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THE STATE OF TEXAS,
Plaintiff

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IN THE DISTRICT COURT

v.

MALCOLM L. "GRAND CHIEF
THUNDERBIRD IV" WEBBER,
KAWEAH INDIAN NATION, INC.,
RALPH BENNY TIPTON, and
VICTOR RAMIREZ,
Defendants

HIDALGO COUNTY, TEXAS

_____ JUDICIAL DISTRICT

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

COMES NOW THE STATE OF TEXAS, hereinafter referred to as plaintiff, acting by and through Attorney General of Texas GREG ABBOTT, complaining of MALCOLM L. "GRAND CHIEF THUNDERBIRD IV" WEBBER, KAWEAH INDIAN NATION, INC., RALPH BENNY TIPTON and VICTOR RAMIREZ, hereinafter collectively referred to as defendants, and for cause of action would respectfully show:

DISCOVERY CONTROL PLAN

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

NATURE OF THIS SUIT

2. 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 and Public Health Division against defendants for violations of the Texas Deceptive Trade Practices - Consumer Protection Act, TEX. BUS. & COM. CODE ANN. § 17.41, *et seq.* (hereinafter "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.

DEFENDANTS

3. Defendant, MALCOLML. “GRAND CHIEF THUNDERBIRD IV” WEBBER (“defendant Webber”), an individual who is a nonresident of Texas, who may be served with process by certified mail at 1602 E. Central, Wichita, Kansas 67214.

4. Defendant, KAWEAH INDIAN NATION, INC. (“defendant KIN”), a foreign corporation organized and existing under the laws of the State of Kansas, has its principal office at 3031 W. Pawnee, Suite 100, Wichita, Kansas 67213. Defendant KIN is not authorized to do business in Texas and may be served with process by serving its registered agent for service of process, Chief Thunderbird IV Webber, by certified mail at 1602 E. Central, Wichita, Kansas 67214.

5. Defendant, RALPH BENNY TIPTON (“defendant Tipton”), an individual, may be served with process at 800 Gentleman Road, Apt. #214V, San Antonio, Bexar County, Texas 78201.

6. Defendant, VICTOR RAMIREZ (“defendant Ramirez”), an individual, may be served with process at 6704 Tejano Drive, Edinburg, Hidalgo County, Texas 78539.

JURISDICTION

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

VENUE

8. Venue of this suit lies in Hidalgo County, Texas, for the following reasons:

- a. Under TEX. CIV. PRAC. & REM. CODE ANN. § 15.002(a)(1), 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 defendants have done business in the county of suit.

PUBLIC INTEREST

9. Plaintiff, STATE OF TEXAS, has reason to believe that defendants are engaging in, have engaged in, or are about to engage in, the unlawful acts or practices set forth below, that defendants have, by means of these unlawful acts and practices, caused damage to and/or acquired money or property from persons, and that defendants adversely affected the lawful conduct of trade and commerce, thereby directly or indirectly affecting the people of this State. Therefore, the Consumer Protection and Public Health 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.

TRADE AND COMMERCE

10. Defendants have, 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.

ACTS OF AGENTS

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

NOTICE BEFORE SUIT NOT GIVEN

12. There is good cause to believe that immediate and irreparable injury, loss, or damage would occur as a result of a delay in obtaining a temporary injunction to enjoin defendants from continued violations of the DTPA. If defendants are not immediately restrained, they will continue to engage in the unlawful acts or practices and thereby cause immediate and irreparable injury, loss, or damage

to persons who receive their services. Namely, the provision of immigration services and/or advice by defendants, will have dire legal consequence and prejudice the legal rights of persons seeking benefits under U.S. immigration laws. Defendants' customers will lose immigration benefits to which they are otherwise entitled and subject them to apprehension, detention or immediate deportation. As such, the Consumer Protection and Public Health Division filed this lawsuit without notice to defendants, as authorized by § 17.47(a) of the DTPA.

FACTUAL ALLEGATIONS

13. Defendant Webber holds himself out to the public as the purported Grand Chief Thunderbird IV of the Kaweah Indian Nation, Inc.¹ ("KIN"). Defendant Tipton holds himself out to the public as the purported KIN Ambassador to the State of Texas. Defendant Ramirez sold KIN memberships to consumers.

14. Defendants are engaging in and have engaged in the business of selling KIN memberships to undocumented immigrants and/or resident aliens. During the course of business, defendants Webber and Tipton met with various church pastors throughout Texas and recruited them to conduct business on their behalf.

15. Defendants misrepresent to consumers that as KIN members, they are entitled to receive a social security number, protection from any deportation proceeding, and United States citizenship once the KIN is federally recognized as an Indian tribe.

16. Defendants charge a fee of up to \$400.00 per person for KIN membership. Once the membership is approved, defendants give consumers a "Certificate of Citizenship," and a KIN

¹On June 13, 1984, the Bureau of Indian Affairs of the Department of the Interior recommended that the Kaweah Indian Nation, Inc. not be acknowledged as an Indian tribe, with the same final determination that the Kaweah Indian Nation, Inc. does not exist as an Indian tribe, as published in 50 FR 14302.

identification card conferring the rights and immunities of a sovereign Indian nation, but which have no legal significance.

