

CAUSE NO. _____

STATE OF TEXAS,
Plaintiff,

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IN THE DISTRICT COURT OF

vs.

NUECES COUNTY, T E X A S

SILVERIO J. SALINAS,
Defendant.

_____ JUDICIAL DISTRICT

PLAINTIFF’S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, THE STATE OF TEXAS, acting by and through Attorney General GREG ABBOTT (“State”), filing Plaintiff’s Original Petition complaining of and against SILVERIO J. SALINAS (“Defendant”), and would respectfully show the court the following:

DISCOVERY CONTROL PLAN

1. Discovery is intended to be conducted under Level 2 of Texas Civil Procedure Rule 190.

AUTHORITY

2. This action is brought by Attorney General Greg Abbott, through his Consumer Protection and Public Health Division, in the name of the STATE OF TEXAS and in the public interest under the authority granted him by §431.047, and §431.0585 of the Texas Food, Drug and Cosmetic Act, TEX. HEALTH & SAFETY CODE ANN. §431.001 *et seq.* (“TFDCA”). Section 431.047 authorizes the Attorney General to seek injunctive relief under certain circumstances and recover any costs and attorney fees incurred in obtaining that relief. This action is also brought

pursuant to §431.0585 that authorizes the Commissioner of Health to refer to the Attorney General to seek civil penalties in favor of the State per day per violation of § 431.021 of the TFDCA and regulations pursuant to this Act. Defendant SILVERIO SALINAS is a debtor in a Chapter 13 bankruptcy case now pending in Case No: 10-20967-C-13 (SD Tx. Corpus Christi Division). This action under the TFDCA is exempt from the automatic stay pursuant to 11 USC 362(b)(4), the police and regulatory exception to the automatic stay.

3. 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 him by §17.47 of the Texas Deceptive Trade Practices - Consumer Protection Act, TEX. BUS. & COM. CODE ANN. §17.41 *et seq.* (“DTPA”), upon the grounds that Defendant have engaged in false, misleading or deceptive acts or practices in the course of trade and commerce as defined in, and declared unlawful by §§17.46(a) and (b) of the DTPA. Defendant SILVERIO SALINAS is a debtor in a Chapter 13 bankruptcy case now pending in Case No: 10-20967-C-13 (SD Tx. Corpus Christi Division). This action under the DTPA is exempt from the automatic stay pursuant to 11 USC 362(b)(4), the police and regulatory exception to the automatic stay.

PARTY DEFENDANT

4. Defendant SILVERIO J. SALINAS is or was doing business in Texas at 4535 South Padre Island Drive, Suite #9, Corpus Christi, Texas 78411 #106-110; at 4220 South Padre Island Dr., Suite # 106-110, Corpus Christi, Texas 78411; and at his residence, 4229 Lake Superior Road, Corpus Christi 78413 and may be served with process at 4229 Lake Superior

Road, Corpus Christi 78413. Defendant is the President and sole-owner of Silverio Salinas, Inc., d/b/a Neohealth, Inc., Natural Doctor Center, and Maya Wellness Center and he acted, directed, participated in, and/or caused violations of both the TFDCa and the DTPA, both individually and as the owner and officer of these corporations.

VENUE

5. Venue of this action lies in Nueces County on the basis of §431.047(c) and §431.0585(d) of the TFDCa by virtue of the fact that Defendant is engaged in the business of manufacturing, offering to sell, advertising, and selling unapproved new drugs; manufacturing, offering to sell, advertising, and selling private label foods, including dietary supplements, without being licensed with the Texas Department of State Health Services (TDSHS) as required by law; and/or offering to sell, advertising, and selling misbranded or adulterated foods in Corpus Christi, Nueces County, Texas. Defendant also represents to residents of Nueces County and Texas that he is a doctor by using the title of “Dr.” in front of his name on the label of his products; using the title of “Dr.” in front of his name on his websites; and representing that he can treat and diagnose persons with diseases, although he is not licensed as a physician in Texas.

PUBLIC INTEREST

6. Because Plaintiff STATE OF TEXAS has reason to believe that Defendant SILVERIO J. SALINAS has engaged in, and will continue to engage in, the unlawful practices set forth below, Plaintiff STATE OF TEXAS has reason to believe that Defendant SILVERIO J. SALINAS has caused and will cause adverse effects to legitimate business enterprises which conduct their trade and commerce in a lawful manner in this State. Therefore, the Attorney

General of the STATE OF TEXAS believes and is of the opinion that these proceedings are in the public interest.

