

2013-17062

No. _____

STATE OF TEXAS,
Plaintiff

v.

LBS TAX SERVICES a/k/a
LOANBUYSELL TAX SERVICES a/k/a
LOANBUYSELL, INC.
Defendant.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS **FILED**
Chris Daniel
District Clerk

MAR 22 2013

11 JUDICIAL DISTRICT ^{Time:} _____
By _____ _{Deputy} _____
Harris County, Texas

TEMPORARY RESTRAINING ORDER

Plaintiff, the State of Texas, acting by and through Attorney General GREG ABBOTT, has filed its Plaintiff's Original Verified Petition and Application for *Ex Parte* Temporary Restraining Order, Temporary Injunction, and Permanent Injunction ("Original Petition") in this cause seeking a Temporary and Permanent Injunction against Defendant LBS TAX SERVICES a/k/a LOANBUYSELL TAX SERVICES a/k/a LOANBUYSELL, INC and in the same Original Petition has presented its request for a Temporary Restraining Order against the Defendant.

The Court FINDS that Defendant may be violating §§17.46(a) and (b) of the Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA"), Tex. Bus. & Com. Code § 17.41 *et seq.*, and the Court further FINDS that this action is in the public interest.

It appears from the evidence set forth in Plaintiff's Original Petition, the affidavits, and exhibits attached, that unless Defendant is immediately restrained from the acts prohibited below, Defendant will continue to commit such acts before notice can be given and a hearing can be held on the State of Texas' request for a Temporary Injunction.

Furthermore, the Court finds Plaintiff has proved that unless Defendant is immediately

restrained from the acts prohibited below Defendant will dissipate funds obtained in violation of the DTPA before a temporary injunction hearing can be held and before full trial on the merits. To the extent required by law, Plaintiff has proved that continued violation of these laws will continue to cause Plaintiff and the general public to suffer irreparable harm. Such injury would be irreparable because dissipation and continued violations of the DTPA are likely to cause consumers and others to lose money through deceptive transactions and restitution to be unrecoverable. Given the likelihood of immediate dissipation of Defendant's assets, sequestering these assets is necessary, and an order freezing certain assets described herein is granted. Tex. Bus. & Com. Code §521.151(e); Tex. Bus. & Com. Code §17.47(d). Prior notice of Plaintiff's Original Petition is not required before entry of this Order because the Court finds there is good cause to believe irreparable loss or injury would occur and dissipation of assets would occur as a result of such a delay. Tex. Bus. & Com. Code §17.47(a); Tex. Bus. & Com. Code §521.151(e).

1. **IT IS THEREFORE ORDERED** that (a) Defendant LBS TAX SERVICES a/k/a LOANBUYSELL TAX SERVICES a/k/a LOANBUYSELL, INC, its officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them, and (b) all financial institutions of any kind holding money or assets of any kind in the name and/or for the benefit of Defendant LBS TAX SERVICES a/k/a LOANBUYSELL TAX SERVICES a/k/a LOANBUYSELL, INC, such as JPMorgan Chase Bank, Bank of America, and Compass Bank, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be restrained from engaging in the following acts or practices:

A. Transferring, spending, hypothecating, concealing, encumbering, withdrawing,

removing, dissipating, distributing, or allowing the transfer, removal, withdrawal or encumbering from any financial institution or from any other entity or location or from the jurisdiction of this Court, any money, cash, 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 or custody of, held in the name of, or claimed by Defendant without further order of this Court;

- B. Opening or causing to be opened any safe deposit boxes or storage facilities titled in the name of Defendant or subject to access, ownership or control by Defendant, without providing Plaintiff and the Court prior notice by motion seeking such access.

2. **IT IS FURTHER ORDERED** that Defendant LBS TAX SERVICES a/k/a LOANBUYSELL TAX SERVICES a/k/a LOANBUYSELL, INC, and its officers, agents, servants, employees, attorneys and persons in active concert or participation with them, is prohibited from transferring, spending, encumbering, withdrawing, or removing any sum of money from any accounts, assets or property described in paragraph 1 of this Order or from any other such account(s) and assets that contain or were acquired ~~tax~~²¹¹ with refund monies from the Internal Revenue Service (or proceeds from tax refund monies from the Internal Revenue Service).

3. **IT IS FURTHER ORDERED** that if ~~any~~²¹¹ of the parties, persons, or entities referenced in this Order agree in writing, through their authorized representatives or counsel, to specify that certain assets be or remain frozen and/or that certain assets be released from the asset freeze ordered herein, pending the completion of any scheduled Temporary Injunction hearing, then such parties or entities may do so. **IT IS ORDERED** that any bank, financial institution, person, or other entity holding

funds in the name of or for the benefit of any party, person, or entity referenced in this Order, shall comply with any written directive relating to the freezing or unfreezing of any bank account or asset referenced in this Order, without further order of this Court, pending any scheduled Temporary Injunction hearing, provided such written directive is signed by an Assistant Attorney General representing the State of Texas and an authorized representative or attorney of such Defendant, person or entity with custody or control of the bank account or asset involved.

