



the public interest, under the authority granted by Section 17.47 of the Texas Deceptive Trade Practices Act, TEX. BUS. & COMM. CODE §§ 17.41 *et seq.* (hereafter "DTPA"), upon the grounds 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 Sections 17.46(a) and 17.46(b) of the DTPA. The DTPA permits the Texas Attorney General to bring an action to restrain, by Ex Parte Temporary Restraining Order, Temporary and Permanent Injunction, the use of any method, act, or practice declared to be unlawful by Section 17.46 of the DTPA, where such proceedings are in the public interest.

### III. DEFENDANTS

3. Defendant THOMAS SLANEY is a Managing Member, co-owner and/or operator, of COLLEZIONE DECOR, LLC, and does business in Texas as alleged herein, and may be served with process by serving him at his place of business at 4202 McPherson, Laredo, Texas 78045 or in the alternative at 202 Lake Lugano, Laredo, Texas 78045.

4. Defendant ELSA VALDEZ SLANEY is a Managing Member, co-owner and/or Operator, of COLLEZIONE DECOR, LLC, and d/b/a as ELSA VALDEZ SLANEY d/b/a ELSA'S BOUTIQUE, PICTURE FACTORY, and EL BAZAR MARKET, and does business in Texas as alleged herein, and may be served with process by serving her at her place of business: 4202 McPherson, Laredo, Texas 78045 or in the alternative at 202 Lake Lugano, Laredo, Texas 78045.

5. Defendant COLLEZIONE DECOR, LLC is a domestic For-Profit corporation doing business in Texas as alleged herein, and may be served with process by serving its registered agent, THOMAS SLANEY, at 4202 McPherson, Laredo, Texas 78045, or in the alternative at 202 Lake Lugano, Laredo, Texas 78045.

#### IV. VENUE

6. The venue of this action lies in Webb County, Texas pursuant to Section 17.47(b) of the DTPA and Section 15.002 of the Texas Civil Practices and Remedy Code, as the transactions and events giving rise to this action occurred in Webb County and/or because Defendants have done or are doing business in Webb County, Texas.

#### V. PUBLIC INTEREST

7. Plaintiff has reason to believe that Defendants have engaged in, and will continue to engage in the unlawful practices set forth below, and Plaintiff has reason to believe that Defendants have, by means of these unlawful acts and practices, caused damage to and acquired money from persons in and out of this State, and caused and will continue to cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State. Therefore, the Attorney General of Texas has reason to believe that these proceedings are in the public interest.

#### VI. ACTS OF AGENTS

8. When it is alleged that Defendants did any act, it is meant that Defendants performed or participated in the act, or Defendants' officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendants.

#### VII. TRADE AND COMMERCE

9. Defendants have, at all times described below, engaged in conduct which constitutes trade and commerce, as those terms defined by Section 17.45(6) of the DTPA.

#### VIII. NOTICE BEFORE SUIT NOT GIVEN

10. The Plaintiff has good cause to believe that immediate and irreparable injury, loss, or damage would occur as a result of a delay in obtaining a temporary restraining order to enjoin Defendants from continued violations of the DTPA. If Defendants are not immediately

restrained, the Plaintiff has a reasonable belief that the Defendants will continue to engage in deceptive acts and thereby cause immediate and irreparable injury, loss, or damage to persons who purchase their goods and services. As such, the Consumer Protection Division filed this lawsuit without notice to Defendants, as authorized by Section 17.47(a) of the DTPA.

#### **IX. SPECIFIC FACTUAL ALLEGATIONS**

11. The Defendants sell furniture and household furnishings from a physical location at 4202 McPherson, Laredo, Texas 78045, in violation of the DTPA, in the following manner:

- A. advertise the sale and delivery of furniture and household furnishing from Collezione Decor located at 4202 McPherson, in Laredo, Texas. Often the consumers were personally assured by the Defendants that the furniture will be delivery by a specific date. However, once payment is received, Defendants do not ship the merchandise as promised;
- B. once the consumer encounters a problem with their order, such as failure of delivery or the need to inquire about their order, consumers complain that their numerous phone calls and letters are ignored by the Defendants;
- C. consumers also complain that when the Defendants do acknowledge that they cannot make delivery of the merchandise, they tell the consumers that they have a "contract" that only allows for "in store credit and no cash refunds." The contract is nothing more than a receipt given to the consumer upon payment for the item(s), and is at best a "unilateral contract" which is not bargained for nor signed for by the consumer; and
- D. On the occasions that the Defendants do agree to a refund, they issue checks, some or most of which are post dated, and when the consumer goes to the bank to cash or deposit the checks, the Defendants have stopped payment on them, or

remove the funds from the accounts from which the checks were drawn. *See* Affidavits of Norma Arias and Yolanda Valdez attached and incorporated herein.