ACTS OF AGENTS

7. Whenever in this petition it is alleged that Defendant SILVERIO J. SALINAS did any act or thing, it is meant that Defendant SILVERIO J. SALINAS performed or participated in such act or thing or that such act was performed by agents or employees of Defendant, and in each instance, the agents or employees of Defendant were then authorized to and did in fact act on behalf of Defendant, or otherwise acted under the guidance and direction of Defendant.

TRADE AND COMMERCE

8. Defendant SILVERIO J. SALINAS has, at all times described below, engaged in conduct which constitutes “trade” and “commerce” as those terms are defined by §17.45(6) of the DTPA.

NOTICE BEFORE SUIT

9. Defendant SILVERIO J. SALINAS was informed in general of the alleged unlawful conduct described below on May 5, 2010 and May 25, 2010, and as may be required by §17.47(a) of the DTPA, by letter by certified mail, return receipt requested.

NATURE OF DEFENDANT’S CONDUCT

10. The Texas Department of State Health Services (“TDSHS”) investigated and inspected the place of business of Defendant SILVERIO J. SALINAS and determined that he operates as an unlicensed, private label food manufacturer and advertises, offers to sell, and sells

unapproved drugs and/or misbranded or adulterated foods in Texas. Additionally, TDSHS found that Defendant also possessed, offered to sell, sold, and provided services using ionic detoxification footbaths which are not FDA-approved devices and possessed a hyperbaric chamber, a prescription device, without the supervision and order for each use of the device from a practitioner licensed by the Texas Medical Board.

11. Defendant SILVERIO J. SALINAS, as documented beginning with the 2007 inspections by TDSHS, represents to residents that he is a doctor by using the title of “Dr.” in front of his name on the label of his products and on multiple websites owned by him or the companies under which he is doing business. Defendant also represents that he can treat and diagnose persons with diseases, although he is not licensed as a physician in Texas. Defendant’s office staff schedule in-person appointments with Defendant so that Defendant can treat persons with cancer and numerous other medical problems although he is not licensed to practice medicine in Texas by the Texas Board of Medical Examiners.

Continued Misrepresentations on the Internet for “Dr. Silverio Salinas”:

12. Although Defendant Silverio Salinas is not a physician licensed to practice medicine in Texas, he continues to misrepresent that he is a physician by using an internet site www.saludmaya.com that has “Dr. Silverio Salinas” printed on every page and states that this site is the “official site of Dr. Silverio Salinas, your wellness expert.” Additionally, in a box on the left-hand side of each page, customers are solicited to contact the website www.DrCerebro.net to “Schedule an appointment with Dr. Silverio Salinas today!” On www.saludmaya.com, Defendant Silverio Salinas continues to sell the dietary supplements and

teas that TDSHS determined violated the TFDCAs as shown below. These illegal dietary supplements continue to have a picture of Defendant with the name “Dr. Silverio Salinas” on each bottle.

13. Additionally, a search on www.google.com for Defendant Silverio Salinas found many internet sites that continue Defendant’s misrepresentations of himself as a physician who can practice medicine in Texas. One such site is <http://www.yellowpages.com/corpus-christi-tx/mip/silverio-salinas-inc-22757092?lid=22757092>, where Silverio Salinas Inc is listed under the categories: Physicians & Surgeons, Pediatrics-Otorhinolaryngology (Ear, Nose, Throat), Physicians & Surgeons, Otorhinolaryngology (Ear, Nose & Throat), and Naturopathic Physicians (ND). This web page also lists that Silverio Salinas Inc is also known as “Salinas, Silverio Md Inc.”

14. Defendant Silverio Salinas is also listed on Angie’s List where Defendant Silverio Salinas is listed as “Dr.” Silverio Salinas, 4220 S Padre Island Dr, Ste 106, Corpus Christi, TX 78411, (361) 225-3691, www.drshalinas.com. See <http://www.angieslist.com/companylist/us/tx/corpus-christi/salinas-dr-silverio-reviews-1654843.aspx>, for Angie’s List. According to the site, this information has been on Angie’s List since October 9, 2008.

