



Texas Rule of Civil Procedure 190.

**JURISDICTION**

2. This action is brought by the Attorney General of Texas, GREG ABBOTT, in the name and on behalf of the interest in charity of the general public of the State of Texas to protect the public interest in the administration and accounting for funds that charitable entities solicit and receive from the public. This action is brought against the individual defendants for violations of their fiduciary duties as set forth in this petition. This Court has jurisdiction over this case pursuant to Texas Probate Code Ann § 4H(2),(3).

3. This action is also brought by the Attorney General through the Consumer Protection ~~Division, in the name of the STATE OF TEXAS and in the public interest, under the authority~~ granted by section 17.47 of the Texas Deceptive Trade Practices Act, Texas Business & Commerce Code sections 17.41-.63 (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 Temporary and Permanent Injunction, the use of any method, act, or practice declared to be unlawful by section 17.46 of the DTPA, when such proceedings are in the public interest.

4. This action is also brought under the common law authority of the Attorney General to enforce and protect public charitable trusts. Defendants, in their individual and corporate capacities, have committed fraud and misrepresentations; have violated a constructive charitable trust; have engaged in a civil conspiracy to defraud; and otherwise have breached the common law fiduciary duties owed by officers, directors and employees of charitable organizations to: 1) the charitable organization for whose benefit they were supposed to serve and on whose behalf

they solicited and accepted charitable funds; and 2) the citizens of the State of Texas whose financial donations have provided the source of the funding for these entities and individuals.

#### **DEFENDANTS**

5. Defendant CHRISTMAS BUREAU OF AUSTIN & TRAVIS COUNTY is organized as a non-profit, charitable organization under section 501(c)(3) of the Internal Revenue Code, Tax ID number 23-7382791, which has done and is believed to be doing business at 4612 Burleson Rd., Unit L, Austin, Texas 78744 and throughout the state of Texas as alleged herein, and may be served with process by serving its President Shon Neel Washington at his residence at 1109 Gardner Cove Austin, Texas 78721-3100 or 341 Lower Read Rock Rd., Bastrop, Texas 78602, ~~or wherever he may be found.~~

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6. "CHRISTMAS BUREAU OF AUSTIN & TRAVIS COUNTY" is also the assumed name under which Defendant Shon Washington conducts business in Austin, Travis County, Texas. Service on the Defendant Shon Neel Washington provides service on this organization.

7. Defendant SHON NEEL WASHINGTON also known as SHON N. WASHINGTON is the President of the CHRISTMAS BUREAU OF AUSTIN & TRAVIS COUNTY and may be served with process at his residence at 1109 Gardner Cove Austin, Texas 78721-3100 or 341 Lower Read Rock Rd., Bastrop, Texas 78602, or wherever he may be found.

8. Defendant MICHELLE WASHINGTON is a Director of CHRISTMAS BUREAU OF AUSTIN & TRAVIS COUNTY and may be served with process at her residence at 1109 Gardner Cove Austin, Texas 78721-3100 or 341 Lower Read Rock Rd., Bastrop, Texas 78602, or wherever she may be found.

9. Defendant CLIFT BOWMAN also known as WILLIAM C. BOWMAN is the last listed President of CHRISTMAS BUREAU OF AUSTIN & TRAVIS COUNTY on the CB IRS Tax

filings and may be served with process at his residence at 8602 Gantcrest Drive, Austin, Texas 78749-3526, or wherever he may be found.

10. Defendant CYNTHIA COLPAART is a former Director of CHRISTMAS BUREAU OF AUSTIN & TRAVIS COUNTY and may be served with process at her residence at 5706 Jeff Davis Avenue, Austin, Texas 78756 or wherever she may be found.

#### VENUE

11. Venue of this suit lies in Travis County, Texas for the following reasons:

a. Under section 123.005(a)<sup>1</sup> of the Property Code, venue is proper in Travis County as this case involves breaches of fiduciary duties; and

~~b. Under section 17.47 of the DTPA, venue is proper because Defendants' stated~~  
principal place of business is at 4612 Burleson Rd., Unit L, Austin, Texas 78744.