DTPA VIOLATIONS

17. Defendants, as alleged above, have 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 misrepresenting the benefits of being a KIN member, defendants are engaging in or have engaged in an act or practice that is false, misleading, or deceptive, in violation of §17.46(a) of the DTPA;
- b. By misrepresenting the benefits of being a KIN member, defendants are representing that KIN membership will provide consumers certain benefits, which they do not, in violation of §17.46(b)(5) of the DTPA;
- c. By misrepresenting the benefits of being a KIN member, defendants are representing that their agreement with consumers confers or involves a right which is prohibited by law, in violation of §17.46(b)(12) of the DTPA; and
- d. By failing to disclose that the KIN was denied federal status as an Indian tribe, which was known at the time of the sale transaction, defendants intended to induce consumers into purchasing the membership, a transaction into which consumers would not have entered had the information been disclosed, in violation of §17.46(b)(24) of the DTPA.

INJURY TO CONSUMERS

18. Defendants have, by means of these unlawful acts and practices, obtained money or property from consumers who are entitled to restitution, or in the alternative, have caused actual damages to

identifiable persons who are entitled to compensation.

19. 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 injury to the general public.

PRAYER

20. WHEREFORE, plaintiff prays that defendants be cited according to law to appear and answer herein; that after due notice and hearing a TEMPORARY INJUNCTION be issued; and 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 defendants from engaging, directly or indirectly, in the following acts or practices:

- a. Engaging in the business of providing membership services into the Kaweah Indian Nation, or any Indian tribe;
- b. Advertising, offering for sale, selling, or providing membership services into the Kaweah Indian Nation, or any Indian tribe;
- c. Accepting money or valuable consideration for performing membership services into the Kaweah Indian Nation, or any Indian tribe;
- d. 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;
- e. 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 defendants currently or hereafter in defendants'

possession, custody or control except in response to further orders or subpoenas in this cause;
and

f. 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 defendants, or approved of any of defendants' business practices.

21. Plaintiff, STATE OF TEXAS, further prays that this Court grant leave to conduct telephone, oral, written, and other depositions of witnesses prior to any scheduled temporary injunction hearing and prior to defendants' answer date, with reasonable shortened notice to defendants and their attorney, if known.

22. 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 the amount not to exceed more than \$20,000.00 per violation;

b. Order defendants to restore all money or other property acquired by means of unlawful acts or practices, or in the alternative, to compensate identifiable persons for actual damages;

c. Adjudge against defendants reasonable attorney's fees and court costs pursuant to TEX. GOV'T. CODE ANN. § 402.006;

d. Adjudge against defendants pre-judgment and post-judgment interest at the highest lawful rate;

e. Rescind all agreements entered into by and between defendants and consumers;

f. Appoint a receiver or sequester defendants' assets if defendants have been ordered

by this Court to make restitution and defendants has failed to do so within three months after the order to make restitution has become final and nonappealable;

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

23. Further, plaintiff, STATE OF TEXAS, respectfully prays for all other relief to which plaintiff, STATE OF TEXAS, may be justly entitled.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

KENT C. SULLIVAN
First Assistant Attorney General

JEFF L. ROSE
Deputy First Assistant Attorney General

PAUL D. CARMONA
Chief, Consumer Protection and
Public Health Division

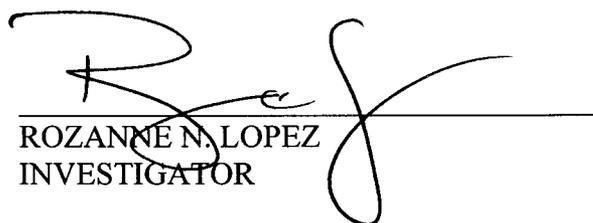

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VERIFICATION

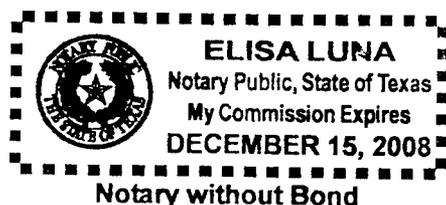
STATE OF TEXAS §

COUNTY OF HIDALGO §

BEFORE ME, the undersigned authority, on this day personally appeared affiant Rozanne N. Lopez, who proved to me through current Texas Driver License to be the person whose name is subscribed to this Verification and who acknowledged to me that she executed the same, and after she was duly sworn, upon her oath, she deposed and said that the affiant is an investigator for the Office of Attorney General, and is authorized to make this affidavit, that the affiant has carefully read the factual allegations in the foregoing PLAINTIFF'S ORIGINAL PETITION AND APPLICATION FOR TEMPORARY AND PERMANENT INJUNCTION, and has reason to believe that each and all said factual allegations are true and correct; and affiant signs this Verification, pursuant to Rule 682 of the TEXAS RULES OF CIVIL PROCEDURE.


ROZANNE N. LOPEZ
INVESTIGATOR

SUBSCRIBED AND SWORN TO before me on the 17th day of August, 2007.




NOTARY PUBLIC IN AND
FOR THE STATE OF TEXAS