

CAUSE NO. 17-13967

STATE OF TEXAS,

Plaintiff

IN THE DISTRICT COURT OF

VS.

REDUX BEVERAGES, LLC., a Nevada Corp; REDUX, LLC., a California Corp.; KIMBALL DISTRIBUTING, INC., f/k/a CALVERT DISTRIBUTING, INC. ; TEXAS WHOLESALE VENTURE # 1 LTD, d/b/a TEXAS WHOLESALE # 2; and IMPORT WAREHOUSE, INC.,

Defendants.

DALLAS COUNTY

44-00
JUDICIAL DISTRICT

EX PARTE TEMPORARY RESTRAINING ORDER

Plaintiff, State of Texas, has filed its Original Petition in this cause seeking a Temporary and Permanent Injunction against REDUX BEVERAGES, LLC., a Nevada Corp; REDUX, LLC., a California Corp.; KIMBALL DISTRIBUTING, INC., f/k/a CALVERT DISTRIBUTING, INC.; TEXAS WHOLESALE VENTURE # 1 LTD, d/b/a TEXAS WHOLESALE # 2; and IMPORT WAREHOUSE, INC., (collectively "Defendants") and in the same petition has presented its request for an Ex Parte Temporary Restraining Order. The Court finds that Defendants may be violating §431.021 of the Texas Food, Drug and Cosmetic Act, TEX. HEALTH & SAFETY CODE ANN. §431.001 *et seq.* ("TFDCA") and §§17.46(a) or (b) of the Deceptive Trade Practices-Consumer Protection Act ("DTPA"), TEX. BUS. & COM. CODE ANN §17.41 *et. seq.*

It appears from facts set forth in the Plaintiff's Original Petition and the exhibits and sworn affidavits attached thereto that unless Defendants are immediately restrained from the acts prohibited below, Defendants will commit such acts before notice can be given and a hearing can be held on the State of Texas' request for a Temporary Injunction. If the restraint is not issued, before notice can be given and a hearing held, Defendants will continue to introduce into

commerce in Texas a product labeled “Cocaine” that the Texas Department of State Health Services has found to be an unapproved drug, because illicit street drugs are not food or drink, nor are alternatives to illicit street drugs like the product Cocaine, and is therefore illegal to offer for sale and to sell in Texas which will cause irreparable injury, loss, or damage to Texas consumers. Such injury would be irreparable because continued violations of the TFDCFA and the DTPA would allow this illegal product to remain in the market place in Texas and be advertised, offered for sale, and sold to Texas consumers in violation of state laws.

1. **IT IS THEREFORE ORDERED** that Defendants REDUX BEVERAGES, LLC.; REDUX, LLC.; KIMBALL DISTRIBUTING, INC., f/k/a CALVERT DISTRIBUTING, INC.; TEXAS WHOLESALE VENTURE # 1 LTD, d/b/a TEXAS WHOLESALE # 2; and IMPORT WAREHOUSE, INC., their successors, assigns, officers, agents, servants, employees, and any other person in active concert or participation with Defendants from engaging in the following acts or practices:

- A. Transferring, concealing, destroying or removing from the jurisdiction of this Court any books, records, documents, invoices, or other written materials relating to these allegations which are in Defendants’ possession, custody, or control, except in response to further orders or subpoenas in this cause;
- B. Delivering, receiving, offering for sale, holding, selling, or giving away the product Cocaine in Texas;
- C. Advertising that the product Cocaine is effective for treating diseases of the body, when FDA has not approved it as a drug;
- D. Advertising that the product Cocaine is available for sale in Texas since it is an unapproved new drug by state law and cannot legally be sold in Texas;
- E. Advertising that the product Cocaine is available for sale in Texas since it is a misbranded drug by state law and cannot legally be sold in Texas; and

F. Failing to disclose in any advertising for the product Cocaine that this product is not approved for sale in Texas.

2. **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that, as used in this Judgment, the following terms are defined as follows:

- A. "Advertising" means all representations disseminated in any manner or by any means for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of the product Cocaine.
- B. "Defendants" mean REDUX BEVERAGES, LLC., a Nevada Corp; REDUX, LLC., a California Corp.; KIMBALL DISTRIBUTING, INC., f/k/a CALVERT DISTRIBUTING, INC.; TEXAS WHOLESALE VENTURE # 1 LTD, d/b/a TEXAS WHOLESALE # 2; and IMPORT WAREHOUSE, INC., and their successors, assigns, officers, agents, servants, employees, corporations and any other persons in active concert or participation with any Defendant.
- C. "Drug" means articles designed or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man and articles intended to affect the structure or any function of the body of man, other than foods for which a claim is made in accordance with Section 403(r) of the Federal Act, as defined in §431.002 (14) of the Texas Food, Drug, and Cosmetic Act.
- D. "FDA" means the Federal Food and Drug Administration.
- E. "Misbranded drug" means a drug that violates §431.112 of the Texas Food, Drug and Cosmetic Act in one of the following, including but not limited to, labeling that is false or misleading in any particular or a label or labeling that lack adequate directions for use or warnings.

3. **IT IS FURTHER ORDERED** that ~~the parties are~~ ^{the parties are} ~~Plaintiff shall~~ ^{TGS} be granted leave to take telephonic, video, written, and other depositions prior to any scheduled temporary injunction

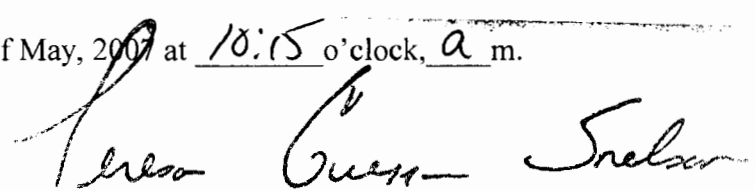
hearing upon reasonable shortened notice to the Defendants.

4. **IT IS FURTHER 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 (14) day after entry or until further order of this Court, whichever is less.

5. The Clerk of the above-entitled Court shall forthwith issue an ex parte 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 as Plaintiff, State of Texas is exempt from such bond under TEX. BUS. & COM. CODE ANN. §17.47(b).

Hearing on Plaintiff, State of Texas' Application for an Temporary Injunction is hereby set for the 16th day of May, 2007 at 9:30 o'clock, a m.

SIGNED this 2nd day of May, 2007 at 10:15 o'clock, a m.



JUDGE PRESIDING
Teresa Guerra Snelson
Associate Judge
Sitting for the
44 Civil District Court