

NO. _____

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff	§	
	§	
v.	§	
	§	
BOBBIE HECKARD and	§	
CHRISTOPHER HENDERSON.	§	
Defendants.	§	____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL VERIFIED PETITION AND APPLICATION FOR
EX PARTE TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION,
AND PERMANENT INJUNCTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, the STATE OF TEXAS, Plaintiff, acting by and through Attorney General of Texas GREG ABBOTT (referred to herein as the “Attorney General”), on behalf of the State of Texas, and on behalf of the interest of the general public of the State of Texas, and complains of BOBBIE HECKARD and CHRISTOPHER HENDERSON. The Attorney General would respectfully show the Court as follows:

DISCOVERY CONTROL PLAN

1. Discovery shall be conducted under a LEVEL 2 discovery control plan pursuant to Rule 190.3 of the Texas Rules of Civil Procedure.

JURISDICTION

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 under the authority granted to him pursuant to Section 17.47 of the Texas Deceptive Trade Practices–Consumer Protection Act, TEX. BUS. & COM. CODE ANN. §§ 17.41 *et seq.* (hereinafter, “DTPA”), upon the grounds that Defendants

have engaged in false, misleading, and deceptive acts and practices in the conduct of trade or commerce as defined and declared unlawful by Section 17.46(a) and (b) of the DTPA. Additionally, Defendants have violated the Texas Uniform Fraudulent Transfer Act, TEX. BUS. & COM. CODE ANN. §§ 24.01 *et seq.* (hereinafter, “TUFTA”).

DEFENDANTS

3. Defendant Bobbie Heckard is an individual residing in Houston, Texas who may be served with process at 3439 Quail Meadow Drive, Missouri City, Texas 77459, Fort Bend County, Texas.
4. Defendant Christopher Henderson is an individual residing in Houston, Texas who may be served with process at 10250 Lands End Drive #1003, Houston, Texas 77009, Harris County, Texas.

VENUE

5. Venue of this suit lies in Harris County, Texas for the following reasons:
 - A. Under TEX. CIV. PRAC. & REM. CODE ANN. § 15.002(a)(1), venue is proper because all or a substantial part of the events or omissions giving rise to the claims alleged herein occurred in Harris County; and
 - B. Under TEX. CIV. PRAC. & REM. CODE ANN. § 15.002(a)(2), venue is also proper in Harris County because Defendant Christopher Henderson was a resident of Harris County, at the time the cause of action accrued; and
 - C. Under the DTPA §17.47(b), venue is proper because Defendant Christopher Henderson resides in Harris County; and
 - D. Under the DTPA §17.47(b), venue is proper because many of the allegations complained of herein occurred in Harris County.

PUBLIC INTEREST

6. Because Plaintiff State of Texas has reason to believe that the Defendants have engaged in, and will continue to engage in the unlawful practices set forth below, Plaintiff State of Texas has reason to believe Defendants have caused and will cause immediate, irreparable injury, loss, and damage to the State of Texas, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State. Therefore, the Consumer Protection and Public Health Division 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 conduct constituting “trade” and “commerce,” as those terms are defined in §17.45(6) of the DTPA.

ACTS OF AGENTS

8. Whenever in this petition it is alleged that Defendants did any act or thing, it is meant that:
- A. Defendants performed or participated in the act, or
 - B. Defendants’ officers, trustees, employees, agents, representatives, or successors, performed or participated in the act on behalf of and under the authority of the Defendants.

NOTICE BEFORE SUIT NOT GIVEN

9. Pursuant to § 17.47(a) of the DTPA, contact has not been made with the Defendants herein to inform them of the unlawful conduct alleged herein, for the reason that Plaintiff is of the opinion that there is good cause to believe that such an emergency exists that immediate and irreparable injury, loss, or damage would occur as a result of such delay in obtaining a temporary restraining order, and that Defendants would evade service of process, destroy relevant records and secrete assets if prior

notice of this suit were given.

SPECIFIC FACTUAL ALLEGATIONS

10. Defendant HECKARD claims to provide mortgage foreclosure relief services in the Houston, Texas area. Defendant HECKARD has been purporting to provide these services in Harris County, Texas for the purpose of making a living. (Exhibit “5 [p. 5, lines 1-4, p. 7, lines 13-24, and p. 10, lines 13-25]”). Defendant HECKARD learns about consumers facing property foreclosure by obtaining monthly listings of homes facing potential foreclosure. (Exhibit “5 [p. 5, lines 1-4, p. 7, lines 13-24, and p. 10, lines 13-25]”). These foreclosure lists contain 3,000-4,000 names on them each month. (Exhibit “5 [p. 10, lines 12-15]”).

