

SC NOV 18 2015  
At 1:40 P. M.  
Velva L. Price, District Clerk

Cause No.D-1-GV-14-000323

STATE OF TEXAS,  
Plaintiff,

v.

THE VETERANS SUPPORT  
ORGANIZATION,  
RICHARD VANHOUTEN,  
MICHELLE VANHOUTEN,  
STEPHEN CASELLA, and  
ROBERT CRUZ,  
Defendants.

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IN THE DISTRICT COURT

TRAVIS COUNTY, TEXAS

53rd JUDICIAL DISTRICT

AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION

On this date, came for hearing the above-entitled and numbered cause in which Attorney General Ken Paxton is acting on behalf of the public interest in charity and on behalf of the State of Texas (hereinafter "State"), and The Veterans Support Organization (hereinafter "VSO"), Richard VanHouten, individually and as CEO of VSO, Michelle VanHouten, individually and as Administrative Director of VSO, Stephen Casella, individually and as Director of VSO, Robert Cruz, individually and as Director of VSO (hereinafter "Individual Defendants") are Defendants (collectively "Defendants"). The State and Defendants agree to entry of this Agreed Final Judgment and Permanent Injunction ("AFJPI").

I. INTRODUCTION

1.1 On March 19, 2014, the State of Texas, acting by and through the Attorney General of Texas and his Consumer Protection Division, filed an enforcement suit in state district court alleging that Defendants violated the Texas Deceptive Trade Practices — Consumer Protection Act (hereinafter "DTPA"),<sup>1</sup> the Solicitation for Veterans Organizations provision of the Texas

<sup>1</sup> Tex. Bus. & Com. Code, §§ 17.41-.63.

I, VELVA L. PRICE, District Clerk,  
Travis County, Texas, do hereby certify that this is  
a true and correct copy as same appears of  
record in my office. Witness my hand and seal of  
office on 11/18/2015



VELVA L. PRICE  
DISTRICT CLERK  
By Deputy: Nancy Sin



Occupations Code,<sup>2</sup> and certain provisions of the Texas Business Organizations Code.<sup>3</sup> The State further alleged in its petition that Defendants breached their fiduciary duties. The State also brings claims against Defendants for fraud and negligence.

1.2 The State and Defendants have consented to entry of the AFJPI by this Court.

## **II. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

2.1 Defendants have denied and continue to deny that they have committed, threatened, or attempted to commit any violations of law or wrongdoing of any kind, or breached any duty owed to VSO, VSO's donors or the State of Texas.

## **III. STIPULATIONS**

The Parties stipulate to the following:

3.1 This Court has jurisdiction over this case.

3.2 This Court has jurisdiction over Defendants.

3.3 Venue is proper in Travis County, Texas.

3.4 The Attorney General of Texas may bring an action in the public interest in charity.

3.5 VSO is incorporated in Rhode Island as a nonprofit corporation with the following charitable purpose as stated in its Articles of Incorporation: "The Veterans Support Organization (VSO) is a band of veterans and non-veterans whose focus is to support needy United States veterans in the local area, Donations collected provide funding for veteran's delinquent utility bills, rent or mortgage; and provide housing assistance for homeless veterans. VSO also provides monetary assistance to the local VA hospitals' Volunteer Services Department for the support of various

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<sup>2</sup> Tex. Occ. Code, Ch. 1804.

<sup>3</sup> Tex. Bus. Orgs. Code §§12.151-156.



programs offered to veterans. VSO offers a work program for veterans and non-veterans striving to improve their own personal financial status while also helping the needy veterans of the community.”

3.6 In its registration with the Texas Secretary of State as a foreign filing nonprofit organization, VSO stated its charitable purpose in Texas to be the following: “to support needy veterans in the local areas, [provide] housing assistance for homeless veterans [and] support volunteer services at the local VA hospitals.”

3.7 Entry of this AFJPI is in the public interest.

3.8 The State and Defendants agree to and do not contest the entry of this AFJPI and Defendants agree to the continuing jurisdiction of this Court with respect to the enforcement of this AFJPI.

