P. 8
TROR +
CASO
WVBNX

NO. 2015-33890

THE STATE OF TEXAS,	§	**IN THE DISTRICT COURT**
	§	
Plaintiff	§	
	§	
v.	§	**OF HARRIS COUNTY, TEXAS**
	§	
KATZ BOUTIQUE 1, INC.	§	
KATZ BOUTIQUE 4, INC.	§	
KATZ BOUTIQUE 8, INC.	§	157th **JUDICIAL DISTRICT**
KATZ BOUTIQUE 9, INC.	§	
	§	
BAO QUOC NGUYEN	§	
	§	
	§	
Defendants	§	

FILED
Chris Daniel
District Clerk
JUN 12 2015
Time: ____ Harris County, Texas
By ____ Deputy

TEMPORARY RESTRAINING ORDER

Plaintiff, State of Texas, has filed its original petition in this cause seeking a Temporary and Permanent Injunction and in the same petition has presented its Application for a Temporary Restraining Order. Based on the findings below, the Application for Temporary Restraining Order is **GRANTED**.

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

With respect to the Plaintiff's claims under the Texas Deceptive Trade Practices-Consumer Protection Act, Tex. Bus. & Com. Code §§17.41 *et seq.*, ("DTPA"), this Court **FINDS** that there is good cause to believe Defendants have engaged in and are likely to engage

in acts and practices that violate §§ 17.46(a) and (b) of the Tex. Bus. & Com. Code §§ 17.41-17.63. The Court **FINDS** that this action is in the public interest and a Temporary Restraining Order should be issued to restrain and prevent the continuing acts and practices of Defendants that may be violating the DTPA. DTPA § 17.47(b). The Court **FINDS** from the evidence set forth in Plaintiff's Original Petition, the affidavits, and attached exhibits, that unless Defendants are immediately restrained from the acts prohibited below, Defendants will continue to commit such acts before notice can be given and a hearing can be held on Plaintiff's request for a temporary injunction. The State will suffer the following immediate and irreparable injury, loss or damage: interference with the public health, safety, peace, comfort and convenience of its citizens caused by the Defendants' sale of dangerous synthetic drugs from retail establishments. This injury is irreparable because the sale of Kush and other dangerous synthetic drugs is harmful to the public and is unlawful. Issuance of a temporary restraining order is in the public interest. The Court **FINDS** that there is good cause to believe irreparable loss or injury would occur unless Defendants are immediately enjoined. DTPA § 17.47(a). The Court **FINDS** this Temporary Restraining Order may be issued without bond posted by the State. DTPA § 17.47(b).

With respect to the Plaintiff's claims to abate a common nuisance under Chapter 125 of the Texas Civil Practice and Remedies Code, the Court **FINDS** Plaintiff is likely to succeed on the merits under Section 125.002 and that a temporary restraining order is necessary to prevent the Defendants from maintaining a common nuisance. The Court further FINDS that the State is not required to post a bond in support of injunctive relief, and the State is not required to verify the allegations in support of its petition to abate the nuisance. Tex. Civ. Prac. & Rem. Code §125.002(a); Tex. Civ. Prac. & Rem. Code §6.002.

I. DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. "Defendants" shall mean KATZ BOUTIQUE 1, Inc., KATZ BOUTIQUE 4, Inc., KATZ BOUTIQUE 8, Inc., KATZ BOUTIQUE 9, Inc.; BAO QUOC NGUYEN.

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. 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. "Abusable synthetic substance" means a substance that: (A) is not otherwise regulated under this title or under federal law; (B) is intended to mimic a controlled substance or controlled substance analogue; and (C) when inhaled, ingested, or otherwise introduced into a person's body:

(i) produces an effect on the central nervous system similar to the effect produced by a controlled substance or controlled substance analogue;

(ii) creates a condition of intoxication, hallucination, or elation similar to a condition produced by a controlled substance or controlled substance analogue; or

(iii) changes, distorts, or disturbs the person's eyesight, thinking process, balance, or coordination in a manner similar to a controlled substance or controlled substance analogue.

5. "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.

II. PRESERVATION 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 Order by personal service or otherwise, are hereby prohibited from the following:

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 illegal substances, including but not limited to the product labeled "Kush," and any abusable synthetic substances, 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.

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 order 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 products containing a controlled substance or controlled substance analogue, including but not limited to any products labeled "Kush" or NBT Herbal Smokes;

(b) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any abusable synthetic substance as defined herein, including but not limited to any products labeled "Kush" or NBT Herbal Smokes;

(c) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any products labeled as household products, including but not limited to potpourri, incense, bath salts, or herbal cigarettes, when the products contain a controlled substance, a controlled substance analogue, or abusable synthetic substances as defined herein;

(e) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any products labeled as "not for human consumption" when the product is intended to be used by consumers to inhale, ingest, or introduce into the human body;

(f) Selling, offering for sale, distributing, offering to distribute, holding, storing, possessing, purchasing or offering to purchase any products labeled as "legal" unless Defendants know the product is legal;

(g) 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 that the product is certified by a laboratory;

(h) 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.

IV.

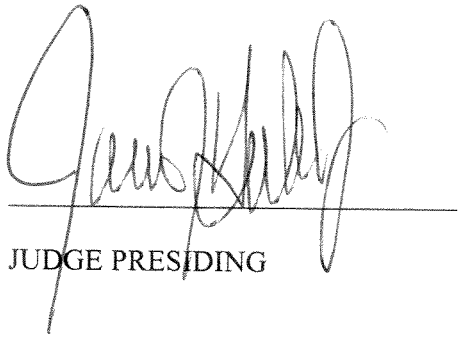
IT IS ORDERED that Defendants in this cause be and hereby are commanded forthwith to comply with this Order from the date of entry until and to the fourteenth (14th) day after entry or until further order of this Court.

The Clerk of the above-entitled Court shall forthwith issue a Temporary Restraining Order in conformity with the law and the terms of this Order.

This Order shall be effective without the execution and filing of a bond because Plaintiff, the State of Texas, is exempt from such bond under Tex. Civ. Prac. & Rem. Code § 6.001 and DTPA § 17.47(b).

A temporary injunction hearing in this cause is hereby set for the 19TH day of June, 2015, at 11 o'clock A. M.

SIGNED this 12th day of June, 2015 at 2:15 o'clock, p m.



JUDGE PRESIDING

Joseph James Halbach, Jr.
Judge, 333rd District Court

ENTRY REQUESTED BY:

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First Assistant Attorney General

JAMES E. DAVIS
Deputy Attorney General for
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TOMMY PRUD'HOMME
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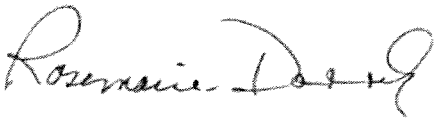

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