

COPY

No. D-1-GV-06-001161

STATE OF TEXAS

Plaintiff

v.

GALINDO TRUST, ROBERT L. FLORES,  
AKA ROBERTO FLORES,  
AKA ROBERT FLORES II,  
INDIVIDUALLY AND AS TRUSTEE FOR  
GALINDO TRUST, RICHARD ALLEN  
SMALL JR., INDIVIDUALLY AND AS  
TRUSTEE FOR GALINDO TRUST, AND  
RF HOMESTEAD GROUP I LP

Defendants

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

126<sup>th</sup>

JUDICIAL DISTRICT

FILED

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*Maria Rodriguez*

CLERK OF DISTRICT COURT

**EX PARTE 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 request for an Ex Parte Temporary Restraining Order.

The Court FINDS that Defendants GALINDO TRUST, ROBERT L. FLORES, JR., AKA ROBERTO FLORES, AKA ROBERT FLORES II, individually and as trustee for GALINDO TRUST, RICHARD ALLEN SMALL, JR, individually and as trustee for GALINDO TRUST, and RF HOMESTEAD GROUP I LP, (hereinafter "Defendants") may be violating §§ 17.46(a) and (b) of the Texas Deceptive Trade Practices - Consumer Protection Act, TEX. BUS. & COM. CODE ANN. § 17.41, *et seq.* (Vernon 2002 and Supp. 2005) (hereinafter "DTPA") and the Texas Property Code, section 5.061 *et seq.* (Vernon 2002 and Supp. 2005) (hereinafter "Property Code"). It appears from the facts set forth in 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. Further, Defendants could continue to use deception in obtaining money from consumers and may either secrete or remove monies and assets before a judgment for restitution can be rendered. Such injury will be irreparable because continued violations of the DTPA may cause more consumers to lose their money by deception and there will be no monies left for restitution to the consumers if Defendants are allowed time to remove and/or secrete monies or assets. Given the likelihood of dissipation of Defendants' assets prior to rendition of a final judgment, the possibility of restitution for consumers will be remote unless an order freezing certain assets is granted.

1. **IT IS THEREFORE ORDERED** that Defendants, GALINDO TRUST, ROBERT L. FLORES, JR., RICHARD ALLEN SMALL, JR., and RF HOMESTEAD GROUP I LP, their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them, including, but not limited to, all financial institutions such as Bank of America<sup>1</sup>, holding money or assets of any kind in the name and/or for the benefit of the above Defendants, who receive actual notice of this order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division or other devise, shall be restrained from engaging in the following acts or practices:

A. Transferring, spending, hypothecating, concealing, encumbering, withdrawing, removing, 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,

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<sup>1</sup>Bank of America account numbers known are: Account Numbers [REDACTED] and [REDACTED]

or mixed, wherever situated, belonging to or owned by, in the possession or custody of, standing in the name of, or claimed by said Defendants, without further order of the Court, unless expressly stated otherwise herein;

B. Opening or causing to be opened any safe deposit boxes or storage facilities titled in the names of Defendants, or subject to access, ownership or control by Defendants, without providing Plaintiff and the Court prior notice by motion seeking such access;

2. **IT IS ALSO ORDERED** that Defendants, ROBERT L. FLORES, JR., and RICHARD ALLEN SMALL, JR, agents, servants, employees, attorneys and any other persons in active concert or participation with them, are prohibited from transferring, spending, encumbering, withdrawing, or removing any sum of money from any accounts specifically referenced in paragraph 1.A. of this order or from any other such account(s) where monies or proceeds from the operation of Galindo Trust or RF Homestead Group I LP have been placed or deposited; however, Defendants ROBERT L. FLORES, JR., and RICHARD ALLEN SMALL, JR. are not prohibited from expending monies for reasonable living expenses and attorney fees from other accounts standing in their names which have not or do not contain monies or proceeds from the operation of Galindo Trust or RF Homestead Group I LP., or from monies earned by them or their family members by virtue of other employment or business ventures wholly unrelated to the operation of Galindo Trust or RF Homestead Group I LP.