#### PUBLIC INTEREST

12. Plaintiff, State of Texas, has reason to believe that Defendants are engaging in, have engaged in, or are about to engage in, the unlawful acts or practices set forth below, that Defendants have, by means of these unlawful acts and practices, caused damage to and/or acquired money or property from persons, and that Defendants adversely affected the unlawful conduct of trade and commerce. The Attorney General further has reason to believe that Defendants have caused and will continue to cause injury, loss and damage to the State of Texas and its charitable donors, particularly at this critical time of year for this organization and related organizations.

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<sup>1</sup> A "charitable trust" includes a charitable entity organized for scientific, educational, philanthropic, or environmental purposes, social welfare, the art and humanities or another civic or public purpose described by Section 501 (c) (3) of the Internal Revenue Code of 1986. See Tex. Prop. Code §123.001 (1) and (2).

### **TRADE AND COMMERCE**

13. Defendants have, at all times described below, engaged in conduct constituting "trade" and "commerce," as those terms are defined in section 17.45(6) of the DTPA.

### **ACTS OF AGENTS**

14. Whenever in this petition it is alleged that a Defendant did any act, it is meant that the Defendants performed or participated in the act, or Defendants' officers, agents, trustees or employees performed or participated in the act on behalf of and under the authority of the Defendants.

### **NOTICE BEFORE SUIT**

~~15. Pursuant to section 17.47(a) of the Deceptive Trade Practices Act, contact has not been~~  
made with the Defendants herein to inform them of the unlawful conduct alleged herein, because Plaintiff has good cause to believe that such an emergency exists that immediate and irreparable injury, loss or damage would occur as a result of such delay in obtaining a temporary restraining order, and that Defendants would evade service of process and flee the jurisdiction, destroy relevant records and hide assets if prior notice of this suit were given. However, Defendants were informed generally of the alleged wrongful conduct through issuance of Requests to Examine documents to the organization and a Civil Investigative Demand to Defendant Colpaart.

### **APPLICABLE LAW**

16. DTPA prohibits "false, misleading, or deceptive acts or practices in the conduct of any trade or commerce . . ." DTPA § 17.46 (a).

17. The DTPA also prohibits:

- a. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services. *Id.* at § 17.46 (b)(2).

- b. Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another. *Id.* at (b)(3).
- c. 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 have. *Id.* at (b)(5).
- d. Advertising goods or services with intent not to sell them as advertised. *Id.* at (b)(9).
- e. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law. *Id.* at (b)(12).

18. Texas Business and Organizations Code Chapter 22 sets out regulations applicable to nonprofit corporations.<sup>2</sup> The pertinent provisions are:

- a. Section 22.055(a) which permits a corporation to "lend money to or otherwise assist ~~an employee or officer of the corporation, but not a director, if the loan or assistance may reasonably be expected to directly or indirectly benefit the corporation.~~"
- b. Section 22.221(a), which sets out the general standards applicable to a director, providing "[a] director shall discharge the director's duties, including duties as a committee member, in good faith, with ordinary care, and in a manner the director reasonably believes to be in the best interest of the corporation."
- c. Section 22.225 provides that "[a] corporation may not make a loan to a director" and that "[t]he directors of a corporation who vote for or assent to the making of a loan to a director, and any officer who participates in making the loan, are jointly and severally liable to the corporation for the amount of the loan until the loan is repaid."