15. The google search showed an entry with a sub-heading reading “Research Dr. Silverio J Salinas, MD (Holistic Medicine) in Corpus Christi. The internet site is <http://www.terillion.com/profiles/TX/Silverio-Salinas/576825/>. This page listed “Dr. Silverio J Salinas, MD, Holistic Medicine, Silverio Salinas MD Inc, 4220 S Padre Island Dr Ste 106, Corpus Christi TX 78411-4481, (361) 225-3691.

16. Defendant also continues to misrepresent himself as a physician on the internet site www.drsilveriosalinas.com.mx/drsilveriosalinas. This link leads to a webpage that displayed Silverio Salinas' photograph and listed his credentials under the heading "Trayectoria del Dr. Silverio Salinas".

17. Further review of the results of the google inquiry on Defendant Silverio Salinas led to <http://www.aboutus.org/FormulasExclusivas.com>. This page described formulas made exclusively for "Dr. Salinas" whose credentials as a doctor were listed as part of the site.

18. Defendant Silverio Salinas also misrepresents that he can practice medicine in Texas based upon his having a certificate as a naturopath since Texas does not recognize naturopaths as being allowed to practice medicine. The designation as a naturopath is found in <http://reallymadeinusa.info/profiles/1134043/> with a business profile "Salinas, Silverio Md Inc, 4220 S Padre Island Dr, Corpus Christi, Texas, USA 78411." This webpage specifically states that "Salinas, Silverio Md Inc is listed in the Corpus Christi, Texas Business Directory and classified under: Otorhinolaryngology (Ear, Nose & Throat) Physicians & Surgeons in Corpus Christi, Texas; Pediatrics Otorhinolaryngology (Ear, Nose & Throat) Physicians & Surgeons in Corpus Christi, TX; Corpus Christi, Tex. Physicians & Surgeons; Corpus Christi, Tex. Naturopathic Physicians (ND)." The related tags include "Otorhinolaryngologist, physicians, surgeons, physician, throat, nd, nose, naturopathic physician, ear, naturopaths, otorhinolaryngology, pediatrics, otorhinolaryngology, pediatric otorhinolaryngologists".

19. The link <http://www.healthywage.com/doctors-finder/TX/Corpus-Christi/27> generates a listing for "Dr. Silverio Salinas, 4535 S Padre Island Dr, Corpus Christi, TX 78411-

4418.” This site lists the speciality for Defendant Salinas as “otolaryngology”.

20. Results found in the Corpus Christi Texas Business Directory link located at <http://www.thewebmap.com/TX/CorpusChristi/resultsB.asp?page=9&search=801101+801105+doctors+physicians> lists “Salinas Silverio MD Inc, 5225 Bonham St, Corpus Christi, TX 78415-1912, Phone: (361) 225-3691.” Defendant Silverio Salinas continues to misrepresent that he is a “Doctor” and that he can practice medicine in Texas.

Issuance of Findings of Violations on 4/19/10 by TDSHS:

21. TDSHS conducted an inspection on 4/19/10 and determined that Defendant did not have a Sales Tax Permit Certificate in any of the multiple names that Defendant SILVERIO SALINAS used to conduct business. Defendant said that he changed the name of the business frequently to give the names to investors who join his business. To avoid the detention of more violative product, Defendant stopped storing the product in Texas and instead kept it in warehouses in California and Mexico. Despite this, Defendant SILVERIO SALINAS continues to advertise, offer for sale, and sell his private label products through his websites and contact with him. Defendant has the dietary supplements then shipped from the out-of-state warehouses.

22. TDSHS issued findings of violations as follows:

A. Defendant SILVERIO J. SALINAS still did not have a current food manufacturing license from the TDSHS as required by state law since Defendant was a private label manufacturer and still was advertising, offering for sale, and selling foods, including dietary supplements, in Texas. Defendant changed the firm name and address from Natural Doctor Center in 2006; Neohealth, Inc. at 4535 South Padre Island Drive,

Ste. #9 in 2007; Exclusive Formulas/Formulas Exclusivas at 4220 South Padre Island Drive, Ste 106 in 2007-2008; Silverio Salinas, Inc. at the same address in 2009; and Maya Wellness Center at the same address in 2010. Additionally, Defendant refused to disclose the amount of sales and stated that no invoices were available.

