

THE STATE OF TEXAS

Plaintiff

v.

JESUS CARRUTH SANDOVAL, Individually
and d/b/a IMMIGRATION LEGAL CLINIC

Defendant

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CAUSE NO. 2004 - _____

**PLAINTIFFS’ ORIGINAL PETITION FOR RESTITUTION AND PENALTIES,
AND APPLICATION FOR TEMPORARY RESTRAINING ORDER,
TEMPORARY INJUNCTION AND PERMANENT INJUNCTION**

COME NOW THE STATE OF TEXAS, Plaintiff, complaining of JESUS CARRUTH SANDOVAL, Individually and d/b/a IMMIGRATION LEGAL CLINIC, Defendant, for violating the Texas Deceptive Trade Practices – Consumer Protection Act, TEX. BUS. & COMM. CODE § 17.41 *et seq.* (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.

DISCOVERY CONTROL PLAN

1. The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.

JURISDICTION AND AUTHORITY

2. Under § 17.47 of the DTPA, the Consumer Protection and Public Health Division of the Office of the Attorney General may bring an action whenever it has reason to believe that any

person is engaging in, has engaged in, or is about to engage in any false, misleading or deceptive act or practice in the conduct of any trade or commerce.

3. Under § 17.47(d) of the DTPA the Court may make such orders or judgments as are necessary to compensate identifiable persons for damages or to restore money or property acquired by means of any unlawful act or practice.

VENUE

4. 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) 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.

PARTIES

5. The Attorney General is authorized by the Texas Constitution, Art. 4, § 22, to enforce the laws of Texas. Section 17.47 of the DTPA authorizes the attorney general to bring enforcement actions under the DTPA.

6. Defendant JESUS CARRUTH SANDOVAL does business in El Paso County, Texas, and may be served with process at his business address, 9001 Cashew, Suite 200, El Paso, Texas 79907.

EXHIBITS

7. The factual allegations in this pleading relating to deceptive trade practices are supported and sworn to in an affidavit by Patricia M. Acosta, Investigator with the Office of the

Attorney General of Texas. The affidavit is attached as Exhibit A.

PUBLIC INTEREST

8. 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.

TRADE AND COMMERCE

9. Defendant has, at all time described below, engaged in conduct which constitutes “trade” and “commerce” as those terms are defined by § 17.45(6) of the DTPA.

ACTS OF AGENTS

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

NOTICE

11. The Consumer Protection Division informed Defendant of the alleged unlawful conduct at least seven days prior to filing suit.

SUMMARY OF THE CASE

12. Defendant operates a business known as Immigration Legal Clinic, 9001 Cashew, Suite 200, El Paso, Texas 79907.

13. Defendant purchased and ran advertising in the newspaper “El Diario de Cd. Juárez,

Chih.” which, when translated into English from the original Spanish, reads as follows:

"Guest workers under the new immigration reform policy set by Fox & Bush. Immigration assistance, all work done in the United States. Amnesty, guest worker in or out of the country, adjustment of residency status, citizenship, income tax (2003 & previous years), document translations, child support statement. First appointment is free. (915) 383-0075, (915) 449-9230, Immigration Legal Clinic, 9001 Cashew, Suite 200, El Paso, Texas, Licenciado Jesús Sandoval, Appointments available in Juarez on Saturdays after first appointment."

“El Diario,” as it is known, is published in Mexico but has a wide circulation in El Paso, Texas.

14. At the referenced location, Defendant meets with persons who are not citizens of the United States, but who wish to apply for adjustments in immigration status.

15. Defendant’s advertisement is calculated to lead such persons to believe that there is a “new immigration reform policy set by [President of the Republic of Mexico] Fox and [President of the United States] Bush.” In fact, there is no such policy or reform.

16. When questioned by a reporter about advertising a “policy” which was not in fact enacted, Defendant stated “I’m advising people for them to prepare. I did the amnesty in 1986 the same way. I started advertising in 1982 when they first talked about it.”

17. Defendant advertises and holds himself out as an attorney at law for immigration and income tax matters. He claims that he is authorized to claim status as an attorney at law for federal issues, since he is licensed to practice law in the State of Ohio.

18. Defendant was previously licensed to practice law in the state of New Mexico. However, his license was suspended there by order of the Supreme Court of New Mexico on December 7, 1999 by reason of his having absconded with over \$82,000.00 in funds belonging to clients. His license has not been reinstated in New Mexico, and funds taken from clients are still outstanding.

19. While it is generally true that an attorney licensed in any State in the United States may practice immigration law and advise clients on immigration matters, regulations which define the terms applicable to the Immigration and Nationality Act (66 Stat. 163) define the term “attorney” as follows:

“The term attorney means any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia, *and is not under any order of any court suspending, enjoining, restraining, disbaring or otherwise restricting him in the practice of law.*”

8 C.F.R. §1.1 (emphasis added)

20. Since Defendant is in fact “under [an] order of [a] court suspending him in the practice of law,” he is not considered an attorney under immigration law.

21. Defendant receives money as a fee because of or in consequence of Defendant acting as an attorney at law.

22. 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 receiving remuneration, 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.

