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EL PASO COUNTY, TEXAS

BY \_\_\_\_\_  
DEPUTY

IN THE \_\_\_\_\_ COURT OF EL PASO COUNTY, TEXAS

THE STATE OF TEXAS §  
Plaintiff §  
v. §  
ADVENT HARVEST ACADEMY CORP., §  
d/b/a SUNRISE PRIVATE HIGH SCHOOL, §  
LONGHORN PRIVATE HIGH SCHOOL, and §  
BLUEBONNET PRIVATE HIGH SCHOOL; §  
TERI LYNN TOUT-DENNIS, §  
INDIVIDUALLY AND AS DIRECTOR §  
OF EDUCATION, AND MIKE MARTIN, §  
INDIVIDUALLY AND AS EXECUTIVE §  
SCHOOL DIRECTOR §

Cause No. 2018-4117

**PLAINTIFF'S ORIGINAL PETITION**  
**APPLICATION FOR TEMPORARY RESTRAINING ORDER, TEMPORARY AND**  
**PERMANENT INJUNCTION AND REQUEST FOR DISCLOSURE**

**TO THE HONORABLE JUDGE OF SAID COURT:**

Plaintiff the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, complains of Advent Harvest Academy Corp., d/b/a Sunrise Private High School, Longhorn Private High School and Bluebonnet Private High School; Teri Lynn Tout-Dennis, Individually and as Director of Education for all the above-mentioned schools; and Mike Martin, Individually and as Executive School Director of all the above-mentioned schools, hereinafter referred to as Defendants, and for cause of action would respectfully show the Court the following:

**I. DISCOVERY CONTROL PLAN**

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to TEX.

R. CIV. P. 190.3.

## II. NATURE OF THIS SUIT

2.1 The Attorney General, acting within the scope of his official duties under the authority granted to him under the Constitution and the laws of the State of Texas, brings this lawsuit in the name of the State of Texas through his Consumer Protection and Public Health Division against Defendants for violations of the Texas Deceptive Trade Practices - Consumer Protection Act, TEX. BUS. & COM. CODE ANN. § 17.41, *et seq.* (hereinafter “DTPA”) and for violations of the Texas Education Code §25.086(a)(1).

## III. DEFENDANTS

3.1 Defendant, Advent Harvest Academy Corporation, d/b/a Sunset Private High School, Bluebonnet Private High School and Longhorn Private High School, is a Texas corporation and may be served through service upon its registered agent, Michael M. Martin, at 8129 Rush St., Benbrook, TX 76116 or wherever he may be found. Defendant, Teri Lynn Tout-Dennis is an individual residing in Tarrant County who may be served at 4601 Glenview Ct., North Richland Hills, TX 76180, or wherever she may be found. Defendant Michael M. Martin is an individual residing in Tarrant County who may be served at 8129 Rush St., Benbrook, TX 76116 or wherever he may be found.

## IV. VENUE

- 4.1 Venue of this suit lies in El Paso County, Texas for the following reasons:
- a. Under TEX.CIV. PRAC. & REM. CODE ANN. §15.002(A)(1) venue is proper because all or a substantial part of the causes of action alleged herein occurred in El Paso County, Texas; and
  - b. Under the DTPA §17.47(b), venue is proper because Defendants have done business in El Paso County, Texas.

## **V. PUBLIC INTEREST**

5.1 Because Plaintiff STATE OF TEXAS has reason to believe that Defendants have engaged in, and will continue to engage in the unlawful practices set forth below, Plaintiff STATE OF TEXAS has reason to believe that Defendants have caused, and will cause, injury, loss and damage to the STATE OF TEXAS, and will also cause adverse effects to legitimate business enterprises which conduct trade and commerce in a lawful manner in this State. Therefore, the Consumer Protection Division of the Office of the Attorney General of Texas believes, and is of the opinion, that these proceedings are in the public interest.

## **VI. TRADE AND COMMERCE**

6.1 Defendants have, at all times described below, engaged in conduct which constitutes “trade” and “commerce” as that term is defined by §17.45(6) of the DTPA.

## **VII. NOTICE BEFORE SUIT**

7.1 The Consumer Protection Division of the Office of the Attorney General has good cause to believe that such an emergency exists and that immediate and irreparable injury, loss, or damage would occur as a result of the delay in obtaining a temporary restraining order and has therefore not made prior contact with the Defendants pursuant to 17.47(a) of the DTPA.

## **VIII. CONDITIONS PRECEDENT**

8.1 Plaintiff alleges that all conditions precedent have been performed or have occurred.

## **IX. ACTS OF AGENTS**

9.1 Whenever in this Petition it is alleged that Defendants did any act, it means that:

- a. Defendants performed or participated in the act; or
- b. Defendants’ officers, agents, or employees performed or participated in the act on

behalf of and under the authority of the Defendants.

