concealing, encumbering, withdrawing, removing, or allowing the transfer, removal, or withdrawal from any financial institution or from the jurisdiction of this Court, any money, stocks, bonds, assets, notes, equipment, funds, accounts receivable, policies of insurance, trust agreements, safe deposit boxes, or

¹Known Bank of America accounts subject to this order include, but are not limited to the following: Account No. [REDACTED] standing in the name of Luciano Martinez d/b/a TWIN Tax Service; Account No. [REDACTED] standing in the name of Luciano Martinez; Account No. 004780838462 standing in the name of Luciano Martinez; Account No. [REDACTED] standing in the name of Tax Works Inter-National and T.W.I.N Tax Service; and Account No. [REDACTED] standing in the name of Anthony Barber

other property, real, personal, or mixed, wherever situated, belonging to or owned by, in the possession or custody of, standing in the name of, or claimed by said Defendants, jointly or singly, without further order of this Court;

- B. opening or causing to be opened any safe deposit boxes titled in the name of Defendants, jointly or singly, or subject to access or control by any of Defendants' officers, agents, servants, employees, attorneys, and any other persons in active concert or participation with any Defendant, without providing the Plaintiff and this Court prior notice and opportunity to inspect the contents in order to determine that they contain no assets covered by this section.

6. **IT IS FURTHER ORDERED** that Defendants ANTHONY BARBER, KENNETH BARBER, RAMON PEREZ, LARRY RODRIGUEZ, JENS SHOEMER, ANDREW MANNING, TAX WORKS INTER-NATIONAL, INC., and LUCIANO MARTINEZ and their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with any Defendant, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be restrained from engaging in the following acts or practices:

- A. Transferring, concealing, destroying or removing from the jurisdiction of this Court any books, records, documents, invoices, or other written materials relating to Defendants' business, which are in Defendants' possession, custody, or control except in response to further orders or subpoenas in this cause;
- B. Transferring, spending, hypothecating, concealing, encumbering, depleting, modifying, dissipating, distributing, or removing from the jurisdiction of this Court any money, stocks, bonds, assets, notes, equipment, funds, accounts receivable, policies of insurance, trust agreements, or other property, real, personal or mixed, wherever situated, belonging to or owned by, in possession of, or claimed by Defendants;

- C. Soliciting or accepting compensation of any type to obtain relief of any kind on behalf of another from any officer, agency, or employee of the State of Texas, any other state, or the United States;
- D. Falsely representing to any person, expressly or by implication, that Defendants can or will honestly and accurately prepare federal income tax returns;
- E. Falsely representing, expressly or by implication, that Defendants are able to prepare federal income tax returns in a manner that will produce the best federal income tax refund possible;
- F. Falsely representing, expressly or by implication, that Defendants will look out for consumers' best interest when preparing those consumers' federal income tax returns;
- G. Falsely representing, expressly or by implication, that Defendants will provide consumers with the entire amounts of federal income tax refunds issued to those consumers by the Internal Revenue Service, less only the Defendants' agreed upon charges/fees;
- H. Erroneously, falsely, and/or fraudulently preparing consumers' federal income tax returns;
- I. Failing to disclose to consumers that Defendants may erroneously, falsely, and/or fraudulently prepare the consumers' federal income tax returns;
- J. Obtaining from the Internal Revenue Service erroneously, falsely, and/or fraudulently inflated federal income tax refunds, or amounts thereof;

- K. Retaining erroneously, falsely, and/or fraudulently inflated federal income tax refunds, or amounts thereof;
- L. Falsely representing that Defendants will represent consumers before the IRS and assist those consumers in the resolution of claims by the Internal Revenue Service that the consumers' federal income tax returns were prepared such that false expenses, deductions, exemptions and/or credits are shown on the consumers' federal income tax returns.
- M. Failing to disclose to consumers that Defendants may obtain erroneously, falsely, and/or fraudulently inflated federal income tax refunds, or amounts thereof, from the Internal Revenue Service and retain the inflated refunds, or amounts thereof, without the consumers' knowledge;
- N. Failing to disclose to consumers that if the Internal Revenue Service detects false expenses, deductions, exemptions and/or credits are shown on taxpayers' federal income tax returns, then the taxpayers must pay additional taxes and interest and may be subject to penalties and criminal prosecution;
- O. Failing to disclose to consumers that if Defendants prepare the consumers' federal income tax returns such that false expenses, deductions, exemptions and/or credits are shown on the consumers' federal income tax returns, the Internal Revenue Service will require that the consumers pay additional taxes and interest thereon;
- P. Failing to disclose to consumers that if Defendants prepare the consumers' federal income tax returns such that false expenses, deductions, exemptions, and/or credits are shown on the consumers' federal income tax returns, the consumers may be

subject to penalties and criminal prosecution for the Defendants' erroneous, false, and/or fraudulent preparation of the consumers' federal income tax returns.

7. **IT IS FURTHER ORDERED** that within five (5) business days following service of this Order, Defendants ANTHONY BARBER, KENNETH BARBER, RAMON PEREZ, LARRY RODRIGUEZ, JENS SHOEMER, ANDREW MANNING, TAX WORKS INTER-NATIONAL, INC., and LUCIANO MARTINEZ shall:

- A. provide the OFFICE OF THE ATTORNEY GENERAL with a full, complete and accurate accounting of all funds, documents, and assets located within or outside the STATE OF TEXAS, including the balance of any bank accounts, held either: (1) by Defendants, jointly or singly; or (2) under Defendants' direct control, jointly or singly;
- B. provide the OFFICE OF THE ATTORNEY GENERAL access to Defendants' records and documents held by financial institutions located within or outside of the STATE OF TEXAS.

8. **IT IS FURTHER ORDERED** that any financial or brokerage institution, escrow agent, title company, storage facility, commodity trade company, business entity or person maintaining or having custody or control of any account or other assets of Defendants, jointly or singly, which receives actual notice of this Order by personal service or otherwise, shall:

- A. within five (5) business days of the date of service of this Order, provide to counsel of the Plaintiff and Defendants or account holders a statement or letter setting forth:
 1. the identification of each account or asset titled in the name, individually or jointly, of Defendants, or held on behalf of, or for the benefit of Defendants;
 2. the balance of each such account, or a description and appraisal of the value of such assets, as of the close of business on the day on which the Order is served, and if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other assets were remitted; and

3. the identification of any safe deposit box or storage facility that is either titled in the name individually or jointly, of Defendants, or is otherwise subject to access or control by Defendant.

9. **IT IS FURTHER ORDERED** that Plaintiff shall be granted leave to take telephonic, video, written, and other depositions prior to any scheduled temporary injunction hearing upon reasonable shortened notice to Defendants.

10. **IT IS FURTHER ORDERED** that Defendants in this cause be and hereby are commanded forthwith to comply with this Order from the date of entry until and to the 14th day after entry or until further Order of this Court, whichever is less.

11. The Clerk of the above Court shall forthwith issue an Ex Parte Temporary Restraining Order in conformity with the law and the terms of this Order. This Order shall be effective without the execution and filing of a bond as Plaintiff, STATE OF TEXAS is exempt from such bonds under Section 17.47) of the Texas Deceptive Trade Practices-Consumer Protection Act. TEX. BUS. & COM. CODE ANN. § 17.47.

12. Hearing on Plaintiff, STATE OF TEXAS' Application for a Temporary Injunction is hereby set for the 2nd day of February, 2006, at 12 o'clock, p.m.

SIGNED this 19th day of January, 2006, at 1:10 o'clock, p.m.


PRESIDING JUDGE