

representations and stipulations made by the parties, the Court finds and concludes that Plaintiff, STATE OF TEXAS, will probably prevail on the trial of this cause; that Defendant may be violating §§17.46(a) and (b) of the Texas Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE ANN. § 17.41 *et. seq.* (DTPA) and TEX. OCC. CODE ANN. § 702.001, *et seq.* (hereinafter “Health Spa Act”); that Defendants’ business may have been solely organized for an unlawful purpose and that assets held by Defendants may be proceeds from business activity which is wholly unlawful and therefore such assets are subject to the equitable remedy of disgorgement and an asset freeze; and that Plaintiff, STATE OF TEXAS is entitled to the temporary injunction, as granted in this order, pursuant to Section 17.47 (a) and (b) of the DTPA.

I. INJUNCTION

1.1 **IT IS ORDERED** that Defendants, **EXTREME FITNESS AND WELLNESS, INC., SHON ZACHARY PEREZ and DESIREE MASTERS PEREZ**, their agents, servants, employees, relatives, attorneys and any other person acting in concert or participation with Defendants, are hereby enjoined from, restrained from, engaging in, or attempting to engage in, the following:

- 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 Defendants currently or hereafter in Defendants’ possession, custody or control except in response to further orders or subpoenas in this cause;
- b. Failing to obtain a health spa operator’s certificate, as required by Health Spa Act §702.101;

- c. Failing to complete an application for a health spa operator's certification of registration with the Secretary of State in violation of §702.102 of the Health Spa Act;
- d. Failing to post a health spa operator's certificate of registration in a conspicuous place at each registered location, as required by Health Spa Act §702.105;
- e. Failing to submit to the comptroller, a copy of the operator's certificate of registration for application of a sales tax permit as required by Health Spa Act §702.107;
- f. Failing to secure a surety bond or posting security with the Texas Secretary of State, as required by Health Spa Act §702.151; and §702.153;
- g. Failing to comply with Health Spa Act §702.301 requirements in their membership contracts;
- h. Failing to comply with the disclosure requirements as set forth in §702.302 of the Health Spa Act;
- i. Failing to provide the required language in the membership contracts in violation of §702.304 of the Health Spa Act;
- j. Failing to provide the statutory language in the membership contracts in violation of §702.305 of the Health Spa Act;
- k. Failing to cancel the membership contracts for a full refund in violation of §702.307 of the Health Spa Act;
- l. Selling or offering for sell, a membership in a health spa before the health spa opens without a certificate in violation §702.351 of the Health Spa Act;
- m. Failing to deposit prepayments for a membership in an escrow account established

- with a financial institution insured by the Federal Deposit Insurance Corporation in violation of §702.352 of the Health Spa Act;
- n. Failing to refund the escrowed prepayment in violation of §702.355 of the Health Spa Act;
 - o. Offering a special offer or discount to fewer than all prospective members in violation of §702.402 of the Health Spa Act;
 - p. Misrepresenting the availability, quality, or extent of the facilities or services of the health spa in violation of §702.402 of the Health Spa Act;
 - q. Misrepresenting the period during which a special offer or discount will be available in violation of §702.402 of the Health Spa Act;
 - r. Advertising in print or electronic medium without including in the advertisement the health spa operator's certificate of registration number in violation of §702.404 of the Health Spa Act.

II. ASSET FREEZE

2.1 **IT IS ORDERED** that Defendants, **EXTREME FITNESS AND WELLNESS, INC., SHON ZACHARY PEREZ and DESIREE MASTERS PEREZ**, their officers, agents, servants, employees, representatives, attorneys and any other persons in active concert or participation with them, and all financial institutions, including but not limited to: **Plains Capital Bank¹, Advancial Credit Union², Wells Fargo, HSBC Auto Finance, Prime West Mortgage, Navy Federal Credit**

¹ *Known* accounts at Plains Capital Bank subject to this order include, but are not limited to accounts ending in numbers: 0748; 1664; 4198; 1730; 0605.

² *Known* accounts at Advancial Credit Union subject to this order include, but are not limited to account ending in number: 432.

Union, holding money or assets of any kind in the name and/or for the benefit 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 from any financial institution or from any other entity or location or from the jurisdiction of this Court, any money, cash, 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 or custody of, standing in the name of, or claimed by Defendants without further order of this Court;
- b. Opening or causing to be opened any safe deposit boxes or storage facilities titled in the name of Defendants or subject to access, ownership or control by Defendants, without providing Plaintiff and the Court prior notice by motion seeking such access.
- c. Removing, moving, concealing, transferring, conveying, selling, damaging or encumbering any real or personal property, wheresoever situated, until further order of the Court.