11. Defendant HECKARD falsely represents to consumers that she provides assistance to individuals facing property foreclosure by working with their mortgage company to save their homes. (Exhibit “2 [p.1, para. 8-10]”). Defendant HECKARD convinces consumers to sign forms that they believe authorize her to contact their mortgage company on their behalf. (Exhibit “2 [p. 1, para. 9]”). In reality, these forms are deeds which transfer ownership in the home from the consumer homeowner to HECKARD. (Exhibit “2 [pp. 16-17]”). Defendant HECKARD targets elderly persons and others who are facing foreclosure on their homes. (Exhibits “2 [p.1, para 2-7], 3 [p. 1, para. 7] & 5 [p. 9, lines 18-21]”). Once HECKARD obtains title to a home, she then sells the property and absconds with all of the equity in the home. (Exhibit “1[p. 3, para. 11-13], 9 & 10]”). She then attempts to evict the homeowner consumer from their home. (Exhibit “2 [pp. 2., para 18; 20-21]”).

12. In Texas, real estate brokers and real estate salespersons must be licensed by the Texas Real Estate Commission in order to conduct property sales. Defendant HECKARD is not a licensed real

estate salesperson, and is not a licensed real estate broker. (Exhibit “5 [p. 4, lines 15-22]”). Defendant HECKARD is not qualified to conduct real estate transactions because she has no State sanctioned training and has no pre-existing relationship or connection with persons she seeks to conduct transactions with. (Exhibit “5 [p. 4, lines 15-22]”).

13. Defendant HECKARD offers to provide real estate advice and services to consumers, for a fee. (Exhibit “5 [p. 11, line 6 through p. 12, line 12]”). Consumers are not aware that the effect of the forms they sign is to deed ownership of their property to the Defendant. (Exhibits “2 [p. 1, para. 8-10] & 3 [p. 2, para. 8, 11]”). Consumer Jackie Grounds only learned that he no longer owned his home after he went to a mortgage loan officer seeking a reverse mortgage loan and the loan officer discovered that Defendant Heckard was listed as the owner. (Exhibits “2 [p. 2, para. 12] & “3 [pp. 1-2, para. 3, 9]”). The loan officer was prepared to offer a reverse mortgage loan to Mr. Grounds, but believed that the documents Mr. Grounds had signed for Defendant HECKARD looked suspicious. (Exhibit “3 [p. 1, para. 7]”). The loan officer came to the conclusion that Defendant HECKARD took advantage of Mr. Grounds, so he contacted an attorney to assist Mr. Grounds. (Exhibit “3 [p. 2, para. 11-12]”).

UNIFORM FRAUDULENT TRANSFER FACTS

14. Defendant HECKARD fraudulently transferred the property located at 3119 Ebbtide Drive, Houston, Texas 77045 to Defendant HENDERSON. Defendant HECKARD transferred the property described above with the actual intent to hinder, delay, or defraud Plaintiff in that Defendant HECKARD transferred the property in order to prevent Plaintiff from returning the property to its true owner, Mr. Jackie Grounds. The transfer to Defendant HENDERSON constitutes a transfer to an “insider.” Defendant HECKARD has known Defendant HENDERSON for six years and he is

the father of Defendant HECKARD'S step granddaughter. (Exhibit "5 [p. 20, line 7 through p. 21, line 1]"). Additionally, Defendant HENDERSON had notice of Plaintiff's claim and Jackie Grounds's claim against Defendant HECKARD regarding the 3119 Ebbtide property prior to the fraudulent transfer. (Exhibit "5 [p. 22 line 5 through p. 26 line 10]"). Before the transfer, Defendant HECKARD was contacted by Plaintiff and was made aware of the adverse claim to the property by both Plaintiff and Jackie Grounds. *Id.* Furthermore, on July 12, 2005, Defendant HECKARD stated under oath, in a sworn statement to the Office of the Attorney General, that she informed Defendant HENDERSON of the State's allegations of her fraud with respect to the Ebbtide property.

Excerpts from Sworn Statement of Bobbie Heckard dated July 12, 2005

Q: So you told Chris that we [Office of Attorney General] had issues with this transaction?

A: Yes.

Q: Did you tell him [Henderson] that he [Grounds] had kind of turned on you from your perspective and changed his [Grounds] mind and made some claims that you didn't agree with?

