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STATE OF TEXAS,  
Plaintiff

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IN THE DISTRICT COURT OF

v.  
JK HARRIS & COMPANY, LLC d/b/a  
JOHN K. HARRIS, LLC;  
JKH FINANCIAL  
RECOVERY SYSTEMS LLC;  
PROFESSIONAL FEE FINANCING  
ASSOCIATES;  
JOHN K. HARRIS  
CHARLES R. HARRIS, JR.  
Defendants

HARRIS COUNTY, TEXAS

\_\_\_\_\_ JUDICIAL DISTRICT

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

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS, acting by and through Attorney General of Texas Greg Abbott, complains of JK HARRIS & COMPANY, LLC D/B/A JOHN K. HARRIS, LLC; JKH FINANCIAL RECOVERY SYSTEMS LLC; PROFESSIONAL FEE FINANCING ASSOCIATES; JOHN K. HARRIS and CHARLES R. HARRIS, JR, Defendants, and for cause of action would respectfully show as follows:

**I. DISCOVERY CONTROL PLAN**

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

**II. AUTHORITY**

2.1 This action is brought by Attorney General Greg Abbott, through his Consumer Protection Division, in the name of the State of Texas and in the public interest under the authority granted to him by §17.47 of the Texas Deceptive Trade Practices-Consumer Protection

Act, TEX. BUS. & COM. CODE ANN. §17.41 *et seq.* (hereafter the DTPA) upon the grounds that Defendants have engaged in false, deceptive, and misleading acts and practices in the course of trade and commerce as defined in, and declared unlawful by, §§17.46(a) and 17.46(b) of the DTPA.

### III. DEFENDANTS

3.1 **JK HARRIS & COMPANY, LLC D/B/A JOHN K. HARRIS, LLC** is a Texas Limited Liability Company doing business in Texas whose principal place of business is 4995 LaCross Road, Suite 1115, North Charlestown, SC 29406 and which may be served by serving its registered agent National Registered Agents, Inc. at 16055 Space Center, Suite 235, Houston, TX 77062.

3.2 **JKH FINANCIAL RECOVERY SYSTEMS, LLC** is a Texas Limited Liability Company doing business in Texas whose principal place of business is 4995 LaCross Road, Suite 1115, North Charlestown, SC 29406 and which may be served by serving its registered agent CT Corporation System at 350 North St. Paul Street, Dallas, TX 75201

3.3 **PROFESSIONAL FEE FINANCING ASSOCIATES** is a Company doing business in Texas whose principal place of business is 4995 LaCross Road, Suite 1115, North Charlestown, SC 29406 and may be served with process by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701 as its agent for service because Defendant engages in business in Texas but does not maintain a place of regular business in Texas and has no registered agent in Texas on whom service of citation may be made, and this suit arose from Defendant's business in Texas. (Tex. Civ. Prac. & Rem. Code §§17.044 (b), 17.045).

3.4 **JOHN K. HARRIS** is an individual whose resides at 4995 LaCross Road, Suite 1115, North Charlestown, SC 29406, who is doing business in Texas, and who may be served at 4995 LaCross Road, Suite 1115, North Charlestown, SC 29406.

3.5 **CHARLES R. HARRIS, JR.** is an individual whose resides at 2090 Shell Ring Circle Mt.Pleasant, SC 29466-8543, who is doing business in Texas, and who may be served at 4995 LaCross Road, Suite 1115, North Charlestown, SC 29406.

#### **IV. VENUE**

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

- A. Venue is proper in Harris County, Texas, pursuant to §15.002 (a)(1) of the TEX. CIV. PRAC. & REM. CODE, because Harris County is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred. TEX. CIV. PRAC. & REM. CODE §15.002(a)(1).
- B. Venue is also proper under DTPA §17.56 because Defendants do business in Harris County, Texas, and many of the transactions that form the basis of this cause of action occurred in Harris County, Texas.