B. Defendant SILVERIO J. SALINAS had three to five pamphlets and written material in the waiting area listing “Dr. Silverio Salinas’ Exclusive Formulas” that made claims to help various disease conditions, including but not limited to:

- i. Fuego Azteca for “benign and malignant tumors, fevers, cysts, infections, cancer, metastasis”;
- ii. Atlante for “...help clean veins and arteries, hypertension, angina pectoris, burn fat, loss of weight, calm hunger”;
- iii. Aztlan for “neurasthenia, depression, ...hypothyroidism, hyperthyroidism...”; and
- iv. Quetzalcoatl for “malignant tumors, cancer, general anti-parasite, lupus, leukemia, lymphoma, metastasis”.

C. Quantities of each of these named products were detained in 2007 for the illegal claims that Defendant SILVERIO J. SALINAS continues to make in his advertising of his private label foods, including dietary supplements. Claims to prevent, cure, treat, or mitigate diseases cannot legally be made for foods, including dietary supplements.

Issuance of Findings of Violations on 5/12 & 5/28/09 by TDSHS:

23. TDSHS received information that Defendant SILVERIO J. SALINAS was seeing

patients in a doctor office-type environment. The patient reported to TDSHS that she scheduled an appointment with “Dr. Salinas” in suite 108 (address of business is suite 106). The patient reported that Dr. Salinas examined her in March, 2009, and was told to go to the reception area and Salinas would bring her the dietary supplements needed for her diagnosis of fibromyalgia. Defendant returned with two of his private label foods for fibromyalgia: VITA CAN and TONAL. Defendant told the patient that he wanted to see her on a regular basis and that he had a vertebra stretching machine and that the patient should receive treatments on the machine monthly.

24. TDSHS issued a finding of violations based on a May 12 and 28, 2009 inspection to investigate the above complaint. TDSHS was told that Defendant denied seeing patients, but TDSHS recorded pictures of two private label dietary supplements by Defendant that he sold to a patient with claims to treat diseases made for both products in violation of state law. Defendant’s wife stated that Defendant directs customers to order dietary supplements directly from the manufacturers on Defendant’s website.

25. TDSHS also determined that Defendant SILVERIO J. SALINAS’ website www.drsilveriosalinas.com still had the same violative claims that TDSHS found in its 3/21/07 inspection, except that Defendant changed them from English to Spanish. TDSHS determined that Defendant still had a link to a web page called “Cancer Wellness Program”. Defendant’s website also continued to contain statements that the dietary supplements VITA CAN, AXTLAN, QUETZLCOATL and FUEGO AZTECA are “designed to enhance the immune defenses and life energy of people with cancer, to kill intestinal parasites possibly involved in

cancer and to help reduce and disappear either benign tumors and malignant.”

Issuance of Findings of Violations on 3/20-21/07 by TDSHS:

26. TDSHS inspected Defendant’s business and determined that Defendant SILVERIO J. SALINAS promotes himself as a Naturopathic Doctor and that the office appears to be a doctor’s office. TDSHS determined that Defendant represents himself as a doctor on all advertising materials, websites, and products. TDSHS also witnessed a customer ask if SALINAS was a doctor and the office replied that he was a Medical Doctor from Mexico and that an appointment would cost \$60.00. Defendant’s employee told the customer about a woman who had been diagnosed with cancer and that Dr. Salinas told her that she did not have cancer but only needed an MRI after reviewing her medical records.

27. TDSHS made the following findings of violations by Defendant SILVERIO J. SALINAS:

A. Failure to have a food manufacturing license for brand and company names on dietary supplement labels that Defendant is marketing retail and wholesale from his office.

B. The labels on Defendant’s VITA CAN for distribution by Dr. Salinas Exclusive Formula is only labeled in Spanish in violation of state and federal food labeling laws and the label on the English version of VITA CAN has unapproved health claims that it is designed for people with cancer, Aids, lupus, leukemia, or other generative health issues, as well as www.drsilveriosalinas.com website links to www.exclusiveformulas.com which lists this product for cancer in violation of state and

federal food laws.

C. The labels on Defendant's TIZOC for distribution by Dr. Salinas

Exclusive Formula has unapproved health claims that it will help resolve arthritis and osteoporosis, build cartilage, and help with inflammation in joints for persons with arthritis.

D. The labels on Defendant's AZTLAN for distribution by Dr. Salinas

Exclusive Formula has unapproved health claims that the product will increase energy and the immune system, increase memory, work as an antioxidant, and work as a cell rejuvenator.

E. The labels on Defendant's TONAL for distribution by Dr. Salinas

Exclusive Formula has unapproved health claims that it works like alternative female hormone replacement and helps reduce female osteoporosis.