3. **IT IS FURTHER ORDERED** that Defendants, GALINDO TRUST, ROBERT L. FLORES, JR., RICHARD ALLEN SMALL, JR, and RF HOMESTEAD GROUP I LP, their officers, agents, servants, employees, attorneys and any other persons in active concert or

participation with them who receive actual notice of this order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division or other devise, shall be restrained from engaging in the following acts or practices:

- A. Transferring, concealing, destroying, altering, or otherwise disposing of or removing from the jurisdiction of this Court any books, records, documents, invoices or other written or computer generated materials relating to the business of Defendants currently or hereafter in Defendants' possession, custody or control except in response to further orders or subpoenas in this cause.
- B. Representing, directly or by implication, that:
  - I. That tax and insurance payments are included in the monthly payments when they are not.
  - ii. That monthly payments will not increase, if the consumer is required to pay more to the financing company if the property taxes and insurance increase.
- C. Failing to disclose the following:
  - I. That the property is subject to a pre-existing lien.
  - ii. That others beside the seller have an interest in the property.
- D. Failing to provide at the time of sale:
  - I. A survey completed in the past year or a plat of a current survey of the property.
  - ii. A legible copy of any document that describes an encumbrance or other claim, including a restrictive covenant or easement that affects title to the property.
  - iii. A tax certificate from the collector for each taxing unit that collects taxes due on the property as provided by Section 31.08, Tax Code.

iv. A legible copy of any insurance policy, binder, or other evidence relating to the property that indicates (a) the name of the insurer and the insured; (b) a description of the property insured; and (c) the amount for which the property is insured.

v. The disclosures and contracts for deed in Spanish when the sale negotiations have been conducted in Spanish.

4. **IT IS FURTHER ORDERED** that DEFENDANTS, GALINDO TRUST, ROBERT L. FLORES, JR., RICHARD ALLEN SMALL, JR., and RF HOMESTEAD GROUP I LP, advise any financial or brokerage institution, escrow agent, title company, storage facility, commodity trading company, business entity or person maintaining or having custody or control of any account or other assets of Defendants to within five (5) business days of the date of service of this Order provide to counsel for the Plaintiff and the Defendants/account holders a statement or letter setting forth:

A. The identification of each account or asset titled in the name, individually or jointly, of Defendants, or held on behalf of, or for the benefit of, Defendants.

B. The balance of each such account or a description and estimated value of such assets, as of the close of business on the day on which this Order is served, and, if the account or other assets was remitted; and

C. The identification of any safe deposit box or storage facility that is either titled in the name individually or jointly, of Defendants, or is otherwise subject to access or control by Defendants;

5. **IT IS FURTHER ORDERED** that Plaintiff is GRANTED leave to take telephonic,

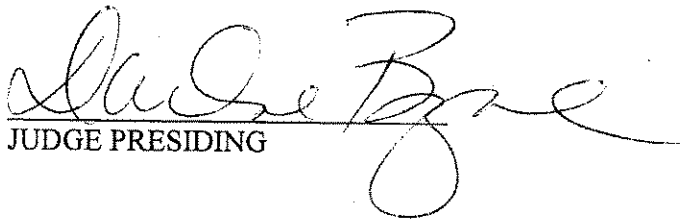
video, written, and other depositions along with subpoena duce tecum, prior to any scheduled temporary injunction hearing upon reasonable shortened notice to Defendants and their attorneys, if known;

6. **IT IS FURTHER ORDERED** that Defendants GALINDO TRUST, ROBERT L. FLORES, JR., RICHARD ALLEN SMALL, JR., and RF HOMESTEAD GROUP ILP be and hereby are commanded forthwith to comply with this Order from the date of entry until and to the fourteenth (14<sup>th</sup>) day after entry or until further order of this Court, whichever is less.

7. 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 filing a bond for a temporary restraining order or temporary injunction under § 6.001 of the Texas Civil Practice and Remedies Code and § 17.47(b) of the Texas Business and Commerce Code.

8. The Hearing on Plaintiff State of Texas' Application for a Temporary Injunction is hereby set for the 15<sup>th</sup> day of June, 2006 at 2:00 o'clock, P.m.

SIGNED this 7 day of June, 2006 at 10:40 o'clock, a.m.

  
JUDGE PRESIDING

State of Texas v. Galindo Trust, et al.,  
Ex Parte Temporary Restraining Order

**POSTED**  