#### **V. PUBLIC INTEREST**

5.1 Plaintiff State of Texas has reason to believe that Defendants have engaged in, and will continue to engage in the unlawful practices set forth below. Plaintiff State of Texas has reason to believe Defendants have caused and will cause immediate, irreparable injury, loss and damage to the State of Texas and its citizens, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State. Therefore, the Consumer

Protection 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.

## **VI. TRADE AND COMMERCE**

6.1 Defendants have, at all times described below, engaged in conduct constituting trade and commerce, as those terms are defined in §17.45(6) of the DTPA.

## **VII. ACTS OF AGENTS**

7.1 Defendants JK Harris & Company, LLC D/B/A John K. Harris, LLC (hereinafter JKHC), JK Financial Recovery Systems LLC, (hereinafter JKFRS) and Professional Fee Financing Associates (hereinafter PFFA) are Limited Liability Corporations with headquarters in South Carolina. (Exhibit 1) Defendants John K. Harris and Charles R. Harris, Jr. are officers and principals of JKHC, JKFRS and PFFA.

7.2 Defendants John K. Harris and Charles R. Harris, Jr. participated directly in the false, misleading and deceptive acts or practices of JKHC, JKFRS and PFFA and had the authority to control them. Further, Defendants John K. Harris and Charles R. Harris, Jr. had actual knowledge of material misrepresentations, were aware of the actual content of the false and misleading solicitations and misrepresentations and authorized and/or failed to prohibit same.

7.3 Whenever in this petition it is alleged that a Defendant did any act, it is meant that:

- A. The Defendant performed or participated in the act, or
- B. The Defendants' officers, agents, trustees or employees performed or participated in the act on behalf of and under the authority of the Defendant.

## **VIII. NOTICE**

8.1 Pursuant to §17.47(a) of the Deceptive Trade Practices Act, contact has not been made

with the Defendants herein to inform them of the unlawful conduct alleged herein, for the reason that the Plaintiff is of the opinion that there is good cause to believe that such an emergency exists that immediate and irreparable injury, loss or damage would occur as a result of such delay in obtaining a temporary restraining order, and that Defendants would dissipate or secrete assets if prior notice of this suit were given.

### **IX. SPECIFIC FACTUAL ALLEGATIONS**

9.1 JKHC and JKFRS are in the business of advertising their services and offering to file “offers in compromise” (OIC) with the Internal Revenue Service (IRS) on behalf of Texas consumers who are behind on paying their taxes. Defendants collect fees from Texas consumers prior to the services being completed.

9.2 PFFA extends credit to consumers in Texas by financing the contracts Texas consumers entered into with JKHC and JKFRS.

9.3 Over the past several years, the Texas Consumer Protection Division of the Office of the Attorney General and the Better Business Bureau have received almost 1,000 complaints from Texas consumers regarding the business practices of JKHC, JKFRS and PFFA. According to the complaints, Defendants advertised widely that JKHC and JKFRS could assist consumers who owe money to the IRS and state revenue offices by filing for an OIC (Offer in Compromise) so that consumers may repay the IRS and state revenue offices for pennies on the dollar. The truth is that the IRS rarely offered compromises, and Defendants knew a compromise of the debt or OIC was improbable. Yet defendants repeatedly took money from consumers without fully investigating whether the consumer would qualify for an OIC or having full knowledge that the consumer would not qualify for an OIC.

9.4 Defendants frequently failed to perform the work promised by their contracts and, in many cases, failed to ever apply for an OIC for the consumers, yet refused to return the money the consumers had paid for the promised services. Further, if any money was returned, the clients were given only part of their money back, and JKHC , JKFRS and PFFA kept up to 25% of the contract price for administrative fees and other costs. Clients were also made to sign a release for the meager portion of their money to be returned.

