

IN THE COUNTY COURT AT LAW NUMBER 3  
EL PASO COUNTY TEXAS

2011 JUL 1 PM 1 28

THE STATE OF TEXAS

Plaintiff

v.

ALEJANDRO LAZCANO d/b/a Lazcano  
& Asociados,  
Defendant

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CAUSE NO. 2011 - 2631

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

Plaintiff, THE STATE OF TEXAS, acting by and through the Attorney General of Texas, Greg Abbott, and on behalf of the public interest, complains of ALEJANDRO LAZCANO d/b/a Lazcano & Asociados, Defendant, for violating the Texas Deceptive Trade Practices – Consumer Protection Act, TEX. BUS. & COMM. CODE § 17.41 *et seq.* (2002) (hereafter DTPA).

The State of Texas, represented by Attorney General Greg Abbott, appears through the Consumer Protection and Public Health Division of the Office of the Attorney General.

**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.**  
**JURISDICTION**

2.1. This action is brought by Attorney General Greg Abbott, through his Consumer Protection and Public Health Division, in the name of the State of Texas and in the

public interest under the authority granted him by § 17.47 of the Texas Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE ANN. §§ 17.41 *et seq.* (“DTPA”) upon the ground that Defendants have engaged in false, deceptive and misleading acts and practices in the course of trade and commerce as defined in, and declared unlawful by, §§ 17.46(a) and (b) of the DTPA.

2.2 This action seeks to permanently enjoin Defendant from engaging in the acts and practices described below and which are declared to be unlawful by the DTPA.

2.3 Additionally, this suit seeks civil penalties from Defendant as a result of the conduct herein alleged, pursuant to § 17.47(c) of the DTPA. This suit also seeks restitution on behalf of identifiable persons, who suffered damages as a result of Defendant’s unlawful acts and practices as provided by § 17.47(d) of the DTPA.

2.4 Further, Attorney General Greg Abbott seeks attorney’s fees and investigative fees reasonable in relation to the efforts expended by his office in prosecuting this action and court costs as authorized by TEX. GOV. CODE § 402.006(c) (2005).

### **III. DEFENDANT**

3.1 Defendant ALEJANDRO LAZCANO d/b/a Lazcano & Asociados, regularly conducts business in El Paso County, Texas, and may be served with process by serving him at 123 NW Main, Apt. 3, Fabens, Texas 79838, 5959 Gateway West, Suite 552 or Suite 555, El Paso, Texas 79925, or 1310 Rosa Guerrero, El Paso, Texas 79936-6981 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 the DTPA § 17.47(b), venue is proper because Defendant has done business in El Paso County, Texas; and
- b. Under TEX. CIV. PRAC. & REM. CODE §15.002(a)(1) (2002) venue is proper in El Paso County, Texas because all or a substantial part of the events or omissions giving rise to the claims occurred in El Paso County, Texas.
- c. Under TEX. CIV. PRAC. & REM. CODE §15.002(a)(2)(2002) venue is proper in El Paso County, Texas because the Defendant's residence is in El Paso County, Texas

**V.  
SUPPORT FOR ALLEGATIONS**

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5.1 ~~The factual allegations in this pleading relating to deceptive trade practices are~~ supported and sworn to by Patricia M. Acosta, Investigator with the Office of the Attorney General of Texas as indicated in the verification attached hereto.

**VI.  
PUBLIC INTEREST**

6.1 The Attorney General has reason to believe that Defendant has engaged in the unlawful practices described below. The Attorney General also has reason to believe that Defendant has caused and will continue to cause injury, loss and damage not only to Texas consumers, but also to legitimate businesses which lawfully conduct trade and commerce in Texas. The Consumer Protection and Public Health Division of the Office of the Attorney General believes that this action is in the public interest.

**VII.  
TRADE AND COMMERCE**

7.1 Defendant has, at all times described below, engaged in conduct which constitutes

“trade” and “commerce” as those terms are defined by § 17.45(6) of the DTPA.

