

STATE OF TEXAS,  
Plaintiff

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IN THE DISTRICT COURT

v.

CAMERON COUNTY, TEXAS

VALLEY HOTELIER, INC. d/b/a  
MOTEL 6 - HARLINGEN,  
Defendant

107<sup>th</sup> JUDICIAL DISTRICT

**AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION**

1. On this day, came before this Court, plaintiff, STATE OF TEXAS and defendant, VALLEY HOTELIER, INC. d/b/a MOTEL 6 - HARLINGEN, in the above entitled and numbered cause. The STATE OF TEXAS, by and through Texas Attorney General GREG ABBOTT, and defendant, by and through its attorney of record, announced to the Court that all matters of fact and things in controversy between them had been fully and finally compromised and settled, presented to the Court this Agreed Final Judgment and Permanent Injunction (“Judgment”). and asked the Court to render and sign this Judgment based on the agreement of the parties.

**STIPULATIONS**

2. By their duly authorized signatures, the parties stipulated to the Court the following: that they understand the terms of this Judgment; that they agree to the terms of this Judgment; that they have waived all rights of appeal from this Judgment; that they actively participated in the negotiations leading up to this Judgment and are aware of the duties placed upon them by it and are desirous and capable of carrying out those duties in full; that they acknowledge receipt of copies of this Judgment and have full and actual notice of the terms of this Judgment; that the issuance and service of a writ of injunction are waived; that the terms of this Judgment are

sufficiently detailed and specific to be enforceable by the Court in conformance with TEX.R.CIV.P. 683; that this Judgment represents a compromise and settlement of all matters arising out of facts alleged by the STATE OF TEXAS in this cause; that no party agrees to this Judgment as a result of duress; that defendant does not admit to any violations of law, or liability for any alleged acts, by entering this agreement, but enters into this Judgment because of the uncertainty and costs of litigation.

3. Pursuant to their agreement, the parties submit to the jurisdiction of the Court and do not contest the entry of this Judgment.

### **DEFINITIONS**

4. For the purposes of this Judgment, the following definitions shall apply:

a. "Motel 6 - Harlingen" shall mean the motel which is located at 205 N. Expressway 77, Harlingen, Texas.

b. "Average rate" shall mean the average price charges for a good or service over a one month period prior to the declaration of a disaster by the Texas Governor.

c. "Victims/evacuees" shall mean a person who resides in a county affected by the Governor's Proclamation of Disaster.

### **FINDINGS**

5. It appearing to the Court that all parties agreed to the entry of this Judgment and that they have approved its entry by their duly authorized signatures and the signature of their respective attorneys below, the Court, upon the stipulations of the parties after being fully advised in this matter, finds as follows:

a. That it has jurisdiction of the parties and subject matter of this suit:

- b. That the settlement of this dispute is fair, reasonable, and just;
  - c. That this Judgment is in accord with the Texas Deceptive Trade Practices - Consumer Protection Act (“DTPA”), TEX. BUS. & COM. CODE ANN. § 17.41, *et seq.* and is proper in all respects;
  - d. That the civil penalty payable to and for the benefit of the State of Texas is not dischargeable under bankruptcy pursuant to 11 U.S.C. § 523(a)(7); and
  - e. That it would be in the best interests of the parties if the Court approved the settlement and rendered Judgment accordingly.
6. Based on these findings, and having heard and considered the representations made by the parties, the Court is of the opinion that a permanent injunction should be issued as granted in this Judgment and that plaintiff, STATE OF TEXAS is entitled to recover of and from defendant as set forth below.