19. Section 501 of title 26 of the United States Code provides:

(c) List of exempt organizations

The following organizations are referred to in subsection (a) [as organizations exempt from taxation]:

\* \* \*

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety,

<sup>2</sup> The Christmas Bureau has not filed a certificate of formation or articles of incorporation with the Texas Secretary of State, although it operated for years with a multiple member board and board president. Currently, the website has listed only a President and a Director. When the actual organizational structure is more fully known, whether CB is a "nonprofit association" subject to Chapter 252 of the Business Organizations Code, or a corporation not complying with the requisite laws, the State will amend its petition accordingly.

literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

### **SPECIFIC FACTUAL ALLEGATIONS**

20. The Christmas Bureau of Austin and Travis County website states the purpose of the designated 501(c)(3) organization is to "offer compassionate assistance during the holidays for needy individuals, couples, families and children who apply for assistance through recognized community agencies in Austin, Travis County." (*see [www.cbfaustin.org](http://www.cbfaustin.org)*). Each year since 1964, CB has served the needs of thousands of Austinites, and has coordinated gifts through both the Blue Santa and Brown Santa programs, as well as numerous other charitable entities. (See Affidavit of Billy Petty, Austin Police Department Detective, Exhibit A). However, it appears that this formerly legitimate charity has been exploited by its current president and director, Shon Washington, and the monies it has and is currently collecting are being used for the personal benefit of Defendant Shon Washington and his family and potentially that of the other named defendants.

21. For the three tax years 2008-2010, CB averaged over \$111,000 in revenue per year. Historically, CB has had approximately \$80,000 in its account as start-up funds for the following Christmas season. Former directors of the CB note that at the end of the 2010 Christmas season, the CB had at least \$50,000 in its bank account. However, as recently as November 28, 2012, the current president of the CB, Defendant Shon Washington announced that the CB only had \$99.00 in its account. Records obtained from CB's PayPal account reflect that in the past three

months, over \$26,000 were received into the account, but as of December 4, 2012, only \$210.43 remained. (*see* Rosalinda Fierro Affidavit, Exhibit E)

22. Defendant Shon Washington became the president of CB in December 2011. Before that, Defendant Colpaart had hired him as a handyman at CB through a Craigslist ad. Later, in 2010, Defendant Washington was promoted to assistant director of CB. However, no one at CB ran a criminal background check on Defendant Shon Washington at the time he was hired or at the time he was promoted.

23. If they had, they would have learned that Defendant Shon Neel Washington has a criminal background. The Travis County District Clerk records show that Shon Neel Washington has been convicted of:

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- a. Theft on April 16, 1999 in Val Verde County, Texas.
- b. Theft on September 3, 1999 in Kinney County, Texas.
- c. Theft, enhanced to a state jail felony on August 14, 2008; and
- d. Possession of a controlled substance on August 15, 2012.

24. It appears that when Defendant Shon Washington became involved with the Christmas Bureau, he also began to create a parallel business to the CB. On April 30, 2010, he filed an assumed name certificate with the Travis County Clerk's office, indicating he was doing business as "CRC Fellowship." (Exhibit C). Later, on November 23, 2011, he filed a second assumed name certificate with the Travis County Clerk's office, indicating he was doing business as "the CHRISTMAS BUREAU OF AUSTIN & TRAVIS COUNTY." (Exhibit D)

25. It appears that Defendant Shon Washington used these assumed name certificates to open a bank account with the University Federal Credit Union (UFCU) under the name of "CRC /dba Christmas Bureau of Austin & Travis County." He then deposited checks payable to the

Christmas Bureau of Austin & Travis County into this account. Additionally, the records of UFCU indicate that PayPal payments intended for the Christmas Bureau of Austin & Travis County were being directed into that same CRC Fellowship account. Between October 2010 and May 2011, the funds deposited into this account specifically noted as payable to the Christmas Bureau of Austin & Travis County exceeded \$30,000. (See Petty Affidavit Exhibit A).

26. On December 17, 2011, Alma Cruz, the then president of the CB died suddenly. Defendant Shon Washington then took it upon himself to assume the role of president and director of the CB. Currently, his wife, Defendant Michele Washington is a director of the CB. However, it is not known how she became a director.

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~~27. It appears at this time that the individual Defendants have almost completely drained the~~  
charity's bank accounts, and will continue to spend charitable funds as quickly as they are donated if accounts are not frozen immediately.