3.9 All parties agree to waive the thirty (30) day period in which to file a Motion for New Trial and waive all rights to appeal this AFJPI.

3.10 The AFJPI settles all the State’s claims stated in the State’s Original Petition and Amended Petition against Defendants. The AFJPI also settles any other claims that the State could have asserted which arose prior to the Effective Date from the actions and inactions of Defendants alleged in the Original Petition and Amended Petition.

3.11 All parties agree that this AFJPI or its terms may not be offered or construed as evidence of fault, wrongdoing, or concession of liability by any Defendant herein.

3.12 Nothing in this AFJPI in any way affects an individual’s cause of action against Defendants under the DTPA, or any other law or regulation of this state, or Defendants’ defenses to any such cause of action. Nor does this AFJPI authorize double recovery for any person.



3.13 All parties agree that all injunctive terms in this AFJPI are injunctive terms issued under Section 17.47 of the Texas Business and Commerce Code and are subject to the current provisions of Section 17.47(e) and (f) of the Texas Business and Commerce Code. Before taking any action to collect the civil penalties provided by Section 17.47(e) and (f) of the Texas Business and Commerce Code for violation of the injunctive provisions of the AFJPI, the State will provide written notice of the violation to the Defendant(s) and give 20 calendar days to cure the violation. Notice will be sent to the last known address of the Defendant(s) by certified mail. If the violation is not cured within the time period, then the State will inform the Defendant(s) and may petition this Court for civil penalties under Section 17.47(e) and (f) of the Texas Business and Commerce Code and seek any other relief to which the State may be entitled.

**NOW, THEREFORE,** the State and Defendants having requested the Court to enter this AFJPI, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

#### **IV. DEFINITIONS**

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

4.1 **“Consumer”** means an individual, partnership, corporation, or entity of any kind, including this state, or a subdivision or agency of this state who seeks or acquires, by purchase or lease, any goods or services.

4.2 **“Donor”** means an individual, partnership, corporation, or entity of any kind, including this state or a subdivision or agency of this state, who donates or provides funds or tangible goods to support or assist a charitable cause or any cause which the public could reasonably understand to be for the public benefit, public safety, or community service in nature.



4.3 **“Charitable Solicitation”** means any type of contact with a person or entity, whether in person, via internet, mail, or otherwise, for the purpose of requesting, persuading, or seeking from said person or entity any type of contribution, sponsorship, compensation, or anything of value, including but not limited to money, goods, or services, for any purported charitable purpose.

4.4 **“Solicits,” “solicitation,” or “solicited”** means any type of contact with a person or entity for the purpose of requesting, persuading, or seeking any type of donation, contribution, sponsorship, compensation, advertising revenue, or anything of value from said person or entity for any reason whatsoever.

4.5 **“In-person solicitation” and “engaging or engaged in in-person solicitation”** means soliciting funds on a face to face basis from a person or entity for the purpose of making a charitable donation/contribution in support of any stated or implied charitable cause or any cause which the public could reasonably understand to be for the public benefit, public safety, or community service in nature. The term includes but is not limited to any solicitation by any volunteer or paid employee whose duties include soliciting funds from the public while positioned at a business or storefront.

4.6 **“Person”** means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

4.7 **“Advertising” or “Advertisement(s)”** means any message created, published, and/or distributed under the direction or control of VSO to the general public or any segment thereof, including but not limited to communications made through an in-person solicitation, an electronic medium (such as television, video, radio, and interactive media such as the internet, online services, and software), and communications made in print, including but not limited to, letters, brochures,



cards, pamphlets, flyers, newspapers, magazines, periodicals, and books.

4.8 “Effective Date” means the date upon which this AFJPI is signed by the Presiding Judge of this Court.

#### **V. PERMANENT INJUNCTION**

5.1 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendants, VSO, Richard Vanhouten, Michelle Vanhouten, Stephen Casella, and Robert Cruz, together with their officers, agents, servants, employees, and any other persons in active concert or participation with them, who receive actual notice of this AFJPI, by personal service or otherwise, shall be permanently enjoined, restrained, or prohibited from engaging in the following acts or practices in the State of Texas:

- A. Soliciting funds or causing funds to be solicited on behalf or for the benefit of VSO or any of its programs;
- B. Advertising on behalf or for the benefit of VSO or any of its programs;
- C. Operating any corporation, organization, group, chapter, association, program, publication, or dwelling or halfway house that is associated or affiliated with VSO; and
- D. Representing that VSO is currently operating as a charitable organization.