4. **IT IS FURTHER ORDERED** that Defendant, its officers, agents, employees, and attorneys, and all persons in active concert or participation with them, are hereby commanded to immediately desist and refrain from the following acts from the date of entry of this Order until the fourteenth day after entry or until further Order of this Court:

- A. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, or other written or computer generated materials relating to the business of Defendant currently or hereafter in Defendant' possession, custody or control except in response to discovery or further orders or subpoenas in this cause.
- B. Soliciting or obtaining any Personal Identifying Information or Sensitive Personal Information (as defined in Chapter 521 of the Texas Business and Commerce Code) from consumers or third party individuals, or compensating any person to solicit or obtain such information, including but not limited to Social Security numbers, driver's license numbers, date of birth, and bank account information;
- C. Transferring, using, or otherwise communicating any Personal Identifying Information or Sensitive Personal Information (as defined in Chapter 521 of the

Texas Business and Commerce Code) obtained from any consumers or third party individuals, including but not limited to Social Security numbers, driver's license numbers, date of birth, and bank account information, except by order of this Court;

- D. Preparing or filing federal income tax returns for consumers and third party individuals without further order of this Court;
- E. Advertising, offering, or promoting, directly or through others, income tax return preparation services or tax refund services to consumers or third party individuals without further order of this Court.

5. **IT IS FURTHER ORDERED** that Defendant request any financial or brokerage institution, bank, escrow agent, credit union, title company, storage facility, commodity trading company, business entity or person maintaining or having custody or control of any account or other asset of Defendant, including but not limited to JPMorgan Chase Bank, Bank of America, and Compass Bank, within five (5) business days of the date of service of this Order, to provide to counsel for the Plaintiff a statement or letter setting forth:

- A. The identification of each account or asset titled in the name, individually or jointly, of Defendant, or held on behalf of, or for the benefit of, Defendant;
- B. The balance of each such account, or a description and estimated value of such assets, as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and
- C. The identification of any safe deposit box or storage facility that is in the name

individually or jointly of Defendant or is otherwise subject to access or control by Defendant.

6. **IT IS FURTHER ORDERED** that Defendant, within three (3) business days of the date of service of this Order, provide to counsel for Plaintiff a spreadsheet or letter setting forth the following:

A. The contact information of each consumer or third party individual from whom Defendant obtained Personal Identifying Information or Sensitive Personal Information (as defined herein and in Chapter 521 of the Texas Business and Commerce Code), including but not limited to the consumer/individual's name, address, and telephone number;

B. ~~All records containing Personal Identifying Information or Sensitive Personal Information of consumers and individual third parties to Plaintiff to be stored or disposed of properly.~~

C. ~~A completed financial statement, verified under oath, specifying~~ *An identification of* the name and address of each financial institution and brokerage firm, including foreign institutions or firms, at which the Defendant have accounts or safe deposit boxes.

7. **IT IS FURTHER ORDERED**, that for purposes of this Order, the following terms are defined as follows:

A. "Consumer" means an individual, partnership, corporation, or entity of any kind, including this state, or a subdivision or agency of this state who seeks or acquires, by purchase or lease, any goods or services;

B. "Personal Identifying Information" as defined in Chapter 521 of the Texas Business & Commerce Code means an individual's first name or initial and last name in combination with one or more of the following:

- (1) date of birth;
- (2) social security number or other government issued identification number;
- (3) mother's maiden name;
- (4) unique biometric data, including the individual's fingerprint, voice print, and retina or iris image;
- (5) unique electronic identification number, address, or routing code;
- (6) telecommunication access device, including debit and credit card information; or
- (7) financial institution account number or any other financial information.

C. "Sensitive personal information" as defined in Chapter 521 of the Texas Business & Commerce Code means:

- (1) an individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:
 - (a) social security number;
 - (b) driver's license number or government-issued identification number; or
 - (c) account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; and

(2) does not include publicly available information that is lawfully made available to the general public from the federal government or a state or local government.

8. **IT IS FURTHER ORDERED** that Plaintiff shall be granted leave to conduct expedited discovery, including taking telephonic, video, written, and other depositions with a request for production prior to any scheduled temporary injunction hearing and prior to Defendant's answer date upon reasonable shortened notice to the attorneys for all parties if known. Defendant shall respond to interrogatories, requests for admissions, or requests for production of documents within three business days after service of the discovery request. Any discovery taken or propounded by the Plaintiff is in addition to, and not subject to, any limits on the quantity of permissible discovery provided for in the Texas Rules of Civil Procedure or the rules of this Court. Any limitations and conditions set forth in the Texas Rules of Civil Procedure or the rules of this Court regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this paragraph.

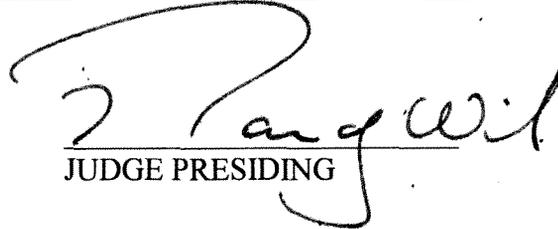
9. **IT IS FURTHER ORDERED** that Defendant in this cause be and hereby are commanded forthwith to comply with this Order from the date of entry until and to the fourteenth (14) day after entry or until further order of this Court, whichever is less.

10. This Order shall be effective without the execution and filing of a bond because Plaintiff, the State of Texas, is exempt from such bond under Tex. Civ. Prac. & Rem. Code § 6.001 and Tex. Bus. & Com. Code § 17.47(b) and Tex. Bus. & Com. Code § 521.151(d).

11. 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. Tex. Bus. & Com. Code § 521.151(e); Tex. Bus. & Com. Code § 17.47(a).

12. Hearing on Plaintiff, State of Texas' Application for a Temporary Injunction is hereby set for the 1st day of April, 2013, at 1:30 o'clock P. M.

SIGNED this 22^d day of March, 2013 at 11:45 o'clock, A m.


J. Rangel Wil
JUDGE PRESIDING