28. The OAG has examined several of CB's Form 990s. In 2009, Christmas Bureau of Austin & Travis County reported contributions of \$128,150 and total expenses of \$116,955 and the net assets or fund balances at the end of the year were \$50,635. (See Exhibit B, *attached hereto and incorporated herein*). A similar comparison cannot be run for the years since because no tax returns have been located beyond the 2009-2010 return attached.

29. It is believed that Defendant Cynthia Colpaart, former CB director, recruited Shon Neel Washington to the CB. As a director, Defendant Colpaart had check signing authority in conjunction with Defendant Shon Washington. However, checks drawn on CB's legitimate JP Morgan Chase account required two signatures. Defendant Colpaart had Washington sign several blank checks and leave them in her custody. On information and belief, in 2010, Defendant Colpaart wrote a check for \$5,000 to herself out of the JP Morgan account and

deposited the money into her savings account, allegedly to pay CB bills. It is believed that Washington then demanded her resignation and requested receipts, which Colpaart claims to have provided. The directors and president's actions in signing blank checks and writing checks to oneself as director are questionable at best. Such practices do not ensure that funds are utilized for the intended charitable purpose.

30. Clift Bowman is listed as President of CB on the last known filed tax return for the organization. His name is also on the PayPal account for CB which was created in 2004. As of November 2012, the PayPal account was and is still receiving donations which are deposited in the UFCU accounts, and because of the depleted CB organization accounts, it is believed that ~~funds are being dissipated from the bank account as quickly as they are received and not being~~ utilized for charitable purposes.

31. All of the above named defendants have participated in soliciting and accepting donations from the general public with the representation that such funds would be used for the charitable purposes of the Christmas Bureau. Further, Defendants' actions in filing assumed name certificates and opening bank accounts using names that are deceptively similar to the legitimate charity cause confusion over the status of the organization and reflects intent to deceive the charitable citizens of Texas.

32. It is alleged that all Defendants have diverted a substantial amount of charitable funds and donations to purposes unrelated to the charitable mission of the Christmas Bureau.

33. By the acts and practices described above, Defendants have established a pattern of misrepresentations and unethical conduct in which money collected under the guise of helping needy families in the Austin area has instead been used for the purpose of obtaining personal pecuniary benefits for the Defendants.

### **VIOLATIONS OF THE DTPA**

34. Defendants, in the course and conduct of trade and commerce, have directly and indirectly engaged in false, misleading and deceptive acts and practices declared to be unlawful by DTPA sections 17.46(a) and 17.46(b), as follows:

- a. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services. *Id.* at § 17.46 (b)(2).
- b. Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another. *Id.* at (b)(3).
- c. Representing that 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 have. *Id.* at (b)(5).
- d. Advertising services with intent not to provide them as advertised. *Id.* at (b)(9).
- e. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law. *Id.* at (b)(12).

### **ORGANIZATIONAL STRUCTURE IS UNDEFINED & DECEIVES THE PUBLIC**

35. The Christmas Bureau of Austin & Travis County is an IRC 501(c)(3) organization, having operated for years with a multiple member board, the last tax return reflecting an eleven (11) member board of directors with Clift Bowman listed as President. It appears that when the longtime director of CB, Alma Cruz, passed away suddenly on December 17, 2011, the organization became the pawn of current self-appointed president, Shon Washington. As reflected herein, he filed an assumed name certificate with the Travis County clerk as "Christmas Bureau of Austin and Travis County." Although CB had previously operated with a diverse, extensive board, currently the website reflects only Shon Washington and his wife, Michelle

Washington, as the President and Director. Although it is believed that CB was intended to be a Texas nonprofit corporation, it failed to properly file a certificate of formation with the Secretary of State under section 4.153 of the Texas Business Organizations Code and thus is not, due to nonfiling, a nonprofit corporation. It could be considered a "nonprofit association" under Chapter 252 of the Texas Business Organizations Code, however, it is underterminable whether there are three or more "members" as defined by the statute. The lack of sufficient and appropriate structure of the organization reflects the continuing intention to mislead and deceive the generous citizens of Austin, Texas and the surrounding community.

