

NO. 2016-70877

THE STATE OF TEXAS,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	OF HARRIS COUNTY, TEXAS
	§	
HAPPIE HIPPIE PARTNERSHIP;	§	
ESAM M. ALI-HASAN	§	
d/b/a HAPPIE HIPPIE SMOKE SHOP;	§	
HAPPIE HIPPIE, INC.; and	§	
JAMES AYLING,	§	
	§	
<i>Defendants.</i>	§	113th JUDICIAL DISTRICT

**FINAL DEFAULT JUDGMENT**

1. State of Texas moved for default judgment after **Defendants James Ayling, Esam Ali-Hasan, and Happie Hippiie, Inc.** failed to file an answer in this case. A hearing on Plaintiff's previous motion for default judgment was held on January 5, 2018, and the Court granted said motion.

2. Plaintiff, State of Texas, appeared through its attorneys. Defendants, having been duly served with citation and a copy of Plaintiff's original petition, have not appeared and have not answered in this case.

3. The Court determined it had jurisdiction over the subject matter and Defendants James Ayling, Esam Ali-Hasan, and Happie Hippiie, Inc. in this proceeding, and the requisite citation and proof of service (or proof of substitute service, as applicable) were on file for at least ten days before the original default motion was filed. After considering the pleadings, the papers on file in this case, and the evidence Plaintiff presented on liability, penalties, and attorney's fees, the Court granted Plaintiff's motion for default judgment.

4. Plaintiff sued the following defendants in this case in their individual or entity capacity, as applicable, as well as in their capacity as partners in the Happie Hippie Partnership, a general partnership at law: Defendants James Ayling, Esam Ali-Hasan, and Happie Hippie, Inc. (“Defendants” or “Partners”).

5. The Court made the following findings of fact:

- a. At all times relevant to the violations of the Texas Deceptive Trade Practices–Consumer Protection Act, Tex. Bus. & Com. Code §§ 17.41–17.63 (“DTPA”), which occurred in this case, Defendants James Ayling, Happie Hippie, Inc., and Esam Ali-Hasan jointly carried on a business for profit at (1) the retail location at 8908 North Freeway, Houston, Texas, 77037; and (2) Apartment Number 524 located at 211 Dominion Park, Houston, Texas 77090. Accordingly, these Defendants were partners in a general partnership.
- b. Because of their status as partners in a general partnership, Defendants James Ayling, Happie Hippie, Inc., and Esam Ali-Hasan are liable, jointly and severally, for (1) all penalties assessed by this Court as a result of the DTPA violations that are the subject of this lawsuit and (2) all other amounts awarded by the Court in this case.
- c. The DTPA was violated 108 times in this case, and all violations were committed by individuals working on behalf of said general partnership.
- d. The appropriate amount of penalty to be imposed for each of those DTPA violations is \$20,000 per violation.
- e. Defendants James Ayling, Happie Hippie, Inc., and Esam Ali-Hasan maintained a common nuisance, Tex. Civ. Prac. & Rem. Code § 125.0015(a).

6. The Court hereby RENDERS final judgment for the State of Texas against the Defendants, jointly and severally. Accordingly, the Court ORDERS that Plaintiff recover all of the following amounts from the Defendants, jointly and severally:

a. DTPA 17.46(a) penalties for false, misleading, or deceptive acts or practices:

\$2,160,000;

b. Texas Government Code § 402.006(c) statutory attorney's fees:

\$17,224.00; and

c. All court costs.

