

FILED/COPY

AT _____ O'CLOCK _____ M

MAY 03 2013

LAURA HINOJOSA, CLERK

District Court, Hidalgo County

By _____ Deputy #46

NO. C. 2444-13-H

STATE OF TEXAS,
Plaintiff

§
§
§
§
§
§
§

IN THE DISTRICT COURT

HIDALGO COUNTY, TEXAS

v.

ANA ISABEL LUBRERAS D/B/A
MONTEMAYOR SERVICE,
Defendant

389

JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND APPLICATION FOR INJUNCTION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff the STATE OF TEXAS (hereinafter the STATE), acting by and through Attorney General of Texas Greg Abbott, complains of ANA ISABEL LUMBRERAS D/B/A MONTEMAYOR SERVICES, Defendant, and for cause of action would respectfully show:

DISCOVERY CONTROL PLAN

1. Discovery in this case should be conducted under Level 2 pursuant to TEX. R. CIV. P. 190.3.
2. This case is not subject to the restrictions of expedited discovery under TRCP 169 because:
 - a. The relief sought by the State includes non-monetary injunctive relief; and
 - b. The State's claims for monetary relief including penalties, consumer redress and attorneys' fees and costs are less than \$100,000.00.

JURISDICTION

3. This enforcement 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 pursuant to the authority granted by §17.47 of the Texas Deceptive Trade Practices-Consumer Protection Act (DTPA), TEX. BUS. & COM. CODE ANN. §17.41 *et seq.* upon the ground that Defendant has 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 (b) of the DTPA. In enforcement suits filed pursuant to Section 17.47 of the DTPA, the Attorney General is further authorized to seek civil penalties, redress for consumers and injunctive relief. This enforcement action is brought pursuant the Notary Public Act (NPA), TEX. GOV'T CODE ANN. § 406.001 *et seq.* and the State Bar Act (SBA), TEX. GOV'T CODE ANN. § 81.101 *et seq.*

DEFENDANTS

4. Defendant ANA ISABEL LUMBRERAS, is an individual doing business in Texas as alleged specifically below, under the assumed name of Montemayor Services, and may be served with process at 418 S. Bridge Street, Hidalgo, Texas 78557. No service is necessary at this time.

VENUE

5. Venue is proper in Hidalgo County, Texas, under DTPA § 17.47(b), because Defendants have done business in the county of suit.

PUBLIC INTEREST

6. Plaintiff, STATE OF TEXAS, has reason to believe that Defendants are engaging in, have engaged in, and may continue to engage in, the unlawful practices set forth

below, that Defendants, by means of these unlawful acts or practices, caused damage to or acquired money or property from identifiable persons, and that Defendants' conduct adversely affected the lawful conduct of trade and commerce, thereby directly or indirectly affecting the people of 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.

TRADE AND COMMERCE

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

ACTS OF AGENTS

8. Whenever it is alleged in this Petition that Defendants did any act or thing, it is meant that Defendants, jointly and severally, performed or participated in such act or thing or that such act was performed by the officers, agents, or employees of said Defendant, and in each instance performed or participated in the act on behalf of and under the authority of the Defendants.

NOTICE BEFORE SUIT

9. The Consumer Protection Division informed Defendants in general of the alleged unlawful conduct described below, at least seven days before filing suit, as may be required by §17.47(a) of the DTPA.

NATURE OF DEFENDANTS' OPERATIONS

10. Defendants own and operate a business that purports to provide immigration services to persons who purchase their services.