36. Defendants have mismanaged the financial affairs of the non-profit, charitable organization, ~~Christmas Bureau of Austin & Travis County~~. It is believed that CB was created to be a Texas nonprofit corporation, but failed to properly file a certificate of formation with the Secretary of State under section 4.153 of the Texas Business Organizations Code. As such they have failed to meet the standards of Chapter 22 of the Texas Business Organizations Code.

#### **BREACH OF FIDUCIARY DUTIES**

37. By soliciting and collecting funds from the general public under the guise of donating to a charitable purpose, Defendants owe a fiduciary duty to the consumers who contributed to the charity to use the funds in a way that fulfills the donors' intent. As such, all monies, pledges, and other property received by Defendants as a result of their solicitations constitute a charitable trust to be used for the charitable purposes for which they were solicited. As a result of their oral and written solicitations, Defendants are Trustees of such charitable trust and are charged with fiduciary duties with regard to said charitable trust. Defendants, by their actions described above in this petition, have breached, and will continue to breach, their fiduciary duties in this regard and have caused and will continue to cause, immediate and irreparable harm by failing to

administer this charitable trust in a prudent and reasonable manner to assure that the funds will be used for the purposes for which they were solicited by Defendants.

### **FRAUD**

38. Defendants, by and through their intentional acts and omissions described in this petition, have made repeated and materially false representations to the public concerning their solicitation of funds for purported charitable purposes, which were either known to be false when made or were made without knowledge of the truth of the matter asserted. Such false representations were made with the intention that they would be acted upon by the parties to whom the misrepresentations were made. Reliance upon these false representations has resulted in injury to ~~the donors, individuals, and businesses located in the State of Texas and throughout the United~~ States, as the Christmas Bureau has an active website to which anyone may donate. (See Affidavit of Rosalinda Fierro, Exhibit E).

### **VIOLATION OF CONSTRUCTIVE TRUST**

39. Generous members of the public of the State of Texas donated funds to Defendants for the benefit of worthy charitable causes such as helping families in need during Christmas. Acceptance of funds pursuant to such representations established a constructive trust for the benefit of the public, in such a way as to fulfill the donors' intent. Defendants, therefore, owe a duty to the donors and to the public to ensure that funds raised on behalf of these charitable causes be used for the specific purposes for which they were donated. Defendants have breached the duties to their donors who contributed money, by failing to use the funds collected for the express purposes for which they were donated. Defendants have thereby violated the constructive trust.

### **CONSPIRACY TO DEFRAUD**

40. Defendants, in concert with their agents/employees, agreed to willfully and fraudulently obtain funds from the public by engaging in the course of conduct complained of herein, which Defendants knew had the tendency and capacity to deceive.

### **NEGLIGENCE**

41. Defendants, by their acts and omissions described herein, have failed in their capacities as officers, employees and board members to exercise the degree of care in the conduct of their fiduciary duties that reasonably prudent persons would have used under similar circumstances to avoid the harm that their actions have caused. Defendants' acts and omissions, when viewed ~~objectively from the standpoint of another at the time of occurrence, involved an extreme degree~~ of risk, considering the probability and magnitude of potential harm their actions could cause. Defendants had or should have had subjective awareness of the risks involved in their actions, but nevertheless proceeded with conscious indifference to the potential harm.

### **GROSSLY NEGLIGENT MISMANAGEMENT**

42. Defendants have violated the special duty of care imposed upon them in their capacities as fiduciaries by failing to oversee the management and control of the CHRISTMAS BUREAU OF AUSTIN & TRAVIS COUNTY in accordance with the law governing non-profit charitable organizations. The individual Defendants have exercised their fiduciary duties in such a negligent manner that their lack of diligence and conscious disregard results in a breach of their fiduciary duties and subjects them to damages as a result of their gross negligence.

