

STATE OF TEXAS, Plaintiff,	NO. _____ § § § § § § § § §	IN THE DISTRICT COURT OF
v.		MCLENNAN COUNTY, TEXAS
BUPPY CORPORATION D/B/A LONE STAR MOTEL AND BIPIN N. PATEL, Defendants.		____ JUDICIAL DISTRICT

**PLAINTIFF’S ORIGINAL PETITION FOR CIVIL PENALTIES AND APPLICATION
FOR PERMANENT INJUNCTIONS**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES THE STATE OF TEXAS, hereinafter called Plaintiff, acting by and through the Attorney General of Texas, GREG ABBOTT (“Plaintiff”), complaining of BUPPY CORPORATION, doing business as LONE STAR MOTEL , and BIPIN N. PATEL (“Defendants”), alleging that after the Governor declared a disaster because of Hurricane Rita, Defendants engaged in unlawful price gouging by demanding an exorbitant price for lodging from hurricane evacuees. Plaintiff would respectfully show the Court the following:

DISCOVERY

1.1 The discovery in this case is intended to be conducted under Level 2 pursuant to Tex. R. Civ. P. 190.3.

AUTHORITY

2.1 This action is brought by Attorney General GREG ABBOTT, through his Consumer Protection and Public Health Division, in the name of the STATE OF TEXAS and in the public interest under the authority granted him by §17.47, Texas Deceptive Trade Practices–Consumer

Protection Act, TEX. BUS. & COM. CODE ANN., § 17.41, *et seq.* (Vernon 2002 & Supp. 2004-2005) (“DTPA”), on the grounds that Defendants have engaged in false, misleading, or deceptive acts or practices in the conduct of trade and commerce as defined in, and declared unlawful by §§ 17.46(a) and (b) of the DTPA.

2.2 Further, Attorney General GREG ABBOTT seeks attorney’s fees reasonable in relation to the efforts expended by his office in prosecuting this action and court costs as authorized by Texas Government Code § 402.006(c).

2.3 Moreover, Attorney General GREG ABBOTT seeks civil penalties of not more than \$20,000 per violation of the DTPA pursuant to Section 17.47(c)(1) of the DTPA; and not more than \$250,000 for acts or practices which were calculated to acquire or deprive money or other property from a consumer who was 65 years of age or older when the act or practice occurred, pursuant to Section 17.47(c)(2) of the DTPA.

DEFENDANTS

3.1 Buppy Corporation is a Texas corporation doing business as Lone Star Motel. It may be served with process by serving its registered agent, Bipin N. Patel, at 2428 LaSalle Avenue, Waco, Texas 76706.

3.2 Bipin N. Patel is the president of Buppy Corporation and the manager of the Lone Star Motel. He may be served with process at his home address at 2428 LaSalle Avenue, Waco, Texas 76706.

VENUE

4.1 Venue for this cause of action lies in McLennan County, Texas, for the following reasons:

- A. Under § 15.002 of the Texas Civil Practices and Remedies Code, venue is proper because the violations occurred in the county of suit; and
- B. Under § 17.47(b) of the DTPA, venue is proper because Defendants are doing business in the county of suit.

PUBLIC INTEREST

5.1 By reason of the institution and operation of unlawful practices set forth herein, Defendants have and will cause 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 a lawful manner in this State. Therefore, the Attorney General of the State of Texas believes and is of the opinion that these proceedings are in the public interest.

NOTICE BEFORE SUIT

6.1 Pursuant to §17.47(a) of the Deceptive Trade Practices Act, contact has been made with the Defendants to inform them in general of the unlawful conduct alleged herein. This information was provided at least seven (7) days prior to suit being filed.

ACTS OF AGENTS AND DEFENDANTS

7.1 Whenever in this Petition it is alleged that a Defendant did any act or thing, it is meant that such Defendant performed or participated in such act or thing or that such act was

performed by the officers, agents or employees of said Defendant, and in each instance, the officers, agents or employees of said Defendant were authorized to, and did in fact, act.

STATEMENT OF FACTS

8.1 On September 20, 2005, the Governor of the State of Texas, pursuant to his authority under Section 481.014 of the Texas Government Code, declared a state of disaster because of the approach of Hurricane Rita. A true and correct copy of the Governor's Declaration is attached to this petition as Exhibit A.

8.2 State and federal officials urged residents of certain Texas counties to evacuate their homes and an estimated two to three million people heeded these warnings and left their homes. The high numbers of evacuees resulted in thousands seeking lodging in hotels and motels away from their homes for a number of days.