**VIII.  
ACTS OF AGENTS**

- 8.1 Whenever in this Petition it is alleged that Defendant did any act, it is meant that:
- a. Defendant performed or participated in the act, or
  - b. Defendant’s officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

**IX.  
NOTICE**

- 9.1 The Consumer Protection Division did not inform Defendant of the alleged unlawful conduct prior to filing suit because immediate and irreparable injury, loss or damage will occur as a result of such delay in obtaining a Temporary Restraining Order.
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**X.  
SPECIFIC FACTUAL ALLEGATIONS**

- 10.1 Defendant operates a business in El Paso, El Paso County, Texas, at which, among other things, he provides counseling for a fee regarding U.S. immigration laws and procedures. The target population is comprised of citizens of foreign countries, primarily the United Mexican States, attempting to immigrate to, visit or work in the United States.
- 10.2 Defendant operates a business in which he represents to consumers that he is qualified to prepare all pertinent documentation as prescribed by the immigration laws of this country, but fails to inform the consumers that he is not authorized or qualified to do so under these immigration laws.
- 10.3 In certain circumstances, the U.S. immigration laws permit a “representative” to

assist undocumented immigrants in their cases. However, Defendant is not qualified by the Bureau of Citizenship & Immigration Services under 8 C.F.R. §292.1(3) to represent consumers because he is not an attorney, law student or accredited person, he is charging for his services, he has no pre-existing relationship or connection with the person entitled to the representation, and he failed to obtain permission from the immigration officials to act as the representative of said consumer.

- 10.4 Defendant does not, and has not at all relevant times, possessed the certification, license, or other qualifications necessary to perform such services.
- 10.5 Defendant is not, and has not been at all relevant times, licensed by the State Bar of Texas to practice as an attorney in the State of Texas, and has not, on information and belief, at all relevant times, worked under the direct daily supervision of a licensed attorney.
- 10.6 Defendant Alejandro Lazcano is not, and has not been at all relevant times, licensed by the State Bar of Texas to practice as an attorney in the State of Texas, and has not, at all relevant times, worked under the direct daily supervision of a licensed attorney.
- 10.7 On information and belief, Defendant is a “registered sex offender” in the State of Texas. (Exhibit A). Defendant’s status as a registered sex offender emanates out of the case styled, *State of Texas v. Alejandro Lazcano*, Cause No. 2021712, in the 331<sup>st</sup> Judicial District Court of Travis County, Texas. On November 12, 2003, an order was signed indicating that Mr. Lazcano had plead guilty to a third degree felony, attempted sexual assault. (Exhibit B). Defendant is not an attorney licensed in the State of Texas and was denied admission to the Arizona State Bar.

- 10.8 Defendant circulated business cards in the El Paso area advertising his services (Exhibit C) and also advertised his services on Craig's List (Exhibit D).
- 10.9 Defendant has claimed he was a lawyer by using the website address of <http://alejandrolazcanolawyer.blogspot.com/> for his blog (Exhibit E and advertisement within blog Exhibit F).
- 10.10 Defendant's failure to disclose his lack of authority is intended to induce consumers into transactions which they would not have entered into if the information had been disclosed to them.

**XI.  
DECEPTIVE TRADE PRACTICES**

- 11.1 ~~The conduct described above violates §17.46(a) and (b) of the DTPA which declares~~ that misleading, or deceptive acts or practices in the conduct of trade or commerce are unlawful.
- 11.2 The State has reason to believe, and therefore alleges, that Defendant has directly or indirectly engaged in and will continue to engage in misleading, or deceptive acts and practices. Unless this court restrains Defendant from engaging in the acts described in Paragraphs 10.1 through 10.10, Defendant will continue violating §17.46(a) and (b) as outlined below.
- a. Defendant does not possess the certification or qualifications necessary to counsel persons regarding their rights under U.S. immigration laws or other legal matters. Defendant's providing of these services to consumers given the Defendant's failure to possess the certification or qualifications necessary to perform such services violates the DTPA as follows:

§17.46(b)(2)--Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services;

§17.46(b)(3)--Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another;

§17.46(b)(5)--Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not.

§17.46(b)(12)--Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law.

- b. Defendant failed to disclose to consumers that he is not qualified to counsel them regarding their rights under U.S. immigration laws or with respect to other legal matters, because he is not certified or licensed to provide such counseling.

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Defendant's failure to disclose such information concerning his services is intended to induce consumers into transactions which they would not have entered into if this information had been disclosed. Such failure violates the DTPA as follows:

§17.46(b)(24)--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.

## **XII. DISGORGEMENT**

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

**XIII.**  
**INJURY TO CONSUMERS**

- 13.1 By means of the foregoing unlawful acts and practices, Defendant has acquired money or other property from identifiable persons to whom such money or property should be restored, or who in the alternative are entitled to an award of damages.

