

CAUSE NO. \_\_\_\_\_

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
v.	§	
	§	
NINFA ALBA, AKA NINFA LEAL,	§	
OWNER AND CONTROLLING PARTY	§	
OF AN UNLICENSED ASSISTED	§	BEXAR COUNTY, TEXAS
LIVING FACILITY AND NINFA ALBA,	§	
GARY LEAL AND LINDA LEAL AKA	§	
LINDA VILLAREAL, D/B/A	§	
WWW.ELDERLYCARESANANTONIO.	§	
COM	§	
Defendants.	§	_____ JUDICIAL DISTRICT

**EX PARTE TEMPORARY RESTRAINING ORDER**

TO THE HONORABLE JUDGE OF THE COURT:

On this day the Court considered the portion of the State’s Petition wherein the State moves for relief including an Ex Parte Temporary Restraining Order in the above entitled and numbered cause. The State appeared by and through James E. Custer, Assistant Attorney General of Texas.

The Court has examined the pleadings and evidence presented, and the Court is of the opinion that it has authority over the parties and the subject matter of the suit under § 247.044(c) of the TEX. HEALTH & SAFETY CODE and Texas Deceptive Trade Practices Act, TEX. BUS. & COMM. CODE §§ 17.41 et seq. The Court finds there is sufficient evidence to restrain the Defendants from operating unlicensed assisted living facilities in violation of Chapter 247 of the Texas Health and Safety Code.

**IT IS THEREFORE ORDERED** that Defendant, Ninfa Alba, owner and controlling person of unlicensed assisted living facilities located 3325 Fox Briar, Cibolo, Guadalupe County, Texas

78108 and 15522 Hill Lane, Selma, Guadalupe County, Texas 78154, and 3720 Ridgeway, San Antonio, Texas 78259, her agents, employees and attorneys, are **ENJOINED AND RESTRAINED**

from:

- a) Preventing or hindering or interfering with agents of DADS, or any other state or local law enforcement agency, from effectuating the immediate orderly transfer of the residents from 3325 Fox Briar, Cibolo, Texas 78108, 15522 Hill Lane, Selma, Texas 78154, and 3720 Ridgeway, San Antonio, Texas 78259, who are not eligible for placement in an assisted living facility, to other licensed facilities, in order to comply with Section 247.002 of the TEX. HEALTH & SAFETY CODE, whereby an unlicensed facility cannot furnish food and shelter to more than four (4) or more persons;
- b) Failing to follow any instructions given by DADS to Defendant and her agents in order to temporarily care for residents while DADS, or any other state or local law enforcement agency, supervises and effectuates the transfer of the residents to other licensed facilities;
- c) Operating at 3325 Fox Briar, Cibolo, Texas 78108, 15522 Hill Lane, Selma, Texas 78154, and 3720 Ridgeway, San Antonio, Texas 78259 as an assisted living facility without an assisted living facility license;
- d) Operating any other assisted living facility in Texas without an assisted living facility license;
- e) Admitting or retaining at 3325 Fox Briar, Cibolo, Texas 78108, 15522 Hill Lane, Selma, Texas 78154 and 3720 Ridgeway, San Antonio, Texas 78259, residents whose needs cannot be met by the facility, in violation of 40 TEX. ADMIN. CODE § 92.2(b)(3)(C);
- f) Failing to care for residents on a temporary and emergency basis while DADS, or any other state or local law enforcement agency, supervises and effectuates the transfer of the residents to other licensed facilities;
- g) Denying any DADS agent or any other state or local law enforcement agency, access to 3325 Fox Briar, Cibolo, Texas 78108, 15522 Hill Lane, Selma, Texas 78154 and 3720 Ridgeway, San Antonio, Texas 78259 or any other facility owned or operated by Defendants in Texas, in order to monitor compliance with this order;
- h) Withholding from residents, or their representatives, any property or records to which the residents are entitled;

- i) Transferring, spending, hypothecating, concealing, encumbering or removing from the jurisdiction of this Court any money, stocks, bonds, assets, notes, equipment, funds, accounts receivable, policies or insurance, trust agreements, to other property, real, personal or mixed, wherever situated, belonging to or owned by, in possession of, or claimed by Defendant, insofar as such property relates to, arises out of or is derived from the business operations of Defendant, save and except for reasonable and necessary expenditures in the ordinary course of business; and
- j) Continuing to advertise residential placement opportunities through an “assisted living program” which places residents in “assisted living facilities” which are not licensed by the Texas Department of Aging and Disability Services by means of the website, [www.elderlycaresanantonio.com](http://www.elderlycaresanantonio.com), or any other means of advertising.

This order is effective for fourteen days from the date it is signed or until further order of this court.

**IT IS FURTHER ORDERED** that a hearing will be held on a Temporary Injunction on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, at \_\_\_\_\_ o'clock \_\_\_\_ .m

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JUDGE PRESIDING