CONDITIONS PRECEDENT

11. All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

SPECIFIC FACTUAL ALLEGATIONS

12. Defendants are engaging in and have engaged in the business of providing immigration services. Defendants solicit and charge those persons who seek and/or purchase their services (hereafter "customers"). Defendants hold themselves out to the public as an immigration service provider and/or immigration consultants by advertising "Immigration Solutions". Defendants have solicited customers by representing that they have the skill or knowledge necessary to handle immigration cases and/or matters.
13. Defendants' customers are persons who sought to obtain immigration benefits, visas, permanent residency, and/or citizenship to the United States (hereafter referred to collectively as "immigration benefits") for themselves or their relatives. The immigration services rendered by Defendants for their customers include the following activities:
 - a. interviewing customers to determine eligibility for immigration benefits under United States immigration laws;
 - b. advising customers as to whether or not to file a petition or application under United States immigration laws to secure an immigration benefit for the customer or a relative of the customer;

- c. selecting and preparing a petition or application and other forms on behalf of customers, which would then be filed with the Bureau of Citizenship and Immigration Services in order to obtain an immigration benefit; and
 - d. gathering the documentation supporting a customer's petition and/or application for immigration benefits under United States immigration laws.
14. Defendants solicited and agreed to perform the immigration service described above in exchange for compensation from customers for the performance of the immigration services.
15. Defendants are not presently or have ever been an attorney at law duly licensed by the State of Texas to engage in acts, practices and/or conduct which constitute the practice of law nor were they employees of an attorney at law duly licensed by the State of Texas. In addition, Defendants are not presently nor have ever been a recognized organization or accredited representative by the Board of Immigration Appeals to represent individuals in immigration matters or in proceedings before the immigration courts nor were they employees of a recognized organization or accredited representative.

FALSE, MISLEADING OR DECEPTIVE ACTS

16. Defendants, as alleged above and detailed below, has in the course of trade and commerce engaged in false, misleading and deceptive acts and practices declared unlawful in §§17.46(a) and (b) of the DTPA. Such acts include:
- a. 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,

as alleged more specifically in paragraphs 11 through 14 above, in violation of § 17.46(b)(5) of the DTPA;

- b. 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 alleged more specifically in paragraphs 11 through 14 above, in violation of §17.46(b)(12) of the DTPA.

STATE BAR ACT VIOLATION

17. Defendants, as alleged above, were practicing law in the State of Texas while not being a member of the State Bar of Texas, in violation of § 81.102 of the SBA.

INJURY TO CONSUMERS

18. 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 of damages.

PRAYER

19. HEREOF, Plaintiff prays that this court will award judgment for the Plaintiff and against the Defendants as follows:
 - a. Order Defendants to pay civil penalties to the STATE OF TEXAS in the amount of \$ 10,000.00 per violation of the DTPA up to a total of \$ 20,000.00 per each violation;
 - b. Order Defendants to pay civil penalties to the STATE OF TEXAS in an additional amount of up to \$ 250,000.00 for acts or practices that were calculated to acquire or deprive money or other property from a consumer who was 65 years of age or older when the act or practice occurred;

- c. Order Defendants to restore all money or other 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 the STATE of TEXAS its attorneys' fees and costs of court pursuant to TEX. GOV'T. CODE § 402.006(c) and order Defendants to pay pre-judgment interest on all awards of restitution, damages or civil penalties, as provided by law.
20. Plaintiff further 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' 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. Operating a business or conducting business that provides immigration services or a legal document preparation service;
 - b. Advertising, offering for sale, selling, or providing an immigration service or a legal document preparation service;
 - c. Accepting money or valuable consideration for performing an immigration service or a legal document preparation service;
 - d. Accepting money or valuable consideration from any person seeking assistance to obtain a benefit under United States immigration laws for himself/herself or any other person;

