

FILED

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

JUNE-1 AM 10:54

TRISTRAM P. BOOKER, CLERK

STATE OF TENNESSEE, *ex rel.*)
ROBERT E. COOPER, JR., ATTORNEY)
GENERAL and REPORTER,)

Plaintiff,)

v.)

MARTHA SALAZAR,)
individually and doing business as)
COMUNIDAD HISPANA,)
a sole proprietorship owned and operated)
by MARTHA SALAZAR,)

Defendant.)

No. 11C2088

COMPLAINT FOR PERMANENT INJUNCTION
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," "the State," or "Plaintiff"), pursuant to Tenn. Code Ann. § 23-3-103(c) of the Unauthorized Practice and Improper Conduct statutes, Tenn. Code Ann. § 23-3-101 *et seq.* ("UPL statutes"), Tenn. Code Ann. § 47-18-108 of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101 *et seq.* ("TCPA"), the Attorney General's general statutory authority at Tenn. Code Ann. § 8-6-109, and the Attorney General's common law authority.

2. Gary Cordell, the Director of the Division of Consumer Affairs of the Department of Commerce and Insurance ("Director"), has requested that the State of Tennessee, by the

Attorney General, commence law enforcement proceedings against the above named Defendant for violations of the TCPA.

3. The Director and Attorney General also have reason to believe that this action is in the public interest.

4. Pursuant to Tenn. Code Ann. § 47-18-108(a)(2), Defendant has been given ten (10) days notice of the State's intention to institute legal proceedings against her pursuant to the TCPA.

JURISDICTION AND VENUE

5. The jurisdiction of this Court is invoked pursuant to the provisions of Tenn. Code Ann. § 23-3-103(c)(2) and Tenn. Code Ann. § 47-18-108 and 47-18-114. Defendant is located in Tennessee and she has promoted her goods and services by advertising in local newspapers, distributing flyers and in person from and in this jurisdiction.

6. Venue is proper in Davidson County pursuant to Tenn. Code Ann. § 23-3-103(c)(2) and Tenn. Code Ann. § 47-18-108(a)(3), because it is the county where the Defendant conducts, transacts or has conducted business.

PLANTIFF

7. Plaintiff, State of Tennessee, *ex rel.* Robert E. Cooper, Jr., Attorney General and Reporter, is charged with enforcing the TCPA, which prohibits unfair or deceptive acts or practices affecting the conduct of any trade or commerce. Under Tenn. Code Ann. § 47-18-108(a)(1), the Attorney General may initiate civil law enforcement proceedings in the name of the State to enjoin violations of the TCPA and to secure such equitable and other relief as may be appropriate in each case.

8. The Attorney General is authorized under Tenn. Code Ann. § 47-18-108 to seek a judgment which enjoins fraudulent or illegal business acts or practices, including but not limited to, any misrepresentation, concealment or suppression of a material fact, and which awards remedies, such as restitution, disgorgement of profits, civil penalties, attorneys' fees, licensure and certificate revocation, injunctive relief and any other appropriate relief for such acts.

9. The Attorney General is authorized under Tenn. Code Ann. § 23-3-103(c)(1) to seek a judgment which enjoins the unauthorized practice of law, and which awards remedies, such as restitution, civil penalties, attorneys' fees, injunctive relief and any other appropriate relief for such acts.

The State of Tennessee alleges upon information and belief all of the following:

DEFENDANT

10. Martha Salazar is a resident of Tennessee with a business address of 2608C Nolensville Pike, Nashville, Tennessee 37211. From this address Martha Salazar is and has been promoting and conducting her law business to Tennesseans.

11. Comunidad Hispana is not incorporated, and therefore Defendant Martha Salazar is doing business as Comunidad Hispana.

12. Martha Salazar resides in Brentwood, Tennessee.

13. At all times relevant to this Complaint, Defendant Martha Salazar has and continues to personally operate, control and direct the day-to-day business operations and business practices of Comunidad Hispana and has and continues to directly participate and engage in the unlawful UPL and TCPA violations, unfair or deceptive acts or practices set forth in the Complaint.