5.2 **IT IS FURTHER ORDERED** that VSO withdraw its certificates, registrations, and other filings with the Texas Secretary of State and/or any county in Texas within 14 days of the Effective Date.

5.3 **IT IS FURTHER ORDERED** that, if any Defendant maintains a website that may be accessed by persons in Texas to solicit funds for VSO, the website must clearly and conspicuously state “Donations from Texas residents are not accepted.” Such statement shall be immediately adjacent to any clickable button or hyperlink used to submit a donation.



**VI. ADDITIONAL PERMANENT INJUNCTION  
AS TO THE INDIVIDUAL DEFENDANTS**

6.1 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the Individual Defendants, their agents and any other persons in active concert or participation with them, who receive actual notice of this AFJPI, by personal service or otherwise, shall be enjoined, restrained, or prohibited from engaging in the following acts or practices in the State of Texas:

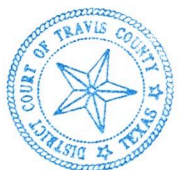
- A. Owning, operating, or managing any sole proprietorship, corporation, partnership, charitable organization, charity, or other entity that engages in any type of charitable solicitation in Texas;
- B. Providing consulting services for a fee or other valuable consideration to or for any person, sole proprietorship, corporation, partnership, charitable organization, or entity (“prospective employer”) that engages in any type of charitable solicitation in Texas unless (1) the Defendant providing such consulting services also provides the prospective employer with a complete copy of this AFJPI prior to providing any consulting services; (2) prior to providing such consulting services, the Defendant notifies the Attorney General’s Consumer Protection Division in writing of the intention to provide such services, including identifying the prospective employer’s name, physical address, and telephone number, and (3) the Defendant providing such consulting services presents the Attorney General’s Consumer Protection Division with a sworn affidavit stating that “To the best of my knowledge and understanding, the consulting services that I provide to [prospective employer] will not be used to solicit donations from any persons who are located in Texas.”
- C. Engaging in any type of solicitation in Texas of a person, business entity, consumer, donor or contributor, in person, on behalf of any charitable nonprofit organization;
- D. Engaging in, directing, or hiring any person to engage in any in-person solicitation in Texas on behalf of any charitable nonprofit organization;
- E. Serving as an officer, director, employee, board member, contract employee, independent contractor, spokesperson, volunteer, or consultant of any charitable nonprofit organization in Texas;
- F. Serving as a fundraiser, spokesperson, or consultant of any charitable nonprofit organization in Texas; and
- G. Assuming any position of financial authority in any charitable nonprofit organization in Texas.



6.2 For the purposes of paragraph 6.1, operating a website that can be accessed by the public, including the public in Texas, will not be deemed by itself to be an act or practice in the State of Texas.

6.3 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Individual Defendants, Richard Vanhouten, Michelle Vanhouten, Stephen Casella, and Robert Cruz, together with their agents and any other persons in active concert or participation with them, who receive actual notice of this AFJPI, by personal service or otherwise, shall be enjoined, restrained, or prohibited from engaging in the following acts or practices:

- A. Owning, operating or managing any sole proprietorship, corporation, partnership, charitable organization, charity, or other entity that engages in any type of veterans related charitable solicitations unless the Individual Defendant complies with paragraph 6.4 prior to engaging in such conduct;
- B. Providing consulting services for a fee or other valuable consideration to or for any person, sole proprietorship, corporation, partnership, charitable organization, or entity that engages in any type of veterans related charitable solicitations unless the Individual Defendant complies with paragraph 6.4 prior to engaging in such conduct;
- C. Engaging in any type of veterans-related solicitation of a person, business entity, consumer, donor or contributor, in person, on behalf of any charitable nonprofit organizations unless the Individual Defendant complies with paragraph 6.4 prior to engaging in such conduct;
- D. Engaging in, directing, or hiring any person to engage in any in-person solicitation on behalf of any veterans related entity, including but not limited to any public charity or nonprofit entity unless the Individual Defendant complies with paragraph 6.4 prior to engaging in such conduct;
- E. Serving as an officer, director, employee, board member, contract employee, independent contractor, spokesperson, or consultant of any veterans related public charity or nonprofit entity unless the Individual Defendant complies with paragraph 6.4 prior to engaging in such conduct;