A: Yes. Because actually what really I guess aggravated me was Mr. Grounds said that I forged his signature. And that was the one that just took the icing off the cake for me.

Q: You told Chris that?

A: Yeah.

Q: And after you told Chris that Mr. Grounds claims you forged his signature, he [Henderson] still went through with the deal?

A: Yeah, because Mr. Henderson knows me. You-all don't. You-all are doing your public relation job. Mr. Henderson knows me. He knows my character. He knows who I am.

Q: I mean, he [Henderson] understood that Mr. Grounds was upset and still claiming an interest in this house, because you told him [Henderson] that?

A: Yes.

(Exhibit "5 [p. 23, lines 5-7, 17-25; p. 24, lines 9-15; p. 26, lines 7-10]")

VIOLATIONS OF THE DTPA

15. Plaintiff incorporates and adopts by reference the allegations contained in each and every

preceding paragraph of this petition.

16. Defendants in the course and conduct of trade and commerce, have directly and indirectly engaged in false, misleading, and deceptive acts and practices declared to be unlawful by the DTPA § 17.46(a) and (b), by engaging in the following conduct:

- A. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services, in violation of the DTPA § 17.46(b)(2);
- C. Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another, in violation of the DTPA § 17.46(b)(3);
- D. 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 she does not, in violation of the DTPA §17.46(b)(5);
- E. Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another, in violation of the DTPA § 17.46(b)(7);
- F. Representing that an agreement involves rights, remedies, or obligations which it does not have or that are prohibited by law, in violation of the DTPA § 17.46(b)(12); and
- G. Failing to disclose information concerning goods or services which was known at the time of the transaction 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 the DTPA § 17.46(b)(24).

VIOLATIONS OF THE UNIFORM FRAUDULENT TRANSFER ACT

17. Defendant HECKARD violated the Uniform Fraudulent Transfer Act by transferring the property located at 3119 Ebbtide Drive, Houston, Texas 77045, to Defendant HENDERSON. Defendant HECKARD'S transfer is fraudulent as to Plaintiff because Defendant HECKARD made the transfer with actual intent to hinder, delay, and defraud the Plaintiff in violation of TEX. BUS. & COM. CODE ANN. § 24.005(a)(1).

18. Defendant HENDERSON violated the Uniform Fraudulent Transfer Act by receiving the property located at 3119 Ebbtide Drive, Houston, Texas 77045. Defendant HENDERSON'S actions are fraudulent as to the Plaintiff creditor of Defendant HECKARD because Defendant HENDERSON took the property in bad faith with knowledge of Defendant HECKARD'S fraudulent conduct and intent. Defendant HENDERSON is liable under TEX. BUS. & COM. CODE ANN.

§ 24.009(b). Plaintiff seeks to avoid the transfer to the extent necessary to satisfy Plaintiff's claims against Defendant HECKARD. Plaintiff also seeks immediate injunctive relief to prohibit Defendants from transferring of or disposing of any of their real or personal property, including the 3119 Ebbtide Drive property, to any subsequent transferee pursuant to TEX. BUS. & COM. CODE ANN. § 24.008(a)(1)-(3).

INJURY TO CONSUMERS

19. By means of the foregoing unlawful acts and practices, Defendants have acquired money or other property from identifiable persons to whom such money or property should be restored.

DISGORGEMENT

20. All of the Defendants' assets are subject to the equitable remedy of disgorgement, which is the forced relinquishment of all benefits that would be unjust for Defendants to retain, including all ill-

gotten gains and benefits or profits that result from Defendants putting fraudulently converted property to a profitable use. Defendants should be ordered to disgorge all monies fraudulently taken from individuals and businesses together with all of the proceeds, profits, income, interest and accessions thereto. Such disgorgement should be for the benefit of victimized consumers and the State of Texas.

REPATRIATION OF ASSETS

21. After due notice and a hearing, the court should order that all of the Defendants' assets situated outside the jurisdiction of this Court be deposited or repatriated into an appropriate financial institution within the jurisdiction of this Court.

REQUEST FOR FINDINGS OF ACTUAL FRAUD AND FALSE REPRESENTATION

22. The Court should make findings at the conclusion of this case that Defendant HECKARD engaged in actual fraud and false representations. Defendant HECKARD has made materially false representations to the public concerning her mortgage foreclosure services and her stated goal of assisting consumers in getting out of foreclosure proceedings, which she knew to be false when made. Defendant HECKARD made these false representations with the intent that they be acted upon by the party to whom the misrepresentations were made. Reliance upon these false representations has resulted in injury to a consumer in the State of Texas, and violates laws enacted by the State of Texas to protect citizens from deceptive trade practices.