14. Defendant has had knowledge or should have knowledge of the unlawful, unfair or deceptive acts or practices set forth in the Complaint, and has had and continues to have the authority to ability to control and/or stop the conduct in violation of the UPL statutes and TCPA set forth in this Complaint.

15. As used in this Complaint, "Defendant" shall refer collectively to Martha Salazar individually and doing business as Comunidad Hispana.

FACTUAL ALLEGATIONS

16. Defendant began operating Comunidad Hispana in June of 1996.

17. Defendant has engaged in trade or commerce as defined by Tenn. Code Ann. § 47-18-103(11). Specifically, Defendant offers goods and services to the public.

18. Defendant offers her goods and services by telephone, in person, and in print via local newspapers and flyers.

20. Defendant is not licensed to practice law in Tennessee or in another jurisdiction.

21. No attorneys are employed by or otherwise are associated with Defendant.

22. Defendant and her employee(s) select and complete immigration forms and Petitions on behalf of consumers, which constitutes the practice of law. Please see collective Exhibit A.

23. Defendant and her employees draft legal contracts on behalf of consumers and businesses, and provide legal advice relating to the consequences of said contracts, which constitutes the practice of law.

24. Defendant and her employees draft powers of attorney on behalf of consumers, which constitutes the practice of law.

25. Defendant and her employees draft documents purporting to transfer custody of children on behalf of consumers, which constitutes the practice of law.

26. Defendant advertised the services of Notaria Publica 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. See Exhibit B.

27. The acts and practices engaged in and employed by Defendant and described in this Complaint are unlawful, unfair and deceptive to consumers in violation of the TCPA and equitable principles make the award of prejudgment interest appropriate under the circumstances. Tenn. Code Ann. § 47-18-123.

28. As a result of the Defendant's conduct described in this Complaint, the consumers described herein and possibly other consumers may have suffered ascertainable losses associated with the various unfair, deceptive or misleading acts or practices and the unauthorized practice of law violations alleged herein.

VIOLATIONS OF THE LAW

COUNT ONE: UNAUTHORIZED PRACTICE OF LAW

29. Plaintiff incorporates by reference and re-alleges each and every allegation contained in Paragraphs 1 through 28 of this Complaint.

30. Defendant has been and is engaging in "law business," engaging in the "practice of law," and performing legal services within the state of Tennessee and/or for persons within the State of Tennessee as defined in Tenn. Code Ann. § 23-3-103, *et seq.*

31. By advising or counseling consumers for a valuable consideration regarding secular laws, Defendant has been and is engaging in "law business" pursuant to Tenn. Code Ann. § 23-3-101(1).

32. By soliciting directly or indirectly to provide services such as the assisting in the drawing of legal documents and advising or counseling consumers for a valuable consideration, Defendant is and has been engaging in "law business" pursuant to Tenn. Code Ann. § 23-3-101(1).

33. By engaging in "law business" and "practice of law" without being licensed to practice law in Tennessee, the Defendant has engaged in the unlawful practice of law, in violation of Tenn. Code Ann. § 23-3-103(a).

COUNT TWO: VIOLATION OF TENNESSEE CONSUMER PROTECTION ACT

The Plaintiff incorporates by reference and re-alleges each and every allegation contained in Paragraphs (1) - (28) of this Complaint.

34. Defendant's offering of legal services to consumers, as alleged herein, constitutes the offering of or providing of "goods" and/or "services" and constitutes "trade," "commerce" and/or a "consumer transaction" as defined in Tenn. Code Ann. § 47-18-103 (5), (10) and (11).

35. All of the acts and practices engaged in and employed by Defendant, as alleged herein, are "unfair or deceptive acts or practices affecting the conduct of any trade or commerce" in Tennessee, which are declared unlawful by Tenn. Code Ann. § 47-18-104(a).

