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STATE OF TEXAS
Plaintiff

v.

WILL BOROSKI, individually and
d/b/a THE ACTOR'S PLACE, INC. and
d/b/a LA SUMMIT TALENT.
Defendant

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR INJUNCTIVE RELIEF

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, STATE OF TEXAS, acting by and through the Attorney General of Texas, Greg Abbott ("State" or "Plaintiff"), complains of WILL BOROSKI doing business as THE ACTOR'S PLACE, INC., and doing business as LA SUMMIT TALENT ("Boroski" or "Defendant"), and for cause of action would respectfully show as follows:

DISCOVERY CONTROL PLAN

1. The discovery in this case is intended to be conducted under Level 2 pursuant to TEX. R. Civ. P. 190.2(b)(3); 190.3(a).

AUTHORITY

2. This action is brought by Attorney General Greg Abbott, through his Consumer Protection Division, in the name of the State of Texas and in the public interest under the authority granted him by § 17.47 of the Texas Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE ANN. § 17.41 *et seq.* (Vernon 2002 and Supp. 2005) ("DTPA") upon the ground that Defendant has engaged in false, deceptive and misleading acts and practices in the course of trade and commerce as defined in, and declared unlawful by,

§§ 17.46(a) and (b) of the DTPA.

3. This action is further brought by Attorney General Greg Abbott, through his Consumer Protection Division, in the name of the State of Texas on behalf of the Texas Workforce Commission (“TWC”), under the authority granted him by § 132.304 of the Texas Career Schools and Colleges Act, TEX. EDUC. CODE ANN. § 132.001 *et seq.* (Vernon Supp. 2002) (“TCSCA”), upon the grounds that Defendant has operated a career school or college in the State of Texas in violation of a Cease and Desist Order issued by the TWC for Defendant’s failure to obtain a certificate of approval or exemption as required by the TCSCA.

DEFENDANT

4. Defendant Will Boroski (“Boroski” or “Defendant”) is an individual who does business in Texas as The Actor’s Place and as LA Summit Talent, as alleged in detail below. Boroski may be served with process at his home, 1709 Zimmerman Lane, Round Rock, Texas 78681-1841.

5. The Actor’s Place, Inc. was formerly a Texas domestic nonprofit corporation which forfeited its existence as a result of a tax forfeiture on March 23, 2001. Because the corporation has forfeited its existence, the State will treat it as a sole proprietorship run by Will Boroski, the former registered agent, who may be served with process at his home, 1709 Zimmerman Lane, Round Rock, Texas 78681-1841.

6. LA Summit Talent is a business name that Defendant has used to market his services. This business name is not registered as a d/b/a, and is not incorporated. LA Summit Talent may be served by serving Will Boroski, at his home, 1709 Zimmerman Lane, Round Rock, Texas 78681-1841.

VENUE

7. Venue of this suit lies in TRAVIS County, Texas because under TCSCA § 132.154(b) venue for injunctive suits brought under the TCSCA expressly lies in Travis County.

PUBLIC INTEREST

8. Because Plaintiff State of Texas has reason to believe that Defendant has engaged in, and will continue to engage in, the unlawful practices set forth below, Plaintiff has reason to believe Defendant has caused adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State, and that this action is in the public interest.

TRADE AND COMMERCE; CAREER SCHOOL OR COLLEGE

9. Defendant has, at all times described below, engaged in conduct which constitutes “trade” and “commerce” as those terms are defined by DTPA § 17.45(6).

10. Defendant has, at all times described below, engaged in conduct as a “career school or college” as that term is defined by TCSCA § 132.001(1).

ACTS OF AGENTS

11. Whenever in this Petition it is alleged that Defendant did any act, it is meant that:

- A. Defendant performed or participated in the act; or
- B. Defendant’s officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

NOTICE BEFORE SUIT

12. Pursuant to DTPA § 17.47(a), the Consumer Protection Division informed Defendant in general of the alleged unlawful conduct described below, at least seven days before filing suit.

SPECIFIC FACTUAL ALLEGATIONS

13. The Actor’s Place was a career school offering instruction and workshops intended

to prepare individuals for careers in acting.

14. The Actor's Place, Inc. was formerly a non-profit Texas corporation, but its corporate privileges were revoked on March 21, 2001, for failure to pay franchise taxes. Defendant is listed as the CEO and founder of The Actor's Place and is the registered agent for The Actor's Place, Inc.

15. Despite having forfeited his corporate privilege, Defendant maintained a website advertising his school, www.actorsplace.com, and sold memberships at \$99 and \$149 per year. Prospective students were able to join and then, depending on the type of membership, receive 10%-20% discounts on workshops and classes as well as career counseling, including job placement services and assistance with resumes.

16. In 2003, TWC notified Defendant that he was operating as a career school without a certificate or an exemption. Defendant failed to respond to this notice.