### **REMEDIES SOUGHT DISGORGEMENT**

43. All of 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, benefits or profits that are the result of Defendants' false, misleading, or deceptive conduct as described above. Defendants should be ordered to disgorge all monies fraudulently solicited, together with all of the proceeds, profits, income, interest and accessions thereto. All funds disgorged should be used to further the stated mission to help needy families, individuals, children and couples in the greater Austin community.

#### **IMPOSITION OF A CONSTRUCTIVE CHARITABLE TRUST**

44. When Defendants accepted funds from the citizens of Texas that were earmarked for a specific charitable purpose, a constructive trust for the benefit of the public was created. ~~Therefore, all of Defendants' assets are subject to the Court's imposition of a constructive~~  
charitable trust, to be held solely for the specific purposes to which they were intended.

#### **INVOLUNTARY DISSOLUTION OR REHABILITATION OF DEFENDANT**

45. Defendant Christmas Bureau of Austin & Travis County should be ordered to dissolve as a result of Defendants' unlawful conduct as described above and pursuant to the Texas Business Organizations Code, or alternatively, be rehabilitated with a functioning, organizational structure that will legitimately serve the charitable community of Austin and Travis county.

#### **CONCLUSION**

46. Defendants have engaged in false, misleading and deceptive acts and practices in the solicitation and acceptance of funds from the public representing that such funds would be used for the specific designated charitable purpose of providing benefits for needy families in Texas, as well as individuals, children and couples in the greater Austin community. Defendants have engaged in a common scheme and design willfully carried out to create a private benefit to Defendants. Charitable funds have fraudulently been used for Defendants' personal inurement.

Individual defendants directly participated in unlawful and unethical conduct and are personally liable for such unlawful and unethical conduct. All Defendants knowingly participated in breaches of fiduciary duties as joint tortfeasors and are personally liable as such. The State of Texas further alleges that, by their acts and omissions, Defendants have failed to exercise a degree of care in the conduct of their fiduciary duties that reasonable prudent persons would under similar circumstances to avoid the harm their actions have caused. Defendants, while holding themselves out to be assisting an organization which provides support to Austin families in their times of need, were benefitting to the direct detriment of the charitable cause they claimed to be helping. The Defendants have breached their statutory fiduciary duties and their ~~common law charitable trust fiduciary duties.~~

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**NECESSITY OF IMMEDIATE RELIEF TO PRESERVE DEFENDANT'S ASSETS**

47. Plaintiff requests immediate relief by way of a Temporary Restraining Order, Asset Freeze, and Temporary Injunction to preserve and protect Defendants' assets from dissipation. Defendants' assets are subject to dissipation for the following reasons:

- a. Defendants receive thousands of dollars on a daily basis from consumers through their schemes and use fraudulently solicited funds for personal gain;
- b. Monies received from consumers are dissipated quickly by the individual Defendants, who use the money for their own benefit and have no charitable purpose whatsoever;  
and
- c. Defendants maintain and are signatories on the following known accounts:
  1. Chase Bank, Account Number XXXXXXXX8668;
  2. University Federal Credit Union Numbers:
    - a. XXXXX7612

- b. XXXXX6593
- c. XXXXX1580

d. Funds are received into the accounts through direct donations to the designated P.O. Box, and through an online PayPal account.

48. For these reasons, the assets of the individual Defendants and the corporate Defendant named herein are subject to dissipation and secretion, and therefore should be FROZEN pending final trial so that meaningful use can be made for the charitable purpose for which the monies were obtained, and that full and final relief can be awarded at trial.

**REQUEST TO CONDUCT DISCOVERY PRIOR TO  
TEMPORARY INJUNCTION HEARING**

~~49. Plaintiff requests leave of this Court to conduct telephonic, oral, written, and other~~  
Depositions (containing Requests for Production) of witnesses prior to any scheduled Temporary Injunction hearing, and prior to Defendants' answer date. There are a number of victims and other witnesses who may need to be deposed prior to any scheduled Temporary Injunction hearing. Some of these witnesses may live outside the State of Texas, and thus cannot appear at any scheduled Temporary Injunction hearing. Any depositions, telephonic or otherwise, would be conducted with reasonable, shortened notice to Defendants and their attorneys that being two (2) days notice. Plaintiff also requests leave of this Court to file any corresponding Business Records Affidavits with reasonable, shortened notice.

