

on consumers' credit, debit, and check cards, which Defendant RANDI PIERCE d/b/a FLOWERS FOR YOU, INC. d/b/a YOUR uses for their own benefit. Specifically, Defendant RANDI PIERCE d/b/a FLOWERS FOR YOU, INC. d/b/a YOUR FLORIST will continue to accept credit, debit, and check card payment for floral services without disclosing that Defendant may place unauthorized charges on her customers' credit, debit, and check cards; will continue to keep record of customers' credit, debt, and check card information; will continue to place unauthorized charges on her customers' credit, debit, and check cards; will continue to be untruthful, evasive and unresponsive to complaints of unauthorized charges; will continue to be misleading or deceptive about the reason for the unauthorized charges; will continue to be misleading or deceptive about Defendant's intentions or efforts to reimburse her customers for unauthorized charges; and will continue to not provide her customers reimbursements for unauthorized charges. If Defendant is not immediately restrained, many more consumers may lose their money and have unauthorized charges made against their credit, debit, and check card accounts through Defendant's false, misleading, or deceptive practices.

3. Defendant RANDI PIERCE d/b/a FLOWERS FOR YOU, INC. d/b/a YOUR FLORIST will continue to engage in these false, misleading, or deceptive practices and may well dissipate her assets before a judgment for restitution can be rendered. Such injury would be irreparable because continued violations of the DTPA may cause many more consumers to lose their money and have unauthorized charges placed against their credit, debit, and check card accounts. Given the likelihood of dissipation of Defendant's assets prior to rendition of a final judgment, the possibility of restitution for consumers will be remote unless an order freezing assets is granted.

5. **IT IS THEREFORE ORDERED** that Defendant RANDI PIERCE d/b/a FLOWERS FOR YOU, INC. and their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with Defendant, including but not limited to all financial institutions such as **Bank One** of Dallas, Texas¹ holding money in the name or for the benefit of the above named Defendant, 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, 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, safe deposit boxes, 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 said Defendant without further order of this Court;
- B. opening or causing to be opened any safe deposit boxes titled in the name of Defendant, including YOUR FLORIST and FLOWERS FOR YOU, or subject to access or control by any of Defendant's officers, agents, servants, employees, attorneys, and any other persons in active concert or participation with Defendant, without providing the Plaintiff and this Court prior notice and opportunity to inspect the contents in order to determine that they contain no assets covered by this section.

6. **IT IS THEREFORE ORDERED** that Defendant RANDI PIERCE d/b/a FLOWERS FOR YOU, INC. d/b/a YOUR FLORIST and her officers, agents, servants, employees, attorneys and any other persons in active concert or participation with Defendant, 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:

¹Known Bank One accounts subject to this order include, but are not limited to the following:
Account No. [REDACTED] standing in the name of Flowers For You, Inc.

- A. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written materials relating to business of Defendant currently or hereafter in Defendant's possession, custody or control except in response to further orders or subpoenas in this cause;
- B. 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 they do not have;
- C. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law;
- D. Failing to disclose information concerning goods or services which is known at the time of the transaction when such failure to disclose such information is intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed;
- E. Placing unauthorized charges on the credit, debit, and check cards of consumers;
- F. Falsely representing that unauthorized charges made to consumers' credit, debit, and check cards have the approval of those consumers, which they do not;
- G. Falsely representing that consumers, who purchase goods or services from YOUR FLORIST and/or RANDI PIERCE are obligated to pay for YOUR FLORIST's or RANDI PIERCE's additional unauthorized charges made to their credit, debit, and check cards;
- H. Falsely representing that consumers are obligated to pay for unauthorized charges made to their credit, debit, and/or check cards;
- I. Failing to disclose that RANDI PIERCE and/or FLOWERS FOR YOU, INC. employees and/or YOUR FLORIST employees may make unauthorized charges on its customers' credit cards, which RANDI PIERCE and/or FLOWERS FOR YOU, INC. employees and/or YOUR FLORIST employees know at the time of the transaction and is not disclosed to its customers in order to induce them into transactions into which they would not enter had the information about the unauthorized charges been disclosed;
- J. Failing to disclose that unauthorized charges may be made to a consumer's credit card, which is known at the time of the transaction and is not disclosed to the consumer in order to induce him into a transaction into which he would not have entered had the information about the unauthorized charges been disclosed;