2.2 **IT IS ORDERED** that Defendants, **EXTREME FITNESS AND WELLNESS, INC., SHON ZACHARY PEREZ and DESIREE MASTERS PEREZ**, their officers, agents, servants, employees, representatives, attorneys and any other persons in active concert or participation with them, are prohibited from transferring, spending, encumbering, withdrawing, or removing any sum

of money from any accounts, assets or property referenced in paragraph 2.1 of this Order or from any other such account(s), real property, personal property and assets belonging to or held for the benefit of, **EXTREME FITNESS AND WELLNESS, INC., SHON ZACHARY PEREZ and DESIREE MASTERS PEREZ** which have been used, placed, deposited, transferred, invested or commingled.

2.3 **IT IS ORDERED** that if any of the parties, persons, or entities referenced in this Order agree in writing, through their authorized representatives or counsel, to specify that certain assets be or remain frozen and/or that certain assets be released from the asset freeze ordered herein, pending the final adjudication of this action, then such parties or entities may do so.

2.4 **IT IS ORDERED** that any bank, financial institution, person, or other entity holding funds in the name of or for the benefit of any party, person, or entity referenced in this order, shall comply with any written directive relating to the freezing or unfreezing of any bank account or asset referenced in this Order, without further order of this Court pending final adjudication of this action, 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.

2.5 **IT IS ORDERED** that Defendants **EXTREME FITNESS AND WELLNESS, INC., SHON ZACHARY PEREZ and DESIREE MASTERS PEREZ**, provide a copy of this Order to any financial or brokerage institution, escrow agent, title company, storage facility, commodity trading company, business entity or person maintaining or having custody or control of any account or other asset of Defendants, within five (5) business days of the date of entry of this Order, and

provide to counsel for the Plaintiff and the Defendant/account holder a statement or letter setting forth:

- a. The identification of each account or asset titled in the name, individually or jointly, of Defendants, or held on behalf of, or for the benefit of, Defendants;
- b. The balance of each such account, or a description and estimated value of such assets, as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other assets was transferred or remitted; and
- c. The identification of any safe deposit box or storage facility that is in the name individually or jointly of Defendants or is otherwise subject to access or control by Defendants.

2.6 **IT IS ORDERED** that any employment wages, due and/or payable beginning September 1, 2008 from REHABCARE Group, to Defendant, **DESIREE MASTERS PEREZ** are not subject to, and are excepted from the provision of this Agreed Temporary Injunction and Asset Freeze and are hereby released from any asset freeze set forth in the Ex Parte Temporary Restraining Order signed by this Court on August 25, 2008. **IT IS ORDERED** that such designated employment wages are to be placed in a newly established separate account, and not commingled with any funds from any existing accounts belonging to Defendants and/or any third-party. **IT IS ORDERED** that such newly established separate account must be identified to the counsel for the Plaintiff with the name of the account holder(s), name and address of the financial institution and account number within five (5) business days after the entry of this Order.

2.7 **IT IS ORDERED** that, as used in this Judgment, 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 **EXTREME FITNESS AND WELLNESS, INC., SHON ZACHARY PEREZ and DESIREE MASTERS PEREZ**, their successors, assigns, officers, agents, subcontractors, servants, employees, corporations and any other persons in active concert or participation with them;
- 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 or entity for the purpose of requesting, persuading, or seeking any type of contribution, sponsorship, compensation, or anything of value from said person or entity for any reason whatsoever, including use of the Internet.

2.8 **IT IS ORDERED** that Defendants are to protect and safeguard from unlawful use or disclosure all records, whether electronic or hard copy, which Defendants have collected in the regular course of business or by other means, which contain personal identifying information and sensitive personal information of consumers, as identified in TEX. BUS & COM. CODE ANN. §35.48 and §48.001, *et seq.*³

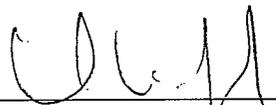
³ In 2005, the Texas Legislature enacted three Chapters 48. The chapter cited above was titled "Identity Theft Enforcement and Protection Act" by Tex. S.B. 122, 79th Leg. R.S. (2005).

The Clerk of the above-entitled Court shall forthwith issue an Temporary Injunction and Asset Freeze 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 ANN. §17.47(b).

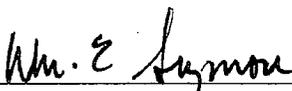
SIGNED this 6th day of October 2008.


HONORABLE RUBEN G. REYES

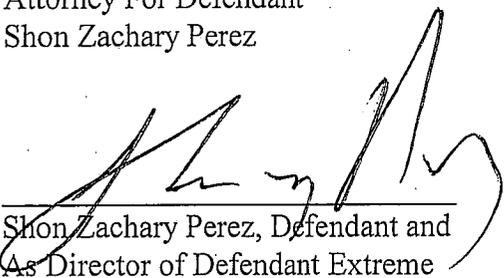
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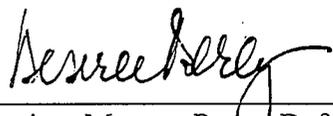
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