#### **INJUNCTIVE RELIEF**

7. IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that defendant, VALLEY HOTELIER, INC., its officers, agents, servants, employees, attorneys, and any other persons acting in concert or participation with defendant who receives actual notice of this injunction by personal service or otherwise, shall permanently desist and refrain from engaging in, or attempting to engage in, the following described acts:
- a. Charging or demanding from consumers an exorbitant price, or a price in excess of ten percent (10%) of the average rate, for lodging or accommodation at any of its motels or hotels after a state of disaster has been declared by the Governor under Section 481.014 of the Texas Government Code;

- b. Accepting or receiving exorbitant compensation, or compensation in excess of ten percent (10%) of the average rate, for the sale or lease of lodging or accommodation at any of its motels or hotels after a state of disaster has been declared by the Governor under Section 481.014 of the Texas Government;
- c. Failing to post a sign or card in a conspicuous place in each room with the daily room rate and the date the sign or card was posted as required by Texas Occupations Code § 2155.001(a);
- d. Collecting state and local taxes from victims/evacuees during a disaster declared by the Governor when such taxes have been waived by the Governor;
- e. Failing to obtain a sales tax exemption certificate from evacuees;
- f. Failing to maintain a registration system to record the name and contact information for guests of the motel including the guests' names, addresses, the length of their stay, and the price charged per day;
- g. Failing to state on the room ticket the daily rate for the room, as required by Texas Occupations Code § 2155.001(c);
- h. Failing to state on the room ticket, receipt or other payment documents the exact tax being charged for the room per day, when the tax has not been waived by law or the Governor's Proclamation; and
- i. Representing, directly or by implication, that this Court, or the Office of the Attorney General has approved any good or service sold or offered for sale by defendant, or approved of any of defendant's business practices.

## **MONETARY JUDGMENT**

8. IT IS FURTHER ORDERED by the Court that plaintiff, STATE OF TEXAS have and recover from defendant, VALLEY HOTELIER, INC., the sum of \$15,000.00 comprised of the following amounts:

a. The amount of \$11,000.00 as a civil penalty to STATE OF TEXAS for false, misleading, or deceptive acts or practices committed by defendant;

b. The amount of \$4,000.00 as reasonable and necessary attorney's fees to STATE OF TEXAS in the prosecution of this action against defendant; and

post judgment interest on the sum of \$15,000.00 at the rate of 5% per annum from the date of this Judgment until paid in full.

9. IT IS FURTHER ORDERED by the Court that the payment of the above sum shall be made in the form of a certified check or wire transfer made payable to the Office of the Attorney General of Texas. The certified check or wire transfer shall bear the identifying number "AG No. 082507948" and shall be delivered to the Office of the Attorney General, Consumer Protection and Public Health Division, 3201 N. McColl Road, Suite B, McAllen, Texas 78501, Attention: Ric Madrigal.

## **MISCELLANEOUS**

10. IT IS FURTHER ORDERED that defendant is liable for all costs of court expended or incurred in this cause.

11. IT IS FURTHER ORDERED that plaintiff shall have all writs of execution and other process necessary to enforce this Judgment.

12. This Judgment is final and disposes of all claims and all parties. The Court retains the

jurisdiction to enforce this Judgment.

13. All relief not expressly granted herein is denied.

SIGNED on \_\_\_\_\_, 2010.

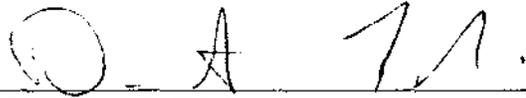
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JUDGE PRESIDING

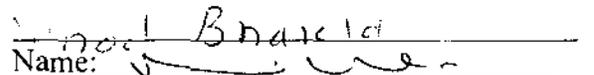
AGREED AS TO FORM AND SUBSTANCE AND ENTRY REQUESTED:



MICHAEL AGUIRRE  
Assistant Attorney General  
State Bar No. 24038593  
Office of the Attorney General  
Consumer Protection and  
Public Health Division  
3201 N. McColl, Suite B  
McAllen, Texas 78501  
(956) 682-4547  
Fax: (956) 682-1957  
Attorney for Plaintiff



DENNIS A. LONGORIA  
State Bar No. 24003915  
1101 Chicago Avenue  
McAllen, Texas 78501  
(956) 451-2440  
Fax: (956) 682-0820  
Attorney for Defendant



Name: Vincent Brackley  
Title: gm general partner  
Corporate Agent who has authority to sign  
herein on behalf of Valley Hotelier, Inc.  
205 N. Expressway 77  
Harlingen, Texas 78550