

2009-33833

NO. \_\_\_\_\_

STATE OF TEXAS  
Plaintiff

v.

PATRICK O'CONNOR &  
ASSOCIATES, L.P. D/B/A  
O'CONNOR & ASSOCIATES  
Defendant

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IN THE DISTRICT COURT  
OF HARRIS COUNTY, TEXAS

129 JUDICIAL DISTRICT

BY \_\_\_\_\_ DEPUTY

FILED  
LORENA JACKSON  
DISTRICT CLERK  
HARRIS COUNTY, TEXAS  
2009 MAY 29 AM 8:48

TEMPORARY RESTRAINING ORDER

Plaintiff, State of Texas, has filed its Original Petition in this cause seeking a Temporary and Permanent Injunction against PATRICK O'CONNOR & ASSOCIATES, L.P. D/B/A O'CONNOR & ASSOCIATES ("Defendants"), and in the same petition has presented its request for a Temporary Restraining Order. The Courts FINDS that Defendants 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.BUS.&COM.CODE ANN. §38.101. It appears from facts set forth in the Plaintiff's Original Petition and the exhibits and sworn affidavits attached thereto, that unless Defendant is immediately restrained from the acts prohibited below, Defendant will continue to deceive consumers through deceptive acts and practices.

IT IS THEREFORE ORDERED that Defendant, PATRICK O'CONNOR & ASSOCIATES, L.P. D/B/A O'CONNOR & ASSOCIATES, their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them, including MCKENNEY & ASSOCIATES 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, 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 Defendant currently or hereafter in Defendants' possession, custody or control except in response to further orders or subpoenas in this cause;

B. Filing a tax protest with the appraisal district without the consumer's prior consent or authorization;

C. Falsifying Appointment of Agent forms and filing falsified Appointment of Agent forms and affidavits on behalf of consumers with the appraisal districts;

D. Filing "verbal authorization" affidavits with the appraisal districts unless Defendant in fact obtained prior authorization from the consumer;

E. Altering Appointment of Agent forms and filing them with the appraisal district without the consumer's written consent;

F. Failing to attend tax protest hearings or submit evidence to the appraisal district on behalf of consumers for whom O'Connor has filed a tax protest;

G. Failing to disclose that for judicial appeals consumers will have no contact with their legal counsel and will not be consulted with respect to the status of their appeal or settlement of their case;

H. Representing, selling, marketing, promoting, distributing or advertising to consumers, expressly or by implication:

1. that Defendant guarantees property tax savings for consumers;

2. that Defendant is sponsored by, approved by, affiliated with, connected or associated with any of the appraisal districts;
3. that Defendant has a success rate in obtaining tax savings for consumers that it does not have;
4. that Defendant has a success rate in judicial appeals for consumers that it does not have;
5. that Defendant will give the consumer a gift certificate if no tax savings are obtained unless Defendant in fact provides the gift certificate;

I. Representing, selling, marketing, promoting, distributing or advertising to consumers, expressly or by implication, through direct mail sent to consumers in Defendant's mass mailing campaign, that Defendant has performed an analysis of their property and has concluded that their property values are too high, when in fact, the analysis and conclusions are incorrect because the values used to value the comparable properties are from prior tax years.

J. Representing, selling, marketing, promoting, distributing or advertising to consumers, expressly or by implication, any statements of law or fact that are erroneous.

K. Using any website address which includes the name of any appraisal district in the domain name, including, but not limited to: [www.harris-countyappraisaldistrict.com](http://www.harris-countyappraisaldistrict.com), [www.dallascentral-appraisaldistrict.com](http://www.dallascentral-appraisaldistrict.com), [www.fortbendcentral-appraisaldistrict.com](http://www.fortbendcentral-appraisaldistrict.com), [www.galveston-countyappraisaldistrict.com](http://www.galveston-countyappraisaldistrict.com), [www.traviscentral-appraisaldistrict.com](http://www.traviscentral-appraisaldistrict.com), [montgomerycentralappraisaldistrict.com](http://montgomerycentralappraisaldistrict.com) and including but not limited to the following "subpages" that are part and parcel of Defendant's own website at [www.poconnor.com](http://www.poconnor.com):

[www.poconnor.com/harris\\_county\\_appraisal\\_district.asp](http://www.poconnor.com/harris_county_appraisal_district.asp),

[www.poconnor.com/elpaso\\_county\\_appraisal\\_district.asp](http://www.poconnor.com/elpaso_county_appraisal_district.asp),

[www.poconnor.com/dallas\\_county\\_appraisal\\_district.asp](http://www.poconnor.com/dallas_county_appraisal_district.asp)

[www.poconnor.com/montgomery\\_county\\_appraisal\\_district.asp](http://www.poconnor.com/montgomery_county_appraisal_district.asp)

[www.poconnor.com/galveston\\_county\\_appraisal\\_district.asp](http://www.poconnor.com/galveston_county_appraisal_district.asp)

[www.poconnor.com/travis\\_central\\_appraisal\\_district.asp](http://www.poconnor.com/travis_central_appraisal_district.asp)

[www.poconnor.com/fortbend\\_central\\_appraisal\\_district.asp](http://www.poconnor.com/fortbend_central_appraisal_district.asp).

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** 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 PATRICK O’CONNOR & ASSOCIATES, L.P. D/B/A O’CONNOR & ASSOCIATES, their successors, assigns, officers, agents, subcontractors, servants, employees, corporations and any other persons in active concert or participation with them, including McKenney & Associates.
- C. “Person” means an individual, sole proprietorship, firm, partnership, corporation, association, joint venture or other group, or business entity, however, 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.

IT IS FURTHER ORDERED that Parties are Plaintiff shall be granted leave to take depositions telephonic, video, written, and other depositions, with a Request for Production of any party, person or witness prior to any scheduled temporary injunction hearing and prior to Defendants' answer date upon reasonable shortened notice to Defendants or their attorneys, if known. A notice of a corporate representative deposition shall count as one (1) deposition regardless of the number of representatives needed to respond to the deposition notice. of the deposition limited to fifteen (15) requests

IT IS FURTHER ORDERED that Defendants in this cause be and hereby are commanded forthwith to comply with this Order from the date of entry until and to the fourteenth (14) day after entry or until further order of this Court, whichever is less.

The Clerk of the above-entitled Court shall forthwith issue an ex parte temporary restraining order 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).

Hearing on Plaintiff, State of Texas' Application for a Temporary Injunction is hereby set for the 8<sup>th</sup> day of June 2009, at 2:00 o'clock ~~am~~ p.m. in the 129<sup>th</sup> District Court of Harris County, Texas, located on the 10<sup>th</sup> floor of the Harris County Civil Courthouse, 201 Caroline, Houston, Texas 77002.

SIGNED this 29<sup>th</sup> day of May 2009 at 4:57 o'clock ~~am~~ p.m.

Dee Hines  
JUDGE PRESIDING