

IN THE CHANCERY COURT FOR HAMILTON COUNTY, TENNESSEE
ELEVENTH JUDICIAL DISTRICT AT CHATTANOOGA

STATE OF TENNESSEE, *ex rel.*)
ROBERT E. COOPER, JR., ATTORNEY)
GENERAL and REPORTER,)
)
Plaintiff,)
)
v.)
)
)
JUAN HERNANDEZ, individually and doing)
business as CENTRO AZTECA,)
)
Defendants.)

No. 09-0313

COMPLAINT FOR INJUNCTVE AND OTHER RELIEF

1. This civil law enforcement action is brought in the name of the State of Tennessee, in its sovereign capacity, by and through Robert E. Cooper, Jr., Attorney General and Reporter ("Attorney General") pursuant to Tenn. Code Ann. § 47-18-108 of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 *et seq.* ("TCPA"); the Notaries Public statute, Tenn. Code Ann. § 8-16-401 *et seq.*; the Unauthorized Practice and Improper Conduct statutes, Tenn. Code Ann. § 23-3-101 *et seq.*; the Attorney General's general statutory authority at Tenn. Code Ann. § 8-6-109; and the Attorney General's common law authority.

2. Mary Clement, Director of the Division of Consumer Affairs of the Department of Commerce and Insurance, has requested that the State of Tennessee, by the Attorney General, commence civil law enforcement proceedings against the above-named Defendants for violations of the TCPA.

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3. The Director and the Attorney General have reason to believe that the Defendants named herein have violated the TCPA and the Notaries Public statute. The Director and the Attorney General also have reason to believe that this action is in the public interest.

4. Defendants have been provided with ten (10) days notice of contemplated legal action as set forth in Tenn. Code Ann. § 47-18-108(a)(2).

I. JURISDICTION AND VENUE

5. The jurisdiction of this Court is invoked pursuant to the provisions of Tenn. Code Ann. § 47-18-108.

6. Venue is proper in Hamilton County pursuant to Tenn. Code Ann. §§ 47-18-108(a)(3), because it is the county where the alleged unfair or deceptive acts or practices took place, and the county in which the Defendants conduct, transact or have transacted business.

7. Venue is also proper in Hamilton County pursuant to Tenn. Code Ann. § 23-3-103(c)(2), because it is the county where the alleged violations took place or are about to take place, and it is the county where the Defendants conduct, transact or have conducted business.

II. DEFENDANTS

The State of Tennessee alleges upon information and belief:

8. Defendant Juan Hernandez ("Defendant Hernandez") is an individual and resident of Tennessee.

9. Defendant Centro Azteca is a Tennessee company with its principal place of business at 1500 Broad Street, Chattanooga, TN 37408.

III. GENERAL ALLEGATIONS

The State of Tennessee alleges upon information and belief:

10. Defendants have advertised as a “notario publico” without the required disclaimer.

11. Defendants have misled consumers regarding their ability to provide legal services by advertising as “abogados” when no attorneys are employed by Defendants.

IV. FACTUAL ALLEGATIONS

Upon information and belief, the State of Tennessee alleges as follows:

12. Defendants have engaged in trade or commerce in whole or in part in the State of Tennessee by offering goods or services to consumers.

13. Defendants have claimed to be notary publics or notarios publicos.

14. Defendant Hernandez ran a business located at 1500 Broad Street, Chattanooga, TN 37408.

15. Defendant Centro Azteca advertised on a sign located at 1500 Broad Street, Chattanooga, TN 37408 as having a “Notario Publico” without any disclaimer.¹

16. Defendant Centro Azteca advertised on a sign located at 1500 Broad Street, Chattanooga, TN 37408 as having “Abogados,” the Spanish word for “attorneys”.²

17. Defendant Hernandez is not an attorney and not licensed to practice law in the State of Tennessee.³

18. Defendant Centro Azteca does not employ an attorney who is licensed to practice law in the State of Tennessee.

¹ See Ex. A, Aff. of William Hannah.

² See *id.*

³ See Ex. B, Aff. of Adele Anderson.

19. Defendants have directly engaged in the alleged conduct and unfair or deceptive acts or practices described herein, had knowledge or should have had knowledge of the practices, and had the authority to control and stop the violations of the law.

20. As a result of the Defendants' conduct described in this Complaint, consumers may have suffered ascertainable losses associated with the various unfair, deceptive or misleading acts or practices alleged herein.