**XIV.**  
**EQUITABLE RELIEF**

- 14.1 The State of Texas asks that the Court temporarily restrain and permanently enjoin Defendant from operating as attorney at law without being licensed as such.
- 14.2 The State of Texas further asks that the Court temporarily restrain and permanently enjoin Defendant from advertising or offering services that would cause people to believe that Defendant is a licensed attorney at law, as defined by Texas law, unless and until Defendant holds an active license to practice law.
- 14.3 The State of Texas asks further that the Court temporarily restrain and permanently enjoin Defendant from holding himself out as an attorney at law and thereby causing misunderstanding as to certification by the State Bar of Texas.
- 14.4 The State of Texas asks further that the Court temporarily restrain and permanently enjoin Defendant from providing advice on immigration matters, thereby representing that the services provided have approval or characteristics which they do not have.
- 14.5 The State of Texas further asks that the Court temporarily restrain and permanently enjoin Defendant from offering to give advice on how to adjust the immigration status of consumers, thereby representing that his services are of a particular standard, quality, or grade when they are of another.

- 14.6 The State of Texas further asks that the Court temporarily restrain and permanently enjoin Defendant from failing to disclose that he is not authorized to practice law or to be a “representative” to assist undocumented immigrants in their cases in the State of Texas.
- 14.7 The State of Texas further asks that the Court temporarily restrain and permanently enjoin Defendant from failing to disclose that he is not authorized to receive money as a fee because of or in consequence of acting as an attorney at law.
- 14.8 The State of Texas further asks that the Court, under its equity powers, order Defendant to make restitution and disgorge the sum of all money, or the equivalent of money, paid by consumers to Defendant as a fee because of or in consequence of Defendant acting as licensed attorney at law.
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**XV.  
NECESSITY OF IMMEDIATE RELIEF  
TO PRESERVE DEFENDANT’S ASSETS**

- 15.1 Plaintiff the State of Texas requests immediate relief by way of an Ex Parte Temporary Restraining Order freezing Defendant’s assets to preserve and protect such assets from dissipation so the victims of Defendant’s actions can receive the restitution to which they are entitled. Defendant’s assets are subject to dissipation for the reason that Defendant holds himself out to be an attorney at law licensed to practice law in the State of Texas when he is not. An attorney at law owes the highest of duties to his clients, and is held accountable for his actions by the Supreme Court of Texas and the State Bar of Texas. Defendant is not licensed and does not account to the Supreme Court or the State Bar of Texas for his activities. He charges

and/or collects large sums of money from consumers who are particularly vulnerable to his fraudulent activities, without being legally entitled to do so. As a result, all of the money received by Defendant under the guise of being a licensed attorney should be frozen for the benefit of those consumers.

**XVI.  
OTHER RELIEF**

- 16.1 The State of Texas asks the Court to order Defendant to restore any money or property which may have been acquired from his “clients” by means of any unlawful act or practice.
- 16.2 The State of Texas asks the Court to order Defendant 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.
- 16.3 The State of Texas asks the Court to order Defendant to pay civil penalties in an amount up to \$250,000.00 as allowed by law under the DTPA, due to Defendant committing acts and practices that were calculated to acquire or deprive money or other property from consumers who were 65 years of age or older when the act or practice occurred;
- 16.4 The State of Texas asks the Court to order Defendant to pay reasonable attorney fees, pursuant to TEX. GOVT. CODE § 402.006.

**XVII.  
REQUEST FOR DISCLOSURE**

17. Pursuant to Rule 194, Tex.R.Civ.P., Defendant is 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 Plaintiff's Original Petition.

**XVIII.  
CONDITIONS PRECEDENT**

18. All conditions precedent have been performed or have occurred.

**XIX.  
TRIAL BY JURY**

19. Plaintiff herein requests a jury trial.

**PRAYER**

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WHEREFORE, Plaintiff The State of Texas prays that an Ex Parte Temporary Restraining Order be granted and Defendant be cited according to law to appear and answer herein; that after reasonable notice and hearing a Temporary Injunction be issued; and upon final hearing a Permanent Injunction be issued, restraining and enjoining Defendant, his successors, assigns, officers, agents, servants, employees, attorneys and any other person in active concert or participation with Defendant, or acting under any assumed name or legal entity, 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 materials relating to Defendant's business which are in Defendant's possession, custody, or control except in response to further orders or subpoenas in this cause;
- b. Transferring, spending, hypothecating, concealing, encumbering, depleting, modifying, dissipating, distributing, or removing from the jurisdiction of this Court any money, 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 of, or claimed by Defendant, insofar as such property relates to, arises out of or is derived from the unlawful business operation of Defendant within the State of Texas;

