

COPY

CAUSE NO. D-1-GV-11 000521

MAY - 5 2011 AMC

At 4:05p M.  
Amalia Rodriguez-Mendoza, Clerk

THE STATE OF TEXAS,  
Plaintiff

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IN THE DISTRICT COURT OF

v.

TRAVIS COUNTY, TEXAS

MULTIMEX DISTRIBUTIONS INC.  
AND SAN MARTIN DISTRIBUTING  
INC.,

Defendants

98TH 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 and in the same petition has presented its Application for an Ex Parte Temporary Restraining Order.

The Court **FINDS** that Defendants MULTIMEX DISTRIBUTIONS INC., AND SAN MARTIN DISTRIBUTING INC., (hereinafter "Defendants") may be violating sections 17.46(a) and (b) of the Texas Deceptive Trade Practices - Consumer Protection Act, Texas Business and Commerce Code, section 17.41-.904. It appears from the facts set forth in 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. Consumers will be at risk in confusing the dietary supplement, Amoxilina, with the antibiotic, Amoxicillin. Such injury will be irreparable because continued violations of the DTPA may cause consumers physical harm. Given the potential of immediate harm to consumers, the Application for Ex Parte Temporary Restraining Order is **GRANTED**.

1. **IT IS THEREFORE ORDERED** that Defendants, MULTIMEX DISTRIBUTIONS INC., AND SAN MARTIN DISTRIBUTING INC., their officers, agents, servants, employees, attorneys,

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and any other persons in active concert or participation with them, shall be restrained from engaging in the following acts or practices:

- A. Representing, directly or by implication, that Amoxilina, the dietary supplement is the same or will have the same benefits as Amoxicillin, the prescription antibiotic.
- B. Selling, distributing or offering for sale in Texas ~~any~~ <sup>the</sup> dietary supplement <sup>Amoxilina</sup> whose packaging is similar to the prescription medication of the same or similar name. MA
- C. Selling, distributing or offering for sale in Texas the dietary supplement Amoxilina without the disclosure in Spanish that “[t]hese statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.”
- D. Selling, distributing or offering for sale in Texas the dietary supplement Amoxilina until the packaging has been significantly changed so that it does not resemble the packaging for Amoxicillin.
- E. Selling, distributing or offering for sale in Texas the dietary supplement Amoxilina until any mention of “antibiotic” is removed from the package.
- F. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written materials relating to the operation of Defendants’ business currently or hereafter in Defendants’ possession, custody or control except in response to further orders or subpoenas in this cause.

2. **IT IS FURTHER ORDERED** that Defendants MULTIMEX DISTRIBUTIONS INC., AND SAN MARTIN DISTRIBUTING INC **immediately inform** all retailers and wholesalers in Texas to which they have sold, distributed or supplied the dietary supplement Amoxilina and the child’s Amoxilina syrup of this Order.

3. **IT IS FURTHER ORDERED** that Defendants MULTIMEX DISTRIBUTIONS INC., AND SAN MARTIN DISTRIBUTING INC immediately, but no later than three days of the date of this order, remove and retrieve the dietary supplement Amoxilina and the child’s Amoxilina syrup from all retailers and wholesalers in Texas to whom they have sold, distributed or supplied the dietary supplement Amoxilina and the child’s Amoxilina syrup.

4. **IT IS FURTHER ORDERED** that Plaintiff is **GRANTED** leave to take telephonic,



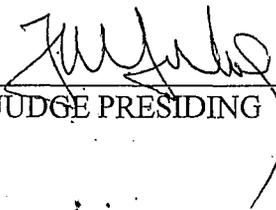
video, written, and other depositions along with subpoena duce tecum, prior to any scheduled temporary injunction hearing upon reasonable shortened notice to Defendants and their attorneys, if known;

5. **IT IS FURTHER ORDERED** that Defendants MULTIMEX DISTRIBUTIONS INC., AND SAN MARTIN DISTRIBUTING INC. be and hereby are commanded forthwith to comply with this Order from the date of entry until and to the fourteenth (14<sup>th</sup>) day after entry or until further order of this Court, whichever is less.

6. 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 filing a bond for a temporary restraining order or temporary injunction under section 6.001 of the Texas Civil Practice and Remedies Code and section 17.47(b) of the Texas Business and Commerce Code.

7. The Hearing on Plaintiff State of Texas' Application for a Temporary Injunction is hereby set for the 19<sup>th</sup> day of MAY, 2011 at 2:00 o'clock, P .m.

SIGNED this 5<sup>th</sup> day of May 2011 at 3:42 o'clock, P m.

  
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JUDGE PRESIDING

I, AMALIA RODRIGUEZ-MENDOZA, District Clerk, Travis County, Texas, do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on May 5, 2011

AMALIA RODRIGUEZ-MENDOZA

DISTRICT CLERK

By Deputy 