## **X. NATURE OF DEFENDANTS' OPERATIONS**

10.1 Defendants advertise on the internet at [www.bluebonnetprivatehighschool.com](http://www.bluebonnetprivatehighschool.com) that consumers can obtain their High School diploma by taking and passing Defendants' on-line exam. The cost for the program is \$225.00 and can be paid by credit card.

10.2 Defendant has misrepresented to consumers in the State of Texas that upon the successful completion of its online test that consumers will receive a High School diploma.

10.3 Defendant solicits consumers in Texas by advertising on-line that a person can receive a High School diploma by taking an exam on-line through their website. Specifically, Defendant has placed the following advertisement on the internet at [www.bluebonnetprivatehighschool.com](http://www.bluebonnetprivatehighschool.com):

“We are a private home school and our curriculum includes: Reading Spelling, Grammar, Math, History and Citizenship. This meets the State of Texas requirements for a State of Texas High School Diploma”

10.4 When consumers access the website, they are advised that Defendants fall under the “home school” exemption of the Education Code and that once the consumers take their on-line test and pass it, they will receive their High School diploma. Consumers who are interested can complete the test on-line at their leisure and there is never any verification of who is actually taking the exam or any other type of student verification or attendance requirements. Once a consumer completes the answer sheet, it is faxed to Defendants, who then “grade” it and issue the “High School diploma” as well as a transcript, which purports to give credit hours based upon the answers provided to the on-line exam. The cost of Defendants' on-line diploma is \$225.00.

10.5 Consumers then receive their “high school diploma” and “transcript” which the

Defendants issue in the mail. This diploma is not recognized in Texas as a “certificate of high school equivalency;” thus, the diploma issued by the Defendants, as well as the on-line exam, are of little or no value to Texas consumers. Defendants claim they have a school I.D. number. The State of Texas has never issued a School I.D. Number to Defendants. They have passed off a number assigned to their corporation as a school I.D. number which it is not.

#### **XI. VIOLATIONS OF THE EDUCATION CODE**

11.1 Defendants, as alleged above, have in the course of trade and commerce engaged in violations and promoted others to violate the compulsory school attendance requirements of the TEXAS EDUCATION CODE, in violation of §25.086(a)(1).

#### **XII. VIOLATIONS OF THE BUSINESS AND COMMERCE CODE**

12.1 Defendants, as alleged above, have in the course of trade and commerce engaged in violations of the TEXAS BUSINESS AND COMMERCE CODE § 17.08, in using the State seal on the high school diplomas they themselves issue.

#### **XIII. VIOLATIONS OF THE DTPA**

13.1. Defendants, as alleged above, have in the course of trade and commerce engaged in false, misleading or 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 good or services, as alleged more specifically in paragraphs 11.1 through 11.4 above, in violation of §17.46(b)(2) of the DTPA;

b. Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another, as alleged more specifically in paragraphs 11.1 through 11.4 above,

in violation of §17.46(b)(3) of the DTPA;

c. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have, as alleged more specifically in paragraphs 11.1 through 11.4 above, in violation of § 17.46(b)(5);

d. Representing that goods are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another, as alleged more specifically in paragraphs 11.1 through 11.4 above, in violation of § 17.46(b)(7); and

e. 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, as alleged more specifically in paragraphs 11.1 through 11.4 above, in violation of § 17.46(b)(24).

#### **XIV. DISGORGEMENT**

14.1 Defendants' assets are subject to the equitable remedy of disgorgement, which is the forced relinquishment of all benefits that would be unjust for Defendants to retain, including all ill-gotten gains and benefits or profits that result from Defendants putting fraudulently converted property to a profitable use. Defendants should be ordered to disgorge all monies fraudulently taken from individuals, businesses, and any governmental entity together with all of the proceeds, profits, income, interest and accessions thereto. Such disgorgement should be for the benefit of victimized consumers and the State of Texas.

#### **XV. OTHER RELIEF**

15.1 The State of Texas asks the Court to order Defendants to restore any money or

property which may have been acquired from their “clients” by means of any unlawful act or practice.

15.2 The State of Texas asks the Court to order Defendants to pay a civil penalty, to and for the benefit of the State of Texas, in the amount of \$20,000.00 per violation of the DTPA.

15.3 The State of Texas asks the Court to order Defendants to pay reasonable attorney fees, pursuant to TEX. GOV'T CODE § 402.006.

