

NO. \_\_\_\_\_

<b>STATE OF TEXAS</b>	§	<b>IN THE DISTRICT COURT OF</b>
<b>Plaintiff,</b>	§	
	§	
<b>V.</b>	§	<b>HARRISON COUNTY, TEXAS</b>
	§	
<b>JASWANTIBEN PATEL, RAMBHAI</b>	§	
<b>PATEL, PIL, L.L.C. &amp; PURSHOTAM</b>	§	
<b>INVESTMENTS, LTD., DBA QUALITY</b>	§	
<b>INN &amp; SUITES</b>	§	
<b>Defendants</b>	§	<b>_____ JUDICIAL DISTRICT</b>

**PLAINTIFF'S ORIGINAL VERIFIED PETITION AND APPLICATION FOR  
PERMANENT INJUNCTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, the STATE OF TEXAS, Plaintiff, acting by and through Attorney General of Texas GREG ABBOTT (referred to herein as the "Attorney General") on behalf of the State of Texas and on behalf of the interest of the general public of the State of Texas, and complains of JASWANTIBEN PATEL, RAMBHAI PATEL, PIL, L.L.C., and PURSHOTAM INVESTMENTS, LTD., Defendants. The Attorney General would respectfully show the Court as follows:

**I. DISCOVERY**

1. Discovery shall be conducted under LEVEL 2 of Rule 190.3, of the Texas Rules of Civil Procedure.

**II. JURISDICTION**

2. This action is brought pursuant to the statutory authority of TEX. BUS. & COM. CODE § 17.47, permitting the Consumer Protection Division of the Attorney General's office to bring an action to restrain, by permanent injunction, the use of any method, act or practice declared to be unlawful by TEX. BUS. & COM. CODE ANN. § 17.46, where such proceedings are in the public interest. The Attorney General files this suit against Defendants on the grounds that:

a.) Defendants have engaged in false, misleading and deceptive acts and practices in the course of trade and commerce as defined herein and as declared unlawful pursuant to the Texas Deceptive Trade Practices--Consumer Protection Act (“DTPA”), TEX. BUS. & COM. CODE § 17.41 et seq.;

b.) This suit is brought against Defendants for injunctive relief, actual damages, restitution, civil fines and penalties, costs, and attorney’s fees as a result of the violations of the DTPA.

### **III. DEFENDANTS**

3. Defendant PIL, LLC is a Texas limited liability company who may be served with process by serving its registered agent Rambhai Patel at 5555 East End Boulevard South, Marshall, Texas 75672.

4. Defendant PURSHOTAM INVESTMENTS, LTD. is a Texas limited partnership who may be served with process by serving its registered agent Rambhai Patel at 5555 East End Boulevard South, Marshall, Texas 75672.

5. Defendant RAMBHAI PATEL is an individual residing in Marshall, Texas, and who may be served with process at 5201 East End Boulevard, Marshall, Texas 75672.

6. Defendant JASWANTIBEN PATEL is an individual residing in Marshall, Texas, and who may be served with process at 5201 East End Boulevard, Marshall, Texas 75672.

### **IV. VENUE**

7. Venue is proper in Harrison County, Texas, pursuant to § 17.56 of the DTPA, because Harrison County is the county in which the defendants solicited the transactions made the subject of this action. TEX. BUS. & COM. CODE ANN. § 17.56.

7.1. Venue is proper in Harrison County, Texas, pursuant to § 15.002 (a)(1) of the TEX. CIV. PRACT. & REM. CODE, because Harrison County is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred. TEX. CIV. PRACT. & REM. CODE § 15.002(a)(1).

#### **V. PUBLIC INTEREST**

8. Because Plaintiff State of Texas has reason to believe that Defendants have engaged in, and will continue to engage in the unlawful practices set forth below, Plaintiff State of Texas has reason to believe Defendants have caused and will cause immediate, irreparable injury, loss and damage to the State of Texas, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State. Therefore, the Consumer Protection Division of the Office of the Attorney General of the State of Texas believes and is of the opinion that these proceedings are in the public interest.

#### **VI. TRADE AND COMMERCE**

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

#### **VII. ACTS OF AGENTS**

10. Whenever in this petition it is alleged that a Defendant did any act, it is meant that:

A. The Defendant performed or participated in the act, or

B. The Defendant’s officers, agents, trustees or employees performed or participated in the act on behalf of and under the authority of the Defendants.

#### **VIII. SPECIFIC FACTUAL ALLEGATIONS**

11. Defendants operate a Quality Inn hotel in Marshall, Texas. During and after Hurricanes

Katrina and Rita, Defendants took advantage of consumers who were evacuating parts of Texas and Louisiana to evade the storms, as well as Federal Emergency Management Agency (FEMA) volunteers who were present to assist evacuees. Prior to arriving at Defendants' establishment, consumers made room reservations over the Internet or by telephone, but found upon arrival that their room rates were increased over the previously quoted or reserved rate. Defendants advertised certain room rates and then arbitrarily increased those rates during the aftermath of Hurricanes Katrina and Rita. Defendants refused to provide itemized billing statements, or receipts of any kind, indicating the rates that consumers were actually being charged for their rooms. During and after their stay at Defendants' establishment, consumers discovered unexplained and unauthorized charges on their credit cards, in amounts that greatly exceeded the authorized charges. Defendants took advantage of this declared disaster by demanding excessive and exorbitant prices for necessities such as lodging and for selling necessities at grossly inflated and excessive prices.

