

CAUSE NO. 2007CI13943

STATE OF TEXAS, Plaintiff	§	IN THE DISTRICT COURT
	§	
v.	§	
	§	408 th JUDICIAL DISTRICT
	§	
FORECLOSURE ASSISTANCE	§	
SOLUTIONS, LLC., J.W.W. SERVICES,	§	
INC., ADOLFO QUINTERO, JOHN	§	
WOODRUFF AND HERB ZERDEN	§	
INDIVIDUALLY, Defendants	§	BEXAR COUNTY, TEXAS

AGREED TEMPORARY INJUNCTION

On this day, came on to be considered the above-entitled and numbered cause in which the STATE OF TEXAS is Plaintiff and FORECLOSURE ASSISTANCE SOLUTIONS, L.L.C., J.W.W. SERVICES, INC., ADOLFO QUINTERO, JOHN WOODRUFF and HERB ZERDEN are Defendants. On September 13, 2007 the 408th District Court of Bexar County, Texas granted Plaintiff's Application for an Ex Parte Temporary Restraining Order by signing an Ex Parte Temporary Restraining Order. The court extended the Temporary Restraining Order, based upon the agreement of the parties, until the conclusion of the scheduled Temporary Injunction hearing which was set for October 22, 2007.

Plaintiff STATE OF TEXAS and Defendants FORECLOSURE ASSISTANCE SOLUTIONS, L.L.C., J.W.W. SERVICES, INC., ADOLFO QUINTERO, JOHN WOODRUFF and HERB ZERDEN have agreed to the entry of this Temporary Injunction as follows.

1. **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that, as used in this Injunction, the following terms are defined as follows:

A. "Consumer" means an individual, partnership, corporation, or entity of any kind,

including this state, or a subdivision or agency of this state who seeks or acquires, by purchase or lease, any goods or services;

- B. "Defendant(s)" means **FORECLOSURE ASSISTANCE SOLUTIONS, L.L.C., J.W.W. SERVICES, INC., ADOLFO QUINTERO, JOHN WOODRUFF and HERB ZERDEN** their successors, assigns, officers, agents, subcontractors, servants, employees, corporations and any other persons in active concert or participation with them including **R.A.I.L. LIMITED PARTNERSHIP, L.L.L.P., MAYAN ENTERPRISE, L.L.C., TRS, L.L.C. and MATT JUDKIN;**
- C. "Person" means an individual, sole proprietorship, firm, partnership, corporation, association, joint venture or other group, or business entity, however organized;
- D. "Representing", "selling", "marketing", "promoting", "distributing" or "advertising" means any type of contact with a person, consumer or entity residing in the State of Texas for the purpose of requesting, persuading, or seeking any type of contribution, sponsorship, compensation, or anything of value from said person or entity relating to any type of actual or threatened foreclosure proceeding involving real or personal property located in the State of Texas or in any other location where said Texas residents or persons own said real or personal property.
- E. "Telephone solicitation" means a telephone call initiated by a seller or salesperson to or from a person for the purpose of inducing the person to purchase, rent, claim, or receive a good or service. The term "telephone solicitation" includes a call made by a purchaser in response to a solicitation sent by mail or made by any other means, and also includes the use of automatic dialing machines or recorded message devices.

- F. "Services" means work, labor, or service purchased or leased for use, including services furnished in connection with the sale or repair of goods.
- G. "Goods" means tangible chattels or real property purchased or leased for use.

2. **IT IS FURTHER ORDERED** that Defendants FORECLOSURE ASSISTANCE SOLUTIONS, L.L.C., J.W.W. SERVICES, INC., ADOLFO QUINTERO, JOHN WOODRUFF and HERB ZERDEN¹ and any other persons in active concert or participation with them, including R.A.I.L. LIMITED PARTNERSHIP, L.L.L.P., MAYAN ENTERPRISE, L.L.C., TRS, L.L.C. and MATT JUDKIN who receive actual notice of this Agreed Temporary Injunction by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or devise, 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, or other written or computer generated materials relating to the business of Foreclosure Assistance Solutions, LLC ("FAS") currently or hereafter in Defendants possession, custody or control except to assist the Defendants' attorneys in the preparation of a defense to this lawsuit or in response to further orders or subpoenas in this cause;
- B. Soliciting, mailing, contacting, selling, marketing, promoting, advertising, contracting with, or offering to assist any Texas resident or person currently residing in Texas relating to any actual or threatened foreclosure proceeding involving real or