- c. Maintaining an office in Texas for the purpose of giving advice and counsel regarding U.S. immigration rights and privileges or any other sort of legal matter, until such time as Defendant obtains the certification, license, or other qualifications required for such activity or unless such acts are performed under the direct daily supervision of an attorney licensed to practice law in the State of Texas;
- d. Representing or advertising that Defendant has an office available for giving advice and counsel regarding U.S. immigration laws or any other sort of legal matter, until such time as Defendant obtains the certification, license, or other qualifications required for such activity or unless such acts are performed under the direct daily supervision of an attorney licensed to practice law in the State of Texas;
- e. ~~Selecting or preparing immigration forms or legal documents of any type on behalf of persons seeking to legalize their status or to obtain lawful employment in the United States, until such time as Defendant obtain the certification, license, or other qualifications required for such activity, unless such acts are performed under the direct daily supervision of an attorney licensed to practice law in the State of Texas;~~
- f. Giving persons advice and counsel regarding their rights under the immigration laws of the United States or any other sort of legal matter, until such time as Defendant obtains the certification, license, or other qualifications required for such activity, unless such acts are performed under the direct daily supervision of an attorney licensed to practice law in the State of Texas;
- g. Collecting or accepting fees for providing immigration or other legal services to consumers, until such time as Defendants obtain the certification, license, or other qualifications required for such activity, unless such acts are performed under the direct daily supervision of an attorney licensed to practice law in the State of Texas;
- h. Holding himself out to the public by any title or designation incorporating the word "immigration," "inmigracion," or an abbreviation thereof, unless Defendant is recognized and accredited by the Bureau of Citizenship & Immigration Services to provide immigration services;
- i. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services, in that Defendant does not

possess the certification or qualifications necessary to counsel persons regarding their rights under U.S. immigration laws or other legal matters;

- j. Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another, in that Defendant does not possess the certification or qualifications necessary to counsel persons regarding their rights under U.S. immigration laws or other legal matters;
  - k. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not, in that Defendant does not possess the certification or qualifications necessary to counsel persons regarding their rights under U.S. immigration laws or other legal matters;
  - l. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law; specifically, and without limitation, counseling persons regarding their rights under U.S. immigration laws or other legal matters;
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- m. Failing to disclose information concerning any good or service sold or offered for sale with knowledge at the time of the transaction when such failure to disclose is intended to induce consumers to enter into transactions consumers would not enter into if such information were disclosed; specifically, and without limitation, failing to disclose to consumers that he is not qualified to counsel them regarding their rights under U.S. immigration laws or with respect to other legal matters, because he is not certified or licensed to provide such counseling; and
  - n. Representing, directly or by implication, that this court or the Attorney General has approved any good or service sold or offered for sale by Defendant, or has approved any of Defendant's business practices.
  - o. Applying for admission to practice law in any jurisdiction without contemporaneously notifying the Consumer Protection and Public Health Division of the Office of Attorney General of the State of Texas.

In addition, Plaintiff State of Texas respectfully prays that this Court will:

- a. Order Defendant to make restitution and disgorge the sum of all money, or the equivalent of money, paid by consumers to Defendant as a fee because of or in consequence of Defendant acting as a licensed attorney at law without an active

license, or, in the alternative, award actual damages and restore any money or property which may have been acquired by means of any unlawful act or practice;

b. Order Defendant to pay civil penalties in favor of Plaintiff State of Texas in the amount of \$20,000.00 per violation of the DTPA;

c. Order Defendant to pay civil penalties in an amount up to \$250,000.00 as allowed by law under the DTPA, due to Defendant committing acts and practices that were calculated to acquire or deprive money or other property from consumers who were 65 years of age or older when the act or practice occurred;

d. Order Defendant to pay restitution, as provided by law;

e. Order Defendant to pay Pre-judgment and Post-judgment interest on all awards of restitution, damages or civil penalties, as provided by law; and

f. Order Defendant to pay all costs of Court, costs of investigation, and reasonable attorney's fees pursuant to TEX. GOVT. CODE ANN. §402.006(c).

Respectfully submitted,

GREG ABBOTT  
Attorney General of Texas

DANIEL HODGE  
First Assistant Attorney General

BILL COBB  
Deputy Attorney General for Litigation

PAUL D. CARMONA  
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**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 her 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 she is an investigator for the Office of Attorney General, and is authorized to make this affidavit, that she has carefully read the factual allegations contained in Paragraphs 10.1 - 10.10 in the foregoing Plaintiff's Original Petition for Restitution and Penalties, and Application for Temporary Restraining Order, Temporary Injunction and Permanent Injunction, and has reason to believe that each and all said factual allegations in Paragraphs 10.1 - 10.10 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 1 day of July, 2011.

*Grace V. Terrazas*  
NOTARY PUBLIC IN AND  
FOR THE STATE OF TEXAS