9.5 Defendants advertised that JKHC had more than 325 offices nationwide:

“AJK Harris & Company is the nation’s largest tax representation firm, comprised of veteran ex-IRS agents, CPAs, lawyers, enrolled agents, and tax, financial, and small business professionals dedicated to representing taxpayers and resolving their tax problems. Our consultants are available to meet with consumers in 325 locations in 43 states. JK Harris & Company is based in Charleston, South Carolina.” *(See Exhibit 2- Advertisement)*

This advertisement led consumers to believe that the JKHC representative at an office near the consumers home would be the one who would be handling the consumers’ matter for JKHC and JKFRS. Instead, the offices were only sales offices, and the person assigned to handle the consumers’ case was actually located at the JKHC home office in North Charleston, South Carolina.

9.6 Defendants advertising also led consumers to believe that the work on their files would be handled by tax experts, tax professionals, and ex-IRS agents, but the work of preparing the OIC offers was not performed by these trained experts. Instead the work was handled by employees without the advertised expertise.

9.7 Consumers complained that JKHC did not provide the services it advertised. Consumer complaints indicated that the consumers would have a case manager assigned to their case, but many times the file would sit without anything being done, and certainly no contact with the

client. Months later, it would be discovered that no efforts had been made to contact the IRS or solve the tax crisis. Consumers further complained that when they tried to reach their case manager to discuss their case, they were unable to speak with the case manager or to get an accurate report of the status of their cases.

9.8 Defendant PFFA financed consumer contracts for consumers who entered into installment contracts with JKHC and JKFRS for the preparation and filing of an OIC. Even when these services were not provided as promised, PFFA would not release the consumer from the debt.

#### **X. SINGLE BUSINESS ENTERPRISE**

10.1 Defendants are jointly and severally liable for the false, misleading and deceptive conduct set out in Paragraph 9 of this Petition on the basis that they are a single business enterprise, carrying out a common business objective.

#### **XI. FALSE, MISLEADING, AND DECEPTIVE ACTS AND PRACTICES**

11.1 Defendants, in the course of offering and selling tax services 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 §§17.46(b)(4), (5), (7), (9), (12) & (24) of the DTPA. Such acts include:

- A. Engaging in false, misleading, or deceptive acts in the conduct of any trade or commerce, as alleged more specifically herein, in violation of §17.46(a) of the DTPA;
- B. Using deceptive representations or designations of geographic origin in connections with goods or services, as alleged more specifically herein, in violation of §17.46(b)(4) of the DTPA.

- C. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not have, as alleged more specifically herein, in violation of §17.46(b)(5) of the DTPA;
- D. Representing that goods or services are of a particular standard, quality or grade...if they are of another, as alleged more specifically herein, in violation of §17.46(b)(7) of the DTPA.
- E. Advertising goods or services with intent not to sell them as advertised as more specifically alleged herein in violation of §17.46(b)(9) of the DTPA.
- F. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve or which are prohibited by law as set forth herein in violation of §17.46(b)(12) of the DTPA.
- G. Failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed, in violation of DTPA §17.46(b)(24).

## **XII. DISGORGEMENT**

12.1 All of Defendants assets are subject to the equitable remedy of disgorgement, which is the forced relinquishment of all benefits that would be unjust for Defendants to retain, including all ill-gotten gains and benefits or profits that result from Defendants putting fraudulently converted property to a profitable use. Defendants should be ordered to disgorge all monies fraudulently taken from individuals and businesses together with all of the proceeds, profits, income, interest

and accessions thereto. Such disgorgement should be for the benefit of victimized consumers and the State of Texas.

### **XIII. REPATRIATION OF ASSETS**

13.1 After due notice and a hearing, the court should order that all of Defendants assets situated outside the jurisdiction of this Court be deposited or repatriated into an appropriate financial institution within the jurisdiction of this Court.

13.2 Plaintiff requests leave of this Court to conduct telephonic, oral, written and other depositions (containing requests for production) of witnesses prior to any scheduled Temporary Injunction Hearing and prior to Defendant' answer date. There are a number of victims and other witnesses who may need to be deposed prior to any scheduled temporary injunction hearing. Any depositions, telephonic or otherwise, would be conducted with reasonable, shortened notice to Defendants and their attorneys, if known.

