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TINJX

NO. 2015-33890

THE STATE OF TEXAS,

Plaintiff

v.

KATZ BOUTIQUE 1, INC.,
et al

Defendants

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IN THE DISTRICT COURT

OF HARRIS COUNTY, TEXAS

157th DISTRICT COURT

FILED
Chris Daniel
District Clerk
Time: SEP - 2 2015
By: [Signature] Harris County, Texas
Deputy

TEMPORARY INJUNCTION

On August 18, 2015 and August 19, 2015, the Court heard the application for temporary injunction requested by Plaintiff, State of Texas ("Plaintiff"), acting by and through Attorney General of Texas, Ken Paxton and the County Attorney of Harris County, Texas, Vince Ryan, as filed in the State's Original Petition and First Amended Petition pursuant to Chapter 125 of the Texas Civil Practice & Remedies Code (nuisance statute) and the Texas Deceptive Trade Practices Act, Tex. Bus. & Com. Code §§17.41 *et seq.* Counsel for Plaintiff and Defendants appeared at the hearing.

I.

FINDINGS IN SUPPORT OF TEMPORARY INJUNCTION

This Court has jurisdiction over the subject matter of this case and jurisdiction over the parties, and venue in this district is proper.

Defendants Katz Boutiques 1-9 own, maintain, operate, and use multiple retail store locations (known as Katz Boutique & Smoke Shops) throughout Harris County, Texas, where persons habitually go to purchase and possess controlled substances in violation of Chapter 481 of

RECORDER'S MEMORANDUM
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the Texas Health & Safety Code; ii) Defendants have sold products containing controlled substances to the public at these retail locations in violation of Tex. Civ. Prac. & Rem. Code §125.002(b); §125.0015(a)(4).

There is good cause to believe Defendants have engaged in acts and practices that violate §§ 17.46(a) and (b) of the Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA"), Tex. Bus. & Com. Code § 17.41 *et seq.* The Court further FINDS that this action is in the public interest and a temporary injunction should be issued to restrain and prevent the acts and practices of Defendants that may be violating the DTPA. Tex. Bus. & Com. Code § 17.47(b).

The evidence warrants a temporary injunction as set forth herein.

This temporary injunction may be issued without requiring the State to post a bond. Tex. Bus. & Com. Code § 17.47(b).

II. DEFINITIONS

For purposes of this Temporary Injunction, the following definitions shall apply:

1. "Defendants" shall mean KATZ BOUTIQUE 1, INC., KATZ BOUTIQUE 2, INC., KATZ BOUTIQUE 3, INC., KATZ BOUTIQUE 4, INC., KATZ BOUTIQUE 5, INC., KATZ BOUTIQUE 6, INC., KATZ BOUTIQUE 7, INC., KATZ BOUTIQUE 8, INC., KATZ BOUTIQUE 9, INC., and KATZ MGM GROUP, INC..
2. "Controlled Substance" means a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Groups 1, 1-A, or 2 through 4 in Chapter 481 of the Texas Health & Safety Code (Texas Controlled Substances Act). The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance, as defined in Tex. Health & Safety Code §481.002(5).

3. "Controlled Substance Analogue" means (A) a substance with a chemical structure substantially similar to the chemical structure of a Controlled Substance in Schedule I or II or Penalty Group 1, 1-A, or 2; or (B) a substance specifically designed to produce an effect substantially similar to, or greater than, the effect of a Controlled Substance in Schedule I or II or Penalty Group 1, 1-A, or 2, as defined in Tex. Health & Safety Code §481.002(6).

4. "Sell" and "sale" include offer for sale, advertise for sale, expose for sale, keep for the purpose of sale, deliver for or after sale, solicit and offer to buy, and every disposition for value.

5. "Subject Products" mean any of the following products containing any of the following in the labeling: Kush; Kush Strawberry, Kush Blueberry; Kush Mango; Kush Pineapple; Kush Grape; Klimax; Klimax Blue; Klimax Red; NBT; NBT Herbal Smokes; NBT Blueberry; NBT Grape; NBT Strawberry; Indo Bomb; Euphoric Bomb; Da Pimp Bomb; Mr. Head Intensity; Xscape; Bali Gold; Dr. Bizzaro; Bulletproof Tiger; Galactic; Galactic Head Trip; Tsunami Black; Pep Maeng Da; Bulletproof; Maeng Daddy; Super K; Super K; 100 Buzz; Mr. Head Intensity.