8.3 During this declared state of disaster, Defendants took advantage of the situation by engaging in unlawful price gouging, demanding and charging consumers fleeing Hurricane Rita excessive and exorbitant prices for lodging - prices well in excess of Defendants' average price for motel rooms.¹ For example, for rooms Defendants normally leased at \$30.00 a night, Defendants charged hurricane evacuees at least \$60.00 a night; for a room Defendants normally leased at \$55.00 a night, Defendants charged an evacuee \$141.25 a night. Several of the consumers who sought shelter at Defendants' motel were over the age of 65.

8.4 Upon information and belief, Defendant Bipin Patel is the sole shareholder of the

¹"Average price" shall mean the average price charged for a good or service over a two month period prior to the declaration of a disaster by the Texas Governor.

corporation, Buppy Corporation, as well as its president and registered agent. Further, on information and belief, Defendant Patel knew that Hurricane Rita evacuees would be coming to the motel, and he made the decision to increase the motel charges to the evacuees, knowing that they were evacuees, fleeing Hurricane Rita. See pertinent excerpts of Bipin Patel's sworn statement, attached as Exhibit B, pertinent excerpts of Harsh Patel's sworn statement, Exhibit C and pertinent excerpts of Birju Patel's sworn statement, Exhibit D.

VIOLATIONS

9.1 Plaintiff, the State of Texas, re-alleges Paragraphs 1.1 through 8.4 as if fully set forth herein.

9.2 Defendants as alleged and detailed above, have engaged in false, misleading, or deceptive acts or practices in the conduct of trade or commerce, in violation of DTPA § 17.46(a).

9.3 Defendants, as alleged and detailed above, have engaged in false, misleading, or deceptive acts or practices in the conduct of trade or commerce, in violation of DTPA § 17.46(b)(27) (A) and (B) which prohibit taking advantage of a disaster declared by the Governor under Chapter 418 of the Government Code, by offering, demanding, selling and/or leasing fuel, food, medicine, or another necessity at an exorbitant or excessive price.

INJURY TO CONSUMERS

10.1. Because Defendants have engaged in the unlawful acts and practices described above, Defendants have violated 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 damage to the general public.

PRAYER

11.1 WHEREFORE, Plaintiff prays that Defendants be cited according to law to appear and answer herein; that upon final hearing, a PERMANENT INJUNCTION be issued, restraining and enjoining Defendants, their officers, agents, servants, employees and attorneys and any other person in active concert or participation with the Defendants from:

- A. Taking advantage of a disaster declared by the Governor under Chapter 418 of the Government Code by offering accommodations or another necessity at an exorbitant or excessive price- to wit: charging in excess of ten percent (10%) of the average price for those goods and services.
- B. Taking advantage of a disaster declared by the governor under Chapter 418 of the Government Code by demanding an exorbitant or excessive price in connection with the sale of accommodations or lodging- to wit: charging in excess of ten percent (10%) of the average price for those goods and services.
- C. Collecting the hotel occupancy tax from evacuees during a disaster declared by the Governor of Texas when such tax has been waived by the Governor and failing to obtain a completed exemption certificate from those evacuees.
- D. Failing to post a sign or card in a conspicuous place in each room with the daily room rate and the date the sign or card was posted as required by Texas Occupations Code §2155.001(a).

- E. Failing to maintain a registration system to record the name and contact information for guests of the motel including the guests' names, addresses, the length of their stay, and the price charged per day.
- F. Altering, destroying or mutilating records ordered to be kept pursuant to Subparagraph E above for a three year period after the event, provided the matter is not in litigation. If the matter is in litigation, records shall not be altered, destroyed or mutilated until a three year period after the litigation and all appeals have been concluded.

11.2 Plaintiff further requests that upon final hearing this Court award such relief as the Court finds necessary to redress injury to consumers including, but not limited to, restitution of monies paid by consumers.

11.3 Plaintiff further requests that upon final hearing this Court order Defendants to pay to the State of Texas:

- A. Civil penalties of up to \$20,000.00 per violation of the DTPA;
- B. Civil penalties of up to \$250,000 for the act or practice that acquired or deprived money or other property from consumers who were 65 years of age or older when the act or practice occurred;
- C. Pre-judgment and post-judgment interest on all awards of restitution, damages, or civil penalties, as provided by law; and
- D. All costs of Court, costs of investigation, and reasonable attorney's fees pursuant to Texas Government Code §402.006(c).

E. Adjudge that all fines, penalties or forfeitures payable to and for the benefit of the State are not dischargeable in bankruptcy pursuant to 11 U.S.C. Section 523(a)(7).

11.5 Plaintiff further prays for such other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

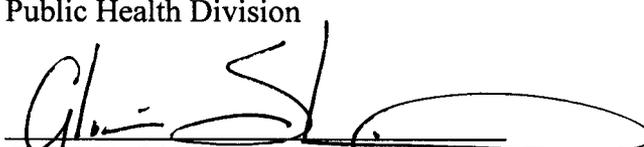
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