

2008 - 33535

CAUSE NO. _____

STATE OF TEXAS,
Plaintiff

IN THE DISTRICT COURT OF

v.

HARRIS COUNTY, TEXAS

JAMES KING d/b/a K&W INDUSTRIES, §
EDWARD GRAY d/b/a GRAY & GRAY §
INVESTOR'S and ALL IN ONE, §
CHARLES HENSLEY d/b/a GLOBAL §
FINANCIAL and d/b/a HOUSES R US, §
CALLIE HERPIN, d/b/a NEW PHASE §
DEVELOPMENT, GUSTAVIA HALL §
d/b/a NEXT LEVEL DEVELOPMENT, §
ERIK CAMPBELL, MATTHEW WADE §
and CALVIN REMO d/b/a REAL TIME §
INVESTMENTS, CHERYL SWINSON §
d/b/a VALLERY'S RESIDENTIAL §
HOME REPAIR, VALLERY'S HOUSE, §
INC. and OSCAR HERNANDEZ §
Defendants §

FILED
THERESA CHANG
DISTRICT CLERK
HARRIS COUNTY, TEXAS
2008 MAY 30 AM 10:15
BY _____
DEPUTY

125 JUDICIAL DISTRICT

EX PARTE TEMPORARY RESTRAINING ORDER

Plaintiff, State of Texas, has filed its Original Petition in this cause seeking a Temporary and Permanent Injunction against James King d/b/a K&W Industries, Edward Gray d/b/a Gray & Gray Investor's and All In One, Charles Hensley d/b/a Global Financial and d/b/a Houses R Us, Callie Herpin d/b/a New Phase Development, Gustavia Hall d/b/a Next Level Development, Erik Campbell, Calvin Remo and Matthew Wade d/b/a Real Time Investments, Cheryl Swinson d/b/a Vallery's Residential Home Repair, Vallery's House Inc., and Oscar Hernandez ("Defendants") and in the same petition has presented its request for a Temporary Restraining Order.

The Court FINDS that Defendants appear to be clearly violating §§17.46(a) and (b) of the Texas Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE ANN. § 17.41

et. seq. (DTPA). It appears from facts set forth in the Plaintiff's Original Petition and the exhibits and sworn affidavits attached thereto, that unless Defendants are immediately restrained from the acts prohibited below, Defendants will commit such acts before notice can be given and a hearing can be held on the State of Texas' request for a Temporary Injunction.

Furthermore, Defendants will continue to use deceptive tactics and misrepresentations and may well dissipate and secrete their assets before a Temporary Injunction hearing can be held and a final judgment for restitution can be rendered. Such injury would be irreparable because continued violations of the DTPA may well cause more consumers to lose money through deceptive transactions. Given the likelihood of dissipation of Defendants' assets prior to rendition of a final judgment, the possibility of restitution for consumers will be remote unless an order freezing certain assets is granted.

1. **IT IS THEREFORE ORDERED** that Defendants **James King, Edward Gray, Charles Hensley, Callie Herpin, Gustavia Hall, Erik Campbell, Calvin Remo, Matthew Wade, Cheryl Swinson, Vallery's House Inc., and Oscar Hernandez**, their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them, including all financial institutions such as **Lubrizol Employees Credit Union**,¹ holding money or assets of any kind in the name and/or for the benefit of the above-named Defendants, 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:

¹Known accounts at Lubrizol Employees Credit Union subject to the order include, but are not limited to, account numbers _____ standing in the name of Charles & Marchelle Hensley.

- A. Transferring, spending, hypothecating, concealing, encumbering, withdrawing, removing, dissipating, distributing, or allowing the transfer, removal, withdrawal or encumbering from any financial institution or from any other entity or location or from the jurisdiction of this Court, any money, cash, 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 or custody of, standing in the name of, or claimed by Defendants without further order of this Court;
- B. Opening or causing to be opened any safe deposit boxes or storage facilities titled in the name of Defendants or subject to access, ownership or control by Defendants, without providing Plaintiff and the Court prior notice by motion seeking such access.

2. **IT IS ALSO ORDERED** that Defendants **James King, Edward Gray, Charles Hensley, Callie Herpin, Gustavia Hall, Erik Campbell, Calvin Remo, Matthew Wade, Cheryl Swinson, Vallery's House Inc., and Oscar Hernandez**, their officers, agents, servants, employees, attorneys and persons in active concert or participation with them, are prohibited from transferring, spending, encumbering, withdrawing, or removing any sum of money from any accounts, assets or property specifically referenced in paragraph 1 of this Order or from any other such account(s) and assets where monies or proceeds from the operation of K&W Industries, Gray & Gray Investor's, All In One, Global Financial, Houses R Us, New Phase Development, Next Level Development, Real Time Investments, Vallery's Residential Home Repair, All-N-1 Transports, and THC Investments & Consulting have been used, placed, deposited or invested.

However, Defendants are not prohibited from expending monies for reasonable living expenses and attorney fees from other assets standing in their names which have not and do not

contain monies or proceeds from any real estate related conveyance, lease, sale or transaction or from monies earned by them or their family members by virtue of other employment or business ventures wholly unrelated to any real estate related conveyance, lease, sale, or transaction.

