

CAUSE NO. _____

STATE OF TEXAS, Plaintiff	§	IN THE DISTRICT COURT OF
	§	
v.	§	MAVERICK COUNTY, TEXAS
	§	
LES HAYNES D/B/A	§	
IMMIGRATION CONSULTING SERVICES,	§	
CO., Defendant	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND APPLICATION FOR PERMANENT INJUNCTION

TO THE HONORABLE JUDGE OF THE COURT:

THE STATE OF TEXAS, Plaintiff, acting through Attorney General of Texas, GREG ABBOTT, complaining of Defendant LES HAYNES, doing business as IMMIGRATION CONSULTING SERVICES, CO., and for cause of action would respectfully shows:

1. Discovery Control Plan

The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. Civ. P. 190.2(b)(3).

2. Nature of this Suit

The Attorney General, acting within the scope of his official duties under the authority granted to him under the Constitution and the laws of the State of Texas, brings this lawsuit in the name of the State of Texas through his Consumer Protection Division against Defendant for violations of the Texas Deceptive Trade Practices - Consumer Protection Act, TEX. BUS. & COM. CODE ANN. § 17.41, *et seq.* (Vernon 1987 and Supp. 2004) (“DTPA”). The DTPA grants authority to the Attorney General to seek injunctive relief and civil penalties for violations of its provisions. TEX. BUS. & COM CODE ANN. § 17.47.

3. Defendant

Defendant is an individual doing business as IMMIGRATION CONSULTING SERVICES, CO., regularly conducts business in Maverick County, Texas, and **may be served with process at his place of business at 470 Monroe St., Eagle Pass, Maverick County, Texas.**

4. Authority

This Court has jurisdiction over this action pursuant to § 17.47(b) of the DTPA.

5. Venue

Venue of this suit lies in Maverick County, Texas, for the following reasons:

- A. Under TEX. CIV. PRAC. & REM. CODE ANN. § 15.002(a)(1) (Vernon Supp. 2004), venue is proper because all or a substantial part of the events or omissions giving rise to the claim occurred in the county of suit; and
- B. Under DTPA § 17.47(b), venue is proper because Defendant has done business in the county of suit.

6. Public Interest

Plaintiff has reason to believe that Defendant is engaging in, has engaged in, or is about to engage in, the unlawful acts or practices set forth below, that Defendant has, by means of these unlawful acts and practices, caused damage to and acquired money or property from persons, and that Defendant adversely affects the lawful conduct of trade and commerce, thereby directly or indirectly affecting the people of this State. Therefore, the Consumer Protection Division of the Office of the Attorney General of the State of Texas believes these proceedings are in the public interest.

7. Trade and Commerce

Defendant has at all times described below engaged in conduct which constitutes “trade” and “commerce,” as those terms are defined by § 17.45(6) of the DTPA.

8. Acts of Agents

Whenever in this petition it is alleged that Defendant did any act, it is meant that Defendant performed or participated in the act, or that the officers, agents or employees of Defendant performed or participated in the act on behalf of and under the authority of Defendant.

9. Nature of Defendant’s Operation

Defendant owns and operates a business that purports to provide immigration services to persons who purchase his services.

10. Specific Factual Allegations

10.1. Defendant has been engaged in the business of providing immigration services to those persons who purchase his services (“customers”). During all relevant times, held himself out to the public as provider of immigration services and solicited customers by representing that he has the skill or knowledge necessary to handle immigration cases and/or problems. Defendant advertised

his immigration services by posting a sign in front of his place of business and advertizing in the telephone business pages. Defendant conducts business in Maverick County, Texas and uses the name IMMIGRATION CONSULTING SERVICES, CO. to conduct business.

10.2. Defendant's customers are persons who sought to obtain immigration visas, permanent residency and/or authorization to work in the United States (referred to collectively as "immigration benefits") for themselves or their relatives. The immigration service performed by Defendant for his customers include the following activities:

- A. Interviewing customers to determine eligibility for immigration benefits under U.S. immigration laws;
- B. Advising customers whether to file a petition or application under U.S. immigration laws to secure an immigration benefit for the customer or a relative of the customer;
- C. Selecting and preparing a petition or application and other forms on behalf of customers which were filed with the Immigration and Naturalization Service¹ in order to obtain an immigration benefit; and
- D. Gathering and storing the documentation supporting a customer's petition and/or application for immigration benefits under U.S. immigration laws.

10.3. Defendant agreed to perform the immigration service described above in exchange for compensation and did in fact accept compensation from his customers for the performance of the immigration service described above.

10.4 Defendant contracted to provide immigration services to a consumer and his wife. Defendant quoted a price of \$500 and demanded \$100 down. The consumers paid. After numerous tries, they finally succeeded in again contacting defendant at his office. He agreed to complete their forms at that time. Once finished, the form he handed them was incomplete and rife with errors. When the consumers then informed defendant they would no longer use his services, he became enraged and grabbed their certificate of nationalization, visa and other original documents. He told the consumers he would not return those documents until they paid him the remainder of the \$500.00. The consumers feared for their physical safety and for the possibility their original documents would be destroyed. Defendant then accompanied them to their bank while they

¹ The Immigration and Naturalization Service has been recently reorganized under the U.S. Department of Homeland Security and its service component has been renamed "Bureau of Citizenship & Immigration Services."

withdrew the money to pay him.

10.5 Defendant, as of April 10, 2006, had a sign in front of his office advertizing that he provides immigration services.