¹With respect to any proceeding seeking to enforce paragraphs 2C through 2G of this Order against Defendant Herb Zerden, it shall be the burden of the Plaintiff to show that Defendant Zerden was in active concert and participation with Defendant Foreclosure Assistance Solutions, LLC and was in a position to control or direct the activities of FAS.

personal property, wherever located, from the date of this order and until further order of this court, except for providing services to existing, active accounts for Texas consumers;

- C. Failing to cause FAS to provide, upon request, to any Texas consumer with an active FAS account, by mail, email or facsimile, by timely delivery to the consumer's last known address or facsimile number, a written statement or similar document which details each and every contact that the Defendants have had with the homeowner's mortgage company [or mortgage company's designated agent or loan servicer] together with the date of the contact, the person and phone number contacted, the true identity of the person making the contact for FAS, and a description of the subject matter discussed in the contact together with the results of FAS's effort to prevent a foreclosure of the consumer's home or property; provided that, FAS agrees to provide each Texas consumer with an active FAS account the foregoing information for each 14 day period that the consumer's account remains active, regardless of whether the consumer requests the information, or not.
- D. Failing to cause FAS to actually undertake and document specific and timely actions to assist persons and consumers residing in Texas, to whom FAS is currently assisting in an actual or threatened foreclosure situation;
- E. Failing to cause FAS to provide and remit full and complete refunds to persons and consumers residing in Texas, to whom FAS is currently assisting in an actual or threatened foreclosure, within 7 days of receiving information from any mortgage

company or other source which indicates to a reasonable person that FAS will not be able to fulfill the terms of its contract with the consumer or will be unable to assist the consumer from saving his or her home or other property from foreclosure;

- F. Failing to cause FAS to notify persons and consumers residing in Texas, to whom FAS is currently assisting in an actual or threatened foreclosure, by telephone to the consumer's last known phone number and in writing (by first class mail, fax or email based on information provided by the consumer) within 48 hours of receiving information from the consumer's mortgage company or mortgage servicer which indicates to a reasonable person that the consumer's home will be subject to a foreclosure sale;
- G. Making any telephone solicitation to or from a Texas resident for the purpose of inducing the that resident to purchase, rent, claim, or receive an item, good or service relating to any type of actual or threatened foreclosure proceeding, unless FAS has first registered and posted a bond with the Texas Secretary of State pursuant to Chapters 37 & 38 of the Texas Business and Commerce Code.

3. **IT IS FURTHER ORDERED** that Defendants **FORCLOSURE ASSISTANCE SOLUTIONS, L.L.C., J.W.W. SERVICES, INC., ADOLFO QUINTERO, JOHN WOODRUFF** and **HERB ZERDEN**, their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them, including **R.A.I.L. LIMITED PARTNERSHIP, L.L.L.P., MAYAN ENTERPRISE, L.L.C., TRS, L.L.C.** and **MATT JUDKIN**, and **Bank of America,, AM South Bank** and **Wells Fargo Bank** which hold money in the name and/or for the benefit of some of the above-named Defendants, who receive actual notice

of this order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be restrained from engaging in the following acts or practices:

A. Transferring, spending, hypothecating, concealing, encumbering, withdrawing, removing, dissipating, distributing, or allowing the transfer, removal, withdrawal or encumbering of any of the following bank accounts:

- 1) Bank of America Acct. [REDACTED] standing in the name of Foreclosure Assistance Solutions, LLC.
- 2) Bank of America Suspense account with \$125,000 set up pursuant to 9-21-07 directive signed by John Owens and David Barger/Mitch Roth
- 3) Wells Fargo Bank Acct. [REDACTED] standing in the name of Adolfo Quintero
- 4) AmSouth Bank Acct. [REDACTED] standing in the name of Herb Zerden and wife
- 5) AmSouth Bank Certificate of Deposit [REDACTED] in the name of Herb Zerden