F. The labels on Defendant's ATLANTE for distribution by Dr. Salinas

Exclusive Formula has unapproved health claims that the product will help reduce fat obstructions in veins and arteries, reduce constipation, and reduce weight. The labels also lack the required statement of identity, net weight or quantity statements.

G. Defendant's dietary supplements that make unapproved health claims are

being advertised and sold on websites affiliated with Defendant SILVERIO J. SALINAS, including but not limited to, www.drknc.com; www.drsilveriosalinas.com; www.exclusiveformulas.com; www.go4detox.com; www.DRCerebro.com; www.cancerwellnessprogram.com; and www.NeoHealthChannel.com. All of

Defendant's websites make unapproved health claims for the products listed above, as well as for other products, including but not limited to Fuego Azteca, Regulator, Tajin, Cacaxtla, Romagil, Teotihuacan tea, Bonampak tea, Tonaltzin tea, Tenochtitlan tea, Cholula tea, Uxmal tea, Tula tea, La Venta tea, Quetzalcoatl tea, Tonatihu tea, Cuicuileo tea, Palenque tea, Chichen tea, Mitia tea, Monte Alban tea, Tikal tea, and Teocalli tea.

28. TDSHS detained 956 units of foods, including dietary supplements, in tablet, capsule, extract, and tea form due to firm's failure to license as a food manufacturer, unapproved health claims that misbrand the products, Spanish only labeling and incomplete labeling.

Issuance of Findings of Violations on 2/20/07 by TDSHS:

29. TDSHS inspected and found that Defendant possessed, offered to sell, sold, and provided services using ionic detoxification footbaths which are not FDA-approved devices and possessed a hyperbaric chamber, a prescription device, without the supervision and order for each use of the device from a practitioner licensed by the Texas Medical Board. TDSHS detained all of these devices since they were either unapproved devices or misbranded devices in violation of the TFDCa.

VIOLATIONS OF THE TEXAS FOOD, DRUG AND COSMETIC ACT

30. Based on the findings in paragraphs 1 through 29, incorporated by reference herein, Defendant SILVERIO J. SALINAS has manufactured foods without being licensed in Texas as required, introduced into commerce misbranded foods; falsely advertised these foods; introduced into commerce unapproved new drugs by making disease claims for foods; and possessed and introduced into commerce unapproved devices and a prescription device without

an order to possess, supervision by, or orders for each use or procedure from a practitioner licensed by the Texas Medical Board.

31. Defendant SILVERIO J. SALINAS manufactures and sells products that are foods within the meaning of § 431.002(16) of the TFDCa, including dietary supplements.

32. Defendant SILVERIO J. SALINAS also manufactures, holds, stores, or transports foods that are deemed misbranded within the meaning of §§ 431.082(a), (f), and (g) of the TFDCa because the labeling is false or misleading and fails to prominently display information and statements required by regulations promulgated under the authority of the TFDCa in such a manner to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. Defendant's foods are also misbranded under the terms of the TFDCa based upon the illegal health and disease claims made for these food products and the lack of labels and labeling that comply with § 431.082 (a), (f), and (g) of the TFDCa.

33. Defendant's advertising of foods is false within the meaning of § 431.182 of the TFDCa because it is misleading in numerous particulars as set out above and because health and disease claims cannot be made for foods and they are therefore illegal to market with such claims.

34. Such representations for foods by Defendant constitute advertising within the definition set out in § 431.002(1) of the TFDCa since they are intended to induce consumers to purchase Defendant's foods.

35. Defendant is manufacturing food in Texas pursuant to § 431.221(2) of the TFDCa in that Defendant has private labels on its dietary supplements containing Defendant's

name and address and brand and, thus, is required to be licensed pursuant to § 431.222(a) of the TFDCA.

36. In addition, Defendant SILVERIO J. SALINAS manufactures and sells foods that make claims to prevent, treat, cure or mitigate diseases so they become drugs within the meaning of § 431.002(14) of the TFDCA.

37. Defendant's products are additionally classified as "new drugs" within the meaning of § 431.002(25) of the TFDCA because the TDSHS is unaware of any evidence that establishes that these drugs are generally recognized as safe and effective for their intended uses.

38. Defendant's products are also misbranded drugs pursuant to § 431.112 (e)(1) of the TFDCA because the products are unapproved drugs so their labeling fails to bear adequate directions for the uses for which these drugs are intended and being promoted in Texas.