### **XIV. TRIAL BY JURY**

14.1 Plaintiff herein requests a jury trial and tenders the jury fee to the Harris County District Clerks office pursuant to TEX. R. CIV. P. 216 and TEX. GOVT. CODE ANN. §51.604.

### **XV. INJURY TO CONSUMERS**

15.1 Defendants have, 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 for damages.

### **XVI. REQUEST FOR DISCLOSURE**

16.1 Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendants disclose, within 50 days of service of this request, the information or material described in Rule 194.2(a)(1).

## **XVII. TEMPORARY INJUNCTION AND PERMANENT INJUNCTION**

17.1 Because Defendants have engaged in the unlawful acts and practices described above, Defendants have violated and will continue to violate 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 immediate, irreparable injury, loss and damage to the State of Texas and to the general public. Therefore, Plaintiff requests a Temporary Injunction and Permanent Injunction as indicated below.

## **XVIII. PRAYER**

18.1 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, Defendants' successors, assigns, officers, agents, servants, employees and attorneys and any other person in active concert or participation with Defendants from engaging in the following acts or practices:

- A. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written or computer generated materials relating to the business of Defendants currently or hereafter in their possession, custody, or control except in response to further orders or subpoenas in this cause;
- B. Transferring, spending, hypothecating, concealing, encumbering, or removing from the jurisdiction of this court any money, 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 of, or claimed by Defendants, insofar as such property relates to, arises out of, or was derived from the business operation of Defendants without further order of this Court;

- C. Representing, expressly or by implication, that Defendants can settle consumers' tax debt for pennies on the dollar, that they guarantee results, or similar representations, unless such representations are accurate;
- D. Representing, expressly or by implication, that Defendants services are or will be provided by tax professionals, former IRS agents, tax experts, or similar representations, unless such representations are true;
- E. Representing, expressly or by implication, that Defendants have a specific number of offices nationwide, or similar representations, unless Defendants disclose that only sales consultants are available at those offices
- F. Charging or accepting payment from a consumer for applying to JKHC's or JKHC, JKFRS's OIC Program, and/or representing that consumers qualify for or are eligible for the IRS's OIC Program, unless the consumers actually do qualify or actually are eligible for the IRS's OIC relief;
- G. Billing or charging consumers for services that Defendants do not perform;
- H. Making oral representations that, directly or indirectly, contradict terms or language contained in Defendants' written contracts with consumers;

18.2 In addition, Plaintiff State of Texas respectfully prays that this Court will:

- A. Adjudge against Defendants, jointly and severally, civil penalties in favor of Plaintiff State of Texas in an amount of not more than \$20,000 per violation of the DTPA;

- B. Adjudge against Defendants, jointly and severally, civil penalties in favor of Plaintiff State of Texas in an amount up to \$250,000 allowed by law under the DTPA, specifically, DTPA §17.47(c)(2), due to Defendants committing acts and practices which were calculated to acquire or deprive money or other property from consumers who were 65 years of age or older when the act or practice occurred;
- C. Order Defendants to restore all money or 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;
- D. Order Defendants to pay Plaintiff State of Texas attorneys fees and costs of court pursuant to TEX. GOVT CODE §402.006(c);
- E. Order Defendants to pay pre-judgment interest on all awards of restitution, damages, civil penalties and attorney fees as provided by law; and
- F. Grant all other relief to which Plaintiff State of Texas may show itself entitled.

Respectfully submitted,

GREG ABBOTT  
Attorney General of Texas

C. ANDREW WEBER  
First Assistant Attorney General

JEFF L. ROSE  
Deputy First Assistant Attorney  
General

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



JANET DANN

SBN 00792091

ROSEMARIE DONNELLY

SBN 5983020

Assistant Attorneys General

Consumer Protection and Public

Health Division

808 Travis, Suite 300

Houston, Texas 77002

Telephone 713-223-5886 ext 113

Facsimile 713-223-5821

**ATTORNEYS FOR PLAINTIFF**