- e. Advising or counseling any person whether or not to file a petition, application, or other form to obtain a benefit under United States immigration laws for himself/herself or any other person;
- f. Selecting, preparing, or completing for any other person a pleading, document, or other form incident to legal actions or United States immigration proceedings;
- g. Holding out, by any means, to the public as an “immigration specialist,” “immigration counselor,” “immigration consultant,” or “immigration service provider” and by any title or designation incorporating the word “immigration,” “inmigracion,” or an abbreviation thereof;
- h. Stating or implying that Defendants are an attorney licensed to practice law in this state unless Defendant Cabrera is a member of the State Bar of Texas;
- i. Representing, directly or by implication, that Defendants have the skill, expertise, or competence to handle immigration or legal matters;
- j. Representing, directly or by implication, that Defendants can get legal status, a work permit, or other benefit under United States immigration laws for a person who purchases her services;
- k. Practicing law in the State of Texas while not being a member of the State Bar of Texas;
- l. Advising or counseling any person as to matters of law or legal rights under state or federal laws, rules, and/or regulations, including but not limited to, matters relating to legal actions or United States immigration proceedings;
- m. Accepting or soliciting money or valuable consideration for advising or counseling any person as to matters of law or legal rights under state or federal

laws, rules, and/or regulations, including but not limited to, matters relating to legal actions or United States immigration proceedings;

- n. Stating or implying that Defendants are a recognized organization or accredited representative by the Board of Immigration Appeals;
- o. Concealing, withholding, destroying, mutilating, altering, falsifying, or removing from the jurisdiction of this Court any books, records, documents, invoices, receipts, or other written materials relating to the business of Defendants currently or hereafter in Defendants' possession, custody or control except in response to further orders or subpoenas in this cause; and
- p. Representing, directly or by implication, that this Court, the Bureau of Citizenship & Immigration Services (also known as the Immigration and Naturalization Service), or the Office of the Attorney General has approved any good or service sold or offered for sale by Defendants, or approved of any of Defendants' business practices.

21. If Defendants fails to pay restitution ordered by this Court within three months after the order to make such restitution has become final and non-appealable, Plaintiff prays that this Court appoint a receiver or sequester Defendants' assets.

22. The State further prays that this court grant all other relief to which the Plaintiff STATE OF TEXAS may show itself entitled.

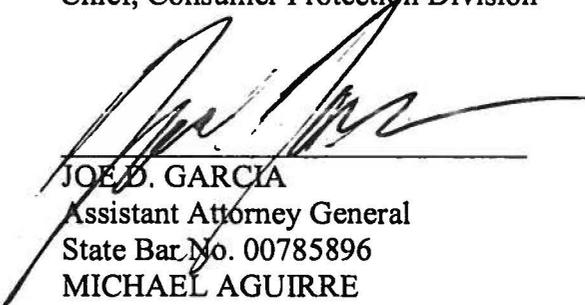
Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

