

IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS
 346 *me*
 JUDICIAL DISTRICT
 FILED
 ROBERT SANCHEZ
 DISTRICT CLERK
 2006 JUL 11 PM 3 07
 EL PASO COUNTY, TEXAS
 BY _____
 DEPUTY

COPY

THE STATE OF TEXAS

Plaintiff

v.

MANUEL ESCALANTE III, d/b/a ME
 ACCOUNTING & CONSULTING,

Defendant

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CAUSE NO. 2006 - 3546

EX PARTE TEMPORARY RESTRAINING ORDER

1. Plaintiff, State of Texas, has filed its Original Petition in this cause seeking a temporary and permanent injunction against MANUEL ESCALANTE III, Individually and d/b/a ME ACCOUNTING & CONSULTING, 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") and the Texas Notary Statute, TEX. GOV'T CODE § 406.017, by providing counseling for a fee regarding U.S. immigration laws and procedures. Defendant, a Texas Notary Public, operates a business in which she represents to consumers that she is qualified to prepare all pertinent documentation as prescribed by the immigration laws of this country, but she fails to inform the consumers that she is not authorized or qualified to do so under these immigration laws. The target population is comprised of citizens of foreign countries, primarily the Republic of Mexico, attempting to immigrate to the United States.

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 lose their rights to alter their immigration status by Defendant's deception.

5. **IT IS THEREFORE ORDERED** that Defendant MANUEL ESCALANTE III, Individually and d/b/a M&N BUSINESS MANAGEMENT ASSOC., and her agents, servants, relatives, employees, attorneys and any other persons in active concert or participation with her 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 Defendant's business which are in Defendant's possession, custody, or control except in response to further orders or subpoenas in this cause;

b. Transferring, spending, concealing, encumbering 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, arising out of or derived from Defendant's business operation within the State of Texas, save and except for reasonable and necessary expenditures in the ordinary course of business;

c. Maintaining an office in Texas for the purpose of giving advice and counsel regarding U.S. immigration rights and privileges or any other sort of legal matter, until such time as Defendant obtains the certification, license, or other qualifications required for such activity or unless such acts are performed under the direct daily supervision of an attorney licensed to practice law in the State of Texas;

d. Representing or advertising that Defendant has an office available for giving advice and counsel regarding U.S. immigration laws or any other sort of legal matter, until such time as Defendant obtains the certification, license, or other qualifications required for such activity or unless such acts are performed under the direct daily supervision of an attorney licensed to practice law in the State of Texas;

e. Selecting or preparing immigration forms or legal documents of any type on behalf of persons seeking to legalize their status or to obtain lawful employment in the United States, until such time as Defendant obtains the certification, license, or other qualifications required for such activity, unless such acts are performed under the direct daily supervision of an attorney licensed to practice law in the State of Texas;

f. Giving persons advice and counsel regarding their rights under the immigration laws of the United States or any other sort of legal matter, until such time as Defendant obtains the certification, license, or other qualifications required for such activity, unless such acts are performed under the direct daily supervision of an attorney licensed to practice law in the State of Texas;

g. Collecting or accepting fees for providing immigration or other legal services to consumers, until such time as Defendant obtains the certification, license, or other qualifications required for such activity, unless such acts are performed under the direct daily supervision of an attorney licensed to practice law in the State of Texas;

h. Holding herself out to the public by any title or designation incorporating the word "immigration," "inmigracion," or an abbreviation thereof, unless Defendant is recognized and accredited by the Bureau of Citizenship & Immigration Services to provide immigration services;

i. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services, in that Defendant does not possess the certification or qualifications necessary to counsel persons regarding their rights under U.S. immigration laws or other legal matters;

j. Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another, in that Defendant does not possess the certification or qualifications necessary to counsel persons regarding their rights under U.S. immigration laws or other legal matters;

k. 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 she does not, in that Defendant does not possess the certification or qualifications necessary to counsel persons regarding their rights under U.S. immigration laws or other legal matters;

l. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law; specifically, and without limitation, counseling persons regarding their rights under U.S. immigration laws or other legal matters.

m. Failing to disclose information concerning any good or service sold or offered for sale with knowledge at the time of the transaction when such failure to disclose is intended to induce consumers to enter into transactions consumers would not enter into if such information were disclosed; specifically, and without limitation, failing to disclose to consumers that she is not qualified to counsel them regarding their rights under U.S. immigration laws or with respect to other legal matters, because she is not certified or licensed to provide such counseling.

n. Representing, directly or by implication, that this court or the Attorney General has approved any good or service sold or offered for sale by Defendant, or has approved any of Defendant's business practices.

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 (14th) 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 Plaintiffs Application for an Temporary Injunction is hereby set for the

25th day of July, 2006 at 9:00 o'clock, a m.

SIGNED this 11 day of July, 2006, at 7:35 o'clock, p m.



JUDGE PRESIDING