3. **IT IS ALSO ORDERED** that if any of the parties, persons, or entities referenced in this order agree in writing, through their authorized representatives or counsel, to specify that certain assets be or remain frozen and/or that certain assets be released from the asset freeze ordered herein, pending the completion of any scheduled Temporary Injunction hearing, then such parties or entities may do so. **IT IS ORDERED** that any bank, financial institution, person, or other entity holding funds in the name of or for the benefit of any party, person, or entity referenced in this order, shall comply with any written directive relating to the freezing or unfreezing of any bank account or asset referenced in this order, without further order of this court pending any scheduled Temporary Injunction hearing, provided such written directive is signed by an Assistant Attorney General representing the State of Texas and an authorized representative or attorney of such Defendant, person or entity with custody or control of the bank account or asset involved.

4. **IT IS FURTHER ORDERED** that Defendants, their officers, agents servants, employees, attorneys and any other persons in active concert or participation with them 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, or other written or computer generated materials relating to the business of Defendants currently or hereafter in Defendants' possession, custody or

- control except in response to further orders or subpoenas in this cause;
- B. Forging signatures on any kind of document;
 - C. Conspiring with others or requesting others to forge signatures on any kind of document;
 - D. Conspiring with others or requesting others to notarize forged documents;
 - E. Notarizing forged documents;
 - F. Preparing, filing, drafting, or executing documents which have the effect of placing a lien on real property without further order of the court;
 - G. Preparing, filing, drafting, or executing documents which have the effect of transferring real property without further order of the court;
 - H. Offering to assist any person with any type of actual or threatened foreclosure notice or proceeding;
 - I. Accepting anything of value to assist anyone in any type of actual or threatened foreclosure notice or proceeding;
 - J. Assisting any person in any way with any type of actual or threatened foreclosure notice or proceeding;
 - K. Filing any type of document or instrument with any County Clerk's office without further order of the court;
 - L. Transferring or purporting to transfer any real or personal property to any other person or entity without further order of this court;
 - M. Engaging in any type of real estate transaction without further order of this court;
 - N. Destroying, altering, mutilating, concealing, transferring, or otherwise disposing of or changing any records relating to any Defendant or entity in which any Defendant has or

claims an ownership interest; and

5. **IT IS FURTHER ORDERED** that Defendants advise any financial or brokerage institution, escrow agent, title company, storage facility, commodity trading company, business entity or person maintaining or having custody or control of any account or other asset of Defendants, to within five (5) business days of the date of service of this Order, provide to counsel for the Plaintiff and the Defendant/account holder a statement or letter setting forth:

- A. 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;
- B. The balance of each such account, or a description and estimated value of such assets, as of the close of business on the day on which this 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 was remitted; and
- C. The identification of any safe deposit box or storage facility that is in the name individually or jointly of Defendants or is otherwise subject to access or control by Defendants.

6. **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that, as used in this Judgment, the following terms are defined as follows:

- A. "Consumer" means an individual, partnership, corporation, or entity of any kind, including this state, or a subdivision or agency of this state who seeks or acquires, by purchase or lease, any goods or services;
- B. "Defendant(s)" means James King d/b/a K&W Industries, Edward Gray d/b/a Gray & Gray Investor's, Charles Hensley d/b/a Global Financial and d/b/a Houses R Us, Callie Herpin

d/b/a New Phase Development, Gustavia Hall d/b/a Next Level Development, Erik Campbell, Calvin Remo and Matthew Wade d/b/a Real Time Investments, Cheryl Swinson d/b/a Vallery's Residential Home Repair, Vallery's House Inc., and Oscar Hernandez, their successors, assigns, officers, agents, subcontractors, servants, employees, corporations and any other persons in active concert or participation with them including Gray & Gray Investor's, Global Financial, Houses R Us, All In One, All-N-1 Transports, All-In-One Medical Supplies, Evergreen Place Ranch, Hands "R" Us Barber Studio, Family & Friends Transportation, Dailey Errand's Delivery Service, Workout Inv., Little Blessing's Child Care, Just Liquor, Wonder Years, Impeccable Cleaners, C&E Cleaners, Independent Living Medical Supplies, Alliance Medical E.M.S., Bakers Prep., Johnson & Associates Construction Co., and THC Investments & Consulting;

- C. "Person" means an individual, sole proprietorship, firm, partnership, corporation, association, joint venture or other group, or business entity, however organized;
- D. "Representing", "selling", "marketing", "promoting", "distributing" or "advertising" means any type of contact with a person or entity for the purpose of requesting, persuading, or seeking any type of contribution, sponsorship, compensation, or anything of value from said person or entity for any reason whatsoever, including use of the Internet.

7. **IT IS FURTHER ORDERED** that Plaintiff and Defendants shall be granted leave to take telephonic, video, written, and other depositions with a Request for Production prior to any scheduled temporary injunction hearing and prior to Defendants' answer date upon reasonable shortened notice to the attorneys for all parties if known.

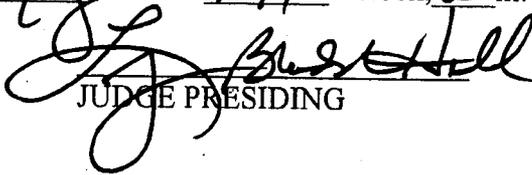
8. **IT IS FURTHER ORDERED** that Defendants in this cause be and hereby are commanded

forthwith to comply with this Order from the date of entry until and to the fourteenth (14) day after entry or until further order of this Court, whichever is less.

9. The Clerk of the above-entitled 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 bond under TEX. BUS. & COM. CODE ANN. §17.47(b).

10. Hearing on Plaintiff, State of Texas' Application for a Temporary Injunction is hereby set for the 13th day of June, 2008, at 3 o'clock P. M.

SIGNED this 30th day of May, 2008 at 1:49 o'clock, a m.


JUDGE PRESIDING