DANIEL T. HODGE
First Assistant Attorney General

JOHN SCOTT
Deputy Attorney General for
Civil Litigation

TOMMY PRUD'HOMME
Chief, Consumer Protection Division



JOE D. GARCIA

Assistant Attorney General
State Bar No. 00785896

MICHAEL AGUIRRE

Assistant Attorney General
State Bar No. 24038593

Office of the Attorney General
Consumer Protection Division

3201 N. McColl, Suite B

McAllen, Texas 78501

(956) 682-4547; Fax (956) 682-1957

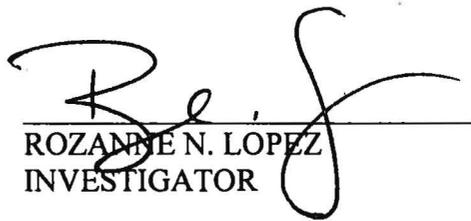
Attorney for Plaintiff

VERIFICATION

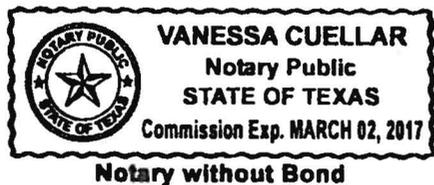
STATE OF TEXAS §

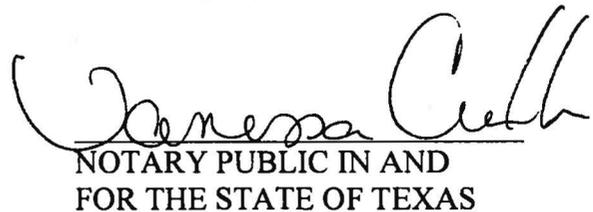
COUNTY OF HIDALGO §

BEFORE ME, the undersigned authority, on this day personally appeared affiant Rozanne N. Lopez, who proved to me through current Texas Driver License to be the person whose name is subscribed to this Verification and who acknowledged to me that she executed the same, and after she was duly sworn, upon her oath, she deposed and said that the affiant is an investigator for the Office of Attorney General, and is authorized to make this affidavit, that the affiant has carefully read the "Specific Factual Allegations" in the foregoing PLAINTIFF'S ORIGINAL PETITION, and has reason to believe that each and all said "Specific Factual Allegations" are true and correct; and affiant signs this Verification, pursuant to Rule 682 of the TEXAS RULES OF CIVIL PROCEDURE.


ROZANNE N. LOPEZ
INVESTIGATOR

SUBSCRIBED AND SWORN TO before me on the 3rd day of May, 2013.


Notary without Bond


NOTARY PUBLIC IN AND
FOR THE STATE OF TEXAS

NO. C2444-13-H

FILED/COPY

AT _____ O'CLOCK ____ M

STATE OF TEXAS,
Plaintiff

§
§
§
§
§
§
§
§

IN THE DISTRICT COURT
MAY 03 2013

v.

ANA ISABEL LUBRERAS D/B/A
MONTEMAYOR SERVICE,
Defendant

LAURA HINOJOSA, CLERK
HIDALGO COUNTY CLERK, Hidalgo County
By _____ Deputy #48

389

JUDICIAL DISTRICT

AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION

1. On this day, came before the Court Plaintiff STATE OF TEXAS and Defendant, ANA ISABEL LUMBRERAS D/B/A MONTEMAYOR SERVICE, in the above entitled and numbered cause. The STATE OF TEXAS, by and through Texas Attorney General GREG ABBOTT, and Defendant, 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 affixed below, 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 their agreement is freely and voluntarily made without duress; 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 each named party 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 and enforceable by the Court pursuant to TEX. R. CIV. P. 692; that they have waived all rights of appeal from this Judgment; and that this Judgment represents a compromise and settlement of all matters arising out of facts alleged by the STATE OF TEXAS in this cause.

3. Pursuant to their agreement, the parties submit to the jurisdiction of the Court and do not contest the entry of this Judgment. Defendant desires to resolve the Attorney General's concerns without a trial or adjudication of any issue of fact or law, and its consent to the entry of this Judgment is not an admission of liability by Defendant as to any issue of fact or law, but is because of the uncertainty and costs of litigation.
4. It is further agreed by and between the parties that this Judgment shall constitute the record of this cause and that the making of a further record in this cause is waived.

FINDINGS

5. It appears to the Court that all parties agree to the entry of this Judgment and that they have approved its entry by their duly authorized signatures and the signature of their respective attorney(s) below, the Court, upon having read the verified pleadings of Plaintiff, the stipulations of the parties and 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 the State Bar Act ("SBA"), TEX. GOV'T CODE ANN. § 81.001 *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.

PROHIBITORY INJUNCTIVE RELIEF

7. IT IS THEREFORE ORDERED that Defendant ANA ISABEL LUMBRERAS D/B/A MONTEMAYOR SERVICE, their officers, agents, servants, employees, attorneys, and any other persons acting in concert or participation with Defendant who receive 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 unless Defendant: 1) is legally permitted to do so by the Board of Immigration Appeals, 2) performs any such acts and conduct under the direction, supervision, and control of an attorney licensed to practice law and in good standing in the state of Texas, or 3) is licensed to practice and in good standing in the state of Texas:
- a. Operating a business or conducting business that provides immigration services or a legal document preparation service;
 - b. Advertising, offering for sale, selling, or providing an immigration service or a legal document preparation service;