REQUEST FOR FINDINGS OF ACTUAL INTENT TO HINDER, DELAY, AND DEFRAUD

23. The Court should make findings at the conclusion of this case that Defendant HECKARD engaged in the fraudulent transfer of property with the actual intent to hinder, delay, and defraud

Plaintiff and Mr. Jackie Grounds. Defendant HECKARD transferred the property after being put on notice of an adverse claim by the State and Grounds, and transferred to an “insider.”

24. The Court should make findings at the conclusion of this case that Defendant HENDERSON engaged in the fraudulent transfer of property with the actual intent to hinder, delay, and defraud Plaintiff and Jackie Grounds. Defendant HENDERSON acted in concert with Defendant HECKARD and purchased the property with actual notice of an adverse claim against the 3119 Ebbtide property. Defendant HENDERSON acted in bad faith and aided Defendant HECKARD in hindering, delaying, and defrauding the Plaintiff and Grounds.

**NECESSITY OF IMMEDIATE RELIEF TO PRESERVE
DEFENDANT’S ASSETS**

25. Plaintiff requests immediate relief by way of a Temporary Restraining Order and Temporary Injunction to preserve and protect the Defendants’ assets from dissipation so that the victims of Defendants’ actions can receive the restitution to which they are entitled. The Defendants take title to property for real estate services without authorization or consent. Thus, the money collected from the ensuing sale of property by Defendant constitutes contraband which should be returned to its rightful owner. Defendants’ assets are subject to dissipation for the following reasons:

- A. Defendant HECKARD sold property she had fraudulently acquired in exchange for a check, which she then cashed at a check cashing institution, making it difficult to determine what happened to the ill-gotten gains from the sale of the property.
- B. Defendant HECKARD has recently closed her primary bank account, making it difficult to determine exactly how much money she has made, where income is held, and how many additional consumers were actually affected by her fraudulent services.

- C. Defendant HENDERSON has title to property that was fraudulently transferred. Further conveyance of this property will put it out of reach of judgment if transferred to a bona fide purchaser. Defendant HENDERSON is in possession of property to which he has no justiciable claim and Plaintiff has an adverse claim.

For these reasons, the assets of Defendants are subject to dissipation and secretion, and should therefore be frozen pending final trial so restitution can be made and full and final relief can be awarded at the resolution of this litigation.

**REQUEST TO CONDUCT DISCOVERY PRIOR
TO TEMPORARY INJUNCTION HEARING**

26. Plaintiff requests leave of this Court to conduct telephonic, oral, written and other depositions and discovery of witnesses prior to any scheduled Temporary Injunction hearing and prior to Defendants' answer date. There are other witnesses who may need to be deposed prior to any scheduled injunction hearing. Any depositions, telephonic or otherwise, would be conducted with reasonable, shortened notice to Defendants and their attorneys, if known.

TRIAL BY JURY

27. Plaintiff herein requests a jury trial and tenders the jury fee to the Harris County District Clerk's office pursuant to TEX. R. CIV. P. 216 and TEX. GOVT. CODE ANN. § 51.604.

**APPLICATION FOR EX PARTE TEMPORARY RESTRAINING ORDER,
TEMPORARY INJUNCTION, PERMANENT INJUNCTION AND ASSET FREEZE**

28. Defendants have engaged in the unlawful acts and practices described above, consequently Defendants have violated and will continue to violate the law as alleged in this Petition. Unless immediately restrained by this honorable Court, Defendants will continue to violate the laws of the STATE OF TEXAS and cause immediate, irreparable injury, loss, and damage to the STATE OF

TEXAS and to the general public. Therefore, Plaintiff requests an Ex Parte Temporary Restraining Order, Temporary Injunction, and Permanent Injunction as indicated below.