- F. Serving as a fundraiser, spokesperson, or consultant of any veterans related charitable entity unless the Individual Defendant complies with paragraph 6.4 prior to engaging in such conduct; and
- G. Assuming any position of financial authority in any veterans related charitable nonprofit organization unless the Individual Defendant complies with paragraph 6.4 prior to engaging in such conduct.

6.4 An Individual Defendant will not be prohibited from engaging in the conduct precluded in paragraph 6.3 if, prior to such conduct, the Individual Defendant undertakes courses to obtain and ultimately receives a Certificate of Nonprofit Board Education from BoardSource ([www.boardsource.org](http://www.boardsource.org)). Prior to engaging in the conduct precluded by paragraph 6.3, the Individual Defendant must provide the Texas Attorney General's Consumer Protection Division with proof of satisfactory completion of the program. In the alternative, with prior approval of the Texas Attorney General's Consumer Protection Division, if any Individual Defendant completes a similar educational program for nonprofit board members, which shall include classes in board governance, nonprofit accounting and reporting, and volunteer training, amounting to at least 20 hours of coursework, and provides the Texas Attorney General's Consumer Protection Division with proof of satisfactory completion of such coursework, the limitations of paragraph 6.3 will no longer apply to that Defendant.

## **VII. ATTORNEYS' FEES AND COURT COSTS**

7.1 **IT IS ORDERED** that Plaintiff, the State of Texas, have judgment and recover from Defendants jointly and severally the sum of SEVENTY FIVE THOUSAND Dollars (\$75,000) for reimbursement of attorneys' fees to the State of Texas, which fees were incurred on behalf of the Plaintiff and do not constitute an antecedent debt with respect to this litigation.



7.2 **IT IS FURTHER ORDERED** that Plaintiff, the State of Texas, have judgment and recover from Defendants jointly and severally the sum of SEVEN THOUSAND SIX HUNDRED AND FORTY-FOUR Dollars and NINETY SEVEN Cents (\$7,644.97) representing reimbursement of court costs to the State of Texas which costs were incurred on behalf of Plaintiff and do not constitute an antecedent debt with respect to this litigation.

7.3 **IT IS FURTHER ORDERED** that the amount of attorneys' fees and court costs awarded herein must be tendered by Defendants to Plaintiff at least 10 business days after the Effective Date. The amount for attorneys' fees and court costs must be tendered in the form of a cashier's check or money order made payable to the "STATE OF TEXAS," bearing the Attorney General case number (#123360240) and delivered or mailed to the Office of the Attorney General, ATTN: Accounting Division MC-003, PO Box 12548, Austin, Texas 78711-2548.

**VIII. AWARD TO THE PUBLIC INTEREST IN CHARITY**

8.1 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that, at least 10 business days after the Effective Date, Defendants, jointly and severally, shall pay the sum of TWO HUNDRED SEVENTY FIVE THOUSAND Dollars (\$275,000.00) to the Attorney General on behalf of the public interest in charity and not behalf of the State of Texas (the "Charitable Funds") for the purpose of distribution to one or more charitable, nonprofit Texas corporations pursuant to the order of a court of competent jurisdiction in Travis County. Such distribution of Charitable Funds shall be restricted for the designated purpose(s), which is same or similar to the charitable purpose(s) of VSO stated in its application for registration with the Texas Secretary of State's Office for a nonprofit corporation – namely "to support needy veterans in the local areas, [provide] housing assistance for homeless veterans [and] support volunteer services at the local VA hospitals." Such



corporations shall be in good standing with the Texas Secretary of State and hold IRC section 501(c)3 status as a charitable, tax-exempt entity. The Attorney General shall initiate the proceeding seeking application of section 112.054 of the Texas Property (Trust) Code within a reasonable time from the date of entry of this AFJPI and provide guidance to the court, as necessary, to aid in the court's assessment and determination of the appropriateness and suitability of potential organizations for receipt of the Charitable Funds.