6. "Aromatic Ingestible Product" means a product, other than tobacco cigarettes, that is intended to be inhaled into the human body.

II. PRESERVATION AND PRODUCTION OF EVIDENCE

IT IS ORDERED that the Defendants and their officers, agents, servants, employees, and any other person or entity in active concert or participation with them—whether acting directly or through any corporation, company, partnership, trust, entity, subsidiary, division, or other device—who receive actual notice of this Temporary Injunction order by personal service or

otherwise, are hereby prohibited from the following activities during the pendency of this case until final trial:

- a) Transferring, concealing, destroying, altering or removing from the jurisdiction of this Court any books, records, documents, invoices or other written materials—including electronic documents—relating to the wholesale or retail purchase or sale of any products containing Controlled Substances or Controlled Substance Analogues, including but not limited to the Subject Products, as defined herein, that are currently or hereafter in the possession, custody or control of any Defendant, except in response to further orders or subpoenas in this cause.
- b) Deleting, concealing, destroying, altering or removing from the jurisdiction of this Court any video recordings and surveillance depicting the interior and/or exterior of the Defendants' nine business locations.

IT IS ORDERED that the Defendants and their officers, agents, servants, employees, and any other person or entity in active concert or participation with them—whether acting directly or through any corporation, company, partnership, trust, entity, subsidiary, division, or other device—who receive actual notice of this Temporary Injunction order by personal service or otherwise, shall not fail to operate and maintain surveillance cameras monitoring each of the nine Katz locations. The cameras shall capture the interior of each business, including but not limited to the area where the cashier is located, and be capable of recording. The recordings shall be maintained and operated any time the businesses are open to the public and shall display the date and time of the recording. The Defendants shall not fail to provide Plaintiff's counsel access to the recordings within 24 hours of request to review and copy the recording.

III. PROHIBITED BUSINESS CONDUCT

IT IS ORDERED that the Defendants and their officers, agents, servants, employees, and any other person or entity in active concert or participation with them—whether acting directly or through any corporation, company, partnership, trust, entity, subsidiary, division, or other device—who receive actual notice of this Temporary Injunction by personal service or otherwise, are hereby enjoined from engaging in the following conduct until further order of this Court:

(a) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any Controlled Substance or Controlled Substance Analogue or Aromatic Ingestible Product containing a Controlled Substance or Controlled Substance Analogue, including but not limited to any Subject Products;

(b) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any products labeled as potpourri, incense, bath salts, or herbal cigarettes, that contain a Controlled Substance or a Controlled Substance Analogue;

(c) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any products labeled as “lab certified” unless Defendants know with certainty that the product is certified by an actual, bona-fide laboratory, the operations and practices of which are certified by a generally-recognized third-party accreditation organization;

(d) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any Aromatic Ingestible Products that do not contain the name and location of the manufacturer or distributor on the package labeling, unless such information is otherwise on display on the same retail store premises;

(e) Failing to provide a copy of this Temporary Injunction to all employees and agents of Defendants and obtain a signed receipt that the employees and agents have read and understand its terms.

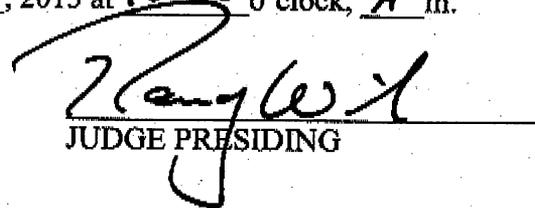
VI.

Upon a finding of a violation of this Temporary Injunction, the Court may in its discretion enter one or more orders as allowed under Chapter 125 of the Texas Civil Practice & Remedies Code.

Final trial in this cause is hereby set for the 4 day of April, 2014, at 8:30 o'clock A. M.

The effective date of this Agreed Temporary Injunction is the date signed by the Court.

SIGNED this 2^d day of Sept, 2015 at 10:30 o'clock, A m.


JUDGE PRESIDING

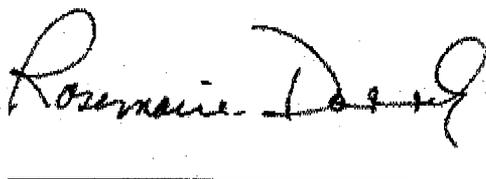
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