#### **X. VIOLATIONS OF THE DECEPTIVE TRADE PRACTICES ACT**

12. The Defendants, as alleged and detailed above, have in the course of trade and commerce engaged in false, misleading, deceptive or unconscionable acts and practices declared unlawful in Sections 17.46(a) and (b)(5), (9), (10), & (24) of the DTPA. Such acts included:

- A. engaging in false, misleading, or deceptive acts or practices in the conduct of any trade or commerce, as alleged more specifically herein, in violation of Section 17.46(a) of the DTPA;
- B. representing that the goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has sponsorship, approval, status, affiliation, or connection which he does not have, as alleged more specifically herein, in violation of Section 17.46(b)(5) of the DTPA;
- C. advertising goods or services with the intent not to sell them as advertised in violation of Section 17.46(b)(9) of the DTPA;
- D. advertising goods or services with the intent not to supply a reasonably expected public demand, unless the advertisements disclosed a limitation of quantity, in violation of Section 17.46(b)(10) of the DTPA; 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 in violation of Section 17.46(b)(24) of the DTPA.

### **XI. INJURY TO CONSUMERS**

13. The Defendants have, by means of these unlawful acts and practices, obtained money from identifiable persons to whom such money should be restored, or who, in the alternative, are entitled to an award of damages.

### **XII. REPATRIATION OF ASSETS**

14. After due notice and a hearing, the Court should order that all of Defendants' assets situated outside the jurisdiction of this Court be deposited into an appropriate financial institution within the jurisdiction of this Court.

### **XIII. DISGORGEMENT**

15. All of the Defendants' assets are subject to disgorgement, which is the forced relinquishment of all benefits that would be unjust for Defendants to retain, including all ill-gotten gains, benefits, profits and real property that resulted from Defendants' fraudulently advertising and misrepresenting their products and services. Defendants should be ordered to disgorge all monies fraudulently taken from individuals and businesses, 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.

### **XIV. NECESSITY OF IMMEDIATE RELIEF TO PRESERVE DEFENDANTS' ASSETS**

16. Plaintiff requests immediate relief by way of an ex parte temporary restraining order and asset freeze to preserve and protect Defendants' assets from dissipation so that victims of Defendants' actions can receive the restitution to which they are entitled. Defendants receive large sums of money from their fraudulent business practices, as described herein, and utilize these sums almost immediately for personal gain. Defendants' assets are subject to dissipation for the following reasons:

- A. defendants have a significant cash flow from the sale of furniture and other household furnishings, which is the fruit of ill-gotten gains from their false, deceptive and misleading business practice, as described herein. Three consumers have filed complaints with the Office of the Attorney General showing that most of the goods ordered by them from the Defendants, have not been received;
- B. in the three complaints received by the Office of the Attorney General, the consumers either did not receive any or all of their merchandise;
- C. defendants have refused to refund all of the consumers' monies when they seek to cancel an order that was never delivered;
- D. the Laredo, Texas Police Department has an additional twenty seven complaints from consumers who also complain that the Defendants either have not delivered their goods, or have not received a refund from the Defendants;
- E. defendants maintain, and are signatories on the following known accounts;
- (i) International Bank of Commerce, account numbers: XXX XXX 001, XXX XXX 4068, XXX XX 240 and XXX XXXX 157;
  - (ii) Wells Fargo Bank, account number: XXXX XXX 999;
  - (iii) Bank of America, account number XXX XXX 605;
  - (iv) Falcon Bank, account numbers: XXX XXX 916; and
  - (v) Texas Community Bank, account numbers: XXX XXXX 061 and XXX XXXX 744.

For the reasons stated above, the assets of the Defendants are subject to dissipation and secretion and therefore, pursuant to TEX. BUS. & COMM. CODE § 17.47(d) all accounts standing in the name of Collezione Decor, LLC, Thomas Slaney, or Elsa Slaney in any financial institution should be frozen pending final trial of this cause so that restitution can be made and so

that full and final relief can be awarded at final trial.

#### **XV. TRIAL BY JURY**

17. Plaintiff, herein requests a jury trial and tenders the jury fee to the Webb County District Clerk's Office, pursuant to Texas Rule of Civil Procedure 216 and Section 51.604 of the Tex. Government Code Annotated.