#### **IX. CIVIL PENALTIES**

9.1 **IT IS ORDERED THAT** VSO, Defendant, pay to the State of Texas the sum of TWO HUNDRED FIFTY THOUSAND Dollars (\$250,000.00) in civil penalties.

9.2 **IT IS FURTHER ORDERED** that these civil penalties against VSO are for the benefit of the State of Texas, a government unit, and are not compensation for any actual or pecuniary loss.

#### **X. ABATEMENT OF COLLECTION OF PART OF JUDGMENT**

10.1 **IT IS FURTHER ORDERED** that collection on the outstanding judgment for civil penalties against VSO be abated as set forth below.

10.2 The parties agree that Plaintiff, the State of Texas, will file an abstract of judgment for the entire outstanding amount of the Judgment (including the amount abated), but will not take any other action to collect the remaining portion of the judgment for the payment of any civil penalties against VSO. If, however, VSO violates any provision of this AFJPI, then the State may take any and all actions to actively and vigorously collect the civil penalties solely against VSO.

10.3 Before taking action to collect the civil penalties under this AFJPI for violation of the AFJPI, the State will provide written notice of the violation to VSO and give VSO 20 calendar days



to cure the violation. Notice will be sent to the last known address of VSO by certified mail. If the violation is not cured within the time period, then the State will inform VSO and may take action to collect the abated penalties. If VSO disputes the State's determination that VSO has failed to cure the violation, VSO may seek court action, however, VSO must cease the action that the State determined violated the AFJPI until after the court has ruled on whether the action violates the AFJPI. Once VSO has ceased the action the State will likewise temporarily halt its efforts to collect on the abated penalty until after the conclusion of the court action.

10.4 If VSO seeks to discharge or lower in any proceeding the civil penalties assessed in this Agreed Final Judgment and Permanent Injunction, such civil penalties immediately become due and payable by VSO only and not its officers, directors, or employees. Finally, if VSO has failed to disclose ten percent (10%) or more of its total financial assets before the signing of this AFJPI, then this agreement to abate civil penalties is rendered void and the civil penalties as to VSO will immediately become due and payable.

#### **XI. COMPLIANCE MONITORING**

11.1 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the State is authorized to monitor compliance with this AFJPI by all lawful means.

11.2 **IT IS FURTHER ORDERED** that for purposes of the compliance monitoring authorized by this AFJPI, the Texas Attorney General's Office is authorized to communicate directly with Defendants.



## **XII. MISCELLANEOUS PROVISIONS**

12.1 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendants, by their signatures below, hereby acknowledge notice of this AFJPI and acceptance of same, therefore, no injunctive writ need be issued. The State may enforce this AFJPI through any procedure or process available under the laws of the State of Texas.

12.2 **IT IS FURTHER ORDERED** that Defendants shall not represent to the public that this AFJPI constitutes approval by the State or this Court of any of Defendants' actions or business practices.

12.3 **IT IS FURTHER ORDERED** that this AFJPI settles all claims, including claims that the State could have brought, arising before the Effective Date of this AFJPI from VSO's operations in Texas and the Individual Defendants' actions and inactions alleged in the State's Original Petition and Amended Petition in this matter. With the exception of relief related to the effectuation, violation or enforcement of this AFJPI, all relief not expressly granted herein is denied.

12.4 **IT IS FURTHER ORDERED** that, with respect to Defendants' practices alleged in Plaintiff's petition, nothing in this AFJPI shall be construed as a waiver of any private rights, causes of action, or remedies of any person against Defendants or as a waiver of Defendants' defenses to any such private rights, causes of action, or remedies.

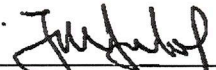
12.5 **IT IS FURTHER ORDERED** that, if any clause, provision, or section of this AFJPI shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this AFJPI, and this AFJPI shall be construed and enforced as if such illegal, invalid, or unenforceable clause, provision, or section had not been contained herein.



