

COPY

No. D-1-GV-11-000055

STATE OF TEXAS

Plaintiff

v.

STEVE AYALA CANTU aka GABRIEL,
GARCIA JR., VICENTA AYALA
CASANOVA, and HUMBERTA
DE JESUS MONTES, aka,
HUMBERTA DE JESUS MONTES
AYALA, aka, BERTA MONTES, aka
HUMBERTA DE JESUS

Defendants

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

Filed in the District Court
of Travis County, Texas
JAN 14 2011 BP
At 3:00 M.
Amalia Rodriguez-Mendoza, Clerk

53RD JUDICIAL DISTRICT

EX PARTE TEMPORARY RESTRAINING ORDER AND ASSET FREEZE

Plaintiff, State of Texas, has filed its original petition in this cause seeking a Temporary and Permanent Injunction and in the same petition has presented its request for an Ex Parte Temporary Restraining Order and an Asset Freeze.

The Court FINDS that Defendants STEVE AYALA CANTU, aka, GABRIEL GARCIA JR., VICENTA AYALA CASANOVA, and HUMBERTA DE JESUS MONTES, aka, HUMBERTA DE JESUS MONTES AYALA, aka, BERTA MONTES, aka, HUMBERTA DE JESUS (hereinafter "Defendants") may be violating sections 17.46(a) and (b) of the Texas Deceptive Trade Practices - Consumer Protection Act, Texas Business and Commerce Code (hereinafter "DTPA"). It appears from the facts set forth in Plaintiff's Original Petition and the exhibits and sworn affidavits attached thereto that unless Defendants are immediately restrained from the acts prohibited below, Defendants will commit such acts before notice can be given and a hearing can be held on the State of Texas' request for a Temporary Injunction. Further, Defendants could either secrete or remove monies and assets before a judgment for restitution can be rendered. Such injury will be irreparable because

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there will be no monies left for restitution to the consumers if Defendants are allowed time to remove and/or secrete monies or assets. Given the likelihood of dissipation of Defendants' assets prior to rendition of a final judgment, the possibility of restitution for consumers will be remote unless an order freezing certain assets is granted.

1. **IT IS THEREFORE ORDERED** that Defendants, STEVE AYALA CANTU, VICENTA AYALA CASANOVA, and HUMBERTA DE JESUS MONTES, their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them, including, but not limited to, all financial institutions such as JP Morgan Chase¹ and Frost National Bank², holding money or assets of any kind in the name and/or for the benefit of the above 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, or allowing the transfer, removal, or withdrawal, from any financial institution or 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 the possession or custody of, standing in the name of, or claimed by said Defendants, however, Defendants are not prohibited from expending monies for reasonable living expenses and attorney fees from

¹JP Morgan Chase account numbers known are: **Account Numbers** [REDACTED]; [REDACTED]; [REDACTED] and [REDACTED].

²Frost National Bank account number known is: **Account Numbers** [REDACTED]

other accounts standing in their names provided that Plaintiff and the Court are given prior notice by motion seeking to make such expenditures;

B. Selling, conveying, transferring or changing ownership in any form of the properties located at:

- i. 2407 Hollis Lane, Cedar Park, Texas 78613 (legal description: S8775-Silverado West PH B Sec 2, Block I, Lot 14);
- ii. 5804 Caroline Drive, Austin, Texas 78724 (legal description: Lot 9, Block I, Kennedy Ridge Estates, Section 2, Plat Number 27/8); and
- iii. 5511 JFK Street, Austin, Texas 78724 (legal description: Lot 6 Blk C Kennedy Ridge Estates Sec 1);

C. Transferring, concealing, destroying, altering, mutilating or otherwise disposing of or changing any records related to any Defendant or entity in which any Defendant has an ownership interest, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written or computer generated materials relating to any Defendant or entity in which any Defendant has an ownership interest except in response to further orders or subpoenas in this case;

D. Opening or causing to be opened any safe deposit boxes or storage facilities titled in the names of Defendants, or subject to access, ownership or control by Defendants, without providing Plaintiff and the Court prior notice by motion seeking such access;

E. Transferring, spending, encumbering, withdrawing, or removing any sum of money from any accounts specifically referenced in paragraph 1.A. of this order or from any other such account(s) where monies or proceeds from the Kennedy Ridge Water Supply Corporation bank account (account number ending in -6025) have been placed or deposited

or any other such account(s) where monies or proceeds from the Kennedy Ridge Estate's residents water and sewer payments have been placed or deposited.

F. Transferring, encumbering, or otherwise disposing of any assets which belongs to or was transferred from Kennedy Ridge Water Supply Corporation.

G. Transferring, encumbering, or otherwise disposing of any assets which were paid for in whole or in part by monies obtained from Kennedy Ridge Water Supply Corporation.

H. Selling, conveying, transferring or changing ownership in any form of the trailer that is property of Kennedy Ridge Water Supply Corporation, title number 22733137849141832.

2. **IT IS FURTHER ORDERED** that Defendants, STEVE AYALA CANTU, VICENTA AYALA CASANOVA, and HUMBERTA DE JESUS MONTES, advise 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 assets of Defendants to within five (5) business days of the date of service of this Order provide to counsel for the Plaintiff and the Defendants/account holders 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 assets was remitted; and

C. The identification of any safe deposit box or storage facility that is either titled in the name individually or jointly, of Defendants, or is otherwise subject to access or control by Defendants;

3. **IT IS FURTHER ORDERED** that Plaintiff is GRANTED leave to take telephonic, video, written, and other depositions along with subpoena duce tecum, prior to any scheduled temporary injunction hearing upon reasonable shortened notice to Defendants and their attorneys, if known;

4. **IT IS FURTHER ORDERED** that Defendants STEVE AYALA CANTU, VICENTA AYALA CASANOVA, and HUMBERTA DE JESUS MONTES be and hereby are commanded forthwith to comply with this Order from the date of entry until and to the fourteenth (14th) day after entry or until further order of this Court, whichever is less;

5. **IT IS FURTHER ORDERED** that a copy of this Order, freezing the sale of real property be filed with the property records in Travis County and Williamson County in relation to the following properties:

- A 2407 Hollis Lane, Cedar Park, Texas 78613 (legal description: S8775-Silverado West PH B Sec 2, Block I, Lot 14);
- B. 5804 Caroline Drive, Austin, Texas 78724 (legal description: Lot 9, Block I, Kennedy Ridge Estates, Section 2, Plat Number 27/8); and
- C. 5511 JFK Street, Austin, Texas 78724 (legal description: Lot 6 Blk C Kennedy Ridge Estates Sec 1);

6. **IT IS FURTHER ORDERED** that a copy of this Order, freezing the sale of the Kennedy Ridge Water Supply Corporation trailer, title number 22733137849141832 be filed with the Litigation Department of the Texas Department of Motor Vehicles;

7. 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 filing

a bond for a temporary restraining order or temporary injunction under section 6.001 of the Texas Civil Practice and Remedies Code and section 17.47(b) of the Texas Business and Commerce Code.

8. The Hearing on Plaintiff State of Texas' Application for a Temporary Injunction is hereby set for the 27th day of January, 2011 at 2:00 o'clock, p.m.

SIGNED this 14 day of January, 2011 at 2:53 o'clock, p m.

Michele P. Inana - Doyle MDJ
JUDGE PRESIDING