7. Pursuant to Texas Business and Commerce Code § 17.47 and Texas Civil Practice and Remedies Code § 125.002, the Court ORDERS a Permanent Injunction be issued, restraining and enjoining Defendants, as well as their officers, agents, servants, employees, attorneys—and any other person in active concert or participation with any or all defendants named in this case—from engaging in the following acts or practices without further order of the Court:

a. Defendants, as well as their officers, agents, servants, employees, attorneys—and any other person in active concert or participation with any or all defendants named in this case—from engaging in the following acts or practices without further order of the Court:

b. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written materials—including electronic documents—relating to the purchase and sale of synthetic cannabinoids, including Kush, that are currently or hereafter in any of the Defendants' possession, custody or control except in response to a court order;

c. Selling or offering for sale controlled substances on Defendants' premises, including but not limited to synthetic substances containing AB-CHMINACA and NM2201;

d. Manufacturing, purchasing, delivering, offering for sale, holding, selling, or giving away any products containing controlled substances or synthetic cannabinoids, including but not limited to synthetic substances containing AB-CHMINACA and NM2201;

- e. Manufacturing, purchasing, delivering, offering for sale, holding, selling, or giving away any product that is labeled “not for human consumption” or words to that effect when the purpose of the product is for consumers to inhale, ingest, or introduce the product into the human body to mimic the effects of controlled substances;
- f. Manufacturing, purchasing, delivering, offering for sale, holding, selling, or giving away any product that is intended for human consumption and contains deceptive labeling that falsely implies the product is legal when it is not;
- g. Representing, directly or indirectly, that goods have characteristics, ingredients, uses, or benefits, which they do not have by advertising, offering to sell, or selling any products labeled household products, such as potpourri, incense, or bath salts, when the products contain synthetic substances that mimic the effects of drugs and/or controlled substances;
- h. Offering for sale or selling products intended to serve as alternatives to controlled substances to stimulate, sedate, or cause hallucinations or euphoria when introduced into the body, such as through inhalation or ingestion;
- i. Offering for sale or selling products that are false, misleading, or deceptive because the labeling lacks the name and address of the manufacturer, packer or distributor, the ingredients, the net quantity of contents in terms of weight or mass in both pound and metric units; and a statement of the identity of the commodity;
- j. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods by advertising, offering to sell, or selling any products with synthetic substances that mimic the effects of controlled substances;
- k. Failing to disclose information regarding possible side-effects, such as paranoia, hallucinations, pains like a heart attack or rapid heartbeat, seizures, panic, passing out, and suicidal thoughts, from using products with synthetic substances that mimic the effects of drugs and/or controlled substances, which information was known at the time of the transaction, if such failure to disclose was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed;
- l. Failing to cooperate with authorized representatives of the State and Harris County, including law enforcement representatives, in locating and impounding all synthetic marijuana products in Defendants’ custody, care and control or located on Defendants’ premises and preserving all documents related to purchase and sale of synthetic marijuana products in Defendants’ custody, care or control; and
- m. Failing to preserve video surveillance of any store which Defendants individually or jointly operate and to maintain and operate video surveillance

of said premises and provide copies of the video surveillance to Plaintiff's counsel upon request.

8. This judgment finally disposes of all parties and all claims, and is appealable.
9. The Court orders execution to issue for this judgment.

Entered this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

Signed:  
4/14/2018



---

PRESIDING JUDGE

Entry Requested By:

/s/ Daniel T. Zwart

DANIEL T. ZWART

SBN 24070906

STEPHANIE EBERHARDT

SBN 24084728

RICK BERLIN

SBN 24055161

Assistant Attorneys General  
Consumer Protection Division  
Houston Regional Office  
808 Travis, Suite 1520  
Houston, Texas 77002  
Telephone (713) 223-5886  
Facsimile (713) 223-5821  
Daniel.Zwart@oag.texas.gov

VINCE RYAN - 99999939  
HARRIS COUNTY ATTORNEY

/s/ Rosemarie Donnelly

Rosemarie Donnelly

Assistant County Attorney

Texas Bar No. 05983020

Rosemarie.Donnelly@cao.hctx.net

1019 Congress, 15th Floor

Houston, Texas 77002

Tel: (713) 755-5101

Fax: (713) 755-8924

**ATTORNEYS FOR PLAINTIFF,  
STATE OF TEXAS**



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this April 19, 2018

Certified Document Number: 79534120 Total Pages: 5

Chris Daniel, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**