PRAYER

29. WHEREFORE, Plaintiff prays that Defendants be cited according to law to appear and answer herein; that before notice and hearing a TEMPORARY RESTRAINING ORDER be issued; 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' successors, assigns, 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. Undertaking any civil action or other action the purpose of which is to evict Jackie Grounds from the property at 3119 Ebbtide Drive, Houston, Texas 77045;
- B. Transferring, concealing, destroying or removing from the jurisdiction of this Court any books, records, documents, invoices, or other written materials relating to the business and practices of Defendants currently or hereafter in the Defendants' possession, custody, or control except in response to further orders or subpoenas in this cause;
- C. Transferring, spending, hypothecating, concealing, encumbering, withdrawing, removing, depleting, dissipating, or distributing or allowing the transfer, removal, or withdrawal from any financial institution or from the jurisdiction of this Court any money, stocks, bonds, assets, notes, equipment, funds, accounts receivable, policies of insurance, trust agreements, or other property, real, personal or mixed, wherever situated, belonging to or owned by, in possession or custody of, standing in the name of, or claimed by Defendants;
- D. Giving, providing, or offering advice and counsel to any person regarding real estate laws,

procedures, rights, privileges, or documents;

- E. Representing to any person, expressly or by implication, that Defendants can or will represent the interest of another to or with a mortgage company, including any proceeding relating to a mortgage foreclosure;
- F. Selecting, drafting, completing, or preparing real estate related forms, contracts, deeds, or legal documents of any type to be used or filed on behalf of persons seeking to obtain relief from any foreclosure process or any other real estate related matter;
- G. Advising persons, expressly or by implication, of the type of form, application or document needed in any type of proceeding relating to mortgage foreclosures or the transfer of real estate;
- H. Giving persons advice or counsel of any kind regarding their rights under the real estate laws of the United States or Texas;
- I. Soliciting, collecting, or accepting fees or compensation of any type, for providing any type of mortgage foreclosure or real estate related services to consumers;
- J. Representing, expressly or by implication, that Defendants are able to provide or obtain relief on behalf of another facing mortgage foreclosure proceedings;
- K. Advertising real-estate related services of any kind via the Internet, radio, TV, electronic broadcast, print (i.e. newspapers, magazines, business cards, etc.), or in person;
- L. Purchasing, assigning, transferring, selling, or taking title to any real property owned by others;
- M. Assisting in working with other to purchase, assign, transfer, or sell any real property or any interest in same.

30. In addition, Plaintiff respectfully prays that upon final hearing this Court will:
- A. Adjudge against each Defendant civil penalties in favor of Plaintiff State of Texas in an amount up to \$20,000 per violation as allowed by law pursuant to TEX. BUS. & COM. CODE § 17.47(c)(1) and an additional amount not to exceed more than \$250,000 for acts and practices calculated to acquire or deprive money or other property from a consumer who was sixty-five (65) years of age or older when the act or practice occurred;
 - B. 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 in an amount within the jurisdictional limits of this Court to compensate for such losses;
 - C. Declare that the sale of the Ebbtide property from Jackie Grounds to Defendant HECKARD is void, evidencing the transfer as fraudulent;
 - D. Declare that the sale of the Ebbtide property from Defendant HECKARD to Defendant HENDERSON is void with respect to Plaintiff State of Texas;
 - E. Set aside and cancel the transfer and the general warranty deed executed by Defendant HECKARD in favor of Defendant HENDERSON, evidencing the transfer as fraudulent;
 - F. Place an equitable lien and constructive trust on all of Defendants' assets and real property, particularly the properties located at 3119 Ebbtide Drive, Houston, Texas 77045 and 1315 Whispering Pine Drive, Missouri City, Texas 77489, and grant the State an interest in such property described above;
 - G. Order the disgorgement of all sums taken from consumers by means of deceptive trade practices, together with all proceeds, interest, income, profits and accessions thereto;
 - H. Order Defendants' assets be repatriated into the jurisdiction of the Court;

- I. Order Defendants to pay Plaintiff State of Texas attorney's fees and costs of court pursuant to TEX. GOV'T CODE § 402.006(c);
- J. Order Defendants to pay all prejudgment interest on all awards of restitution, damages, or civil penalties as provided by law;
- K. Grant leave to Plaintiff State of Texas to conduct telephonic, oral, and other depositions prior to Defendants' answer date and any Temporary injunction hearing; and
- L. Grant all other relief to which Plaintiff State of Texas may be justly entitled.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

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ATTORNEY FOR STATE OF TEXAS
SPIN NO. _____

VERIFICATION

STATE OF TEXAS §
§
COUNTY OF HARRIS §

Before me, the undersigned Notary Public, on this day personally appeared Cathryn Haynes, who, after being duly sworn, stated under oath that she is one of the Investigators for Plaintiff in this action, that she has read the above petition, and that every statement contained in the petition is true and correct and within the personal knowledge of all of the affiants as indicated in the affidavits attached to Plaintiff's Original Petition.

Cathryn Haynes

SUBSCRIBED AND SWORN TO BEFORE ME, on the _____ day of August, 2005, to certify which witness my hand and official seal.

Notary Public, State of Texas