12.6 **IT IS FURTHER ORDERED** that, to the extent that any provision of this AFJPI conflicts with any local or federal law which now exists, or is later enacted or amended, such law and not this AFJPI shall apply where such conflict exists. For the purposes of this AFJPI, a conflict exists if conduct prohibited by this AFJPI is required by such law, or if conduct required by this AFJPI is prohibited by such law.

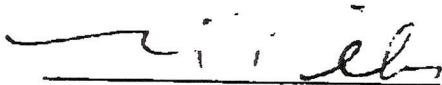
12.7 **IT IS FURTHER ORDERED** that after signing by the Court, this AFJPI constitutes a final judgment.

SIGNED this 18<sup>th</sup> day of November, 2015.

  
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PRESIDING JUDGE  
TIM SUCK



**APPROVED AS TO SUBSTANCE AND FORM AND ENTRY REQUESTED:**



**MICHAEL J. BILES**  
State Bar Number 24008578  
KING & SPALDING LLP  
401 Congress Ave., Suite 3200  
Austin, Texas 78701  
Telephone: (512) 457-2000  
Facsimile: (512) 457-2100  
MBiles@KSLAW.com

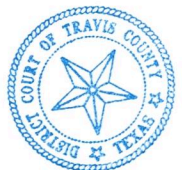
**ATTORNEYS FOR DEFENDANTS,  
THE VETERANS SUPPORT  
ORGANIZATION, RICHARD  
VANHOUTEN AND MICHELLE  
VANHOUTEN**



**COREY D. KINTZER**  
corey.kintzer@texasattorneygeneral.gov  
State Bar Number 24046219  
**GLORIA SALINAS**  
State Bar Number 17534300  
gloria.salinas@texasattorneygeneral.gov  
Assistant Attorneys General  
Consumer Protection Division  
Post Office Box 12548  
Austin, Texas 78711-2548  
Telephone (512) 463-2185  
Facsimile (512) 473-8301

**ATTORNEYS FOR STATE OF TEXAS**

**YUSUF BAJWA**  
JOHNS MARRS ELLIS & HODGE, LLP  
State Bar Number 240477  
805 West 10<sup>th</sup> Street, Suite 400  
Austin, Texas 78701  
Telephone (512) 215-4078  
Facsimile (512) 628-7169  
ybajwa@jmehlaw.com  
**ATTORNEYS FOR DEFENDANTS  
STEPHEN CASELLA AND ROBERT CRUZ**



**APPROVED AS TO SUBSTANCE AND FORM AND ENTRY REQUESTED:**

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**MICHAEL J. BILES**

State Bar Number 24008578  
KING & SPALDING LLP  
401 Congress Ave., Suite 3200  
Austin, Texas 78701  
Telephone: (512) 457-2000  
Facsimile: (512) 457-2100  
MBiles@KSLAW.com

**ATTORNEYS FOR DEFENDANTS,  
THE VETERANS SUPPORT  
ORGANIZATION, RICHARD  
VANHOUTEN AND MICHELLE  
VANHOUTEN**

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**COREY D. KINTZER**

corey.kintzer@texasattorneygeneral.gov  
State Bar Number 24046219  
**GLORIA SALINAS**  
State Bar Number 17534300  
gloria.salinas@texasattorneygeneral.gov  
Assistant Attorneys General  
Consumer Protection Division  
Post Office Box 12548  
Austin, Texas 78711-2548  
Telephone (512) 463-2185  
Facsimile (512) 473-8301

**ATTORNEYS FOR STATE OF TEXAS**

---

**YUSUF BAJWA**

JOHNS MARRS ELLIS & HODGE, LLP  
State Bar Number 240477  
805 West 10<sup>th</sup> Street, Suite 400  
Austin, Texas 78701  
Telephone (512) 215-4078  
Facsimile (512) 628-7169  
ybajwa@jmehlaw.com

**ATTORNEYS FOR DEFENDANTS  
STEPHEN CASELLA AND ROBERT CRUZ**

