

COPY

IN THE COUNTY COURT AT LAW NUMBER FIVE
EL PASO COUNTY, TEXAS

FILED
GILBERT SANCHEZ
DISTRICT CLERK

THE STATE OF TEXAS

Plaintiff,

v.

ROCKNEY D. BACCHUS, d/b/a AC EXPERTS,

Defendant.

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2006 JUN 23 PM 2 07

EL PASO COUNTY, TEXAS

BY

CAUSE NO. 2006-3354

EX PARTE TEMPORARY RESTRAINING ORDER

1. Plaintiff, THE STATE OF TEXAS, has filed its Original Petition in this cause seeking a temporary and permanent injunction against ROCKNEY D. BACCHUS, Individually and d/b/a AC EXPERTS, and in the same petition has presented its request for an ex parte temporary restraining order.

2. The Court finds that Defendant may be violating § 17.46(a) and (b) of the Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE §§ 17.41 *et seq.* ("DTPA"), by doing the following acts and practices:

A. Causing Air Conditioning Units ("ACUs") to be installed in consumers' residences without first obtaining a building permit;

B. Obtaining permits, installing the ACUs, then neglecting or refusing to ask for a final inspection, with the result that the permit expires or is revoked, leaving the consumer with an unapproved ACU;

C. Obtaining permits, installing the ACUs in a faulty manner, then failing to obtain an inspection, knowing that the faulty installation will not pass inspection, leaving the consumer with an unapproved, dangerous ACU;

D. Selling ACUs to consumers without submitting them to a testing agency for testing;

E. Affixing an unauthorized seal or mark, thereby falsely representing that the ACU has passed a testing agency's test;

F. Selling to consumers and installing in their residences ACUs that contain used parts, even though he represents that the ACUs are new;

G. So long as the City of El Paso will not issue building permits to him, continuing to advertise, sell and install ACUs;

H. Arranging for other entities to take out permits from the City of El Paso for work he intends to do;

I. Selling larger ACUs than are necessary for the square footage of a house;

J. Selling ACUs that are not UL approved;

K. Selling and installing ACUs that he is not authorized by the manufacturer to install;

L. Installing ACUs that are beyond the electrical capacity of the consumers' house, causing electrical systems to trip circuit breakers or brown or black out;

M. Advertising ACUs for sale at a certain price in large bold print in a full page ad, with a small disclaimer at the very bottom qualifying the price, when he knows that the qualification will always apply;

N. Selling an ACU as a particular brand (such as MasterCool), when it is actually another brand, a combination of MasterCool and other brands, or a used ACU, or only partially new.

3. It appears from facts set forth in the Plaintiff's Original Petition and the exhibits and sworn affidavits attached thereto that unless Defendant is immediately restrained from the acts prohibited below, Defendant 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, and Defendant will continue to take money unlawfully from consumers.

4. Such injury would be irreparable because continued violations of the DTPA and Notary Statute may well cause many more consumers to acquire unpermitted ACUs which are not suitable for their homes because of Defendant's deception.

5. **IT IS THEREFORE ORDERED** that Defendant ROCKNEY D. BACCHUS, Individually and d/b/a AC EXPERTS, and his agents, servants, relatives, employees, attorneys and any other persons in active concert or participation with him who receive actual notice of this order by personal service or otherwise, whether acting directly or through any trust, corporation, partnership, subsidiary, division, or other device, 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 Defendant's possession, custody, or control except in response to further orders or subpoenas in this cause;

b. Causing ACUs to be installed in consumers' residences without first obtaining a building permit;

c. Obtaining permits, installing the ACUs, then neglecting or refusing to ask for a final inspection, with the result that the permit expired or was revoked, leaving the consumer with an unapproved ACU;

d. Obtaining permits, installing the ACUs in a faulty manner, then failing to obtain an inspection, knowing that the faulty installation would not pass inspection, leaving the consumer with an unapproved, dangerous ACU;

e. Selling ACUs to consumers without submitting them to a testing agency for testing;

f. Affixing an unauthorized seal or mark, thereby falsely representing that the ACU has passed a testing agency's test;

g. Selling to consumers and installing in their residences ACUs that contain used parts, even though he represents that the ACUs are new;

h. So long as the City of El Paso will not issue building permits to him, continuing to advertise, sell and install ACUs;

- i. Arranging for other entities to take out permits from the City of El Paso for work he intends to do;
- j. Selling larger ACUs than are necessary for the square footage of a house;
- k. Selling ACUs that are not UL approved;
- l. Selling and installing ACUs that he is not authorized by the manufacturer to install;
- m. Installing ACUs that are beyond the electrical capacity of the consumers' house, causing electrical systems to trip circuit breakers or brown or black out;
- n. Advertising ACUs for sale at a certain price in large bold print in a full page ad, with a small disclaimer at the very bottom qualifying the price, when he knows that the qualification will always apply;
- o. Selling an ACU as a particular brand (such as MasterCool), when it is actually another brand, a combination of that brand and other brands, or a used ACU, or only partially new.
- p. Representing, directly or by implication, that this Court or the Office of the Attorney General has approved any good or service sold or offered for sale by Defendant, or has approved any business practice of Defendant.

6. **IT IS FURTHER ORDERED** that Defendant in this cause be and hereby is 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. **IT IS FURTHER ORDERED** that 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 § 17.47(b).

Hearing on Plaintiff, State of Texas' Application for an Temporary Injunction is hereby set for the 14th day of July, 2006 at 11:30 o'clock, PM m.

SIGNED this 28 day of June, 2006, at 2¹⁶ o'clock, P m.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

JUDGE PRESIDING