39. Accordingly, the sale, delivery, offering for sale, holding for sale or giving away of any new drugs without an FDA approved new drug application submitted by Defendant violates §431.114 (a)(1) of the TFDCA. The introduction or delivery for introduction into commerce of any article in violation of § 431.114 of the TFDCA is prohibited under § 431.021 (e) of the TFDCA.

40. Section 431.021 (a) and (b) of the TFDCA prohibit the introduction or delivery for introduction into commerce within the State of Texas of any misbranded drug, such as Defendant's food products which are intended to cure, mitigate, treat, or prevent disease and/or whose label and/or labeling is not in conformance with state and federal standards, and the misbranding of any drug in commerce. Since Defendant's drugs are misbranded under Texas

law, Defendant is in violation of §431.021 (a) and/or (b) of the TFDCA.

41. Such representations for unapproved new drugs by Defendant constitute advertising within the definition set out in § 431.002(1) of the TFDCA since they are intended to induce consumers to purchase Defendant's drugs. Section 431.005 of the TFDCA provides that the selling of drugs includes "...the sale, dispensing, and giving of any such article..."

42. Defendant's advertising of unapproved new drugs is false within the meaning of § 431.182 of the TFDCA because it is misleading in numerous particulars as set out above and because FDA has not approved these drugs and therefore they are illegal to market.

43. Any such advertisement by Defendant for unapproved new drugs is false by the terms of § 431.183(a) of the TFDCA because it is directed toward the public and is not consistent with labeling claims permitted by the FDA.

44. Defendant's ionized footbaths for detox are devices within the meaning of § 431.002(13) of the TFDCA and misbranded devices pursuant to § 431.112 (a)(1) of the TFDCA as its labeling that promotes ionized footbaths for detox is false or misleading in any particular. The introduction into commerce of misbranded devices violates § 431.021 (a) of the TFDCA.

45. Defendant's hyperbaric chamber is a device within the meaning of § 431.002 (13) of the TFDCA. Additionally, Defendant's hyperbaric chamber is a prescription device manufactured by OxyHealth under the brand name of Vitaeris 320 and its use is governed by 21 CFR 801.109. All mild hyperbaric chambers cleared for marketing by FDA are cleared as prescription devices and for the indicated use of treatment of acute mountain sickness and its

associated mild symptoms. The hyperbaric chamber possessed and used by Defendant is also a restricted device, as well as a prescription device, which both require Defendant to have a licensed practitioner authorize the purchase and possession of the device, order the procedures for each patient, and supervise the use of the device.

46. Defendant did not have a licensed practitioner, as defined by §483.001(12) of The Dangerous Drug Act, Tex. Health & Safety Code, ordering the purchase and possession of the prescription hyperbaric chamber, supervising its use, or ordering procedures for each patient. Defendant SILVERIO J. SALINAS is not a licensed practitioner as defined by §483.001(12) of The Dangerous Drug Act, Tex. Health & Safety Code.

47. Therefore, Defendant's purchase, possession, and/or use of the restricted, prescription hyperbaric chamber device without such an order for purchase and possession or for each procedure and without supervision by such a licensed practitioner misbrands this device pursuant to § 431.112(o)(2) and §431.112(e)(1) of the TFDCA.

PROHIBITED ACTS UNDER THE TEXAS FOOD, DRUG AND COSMETIC ACT

48. Based on the conduct alleged above in paragraphs 1 through 47, Defendant SILVERIO J. SALINAS has committed or caused to be committed the following acts prohibited and declared to be unlawful by §431.001 *et seq.* of the TFDCA:

- A. Engaging in the manufacture of food in Texas without first obtaining a license from the state as required by §431.222 of the TFDCA, in violation of §431.021(y) of the TFDCA;
- B. Introducing into commerce a food that is misbranded, in violation of §431.021(a)

- of the TFDCA;
- C. Misbranding a food in commerce, in violation of §431.021(b) of the TFDCA;
 - D. Distributing in commerce of a consumer commodity that has a label that does not conform to the provisions of this chapter and of rules adopted under the authority of this chapter, in violation of §431.021(d) of the TFDCA;
 - E. Manufacturing within this state food that is misbranded, in violation of §431.021(h) of the TFDCA;
 - F. Introducing into commerce an unapproved new drug in violation of §431.021(e) of the TFDCA;
 - G. Introducing into commerce a misbranded drug in violation of §431.021(a) of the TFDCA;
 - H. Falsely advertising drugs in violation of §431.021(f) of the TFDCA;
 - I. Falsely advertising foods in violation of §431.021(f) of the TFDCA;
 - J. Introducing into commerce a misbranded device in violation of §431.021(a) of the TFDCA;
 - K. Introducing into commerce an unapproved device in violation of §431.021(s) of the TFDCA; and
 - L. Falsely advertising devices in violation of §431.021(f) of the TFDCA.