**PRAYER**

50. WHEREFORE, Plaintiff prays that Defendants be cited according to law to appear and answer herein; that an EX PARTE TEMPORARY RESTRAINING ORDER WITH ASSET FREEZE be issued; that after due notice and hearing a TEMPORARY INJUNCTION be issued; and upon final hearing a PERMANENT INJUNCTION be issued, restraining and enjoining

Defendants, Defendants' officers, agents, successors, assigns, servants, employees, subcontractors, corporations and any other persons in active concert or participation with Defendants who receive actual notice of the injunction, 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 or electronic materials relating to the business of Defendants currently or hereafter in Defendants' 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; including but not limited to all bank accounts, credit card accounts, real and personal property.

c. Opening or causing to be opened any safe deposit boxes or storage facilities titled in the name of Defendants or any of Defendants' assumed names, or subject to access or control by Defendants, without providing Plaintiff and the Court prior notice by motion seeking such access;

- d. Soliciting funds on behalf of or for the benefit of Defendants for any charity or nonprofit organization which uses "Christmas Bureau of Austin & Travis County," or as any part of its name;
- e. Mailing, faxing, or forwarding any invoice, letter, or thing to any business or person wherein such invoice, letter, or thing seeks, demands, or requests any type of payment or contribution from said business or person;
- f. Telephoning, calling or in any way initiating contact with any business or person for the purpose of seeking, selling, or requesting any type of contribution, money, or funds for advertising from said business or person; and
- ~~g. Operating any type of corporation, organization, group, association, magazine or periodical which uses as any part of its name "Christmas Bureau of Austin & Travis County."~~

51. 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 up to \$20,000 per violation, pursuant to section 17.47(c)(1) of the Texas Business and Commerce Code;
- b. Order Defendants to pay Plaintiff STATE OF TEXAS' attorney fees and costs of court pursuant to TEX. GOV'T. CODE §402.006(c), and TEX. PROP. CODE ANN. §§ 114.064 and 123.006;
- c. Order the cy pres of all assets and funds that were donated and intended for the charitable purposes; and
- d. Grant all other relief to which the Plaintiff State of Texas may show itself entitled.

Respectfully submitted,

**GREG ABBOTT**  
Attorney General of Texas

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

**DAVID C. MATTAX**  
Deputy Attorney General for Defense  
Litigation

**JOHN SCOTT**  
Deputy Assistant Attorney General for  
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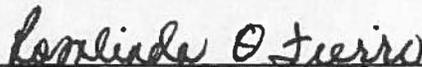
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**VERIFICATION**

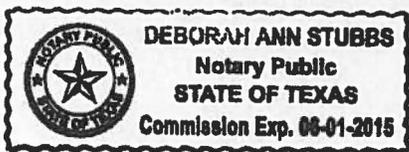
STATE OF TEXAS           §

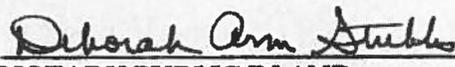
COUNTY OF TRAVIS       §

BEFORE ME, the undersigned authority, on this day personally appeared affiant Rosalinda O. Fierro, who proved to me through current Texas Driver 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 AND APPLICATION FOR EX PARTE TEMPORARY RESTRAINING ORDER,~~ TEMPORARY INJUNCTION AND PERMANENT INJUNCTION AND ASSET FREEZE, 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.

  
\_\_\_\_\_  
ROSALINDA O. FIERRO  
INVESTIGATOR

SUBSCRIBED AND SWORN TO before me on the 5<sup>th</sup> day of December, 2012.

  
DEBORAH ANN STUBBS  
Notary Public  
STATE OF TEXAS  
Commission Exp. 06-01-2015  
Notary without Bond

  
\_\_\_\_\_  
NOTARY PUBLIC IN AND  
FOR THE STATE OF TEXAS