V. VIOLATIONS OF THE LAW

COUNT I: TENNESSEE CONSUMER PROTECTION ACT

21. The Plaintiff incorporates by reference and re-alleges each and every allegation contained in Paragraphs (10) - (20) of this Complaint.

22. Defendants have caused likelihood of confusion or of misunderstanding as to the source and approval of their goods or services, in violation of Tenn. Code Ann. § 47-18-104(b)(2).

23. Defendants have caused likelihood of confusion or of misunderstanding as to the affiliation, connection or association with, or certification by, another, in violation of Tenn. Code Ann. § 47-18-104(b)(3).

24. Defendants have used statements in advertisements which create a false impression of the quality, value, usability or origin of the goods or services offered, in violation of Tenn. Code Ann. § 47-18-104(b)(21).

25. Defendants have advertised as a notario publico without a clear and conspicuous disclaimer disclosing the individuals are not licensed to practice law in Tennessee in violation of Tenn. Code Ann. § 47-18-104.

26. All of the acts and practices engaged in and employed by Defendants described in this Complaint are deceptive to the consumer or other person in violation of Tenn. Code Ann. § 47-18-104(b)(27).

COUNT II: UNAUTHORIZED PRACTICE OF THE LAW

27. Plaintiff incorporates by reference and re-alleges each and every allegation contained in Paragraphs (10) - (20) of this Complaint.

28. By directly or indirectly advertising falsely that Defendant Hernandez is a lawyer, Defendants are in violation of § 23-3-108(a).

DEMAND FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff, State of Tennessee, *ex rel.* Robert E. Cooper, Jr., Attorney General and Reporter, pursuant to the Tennessee Consumer Protection Act of 1977, the Attorney General's general statutory authority, the Attorney General's common law authority, and this Court's equitable powers, prays:

1. That this Complaint be filed without cost bond as provided by Tenn. Code Ann. §§ 20-13-101 and 47-18-116.
2. That process issue and be served upon Defendants requiring the Defendants to appear and answer this Complaint.
3. That this Court adjudge and decree that Defendants have engaged in the aforementioned acts or practices which violate the Tennessee Consumer Protection Act of 1977.
4. That this Court adjudge and decree that Defendants have engaged in the aforementioned acts or practices which violate the Tennessee Unauthorized Practice and Improper Conduct statutes.

5. That pursuant to Tenn. Code Ann. §§ 47-18-108(a)(1), (a)(4), (a)(5), 23-3-103(c)(1) and (c)(3) this Court temporarily and permanently enjoin and restrain Defendants from engaging in the aforementioned acts or practices which violate the Tennessee Consumer Protection Act of 1977, Unauthorized Practice and Improper Conduct statutes and other laws and regulations.

6. That this Court enter judgment against Defendants and in favor of the State for the reasonable costs and expenses of the investigation and prosecution of the Defendants' actions, including attorneys' fees and costs, expert and other witness fees, as provided by Tenn. Code Ann. §§ 47-18-108(a)(5), (b)(4), 23-3-103(c)(1) and other state law.

7. That pursuant to Tenn. Code Ann. § 47-18-108(b)(1), this Court make such orders or render such judgments as may be necessary to restore to any person who has suffered any ascertainable loss as defined in Tenn. Code Ann. § 47-18-2102(1), including statutory interest, and requiring that Defendants pay all costs of distributing and administering the same.

8. That pursuant to Tenn. Code Ann. § 23-3-103(c)(1), this Court make such orders or render such judgments as may be necessary to obtain restitution for any person who suffered an ascertainable loss from Defendants' violations of the Tennessee Unauthorized Practice and Improper Conduct statutes.

9. That this Court adjudge and decree that Defendants pay civil penalties of not more than one thousand dollars (\$1,000.00) per violation of the Tennessee Consumer Protection Act of 1977 to the State of Tennessee as provided by Tenn. Code Ann. § 47-18-108(b)(3).

10. That this Court adjudge and decree that Defendants pay civil penalties of not more than ten thousand dollars (\$10,000.00) per violation of the Unauthorized Practice and

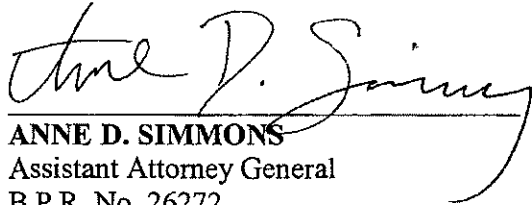
Improper Conduct statutes to the State of Tennessee as provided by Tenn. Code Ann. § 23-3-103(c)(1).