VIOLATIONS OF THE TEXAS DECEPTIVE TRADE PRACTICES ACT

49. Defendant SILVERIO J. SALINAS, as alleged above in paragraphs 1 through 48, has in the course of trade and commerce engaged in false, misleading and deceptive acts and practices declared unlawful in §17.46(a). Additionally, Defendant has violated §17.46(b) of the DTPA as follows:

- A. Causing confusion or misunderstanding as to the approval of the foods, drugs, or devices manufactured, purchased, possessed, or used by Defendant, in violation of §17.46(b)(2) of the DTPA;
- B. Representing that Defendant's foods, drugs, or devices have benefits which they do not have, in violation of §17.46(b)(5) of the DTPA;
- C. Representing that Defendant SILVERIO J. SALINAS is a physician legally permitted to practice medicine in Texas who can treat persons for diseases and illness when he does not have such authorization or approval, in violation of §17.46(b)(5) of the DTPA;
- D. Representing that a naturopath in Texas can legally practice medicine in Texas and can treat persons for diseases and illness when naturopaths do not have such authorization or approval, in violation of §17.46(b)(5) of the DTPA;
- E. Representing that Defendant's foods, drugs, or devices are of a particular standard, quality, or grade, if they are of another, by, in violation of §17.46(b)(7) of the DTPA;
- F. Failing to disclose that Defendant is not licensed as a physician in Texas and

therefore cannot legally treat persons for diseases and illness, when 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 §17.46(b)(24) of the DTPA; and

- G. Causing confusion or misunderstanding as to the approval of the foods or drugs, manufactured by Defendant by not being licensed as required, in violation of §17.46(b)(2) of the DTPA.

VIOLATIONS OF THE TEXAS MEDICAL PRACTICES ACT

50. Defendant SILVERIO J. SALINAS, as alleged above in paragraphs 1 through 49, has engaged in the practice of medicine in Texas without being licensed in accordance with Chapters 151-165 of the Medical Practices Act, Texas Occupations Code (“TOC”) generally, and specifically in accordance with §155.001 of the TOC.

INJURY TO CONSUMERS

51. By means of the foregoing unlawful acts and practices, Defendant has acquired 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 of damages.

TEMPORARY AND PERMANENT INJUNCTION

52. The State alleges that by reason of the foregoing, Defendant SILVERIO J. SALINAS should not continue to operate a food manufacturing establishment, advertise, and sell its products in violation of the laws of Texas. The interests of the State of Texas require a temporary injunction and a permanent injunction to prohibit Defendant from continuing to

operate a food manufacturing establishment and to advertise and sell his products if he refuses or is unable to comply with standards required by the TDSHS pursuant to their authority granted by the TFDCA and unless and until his food manufacturing establishment is determined upon inspection by TDSHS to be free of violations of the TFDCA. The interests of the State of Texas also require a temporary injunction and a permanent injunction to prohibit Defendant from advertising and selling his products and from practicing medicine without a license, unless Defendant is in compliance with the DTPA and the Texas Occupations Code.

53. Unless injunctive relief is granted, Defendant will continue to violate the laws of the State of Texas.

PRAYER

54. WHEREFORE, Plaintiff prays that Defendant SILVERIO J. SALINAS 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 Defendant SILVERIO J. SALINAS, his successors, assigns, officers, agents, servants, employees, and any other person in active concert or participation with Defendant SILVERIO J. SALINAS from engaging in the following acts or practices:

- A. Representing that SILVERIO J. SALINAS is a physician who can treat persons for diseases and illness in Texas when he is not licensed as a physician by the Texas Medical Board;
- B. Practicing medicine in Texas without a license from the Texas Medical Board;
- C. Using “Dr.” or “Doctor” or any wording that implies that SILVERIO J. SALINAS