36. Defendant has caused likelihood of confusion or of misunderstanding as to the source and approval of her goods or services, in violation of Tenn. Code Ann. § 47-18-104(b)(2).

37. Defendant has 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).

38. Defendant has misrepresented that her services or goods have approval, characteristics, uses or benefits or qualities that Defendant's goods or services do not have, in violation of Tenn. Code Ann. § 47-18-104(b)(5).

39. Defendant has misrepresented that her services or goods are of a particular standard, quality, or grade when they are not, in violation of Tenn. Code Ann. § 47-18-104(b)(7).

40. Defendant has represented or implied that a consumer transaction confers or involves rights, remedies or obligations that it does not have or involve, in violation of Tenn. Code Ann. § 47-18-104(b)(12).

41. Defendant has 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).

42. By accepting payment for legal services, or other goods or services, and failing to deliver those goods and/or services, Defendant has engaged in conduct in violation of Tenn. Code Ann. § 47-18-104(a) and (b)(27).

43. By failing to clearly and conspicuously disclose to consumers that Defendant has not met the State's requirements to practice law and cannot legally offer legal services in the State of Tennessee, including the preparation of legal documents without a valid law license or the assistance and supervision of an attorney, Defendant has violated Tenn. Code Ann. § 47-18-104(a) and (b)(27).

44. Defendant has advertised as a notaria publica 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.

45. By advising or assisting in the selection and completion of immigration forms without a license to practice law in Tennessee, Defendant is in violation of Tenn. Code Ann. § 47-18-104.

46. By representing that Defendant Salazar is a notary public or notaria publica able to offer services as an immigration consultant, immigration paralegal or expert on immigration matters without the required accredited representative, Defendant has engaged in an unfair or deceptive act under Tenn. Code Ann. § 47-18-104.

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

DEMAND FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff, State of Tennessee, *ex rel.* Robert E. Cooper, Jr. Attorney General and Reporter, pursuant to the TCPA, UPL laws, notary public statute, the general statutory authority of the Attorney General, 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 the Defendant requiring the Defendant to appear and answer this Complaint.
3. That this Court adjudge and decree that the Defendant has engaged in the aforementioned acts or practices which violate the Tennessee Unauthorized Practice and Improper Conduct statutes.

4. That this Court adjudge and decree that Defendant has engaged in the aforementioned acts or practices which violate the Tennessee Consumer Protection Act of 1977.

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

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

7. 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 the Defendant's violations of the Tennessee Unauthorized Practice and Improper Conduct statutes.

8. 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 Defendant pay all costs of distributing and administering the same.

9. That this Court, pursuant to Tenn. Code Ann. §§ 47-18-108(a)(1), (a)(4) and (a)(5), require Defendant's real and personal properties and assets be frozen.

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

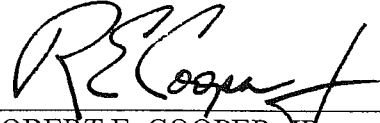
12. That this Court revoke any business licenses or other license or certificates authorizing Defendant, d/b/a Comunidad Hispana, to engage in business in this State because of Defendant's persistent and knowing violations of the TCPA as set forth in Tenn. Code Ann. § 47-18-108(b)(2).

13. That this Court make such orders and render such judgments as may be necessary to disgorge the profits and ill-gotten gains Defendant realized by reason of the alleged violations of the TCPA and UPL statute.

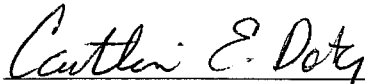
14. That all costs in this case be taxed against the Defendant.

15. 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




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*by permission
Caitlin E. Doty
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Approved:



A handwritten signature in black ink, appearing to read 'Gary Cordell', is written over a horizontal line. The signature is stylized and cursive.

Gary Cordell
Division of Consumer Affairs
Department of Commerce and Insurance