11. That all costs in this case be taxed against Defendants.
12. That this Court grant Plaintiff such other and further relief as this Court deems just and proper.

Respectfully submitted,



ROBERT E. COOPER, JR.
Attorney General and Reporter
B.P.R. No. 10934



ANNE D. SIMMONS
Assistant Attorney General
B.P.R. No. 26272

JEFFREY L. HILL
Senior Counsel
B.P.R. No. 16731
Office of the Tennessee Attorney General
Consumer Advocate and Protection Division
Post Office Box 20207
Nashville, TN 37202-0207
Phone: (615) 532-2590
Facsimile: (615) 532-2910

In Re:
Investigation of Juan Hernandez
dba Centro Azteca

AFFIDAVIT OF WILLIAM R. HANNAH

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

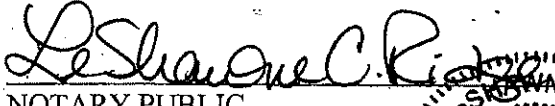
After having been duly sworn, I do hereby depose and aver as follows:

1. I am an adult residing in Hamilton County, State of Tennessee.
2. I make this affidavit on personal knowledge and understand that it may be used in legal proceedings.
3. I hereby verify that the attached photograph is a true and accurate picture of the sign on the building at 1500 Broad Street, Chattanooga, Tennessee as it existed on or about September 24, 2008.

FURTHER AFFIANT SAITH NOT

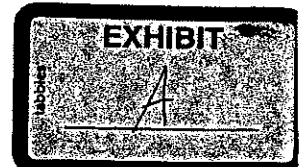
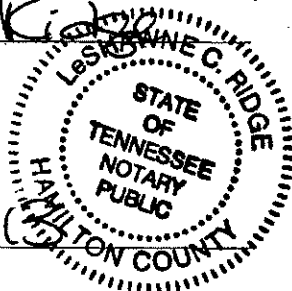

WILLIAM R. HANNAH

Sworn to and subscribed before me this
the 23rd day of April, 2009.


NOTARY PUBLIC

My commission expires:

3-6-2010



CENTRO AZTECA #2

NOTARIO PUBLICO

TRADUCCIONES
INMIGRACION
IMPUESTOS (W-7)
CITAS PERSONALES
ABOGADOS
PLACAS

TRANSPORTE
ASEGURANZAS
LIC. SUSPENDIDA
RENOVACION DE LICENCIA
REVOCAACION DE LICENCIA
BOLETOS DE AVION

VENTA Y REPARACION DE COMPUTADORAS

TEL: (423) 756-7177 ADENTRO →

IN RE
INVESTIGATION OF:
JUAN HERNANDEZ

AFFIDAVIT OF ADELE ANDERSON

STATE OF TENNESSEE)

DAVIDSON COUNTY)

I, Adele Anderson, do hereby depose and aver as follows:

1. I am an adult citizen of Tennessee and am competent to testify to the matters stated herein.

2. I make this affidavit on personal knowledge and understand that it may be used in legal proceedings pursuant to the unauthorized practice of law statutes, the Tennessee Consumer Protection Act or other appropriate law.

3. I swear that the facts contained herein are true and accurate to the best of my knowledge.

4. I am the Executive Director of the Board of Law Examiners of Tennessee. My business address is Board of Law Examiners of Tennessee, 401 Church Street, Suite 2200, Nashville, Tennessee 37243-0740. My business telephone number is (615) 741-3234.

5. As part of my responsibilities, I am the custodian of records containing the names of all persons in the State of Tennessee to whom a law license has been issued.

6. After reviewing the records of the Board of Law Examiners of Tennessee, I have confirmed that Juan Hernandez does not have a license issued by the State of Tennessee to practice law in this State.

Initials *AAA*
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7. All of the above information is true and accurate to the best of my knowledge.
FURTHER AFFIANT SAITH NOT.

Adele Anderson

Adele Anderson
Executive Director
Board of Law Examiners of Tennessee

Sworn to and subscribed before me
this 24 day of March, 2009.

Jeremy S. Harwell
NOTARY PUBLIC

My commission expires:

8/23/2011



My Commission Expires AUG. 23, 2011