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| DISTRICT COURT, ARCHULETA COUNTY, COLORADO<br>Archuleta County Courthouse<br>46 Eaton Drive, Pagosa Springs, CO 81147 | |
| STATE OF COLORADO, *ex rel*. PHILIP J. WEISER, ATTORNEY GENERAL<br><br>Plaintiff,<br><br>v.<br><br>BOB'S LP GAS, INC.; and ROBERT SIVERS, an individual<br><br>Defendants. | ▲ **COURT USE ONLY** ▲<br><br>Case No.<br><br>Div. |

**ORDER ON STATE'S MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Having reviewed the evidence and considered the sworn and credible testimony provided by the State's witnesses, this Court finds and concludes that a Temporary Restraining Order and Preliminary Injunction against Defendants is necessary.

1. This Court has jurisdiction in the matter presented herein by virtue of Colo. Rev. Stat. § 6-1-110(1).

2. This Court is expressly authorized by C.R.S. § 6-1-110(1) to issue a temporary restraining order to prevent ongoing violations of the CCPA:

> Whenever the attorney general or a district attorney has cause to believe that a person has engaged in or is engaging in any deceptive trade practice listed in section 6-1-105 or part 7 of this article, the attorney general or district attorney may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure, prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by such person of any such deceptive trade practice or which may be necessary to completely compensate or restore to the original position of any person injured by means of any such practice or

to prevent any unjust enrichment by any person through the use or employment of any deceptive trade practice.

C.R.S. § 6-1-110(1).

3. The State has shown from specific facts by affidavit and testimony that Defendants' deceptive, unconscionable, and unfair practices are injurious to the public and that continued violations, if not enjoined, will cause immediate and irreparable injury, loss or damage. *Baseline Farms Two, LLP v. Hennings*, 26 P.3d 1209, 1212 (Colo. App. 2001); *Lloyd A. Fry Roofing Co. v. State Dept. of Air Pollution*, 553 P.2d 200 (Colo. 1976); *Rathke v. MacFarlane*, 648 P.2d 648 (Colo. 1982).

4. In view of the continuing harm to consumers established in the evidence and affidavits submitted by the State, the entry of a temporary restraining order is necessary and appropriate.

5. A preliminary injunction is also necessary and appropriate. The Court may grant a preliminary injunction when:

a) there is a reasonable probability of success on the merits;
b) there is a danger of real, immediate and irreparable injury which may be prevented by injunctive relief;
c) there is no plain, speedy and adequate remedy at law;
d) the granting of the preliminary injunction will not disserve the public interest;
e) the balance of the equities favors entering an injunction; and
f) the injunction will preserve the status quo pending a trial on the merits

*Rathke v. MacFarlane*, 648 P.2d 648, 653-54 (Colo. 1982); *see also Gitlitz v. Bellock*, 171 P.3d 1274, 1278 (Colo. App. 2007).

6. Based on the evidence presented by the State in its Motion and exhibits, the Court finds there is a reasonable probability that the State will prove its claims against Defendants at trial. *Rathke v. MacFarlane*, 648 P.2d 648, 653-54 (Colo. 1982); *see also Gitlitz v. Bellock*, 171 P.3d 1274, 1278 (Colo. App. 2007).

7. Regarding the second *Rathke* factor, the Court finds that there is a danger of real, immediate and irreparable injury, which may be prevented by injunctive relief. *Rathke*, 648 P.2d at 653.

8. For the same reasons, the Court finds that, absent an injunction, there is no plain, speedy and adequate remedy at law. *Rathke*, 648 P.2d at 653-54.

9. The Court finds that the balance of the equities and the public interest favor the entry of an injunction. Without an injunction, the State will be unable to protect the public from Defendants' ongoing illegal activities.

10. In contrast, Defendants will suffer no undue hardship by the entry of an injunction. There is no hardship created by deeming Defendants to authorize others to fill Defendants' propane tanks when Defendants are unable to do so themselves.

11. Pursuant to C.R.C.P. Rule 65(c), the State is not required to provide a security bond.

IT IS HEREBY ORDERED PURSUANT TO C.R.S. § 6-1-110(1) AS FOLLOWS:

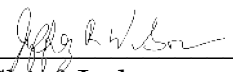
Defendants BOB'S LP GAS, INC and ROBERT SIVERS are:

1. Deemed to have authorized, under C.R.S. § 8-20-302 and any existing contracts with customers, any and all other propane suppliers to fill any Bob's LP Gas, Inc. customer tanks that are below 50% capacity, for a period of thirty (30) days;

2. Deemed to agree to successive thirty-day extensions of this authorization until Defendants can demonstrate the capacity and intent to provide propane deliveries and service.

3. Orders that a hearing pursuant C.R.C.P. (7)(b) shall be held via Webex on January 13, 2022, at 9:30 AM to determine whether to issue a preliminary injunction in this matter.

SO ORDERED THIS 1st DAY OF JANUARY, 2022.



Chief Judge
Sixth Judicial District of Colorado