- K. Falsely representing to consumers that RANDI PIERCE or YOUR FLORIST will void unauthorized transactions and reimburse their credit, debit, and/or check card accounts for those charges, when such remedial action are not intended or performed;
- L. Falsely representing to consumer that unauthorized transactions will be voided and charges reimbursed to consumers' credit, debit, and/or check cards, when such remedial action is not intended or performed;
- M. Falsely representing that RANDI PIERCE and/or YOUR FLORIST will void unauthorized transactions and reimburse consumers for those charges, when such remedial action is not intended or performed;
- N. Falsely representing that RANDI PIERCE, YOUR FLORIST and/or its employees cannot reimburse their credit, debit, and/or check card accounts for unauthorized charges made by RANDI PIERCE and/or YOUR FLORIST;
- O. Falsely representing that unauthorized charges to consumer credit, debit, and/or check cards cannot be reimbursed;
- P. Falsely representing to consumers that they will be contacted in efforts to resolve the consumers' complaints about unauthorized charges on their credit, debit, and/or check cards; and
- Q. Failing to provide to any of Defendant's agents, servants, employees or representatives, written notice of the existence and terms of any injunction entered in this case, and of their duty to comply with its terms

7. **IT IS FURTHER ORDERED** that within five (5) business days following service of this Order, Defendant RANDI PIERCE d/b/a FLOWERS FOR YOU, INC. d/b/a YOUR FLORIST shall:

- A. provide the OFFICE OF THE ATTORNEY GENERAL with a full, complete and accurate accounting of all funds, documents, and assets located within or outside the STATE OF TEXAS, including the balance of any bank accounts, held either: (1) by either Defendant; or (2) under their direct control, jointly or singly;
- B. provide the OFFICE OF THE ATTORNEY GENERAL access to Defendant's records and documents held by financial institutions located within or outside of the STATE OF TEXAS.

8. **IT IS FURTHER ORDERED** that any financial or brokerage institution, escrow agent, title company, storage facility, commodity trade company, business entity or person maintaining or having custody or control of any account or other assets of Defendant which receives actual notice of this Order by personal service or otherwise, shall:

- A. within five (5) business days of the date of service of this Order, provide to counsel of the Plaintiff and Defendant or account holder a statement or letter setting forth:
1. 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;
 2. the balance of each such account, or a description and appraisal of the value of such assets, as of the close of business on the day on which the 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 assets were remitted; and
 3. the identification of any safe deposit box or storage facility that is either titled in the name individually or jointly, of Defendant, or is otherwise subject to access or control by Defendant.

9. **IT IS FURTHER ORDERED** that Plaintiff shall be granted leave to take telephonic, video, written, and other depositions prior to any scheduled temporary injunction hearing upon reasonable shortened notice to Defendant.

10. **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 14th day after entry or until further Order of this Court, whichever is less.

11. The Clerk of the above Court shall forthwith issue an Ex Parte Temporary Restraining Order in conformity with the law and the terms of this Order. This Order shall be

effective without the execution and filing of a bond as Plaintiff, STATE OF TEXAS is exempt from such bond under TEX. BUS. & COM. CODE ANN. § 17.46(b).

12. Hearing on Plaintiff, STATE OF TEXAS' Application for a Temporary Injunction is hereby set for the _____ day of _____, 2003, at _____ o'clock, ____m.

SIGNED this _____ day of _____, 2003, at _____ o'clock, ____m.

PRESIDING JUDGE