#### **XVI. APPLICATION FOR EX PARTE RESTRAINING ORDER, TEMPORARY AND PERMANENT INJUNCTIONS**

18. Because Defendants have engaged in the unlawful acts and practices described above, Defendants have violated and the Plaintiff has a reasonable belief that the Defendants will continue to violate the laws of the State of Texas as alleged in this Petition. Unless enjoined by this Honorable Court, Defendants are likely to continue to engage in business in violation of the DTPA, as alleged herein, and will cause immediate, irreparable injury and harm to the State of Texas and to the general public. Therefore, Plaintiff requests that an Ex Parte Temporary Restraining Order, Asset Freeze, Temporary Injunction and a Permanent Injunction be issued.

#### **XVII. PRAYER**

19. WHEREFORE, Plaintiff prays that Defendants be cited according to law to appear and answer herein; that after due notice to Defendants and hearing, a TEMPORARY INJUNCTION be issued; and that on final trial of this cause, a PERMANENT INJUNCTION be issued, restraining and enjoining Defendants, Defendants' successors, assigns, officers, agents, servants, employees, and any other person in active concert or participation with Defendants from engaging in the following acts or practices or making representations including:

- 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. transferring, spending, hypothecating, concealing, encumbering, withdrawing, removing, or allowing the transfer, removal, or withdrawal from any financial institution or 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 the possession or custody of, standing in the name of, or claimed by Defendants without further order of this court;
  - C. falsely advertising and making deceptive, misleading, and/or false claims to consumers inside and outside of the State of Texas, expressly or by implication, that goods are in stock and available for shipping when in fact Defendants are not in possession of the goods;
  - D. falsely advertising or making deceptive, misleading, and/or false claims to consumers inside and outside the State of Texas, expressly or by implication, that goods will be shipped on a date certain and/or received on a date certain;
  - E. failing to deliver products for which payments have been made; and
  - F. failing to provide and remit partial or full refunds to consumers that were initially promised refunds or who request refunds.
20. In addition, Plaintiff, STATE OF TEXAS, respectfully prays that this Court will:
- A. adjudge against Defendants civil penalties in favor of Plaintiff in an amount of not more than \$20,000 per violation of the DTPA (Tex. Bus. & Com. Code § 17.47(c)(1));
  - B. order Defendants to restore all money or other property taken from identifiable

people by means of unlawful acts or practices;

- C. order Defendants to pay Plaintiff's, attorneys' fees, investigative fees and court costs pursuant to Section 401.006(c) of the Texas Government Code;
- D. order Defendants to pay prejudgment interest on all awards of restitution, civil penalties and attorney fees as provided by law;
- E. order disgorgement of all monies taken by Defendants as a result of their deceptive sale of furniture and home furnishings;
- F. order all accounts in any financial institution belonging to or owned by, in the possession or custody of, standing in the name of, or claimed by Defendants frozen until further order of this court; and
- F. adjudge that all Defendants are jointly and severally liable for all fines, penalties, restitution, and attorneys fees.

21. FURTHER, Plaintiff, STATE OF TEXAS, respectfully prays for all 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 Litigation

PAUL D. CARMONA  
Assistant Attorney General  
Chief, Consumer Protection &  
Public Health Division



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**JAMES E. CUSTER**

State Bar No. 24004605

**KARYN A. MEINKE**

State Bar No. 24032859

Assistant Attorneys General

Consumer Protection & Public Health Division

115 E. Travis, Suite 925

San Antonio, Texas 78205

Telephone: (210) 225-4191

Facsimile: (210) 225-1075

**ATTORNEYS FOR PLAINTIFF**

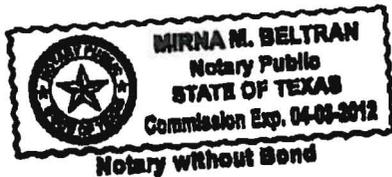
**VERIFICATION**

**STATE OF TEXAS       §  
                                  §  
COUNTY OF BEXAR   §**

Before me, the undersigned Notary Public, on this day personally appeared GERARD GALVAN, who, after being duly sworn, stated under oath that he is an Investigator for Plaintiff in this action, the State of Texas, that he has read the above petition, and that every statement contained in the petition is true and correct and within his personal knowledge or within the personal knowledge of the Affiants as indicated in the affidavits attached to Plaintiff's Original Petition and Application for Ex Parte Temporary Restraining Order with Asset Freeze, Temporary Injunction, and Permanent Injunction.

  
GERARD GALVAN

SUBSCRIBED AND SWORN TO before me, on the 2nd day of August, 2011 to certify which witness my hand and official seal.



  
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Notary Public, State of Texas