#### **IX. VIOLATIONS OF THE DTPA**

12. 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 the DTPA §17.46(a)&(b), to wit:

A. 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, in violation of DTPA, §17.46(b)(5);

B. 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, in violation of DTPA,

§17.46(b)(7);

C. Advertising goods or services with intent not to sell them as advertised, in violation of DTPA § 17.46(b)(9);

D. Failing 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 which the consumer would not have entered had the information been disclosed, in violation of DTPA, §17.46(b)(24);

E. Taking advantage of a disaster declared by the governor under Chapter 418, Government Code by selling, leasing or demanding an exorbitant or excessive price for a necessity, in violation of DTPA §17.46(b)(27); and

F. Engaging in false, misleading or deceptive acts or practices in the course of trade or commerce, in violation of DTPA § 17.46(a).

12.1. Defendants have, by means of the unlawful acts and practices described in this petition, obtained money or other property from identifiable persons to whom such money or property should be restored.

## **X. DISGORGEMENT**

13. 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 and benefits or profits that result from Defendants putting fraudulently converted property to a profitable use. Defendants should be ordered to disgorge all monies fraudulently taken from individuals together with all of the proceeds, profits, income, interest and accessions thereto. Such disgorgement should be for the benefit of victimized consumers and the State of Texas.

## **XI. TRIAL BY JURY**

14. Plaintiff herein requests a jury trial and tenders the jury fee to the Harrison County District Clerk's office pursuant to TEX. R. CIV. P. 216 and TEX. GOV'T CODE ANN. §51.604.

## **XII. APPLICATION FOR PERMANENT INJUNCTION**

15. Because Defendants have engaged in the unlawful acts and practices described above, Defendants have violated and will continue to violate the law as alleged in this Petition. Unless restrained by this Honorable court, Defendants will continue to violate the laws of the STATE OF TEXAS and cause irreparable injury, loss, and damage to the State of Texas and to the general public. Therefore Plaintiff requests a Permanent Injunction as indicated below.

## **XIII. PRAYER**

16. WHEREFORE, Plaintiff prays that Defendants be cited according to law to appear and answer herein; and upon final hearing a PERMANENT INJUNCTION be issued, restraining and enjoining Defendants, Defendants' successors, assigns, officers, agents, servants, employees and attorneys and any other person in active concert or participation with Defendants, from engaging in the following acts or practices:

A. Charging persons excessive or exorbitant prices for any type of good or service needed by them in any area in which a disaster has occurred and the Governor of Texas has declared such area as a disaster.

B. Charging excessive or exorbitant prices for any type of good or service needed by persons because such persons are in any way affected by any type of disaster or calamity;

C. Charging any person any amount of money or thing of value for any good or service without notifying such persons in advance of the exact amount of money to be charged for such good

or service;

D. Charging any person any amount of money or thing of value for any good or service without receiving said person's express authorization in advance to pay the amount demanded for such good or service;

E. Representing, expressly or by implication, that the price for a particular good or service is a certain amount and then demanding or charging more than that price without the express knowledge and consent of the consumer prior to consummation of the transaction; and

F. Failing to tender and deliver written receipts to every person purchasing goods or services from Defendants which reflect all goods or services purchased by them and the precise amount paid for each such good or service.

G. Charging consumers' credit cards unless Defendants:

1. Disclose to consumers all of the terms, conditions, restrictions, and costs associated with Defendants' plans prior to implementing a charge; and

2. Obtain a signed written consent and authorization from each consumer to have the consumer's credit card charged before it is charged;

16.1. In addition, Plaintiff STATE OF TEXAS respectfully prays that this Court will:

A. Adjudge against Defendants civil penalties in favor of Plaintiff STATE OF TEXAS in an amount up to \$250,000 allowed by law under the DTPA, specifically, §17.47(c)(2) of the Texas Business and Commerce Code, due to Defendants committing acts and practices which were calculated to acquire or deprive money or other property from consumers who were 65 years of age or older when the act or practice occurred;

B. Adjudge against Defendants civil penalties in favor of Plaintiff, STATE OF TEXAS,

in an amount up to \$20,000 per violation allowed by law under the DTPA, specifically, § 17.47(c)(1) of the Texas Business and Commerce Code;

C. Order Defendants to restore all money or other property taken from identifiable persons by means of unlawful acts or practices, or, in the alternative, award judgment for damages in an amount within the jurisdictional limits of this court to compensate for such losses;

D. Order equitable rescission of agreements between Defendants and consumers whereby consumers receive all of the money back that they paid to Defendants;

E. Order Defendants to pay Plaintiff STATE OF TEXAS attorney fees and costs of court pursuant to TEX. GOV'T. CODE §402.006(c);

F. Order the disgorgement of all sums taken from consumers by means of deceptive trade practices, together with all proceeds, interest, income, profits and accessions thereto;

G. Grant all other relief to which the Plaintiff State of Texas may show itself entitled.

Respectfully submitted,

GREG ABBOTT  
Attorney General of Texas

BARRY McBEE  
First Assistant Attorney General

EDWARD BURBACH  
Deputy Attorney General for Litigation

PAUL CARMONA  
Chief, Consumer Protection & Public Health Division

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**ATTORNEY FOR PLAINTIFF  
STATE OF TEXAS**

**VERIFICATION**

**STATE OF TEXAS**

§

**COUNTY OF HARRIS**

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Before me, the undersigned Notary Public, on this day personally appeared Andrew S. Trexler, who, after being duly sworn, stated under oath that he is a law clerk for Plaintiff in this action, that he has read the above petition, and that every statement contained in the petition is true and correct and within the personal knowledge of affiant and those consumers providing information to the best of their personal knowledge and belief.

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Andrew S. Trexler

SUBSCRIBED AND SWORN TO BEFORE ME, on the \_\_\_\_ day of \_\_\_\_\_,  
2005, to certify which witness my hand and official seal.

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NOTARY PUBLIC  
State of Texas