- c. Accepting money or valuable consideration for performing an immigration service or a legal document preparation service;
- d. Accepting money or valuable consideration from any person seeking assistance to obtain a benefit under United States immigration laws for himself/herself or any other person;
- e. Advising or counseling any person whether or not to file a petition, application, or other form to obtain a benefit under United States immigration laws for himself/herself or any other person;
- f. Selecting, preparing, or completing for any other person a pleading, document, or other form incident to legal actions or United States immigration proceedings;
- g. Holding out, by any means, to the public as an “immigration specialist,” “immigration counselor,” “immigration consultant,” or “immigration service provider” and by any title or designation incorporating the word “immigration,” “inmigracion,” or an abbreviation thereof;
- h. Stating or implying that Defendant is an attorney licensed to practice law;
- i. Representing, directly or by implication, that Defendant have the skill, expertise, or competence to handle immigration or legal matters;
- j. Representing, directly or by implication, that Defendant can get legal status, a work permit, or other benefit under United States immigration laws for a person who purchases her services;
- k. Practicing law in the State of Texas while not being a member of the State Bar of Texas;

- l. Advising or counseling any person as to matters of law or legal rights under state or federal laws, rules, and/or regulations, including but not limited to, matters relating to legal actions or United States immigration proceedings;
- m. Accepting or soliciting money or valuable consideration for advising or counseling any person as to matters of law or legal rights under state or federal laws, rules, and/or regulations, including but not limited to, matters relating to legal actions or United States immigration proceedings;
- n. Stating or implying that Defendant is a recognized organization or accredited representative by the Board of Immigration Appeals; and
- o. Representing, directly or by implication, that this Court, the Bureau of Citizenship & Immigration Services (also known as the Immigration and Naturalization Service), 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' business practices.

MANDATORY INJUNCTIVE RELIEF

8. IT IS FURTHER ORDERED that Defendant post notice at their place of business where Defendant may conduct business, which notice shall be conspicuous, in bold-faced type of a minimum size of 16 points, in both English and Spanish, and shall state:

NOTICE

ANA ISABEL LUMBRERAS IS PROHIBITED FROM PREPARING ANY LEGAL DOCUMENT OR CONDUCTING BUSINESS AS AN IMMIGRATION SERVICE PROVIDER BY ORDER OF THE DISTRICT COURT OF HIDALGO COUNTY.

THE DISTRICT COURT HAS ALSO ORDERED ANA ISABEL LUMBRERAS TO RETURN ALL IMMIGRATION CLIENT FILES TO THEIR CUSTOMERS.

IF YOU HAVE ANY QUESTIONS, OR IF YOU BELIEVE YOU WERE A VICTIM, PLEASE CALL 956-682-4547.

AVISO

EL TRIBUNAL DEL DISTRITO HA ORDENADO QUE ANA ISABEL LUMBRERAS ABANDONE SU NEGOCIO DE SERVICIOS DE INMIGRACION Y DE PREPARAR DOCUMENTOS LEGALES O JURIDICOS. EL TRIBUNAL DEL DISTRITO HA ORDENADO A ANA ISABEL LUMBRERAS QUE REGRESE LOS EXPEDIENTES DE INMIGRACION DE LOS CONSUMADORES.

SI USTED TIENE ALGUNA PREGUNTA O PIENSA QUE FUE UNA VICTIMA, POR FAVOR LLAME AL 956-682-4547.

9. IT IS FURTHER ORDERED by the Court that Defendant shall return to the rightful owner, upon his/her request, any petition, application, or other form filed with the Bureau of Citizenship & Immigration Services (formerly known as Immigration and Naturalization Service) by Defendant on behalf of a person, including all documents used to support the

person's petition and/or application for immigration benefits under U.S. immigration laws, that is in Defendant' possession, custody or control.