- is a physician legally permitted to practice medicine in Texas;
- D. Representing that a naturopath in Texas can legally practice medicine in Texas and can treat persons for diseases and illness when naturopaths do not have such authorization or approval;
 - E. Using any website or URL that includes any wording, such as “Dr.” or “Doctor”, including but not limited to, www.drknc.com; www.drsilveriosalinas.com; and www.DRCerebro.com;
 - F. Using any website or URL that includes any wording that directly or indirectly makes claims to prevent, cure, treat or mitigate disease, including but not limited to www.go4detox.com; www.cancerwellnessprogram.com; or www.NeoHealthChannel.com.
 - F. Engaging in the manufacture of food in Texas without first obtaining a license from the Texas Department of State Health Services;
 - G. Introducing into commerce a food that is misbranded;
 - H. Misbranding a food in commerce;
 - I. Distributing in commerce of a consumer commodity that has a label that does not conform to the provisions of the TFDCA and of rules adopted under the authority of the TFDCA;
 - J. Manufacturing within this state food that is misbranded;
 - K. Introducing into commerce an unapproved new drug;

- L. Falsely advertising foods and/or drugs in Texas;
 - M. Introducing into commerce a misbranded drug;
 - N. Falsely advertising drugs or devices;
 - O. Falsely advertising foods;
 - P. Introducing into commerce a misbranded device;
 - Q. Introducing into commerce an unapproved device;
 - R. Causing confusion or misunderstanding as to the approval of the foods, drugs, or devices manufactured, purchased, possessed, or used by Defendant;
 - S. Representing that Defendant's foods, drugs, or devices have benefits which they do not have;
 - T. Representing that Defendant's foods, drugs, or devices are of a particular standard, quality, or grade, if they are of another;
 - U. Failing to disclose that Defendant is not licensed as a physician in Texas and therefore cannot legally treat persons for diseases and illness, when 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; and
 - V. Causing confusion or misunderstanding as to the approval of the foods or drugs, manufactured by Defendant by not being licensed.
55. Plaintiff further prays that this court upon a hearing order Defendant SILVERIO J.

SALINAS to remove all references to himself as “Doctor”, “Dr.”, “Naturopath”, “M.D.”, or any such title from all internet sites owned, directed, or controlled by Defendant or any entities that he owns, directs, or controls. Additionally, Plaintiff prays that this court order Defendant to contact all other internet sites in which Defendant is listed as a physician or doctor of medicine or naturopathy or listed as practicing medicine and request removal of all advertising with such representations that he is a physician or doctor who can practice medicine in Texas and that represents that a naturopath can practice medicine in Texas.

56. Plaintiff further prays that this court upon final hearing order Defendant SILVERIO J. SALINAS to pay civil penalties in favor of the STATE OF TEXAS in the amount of \$25,000.00 per day per violation of §431.021 of the TFDCA.

57. Plaintiff further prays that upon final hearing this Court will order Defendant SILVERIO J. SALINAS to pay civil penalties in favor of the STATE OF TEXAS in the amount of \$20,000.00 per violation of the DTPA.

58. Plaintiff further prays that upon final hearing this Court will order Defendant SILVERIO J. SALINAS to pay all past-due licensing fees to the Texas Department of State Health Services pursuant to the §431.222 of the TFDCA.

59. Plaintiff further prays that upon final hearing that this Court order Defendant SILVERIO J. SALINAS to pay to the STATE OF TEXAS attorneys’ fees and costs of court pursuant to the TEX. GOVT. CODE §402.006(c).

60. Plaintiff further prays that upon final hearing that this court order Defendant SILVERIO J. SALINAS to pay to the Office of the Attorney General and to the Texas

Commissioner of Health their reasonable expenses incurred in obtaining injunctive relief under §431.047 of the TFDCa, including investigative costs, court costs, reasonable attorneys' fees, witness fees, and deposition expenses pursuant to §431.047(d) of the TFDCa.

61. Plaintiff further prays that upon final hearing that this Court grant all other relief to which the STATE OF TEXAS may show itself entitled.

Respectfully submitted,

Plaintiff State of Texas

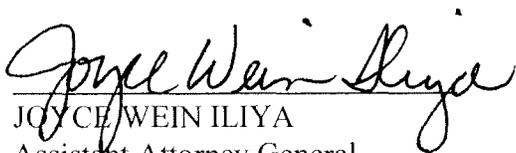
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