FILED
GREGG COUNTY, TEXAS

MAR 3 0 2005

_____O'CLOCK_____M
BARBARA DUNCAN, DISTRICT CLERK
By_____Deputy

NO. 2005-705-B

THE STATE OF TEXAS,	§	**IN THE DISTRICT COURT OF**
Plaintiff	§	
	§	**GREGG COUNTY, TEXAS**
E.	§	
	§	
JOSUE AVILA and ROBERT KOLK,	§	
d/b/a STATUS SOCIAL SERVICES,	§	
Defendants.	§	
	§	124TH **JUDICIAL DISTRICT**

EX PARTE TEMPORARY RESTRAINING ORDER

~~**AND ASSET FREEZE**~~

Plaintiff, State of Texas, has filed its Original Petition in this cause seeking a Temporary and Permanent Injunction ~~and Asset Freeze~~ against Defendants JOSUE AVILA and ROBERT KOLK, d/b/a STATUS SOCIAL SERVICES and in the same petition has presented its request for an Ex Parte Temporary Restraining Order ~~and Asset Freeze~~. The Court finds that Defendants may be violating §17.46(a) and (b) of the Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE ANN §17.41 *et. seq.* It appears from facts set forth in the Plaintiff's Original Petition and the exhibits and sworn affidavits attached thereto that unless Defendants are immediately restrained from the acts prohibited below, Defendants will 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, Defendants will continue to use deception in their solicitation and furnishing of immigration assistance and may well dissipate and secrete their assets before a judgment for restitution can be rendered. If the restraint is not issued, Defendants will continue to engage in the

unauthorized practice of law, before notice can be given and a hearing held, and cause irreparable injury, loss, or damage to persons who receive their services because such persons will lose immigration benefits to which they are otherwise entitled and subject them to apprehension, detention or immediate deportation, or expose them to criminal liability as a result of Defendants' unqualified legal services and/or advice in immigration matters. Such injury would be irreparable because continued violations of the DTPA may well cause many more consumers to lose their money by deception. The Court further finds that Defendants' business may have been solely organized for an unlawful purpose and that assets held by Defendants may be proceeds from business activity which is wholly unlawful and, therefore, such assets are subject to the equitable remedy of disgorgement. ~~Given the likelihood of dissipation of Defendants' assets prior to rendition of a final judgment, the possibility of restitution for consumers will be remote unless an order freezing assets is granted.~~

IT IS THEREFORE ORDERED that Defendants Josue Avila and Robert Kolk, their officers, agents, servants, spouses, relatives, employees, attorneys and any other persons in active concert or participation with them, including but not limited to, all financial institutions such as **Regions Bank** of Kilgore, Texas,[1] holding money in the name and/or for the benefit of the above named Defendants, 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

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[1]Known Regions Bank bank accounts subject to this order include, but are not limited to the following: Account #[redacted] and [redacted] standing in the name of Robert Kolk and/or Status Social Services.

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;

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

2. **IT IS FURTHER ORDERED** that Defendants Josue Avila and Robert Kolk, their officers, agents, servants, spouses, relatives, employees, attorneys and any other persons in active concert or participation with them, 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, concealing, destroying or removing from the jurisdiction of this Court any books, records, documents, invoices, or other written materials relating to Defendants' business which are in Defendants' possession, custody, or control except in response to further orders or subpoenas in this cause;

B. Transferring, spending, hypothecating, concealing, encumbering, depleting, modifying, dissipating, distributing, or removing 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 possession of, or

~~claimed by Defendants;~~

C. Giving, providing, or offering advice and counsel to any person regarding U.S. immigration laws, rights, privileges, or documents, until such time as Defendants either become licensed attorneys, or are accredited by the U.S. Board of Immigration Appeals pursuant to 8 C.F.R. § 292;

D. Representing to any person, expressly or by implication, that Defendants can or will represent the interest of another in a judicial or administrative proceeding, including a proceeding relating to immigration to the U.S., U.S. citizenship, or any other immigration related matter (including alien temporary or permanent employment or travel), until Defendants are able to fully comply with the requisites of 8 C.F.R. § 292 by becoming licensed attorneys, properly supervised law students, or by becoming accredited by the U.S. Board of Immigration Appeals;

E. Selecting or preparing immigration forms, applications, or legal documents of any type to be completed or filed on behalf of persons seeking to legalize their residency status or to obtain lawful employment in the U.S., until such time as Defendants obtain the certification, license, or other qualifications required for such activity pursuant to 8 C.F.R. § 292;

F. Advising persons, expressly or by implication, of the type of form, application or document needed in any type of proceeding relating to immigration to the U.S., U.S. Citizenship, employment in the U.S., or any other matter relating to the needs of alien residents or non-residents;

G. Giving persons advice and counsel regarding their rights under the immigration laws of the U.S. or any other sort of legal matter, until such time as Defendants obtain the certification, license, or other qualifications required for such activity pursuant to 8 C.F.R. § 292;

H. Soliciting, collecting, or accepting fees or compensation of any type, for providing any type of immigration or legal services to consumers, until such time as Defendants obtain the accreditation, license, or other qualifications required for such, pursuant to 8 C.F.R. § 292;

I. Stating or implying that either Defendant is an attorney licensed to practice law in this State or that Defendants have an attorney on staff to assist them with immigration related matters;

J. Soliciting or accepting compensation of any type to obtain relief of any kind on behalf of another from any officer, agency, or employee of this state or the U.S.; and

K. Advertising immigration related services of any kind via the internet, radio, TV, electronic broadcast or print (i.e., newspapers, magazines, pamphlets, fliers, etc.) until Defendants have met the requisites of 8 C.F.R. § 292.

3. **IT IS FURTHER ORDERED** that the Defendants advise any financial or brokerage institution, escrow agent, title company, storage facility, commodity trading company, business entity or person maintaining or having custody or control of any account or other asset of Defendants, which receives actual notice of this Order by personal service or otherwise, to within five (5) business days of the date of service of this Order, provide to counsel for the Plaintiff and the defendant/account holder a statement or letter setting forth:

A. The identification of each account or asset titled in the name, individually or jointly, of Defendants, or held on behalf of, or for the benefit of Defendants;

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 assets was remitted; and

C. The identification of any safe deposit box or storage facility that is either titled in the name individually or jointly, of Defendants, or is otherwise subject to access or control by Defendants.

4. **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that, as used in this Judgment, 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. "Defendants" means Josue Avila, Robert Kolk, and their successors, assigns, officers, agents, spouses, subcontractors, servants, present and former employees, corporations and any other persons in active concert or participation with them;

C. "Person" means an individual, sole proprietorship, firm, partnership, corporation, association, joint venture or other group, or business entity, however organized;

D. "Solicits" or "solicited" means any type of contact with a person or entity for the purpose of requesting, persuading, or seeking any type of contribution, sponsorship, compensation, or anything of value from said person or entity for any reason whatsoever.

5. **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 the Defendants.

6. **IT IS FURTHER ORDERED** that Defendants 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.

7. 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. 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. §17.47(b).

Hearing on Plaintiff, State of Texas' Application for an Temporary Injunction ~~and Asset Freeze~~ is hereby set for the 8 day of April, 2005 at 1:15 o'clock, P m.

SIGNED this 30 day of MAR, 2005 at 10:04 o'clock, A m.

JUDGE PRESIDING