4. It is **Further Ordered** that all financial institutions, persons and entities, whether referenced in this order or not, are hereby directed to release all other accounts and assets of any kind or character, from the initial asset freeze imposed by the Ex Parte Temporary Restraining Order dated September 13, 2007, other than those accounts referenced in paragraph 3 of this order, and belonging to or standing in the name of any of the parties and entities referenced in this order. Any bank, financial institution, person, or other entity holding funds or assets in the name of or for the benefit of any party, person, or entity referenced in this Order, including those accounts specifically listed in paragraph 3 above, shall comply with any written directive relating to the unfreezing of any bank account or asset referenced in this Order, without further order of this Court, provided such written directive is signed by an Assistant Attorney General representing the State of Texas and an

authorized representative or attorney of such Defendant, person, or entity with custody or control of the bank account or asset involved.

5. **IT IS FURTHER ORDERED** that any person or entity who holds or maintains any money, which remains frozen by this order, shall release information as to the current balance of any of the above referenced accounts frozen by this Order to any of the undersigned attorneys or any Assistant Attorneys General with the Texas Attorney General's Office upon presentment of a photocopy or faxed copy of this signed ORDER.

6. **IT IS FURTHER ORDERED** that the Plaintiff shall provide notice to all financial institutions of this order as necessary to effectuate same or upon request of Defendants.

7. **IT IS ALSO ORDERED** that Defendant Foreclosure Assistance Solutions, LLC provide to the attorneys for the Plaintiff, within 20 days from the date of this order, information (as complete as possible) relating to the identity, address, phone number and amount of money paid by each person or consumer residing in Texas who remitted monies to Defendant Foreclosure Assistance Solutions, LLC. covering the period from January 1, 2003 to the present.

8. **IT IS FURTHER ORDERED** that, no bond being required on the part of the Plaintiff, the State of Texas, this Temporary Injunction shall issue and become effective immediately.

9. **IT IS FURTHER ORDERED** that Defendants in this cause be and hereby are commanded forthwith to comply with this Order and that the Clerk of the above-entitled Court shall forthwith issue a Temporary Injunction in conformity with the law and the terms of this order.

10. **IT IS FURTHER ORDERED** that no party's agreement to the entry of this order shall constitute or be alleged to be a waiver of any special appearance that such party has filed or may file herein.

11. **IT IS FURTHER AGREED** that the undersigned attorneys for Defendants shall send a copy of this signed Agreed Temporary Injunction to the Defendants named herein, as well as all named persons and entities referenced in paragraphs 2 and 3 herein, so as to give all such person and entities actual notice of the terms of this order. It is further agreed that the undersigned attorneys for Defendants will confirm in writing to the attorneys for Plaintiff that the Defendants and person/entities so named have received a copy of this signed Agreed Temporary Injunction within 10 business days from the date this order is signed by the Court.

12. Final trial in this matter is set for the 7th day of April, 2008.

SIGNED this _____ day of September, 2007 at _____ o'clock _____ m.

OCT 17 2007
Larry Noll
Presiding Judge
JUDGE PRESIDING
District Court
Texas

AGREED:

GREG ABBOTT
Attorney General of Texas

KENT C. SULLIVAN
First Assistant Attorney General

JEFF ROSE
Deputy First Assistant Attorney General

PAUL CARMONA
Chief, Consumer Protection Division

John Owens by Plaintiff's Counsel

JOHN OWENS
State Bar No. 15379200
Assistant Attorney General
Consumer Protection & Public Health Division
808 Travis, Suite 300
Houston, Texas 77002
512-475-4632 (phone)
512-473-8301 (facsimile)
ATTORNEY FOR PLAINTIFF

Jeff Boyd

Jeff Boyd
Attorney for Defendant Herb Zerden

Dennis Drake

Dennis Drake
Attorney for Defendants John
Woodruff and J.W.W. Services, Inc.

Robert Golden

Robert Golden
Attorney for Defendant
Adolfo Quintero

Ray Deack

Ray Deack
Attorney for Defendant Foreclosure
Assistance Solutions, LLC

010/010