17. In April of 2004, after becoming aware of an e-mail advertisement from Defendants for "The Ultimate Actor Workshop," a TWC employee confirmed that the Defendant still had an office and offered classes. TWC again notified Defendant that he was operating as a career school without a certificate or an exemption. Defendant again failed to respond to this notice.

18. On March 5, 2005, TWC held a hearing on Defendant's violations of the TCSCA. Defendant failed to attend the hearing. TWC issued a Cease and Desist Order on March 9, 2005, and sent it to Defendant at his last known business address.

19. Until very recently, Defendant continued to advertise his workshops, classes, and career counseling on his website. Defendant has not obtained either a certificate of approval or a notice of exemption from the TWC, nor have any representatives of the Defendant registered with the TWC.

20. Defendant's website fails to disclose to prospective students Defendant's failure to obtain a certificate of approval or notice of exemption from the TWC. Additionally, prospective students are not informed that Defendant's failure to obtain a certificate from the TWC renders students ineligible for tuition refunds from the TWC's career school or college tuition trust account in the event that Defendant's school closes.

21. In February of 2006, under the name LA Summit Talent, Defendant promoted a month long "Pilot Season Retreat" occurring in March and April of 2006, in Hollywood, CA. Defendant represented that he had a "100% success rate since 1998" of finding participants Screen Actor's Guild agents. Defendant advertised that all participating actors and program participants had received "over 400 auditions in 2004/05".

22. Defendant's advertisement represented that the price for the retreat was \$2,750 and for this fee, consumers would receive a fully furnished kitchen and luxury apartment, a rental car, an onsite acting coach, and a driver. Defendant advertised that for an extra \$600, parents and child actors could obtain private rooms.

23. Consumers complain that they paid Defendant, but he did not lead any acting classes, that most acting classes were canceled, and that Defendant failed to attend scheduled meetings, or return phone calls. Attendees also complain that they did not get any auditions from participating in the retreat.

24. Consumers also complain that they paid Defendant extra fees for private lodging, but had to share accommodations, that the accommodations were dirty, and that they were not provided with cars, a driver, or even kitchen utensils.

VIOLATIONS OF THE DTPA

25. The State incorporates and adopts by reference the allegations contained in each and

every preceding paragraph of this petition.

26. Defendant, as alleged and detailed above, has engaged in false, misleading, or deceptive acts or practices in the conduct of trade or commerce, in violation of DTPA §17.46(a).

27. Defendant, as alleged and detailed above, has represented 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 he does not, in violation of DTPA § 17.46(b)(5).

28. Defendant, as alleged and detailed above, has represented that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law, in violation of DTPA § 17.46(b)(12).

VIOLATIONS OF THE TCSCA

29. The State incorporates and adopts by reference the allegations contained in each and every preceding paragraph of this petition.

30. Defendant, as alleged and detailed above, has operated a career school without a certificate of approval issued by TWC, in violation of TCSCA § 132.151(1).

31. Defendant, as alleged and detailed above, has operated a career school in violation of a Cease and Desist Order in violation of TCSCA §§ 132.303 and 132.151(8).

PRAYER

32. Because Defendant has engaged in the unlawful acts and practices described above the Defendant has violated the law as alleged in this Petition. Plaintiff has shown a probable right to the relief prayed for below upon a final hearing.

33. WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendant be cited according to law to appear and answer herein; that upon final hearing a PERMANENT

INJUNCTION be issued, restraining and enjoining Defendant, his agents, servants, employees, and representatives from making the following representations and doing the following acts and engaging in the following practices in the pursuit and conduct of trade or commerce within the State of Texas as follows:

- A. Operating as a career school of college without a certificate of approval issued by the TWC;
- B. Maintaining, advertising, soliciting for, or conducting any workshops or classes in this state without a certificate of approval or a notice of exemption from the TWC;
- C. Operating as a career school without registering all representatives of Defendant with the TWC;
- D. Advertising any acting classes, training, retreats or career development for actors with misrepresentations and/or misleading advertising.

34. In addition, Plaintiff respectfully prays that this Court will:

- A. Order Defendant to pay civil penalties not to exceed a total of \$20,000.00 per violation to the State of Texas for violations of the DTPA;
- B. Order Defendant to pay civil penalties of \$1,000.00 per day and per violation, to the State of Texas for violations of the TCSCA;
- C. Order Defendant to pay restitution, as provided by law;
- D. Order Defendant to pay Pre-judgment and Post-judgment interest on all awards of restitution, damages or civil penalties, as provided by law; and
- E. Order Defendant to pay all costs of Court, costs of investigation, and reasonable attorney's fees pursuant to TEX. GOVT. CODE ANN. § 402.006(c); and

35. Plaintiff further prays for such other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

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