

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 **EXCEL LOSS MITIGATION INCORPORATED, UNITED SERVICING LLC, BELL INVESTMENTS & DEVELOPMENTS LLC, FRANCIS MARION BELL, DAVID BELL (AKA DAVID CALVERT), and DAVID ESPY, INDIVIDUALLY**, their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them including all financial institutions such as WOODFOREST NATIONAL BANK (Acct. No. 0889) 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 entity, shall be restrained from engaging in the following acts or practices:

- 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 **EXCEL LOSS MITIGATION INCORPORATED, UNITED SERVICING LLC, BELL INVESTMENTS & DEVELOPMENTS LLC, FRANCIS MARION BELL, DAVID BELL (AKA DAVID CALVERT), and DAVID ESPY, INDIVIDUALLY**, their officers, agents, servants, employees, attorneys and any other 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 referenced in paragraph 1 of this Order or from any other such account(s) and assets where any monies or proceeds from the operation of **EXCEL LOSS MITIGATION INCORPORATED, BELL INVESTMENTS & DEVELOPMENTS LLC** or **UNITED SERVICING LLC** have been used, placed, deposited, transferred, invested or commingled; however, Defendants **FRANCIS MARION BELL, DAVID BELL (AKA DAVID CALVERT), and DAVID ESPY** 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 the operation of **EXCEL LOSS MITIGATION INCORPORATED** or **UNITED SERVICING LLC** or from monies earned by them or their family members by virtue of other employment or business ventures wholly

unrelated to the operation of **EXCEL LOSS MITIGATION INCORPORATED, BELL INVESTMENTS & DEVELOPMENTS LLC** or **UNITED SERVICING LLC**.

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 **EXCEL LOSS MITIGATION INCORPORATED, UNITED SERVICING LLC, BELL INVESTMENTS & DEVELOPMENTS LLC, FRANCIS MARION BELL, DAVID BELL (AKA DAVID CALVERT), and DAVID ESPY, INDIVIDUALLY**, 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, invoices or other written or computer generated materials relating to the business of Defendants currently or hereafter in their possession, custody, or control, except in response to further orders or subpoenas in this cause;

B. Representing, expressly or by implication, that Defendants can “guarantee” to save consumers’ homes from foreclosure;

C. Representing expressly or by implication that

- 1) Defendants have assisted “thousands” of customers in avoiding foreclosure;
- 2) Most of Defendants’ customers get the solutions for which they contract;
- 3) Defendants have a 100% satisfaction guarantee or the consumer’s money back;
- 4) Defendants use “legal experts”, “mitigation specialists”, “seasoned professionals” or have established relationships with banks and lenders;
- 5) Defendants can reduce the consumer’s monthly mortgage payment;
- 6) Defendants have special relationships with lenders, mortgage companies, or governmental entities that enable Defendants to obtain relief that is unavailable to the consumer;
- 7) Representing, expressly or by implication, that Defendants will be able to have a homeowner’s arrearage, penalties, interest or other fees placed on the back or at the end of any scheduled payment plan or payout;
- 8) Falsely advertising or misrepresenting the nature of Defendants’ services.

D. Failing to provide and remit full and complete refunds to consumers within 48 hours of receiving information from any mortgage company or other source which indicates to a reasonable person that Defendants will not be successful in assisting the consumer from saving his or her home or other property from foreclosure;

E. Making any telephone solicitation in the State of Texas or to a person in the State of Texas for the purpose of inducing the person to purchase, rent, claim, or receive an item or service, unless Defendants have first registered and posted a bond with the Texas Secretary of State pursuant to Chapters 302 of the Texas Business and Commerce Code.

F. Providing or offering to provide services of a credit services organization as defined by TEX. FIN. CODE §393.001(1)(3) without first registering and filing a bond as required by TEX. FIN. CODE §393.304 and §393.401-407.

G. Providing or offering to provide debt management services as defined in TEX. FIN. CODE §394.202(6) without first registering and fulfilling the requirements of TEX. FIN. CODE §394.204 and §394.206.

5. **IT IS FURTHER ORDERED** that Defendants **EXCEL LOSS MITIGATION INCORPORATED, UNITED SERVICING LLC, BELL INVESTMENTS & DEVELOPMENTS LLC, FRANCIS MARION BELL, DAVID BELL (AKA DAVID CALVERT), and DAVID ESPY, INDIVIDUALLY** 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, including any assets of, 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 transferred or 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 **EXCEL LOSS MITIGATION INCORPORATED, UNITED SERVICING LLC, BELL INVESTMENTS & DEVELOPMENTS LLC, FRANCIS MARION BELL, DAVID BELL (ALSO KNOWN AS DAVID CALVERT), and DAVID ESPY, INDIVIDUALLY** their successors, assigns, officers, agents, subcontractors, servants, employees, corporations and any other persons in active concert or participation with them;

- 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.
- E. "Telephone solicitation" means a telephone call initiated by a seller or salesperson to or from a person for the purpose of inducing the person to purchase, rent, claim, or receive a good or service. The term "telephone solicitation" includes a call made by a purchaser in response to a solicitation sent by mail or made by any other means, and also includes the use of automatic dialing machines or recorded message devices.

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

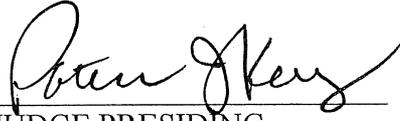
8. **IT IS FURTHER ORDERED** that Defendants in this cause be and hereby are commanded forthwith to comply with this Order from the date of entry until and to the fourteenth (14) day after entry or until further order of this Court, whichever is less.

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 22 day of May, 2009, at 1:30 o'clock P.m.

SIGNED this 13 day of May, 2009 at 3:45 o'clock, P.m.


JUDGE PRESIDING