23. Defendant does not, and has not at all relevant times, possess the certification, license, or other qualifications necessary to perform such services.

24. In addition, Defendant is engaging in false, misleading or deceptive acts or practices in the conduct of his business, in that his operating as an attorney at law constitutes a representation that he is authorized to do so, when that is not the case.

25. Defendant is engaging in false, misleading or deceptive acts or practices in the conduct of his business, in that he fails to disclose that he is not authorized to operate as an attorney at law, or to accept fees as an attorney at law in the State of Texas.

APPLICABLE LAW

26. Under TEX. BUS. & COMM. CODE § 17.46(a),

“False, misleading or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful;”

27. Under TEX. BUS. & COMM. CODE § 17.46(b)(3),

“Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification of goods or services” is a false, misleading or deceptive act or practice;

28. Under TEX. BUS. & COMM. CODE § 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” is a false, misleading or deceptive act or practice;

29. Under TEX. BUS. & COMM. CODE § 17.46(b)(7),

“Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another” is a false, misleading or deceptive act or practice;

30. Under TEX. BUS. & COMM. CODE § 17.46(b)(24),

“The failure 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” is a false, misleading or deceptive act or practice;

VIOLATIONS

31. By engaging in the above described conduct, Defendant has violated and is continuing to violate the following laws:

(a) § 17.46(a) of the DTPA by advertising that there is a “new immigration reform policy” between the United States and Mexico, when there is not;

(b) § 17.46(b)(3) of the DTPA by holding himself out as an attorney at law, thereby causing misunderstanding as to certification by the State Bar of Texas;

(c) § 17.46(b)(5) of the DTPA by acting as an attorney at law and providing advice on immigration matters, thereby representing that the services provided have approval or characteristics which they do not have;

(d) § 17.46(b)(7) of the DTPA by 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;

(e) § 17.46(b)(24) of the DTPA by 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;

(f) § 17.46(b)(24) of the DTPA by 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;

EQUITABLE RELIEF

32. The State of Texas asks that the Court temporarily restrain and permanently enjoin

Defendant from operating as an attorney at law without being licensed as such.

33. 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 and Federal immigration law, unless and until Defendant holds an active license to practice law and is not under order of any court suspending his license.

34. The State of Texas further asks that the Court temporarily restrain and permanently enjoin Defendant from advertising that there is a “new immigration reform policy” between the United States and Mexico, when there is not.

35. The State of Texas asks further that the Court temporarily restrain and permanently enjoin Defendant from holding himself out as an attorney at law while he is under order of any court suspending his license, thereby causing misunderstanding as to certification by the State Bar of Texas.

36. The State of Texas asks further that the Court temporarily restrain and permanently enjoin Defendant from providing advice on immigration matters while he is under order of any court suspending his license, thereby representing that the services provided have approval or characteristics which they do not have.

37. 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.

38. 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.

39. 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.

40. 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 a licensed attorney at law.

**NECESSITY OF IMMEDIATE RELIEF
TO PRESERVE DEFENDANTS’ ASSETS**

41. 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 collects 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 is contraband.

OTHER RELIEF

42. The State of Texas asks the Court to order Defendant to compensate all of his “clients” for actual damages, and to restore any money or property which may have been acquired by means of any unlawful act or practice.

43. 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.

44. The State of Texas asks the Court to issue a declaratory judgment that Defendant is engaged in the unauthorized practice of law.

45. The State of Texas asks the Court to order Defendant to pay reasonable attorney fees, pursuant to TEX. GOVT. CODE § 402.006.

PRAYER

46. 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 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 or computer generated materials relating to the 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. transferring, spending, hypothecating, concealing, encumbering, withdrawing, removing or allowing the transfer, removal, or withdrawal from any bank, savings association, credit union or other financial institution or from the jurisdiction of this Court any money, stocks, bonds, assets, sports memorabilia, 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 such Defendant without further order of this court;

c. operating as an attorney at law without being licensed as such;

d. 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;

e. advertising that there is a “new immigration reform policy” between the United States and Mexico, when there is not;

f. holding himself out as an attorney at law and thereby causing misunderstanding as to certification by the State Bar of Texas;

g. providing advice on immigration matters, thereby representing that the services provided have approval or characteristics which they do not have;

h. 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;

i. 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;

j. 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; and

k. representing, directly or by implication, that this Court or the Office of the Attorney General has approved any service sold or offered for sale by Defendant, or has approved any business practice of Defendant.

52 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, 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. Adjudge against Defendant civil penalties in favor of Plaintiff State of Texas in the amount of \$20,000.00 per violation of the DTPA;

c. Issue a declaratory judgment that Defendant is engaged in the unauthorized practice of law;

d. Order Defendant to pay Plaintiff State of Texas attorney’s fees and costs of court pursuant to TEX. GOVT. CODE §402.006(c);

DATED this _____ day of 2004.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

BARRY R. McBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

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

JAMES A. DAROSS
Assistant Attorney General
Consumer Protection and Public Health Division
401 E. Franklin Ave., Suite 530
El Paso, Texas 79901
(915) 834-5801
FAX (915) 542-1546
State Bar No. 05391500