10. IT IS FURTHER ORDERED that Defendant give actual notice, in writing, to Plaintiff, through an assistant attorney general at the McAllen Regional Office of the Consumer Protection Division, Office of the Attorney General, by facsimile transmission, by hand-delivery, or by electronic mail before any modification to the Prohibitory Injunctive Relief.

MONETARY JUDGMENT

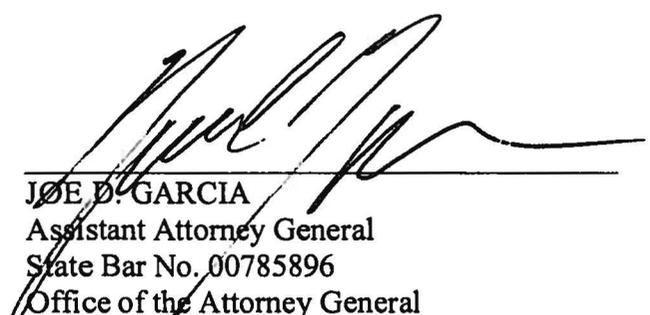
11. IT IS FURTHER ORDERED by the Court that Plaintiff STATE OF TEXAS have and recover from Defendant ANA ISABEL LUMBRERAS the amount of TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) as civil penalties for violations of the statues made the basis of this suit. IT IS FURTHER ORDERED that Plaintiff STATE OF TEXAS have and recover from Defendant ANA ISABEL LUMBRERAS the amount of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) as reasonable and necessary attorney's fees for the prosecution of this action.
12. IT IS THEREFORE THE ORDER OF THIS COURT THAT the STATE OF TEXAS have and recover from ANA ISABEL LUMBRERAS a combined judgment of FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00).
13. DEFENDANT ANA ISABEL LUMBRERAS is to pay said judgment by paying SEVEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$7,500.00) on the date this agreed judgment is executed and SEVEN HUNDRED DOLLARS (\$700.00) on the first day of the month following the execution of this Agreed Order and like payments on the 1st of each month thereafter until the balance is paid in full.

14. IT IS FURTHER ORDERED that any payment received by the State of Texas seven (7) or more days after its due date, serves – without further action or notice – to accelerate the remaining payments, plus: 1) impose an additional \$5,000.00 as a civil penalty, and 2) post judgment interest on the remaining balance at the rate of 5% per annum, making the total of all outstanding or remaining sums due and payable immediately to that particular Defendant.
15. IT IS FURTHER ORDERED by the Court that the payment of the above sum shall be made in the form of a certified check and made payable to the Office of the Attorney General of Texas. The certified check shall bear the identifying number “AG No. 123376618” and shall be delivered to the Office of the Attorney General, Consumer Protection Division, 3201 N. McColl Road, Suite B, McAllen, Texas 78501.
16. IT IS FURTHER ORDERED that Defendant is liable for all costs of court expended or incurred in this cause.
17. IT IS FURTHER ORDERED that Plaintiff shall have all writs of execution and other process necessary to enforce this Judgment.
18. This Judgment is final, disposes of all claims and all parties. The Court retains the jurisdiction to enforce this Judgment.
19. All relief not expressly granted herein is denied.

SIGNED on _____, 2013.

JUDGE PRESIDING

AGREED AS TO FORM AND SUBSTANCE AND ENTRY REQUESTED:



JOE D. GARCIA

Assistant Attorney General

State Bar No. 00785896

Office of the Attorney General

Consumer Protection Division

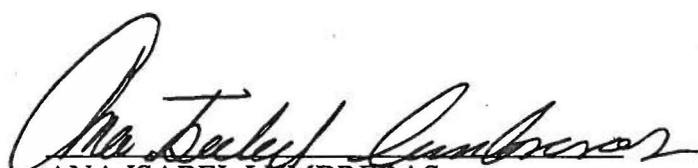
3201 N. McColl, Suite B

McAllen, Texas 78501

(956) 682-4547

Fax: (956) 682-1957

Attorney for Plaintiff



ANA ISABEL LUMBRERAS

Defendant *Pro Se*