15.4 The State of Texas asks the Court to order Defendants to pay civil penalties to and for the benefit of the State of Texas, in the amount of not less than \$100 for each violation of Tex.Fin.Code §392.403.

#### **XVI. INJURY TO CONSUMERS**

16.1 Because Defendants have engaged in the unlawful acts and practices described above, Defendants have violated the law as alleged in this petition. Unless restrained by this Honorable Court, Defendants will continue to violate the laws of the State of Texas and cause injury to the general public.

#### **XVII. REQUEST FOR DISCLOSURE**

17.1 Pursuant to Rule 194, Tex.R.Civ.P., Defendants are requested to disclose the information or material described in Rule 194.2. Defendants' written responses to the requests for disclosure along with all copies of documents and other tangible items responsive to these requests shall be produced at the Office of the Attorney General, Consumer Protection and Public Health Division, 401 E. Franklin, Suite 530, El Paso, Texas 79901 except as provided by Rule 194.3, within 50 days of service of Plaintiffs' Original Petition.

## **XVIII. PRAYER**

18.1. By reason of the institution and continued operation of the acts and practices described herein above, Defendants have violated and will continue to violate the laws as herein alleged unless enjoined by this Honorable Court.

18.2 WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited according to law to appear and answer herein; that after due notice and hearing a TEMPORARY INJUNCTION be issued against Defendants and upon final hearing a PERMANENT INJUNCTION be issued, restraining and enjoining Defendants, their agents, servants, employees, and representatives from engaging in the following acts and practices in the pursuit and conduct of trade or commerce within the State of Texas:

a. Representing to persons in the State of Texas that upon completing their on-line exam that they will receive a high school diploma;

b. Representing to persons in the State of Texas that they are authorized to issue a high school diploma on the basis of an on-line exam;

c. Representing to persons in the State of Texas that they are authorized to administer any type of high school equivalency exam in Texas;

d. Advertising or otherwise representing to persons in the State of Texas that they can provide a person with a high school diploma in any manner or in any form;

e. Advertising or otherwise using the acronym G.E.D. in the State of Texas to mean or represent anything other than "General Educational Development;" and

f. Receiving, soliciting, or otherwise accepting money or compensation in any manner or form from any person in Texas for the purpose of providing that person or any other person with a

high school diploma, or for the purpose of administering a high school equivalency test to that person or to any other person.

18.3 In addition, Plaintiff STATE OF TEXAS respectfully prays that upon final hearing, this Court will Order Defendants to:

a. Pay civil penalties in favor of Plaintiff STATE OF TEXAS in the amount of \$20,000.00 per violation for violations of the DTPA;

b. Pay restitution as provided by § 17.47(c) of the DTPA;

c. Pay pre-judgment interest on all awards of restitution, damages or civil penalties, as provided by law;

d. Pay all costs of Court, costs of investigation, and reasonable attorney's fees pursuant to TEX. GOVT. CODE ANN. § 402.006(c);

e. Order that all fines, civil penalties, or forfeitures payable to and for the benefit of the Plaintiff STATE OF TEXAS are not dischargeable under bankruptcy pursuant to 11 U.S.C. §523 (a)(7); and

f. Plaintiff further prays for such other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

**GREG ABBOTT**  
Attorney General of Texas

**DANIEL T. HODGE**  
First Assistant Attorney General

**BILL COBB**  
Deputy Attorney General for Civil  
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**PAUL D. CARMONA**  
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Attorneys for Plaintiff

VERIFICATION

STATE OF TEXAS §  
  §  
COUNTY OF EL PASO §

BEFORE ME, the undersigned authority, on this day personally appeared affiant Patricia M. Acosta, who proved to me through a current Texas Driver's License to be the person whose name is subscribed to this Verification and who acknowledged to me that she executed the same, and after she was duly sworn, upon her oath, she deposed and said that the affiant is an investigator for the Office of Attorney General, and is authorized to make this affidavit, that the affiant has carefully read the factual allegations in the foregoing PLAINTIFF'S ORIGINAL PETITION, APPLICATION FOR TEMPORARY RESTRAINING ORDER, TEMPORARY AND PERMANENT INJUNCTION, AND REQUEST FOR DISCLOSURE and has reason to believe that each and all said factual allegations are true and correct; and affiant signs this Verification, pursuant to Rule 682 of the TEXAS RULES OF CIVIL PROCEDURE .

*Patricia M. Acosta*

PATRICIA M. ACOSTA  
INVESTIGATOR

SUBSCRIBED AND SWORN TO before me on the 20th day of October, 2010.

*Lucia G. Jaime*

NOTARY PUBLIC IN AND  
FOR THE STATE OF TEXAS