10.6. Defendant is not now nor has in the past two years been an attorney at law duly licensed by the State of Texas or any other state to engage in acts, practices and/or conduct which constitute the practice of law. In addition, Defendant is not now nor has in the past two years been a recognized organization or accredited representative by the Board of Immigration Appeals as able to represent individuals in immigration matters or in proceedings before the immigration courts.

10.7. These activities of Defendant constitute the unauthorized practice of law. See *Unauthorized Practice Committee v. Cortez*, 692 S.W.2d 47 (Tex. 1985).

11. DTPA Violations

Defendant, as alleged above, has in the course of trade and commerce engaged in false, misleading and deceptive acts and practices declared unlawful in §§ 17.46(a) and (b) of the DTPA as follows:

- A. By advertising, offering for sale, selling or providing a service that constitutes the unauthorized practice of law, Defendant is engaging in or has engaged in an act or practice that is false, misleading, or deceptive, in violation of §17.46(a) of the DTPA;
- B. By representing that he has the skill or knowledge necessary to handle immigration cases and/or problems, Defendant is representing, by implication, that he has the status of a licensed attorney, which he does not, in violation of §17.46(b)(5) of the DTPA; and
- C. By agreeing to perform a service which constitutes the unauthorized practice of law, Defendant is representing that his agreement with customers confers or involves an obligation which is prohibited by law, in violation of §17.46(b)(12) of the DTPA.

12. Equitable Rescission

All agreements between Defendant and his customers should be subject to the equitable remedy of rescission.

13. Injury to Consumers

13.1. Defendant has, by means of these unlawful acts and practices, obtained money or other property from identifiable persons to whom such money or property should be restored or who,

in the alternative, are entitled to an award of damages.

13.2. Because Defendant has engaged in the unlawful acts and practices described above, Defendant has violated the law as alleged in this petition. Unless restrained by this Honorable Court, Defendant will continue to violate the laws of the State of Texas and cause damage to the general public.

14. Application for Temporary Injunction

It is essential that the Court temporarily enjoin Defendant from continuing with the conduct described in this petition, namely the unauthorized practice of law. Defendant will continue to solicit customers and will continue to give legal services and/or advice to his customers when he is not licensed to practice law in the State of Texas. Defendant's customers 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 his unqualified legal services and/or advice in immigration matters.

15. Application for Permanent Injunction

It is essential that the Court permanently enjoin Defendant from continuing with the conduct described in this petition, namely the unauthorized practice of law. Defendant will continue to solicit customers and will continue to give legal services and/or advice to his customers when he is not licensed to practice law in the State of Texas. Defendant's customers 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 his unqualified legal services and/or advice in immigration matters.

16. Request for Disclosure

Plaintiff, pursuant to Rule 194 of the Texas Rules of Civil Procedure, requests that defendant disclose, within 30 days of service of this request, the information or material described in Rule 194.2 (a), (b), (c), (d), (e), (f), (g), (h), and (i).

17. Prayer

17.1. For these reasons, the State requests that upon notice and hearing the Court issue a temporary injunction and upon final trial the Court issue a permanent injunction enjoining Defendant, his officers, agents, servants, employees and attorneys and any other person in active concert or participation with Defendant from engaging, directly or indirectly, in the following acts

or practices:

- A. Operating an immigration consulting business anywhere in the State of Texas;
- B. Advertising, offering for sale, selling, or performing an immigration service;
- D. Accepting money or valuable consideration for performing an immigration service;
- E. Accepting money or valuable consideration from any person seeking assistance to obtain a benefit under U.S. immigration laws for himself or any other person;
- F. Advising any person whether to file a petition, application, or other form to obtain a benefit under U.S. immigration laws for himself or any other person;
- G. Preparing for any person a petition, application or other form to obtain a benefit under U.S. immigration laws for himself or any other person;
- H. Holding himself or a business out, by any means, to the public by any title or designation incorporating the word “immigration” or an abbreviation thereof;
- I. Representing, directly or by implication, that Defendant has the skill, expertise, or competence to handle immigration matters;
- J. Representing, directly or by implication, that Defendant can get legal status, a work permit, or other benefit under U.S. immigration laws for a person who purchases his services;
- K. Showing, directly or by implication, any affiliation, connection, or association of an address or telephone number in the United States with an immigration service in Mexico;
- L. Concealing, withholding, destroying, mutilating, altering, falsifying, or removing from the jurisdiction of this Court any books, records, documents, invoices, receipts, or other written materials relating to the business of Defendant currently or hereafter in Defendant’s possession, custody or control except in response to further orders or subpoenas in this cause; and
- M. Representing, directly or by implication, that this Court, the Bureau of Citizenship & Immigration Services (also known as the Immigration and Naturalization Service), or the Office of the Attorney General has approved any good or service sold or offered for sale by Defendant, or approved of any of Defendant’s business practices.

17.2. In addition, Plaintiff requests that this Court:

- A. Order Defendant 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 to compensate for such losses; and
 - B. Rescind all fee agreements entered into by and between Defendant and his customers.
- 17.3. In addition, Plaintiff requests that this Court award the State:
- A. civil penalties against the Defendant in an amount of not more than \$20,000.00 per violation of the DTPA;
 - B. reasonable attorney's fees and court costs pursuant to TEX. GOV'T. CODE ANN. § 402.006;
 - C. prejudgment and postjudgment interest at the highest lawful rate; and
 - D. all other relief to which the State may show itself justly entitled.

Respectfully submitted,

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