

DISTRICT COURT, DENVER COUNTY, COLORADO Court Address: 1437 Bannock Street, Rm 256, Denver, CO, 80202	DATE FILED: April 20, 2016 10:24 AM CASE NUMBER: 2015CV33330 <p style="text-align: center;">⚠ COURT USE ONLY ⚠</p>
Plaintiff(s) STATE OF CO EX REL CYNTHIA H COFFMAN v. Defendant(s) AUSTIN HOME VENTURES LLC et al.	
Order: (Proposed) ORDER OF PRELIMINARY INJUNCTION AND OTHER RELIEF	

The motion/proposed order attached hereto: SO ORDERED.

Issue Date: 4/20/2016



MORRIS B HOFFMAN
 District Court Judge

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202</p> <hr/> <p>STATE OF COLORADO, <i>ex rel.</i> CYNTHIA H. COFFMAN, Attorney General,</p> <p>Plaintiff,</p> <p>v.</p> <p>AUSTIN HOME VENTURES, LLC, a Colorado limited liability company dba CAPITAL ASSET RECOVERY dba CAPITAL REALTY; BRYAN JENSEN, individually; ETHAN EATON aka ETHAN GRAHAM, individually; BILLY FUSTON, individually; and BAILEY PEREZ, individually,</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
	<p>Case Number: 2015cv33330</p> <p>Courtroom: 209</p>
<p>ORDER OF PRELIMINARY INJUNCTION AND OTHER RELIEF</p>	

Plaintiff the State of Colorado, upon relation of Cynthia H. Coffman, Attorney General (the “State”), and Defendants Austin Home Ventures, LLC dba Capital Asset Recovery dba Capital Realty (“Austin Home Ventures”), Bryan Jensen, Ethan Eaton aka Ethan Graham, Billy Fuston, and Bailey Perez (collectively, “Defendants”), each having consented to the entry of this Order of Preliminary Injunction and Other Relief (“Order”), without any admission of wrongdoing and without prejudice to any party’s ability to prosecute or defend the claims alleged in the State’s First Amended Complaint; and the Court, having considered this matter and being fully advised in the premises, FINDS, CONCLUDES, AND ORDERS AS FOLLOWS:

1. This Court has jurisdiction over Defendants and the subject matter of this action.

2. The parties shall comply with the provisions of the Stipulation to Enter Preliminary Injunction and Vacate Hearing (“Stipulation”) attached hereto, and such Stipulation shall be incorporated into and made a part of this Order as if fully stated herein.

3. The Court shall retain jurisdiction over this action to ensure compliance with this Order and the Stipulation and reserves the power to enter additional orders to effectuate and ensure compliance with this Order and the Stipulation. All terms of this Order shall remain in effect until final judgment is entered or the action is otherwise dismissed or completely resolved. After such time, this preliminary Order shall be VACATED.

4. As set forth in its First Amended Complaint and Motion for Preliminary Injunction and attached affidavits, Plaintiff has alleged that Defendants engaged in deceptive trade practices in violation of various provisions of the Colorado Consumer Protection Act, C.R.S. §§ 6-1-101, *et seq.* (“CCPA”), including the Colorado Foreclosure Protection Act, C.R.S. §§ 6-1-1101 through -1121 (“CFPA”), and seeks preliminary injunctive relief under C.R.S. § 6-1-110(1) and C.R.C.P. 65.

5. Defendants deny that they have engaged in any deceptive trade practices or violated the CCPA and dispute that the State has grounds to seek a preliminary injunction under C.R.C.P. 65. However, in order to avoid the expense, inconvenience, and uncertainty of a hearing on the State’s Motion, the parties have agreed to the following stipulated preliminary injunction. Therefore, it is in the best interests of the parties and judicial economy for the Court to enter this Order.

6. Defendants have agreed to voluntarily withdraw various affirmative defenses asserted in their Answer.

7. Pursuant to C.R.C.P. 65(c), Plaintiff is not required to provide a security bond.

IT IS HEREBY ORDERED AS FOLLOWS:

8. This Order shall only apply to Defendants’ activities falling within the State’s civil law enforcement jurisdiction.

9. Defendants and their officers, directors, agents, servants, employees, independent contractors, successors, and any other person in active concert or participation with Defendants who receive notice of the Court’s Order are

immediately restrained and enjoined from engaging, directly or indirectly, in any of the following acts:

- a. Assisting or offering to assist any person in collecting, obtaining, or attempting to collect or obtain overbid funds or excess proceeds resulting from a foreclosure sale for any property unless at least six months have passed from the date of the foreclosure sale; and
- b. Engaging in any conduct in violation of any provision of the CCPA, CFPA, and any other law applicable to their business practices.

10. All powers of attorney that Defendants obtained from consumers in connection with their businesses, including but not limited to powers of attorney obtained in connection with assisting or offering to assist any person in collecting, obtaining, or attempting to collect or obtain overbid funds or excess proceeds resulting from a foreclosure sale, are void. Defendants and their agents are immediately restrained and enjoined from using any powers set forth in all such powers of attorney.

11. Defendants Austin Home Ventures, Jensen, Eaton, and their officers, directors, agents, servants, employees, independent contractors, successors, and any other person in active concert or participation with Defendants who receive notice of the Court's Order are immediately restrained and enjoined from engaging, directly or indirectly, in any of the following acts:

- a. Entering into any contracts or other agreements relating to real property against which a foreclosure action has been commenced or as to which the referenced Defendants have knowledge, after making a reasonable inquiry, that the related loan is at least thirty days delinquent or in default, including but not limited to, purchase and sale agreements, lease or sublease agreements, "binding agreements," powers of attorney, and documents to transfer or encumber real property; however, nothing herein shall preclude Defendants from purchasing property at a foreclosure auction sale;
- b. Leasing, offering to lease, collecting rental or other payments or acting as a property manager for any real property against which a foreclosure action has been commenced or as to which the referenced Defendants have knowledge, after making a reasonable inquiry, that the related loan is at least thirty days delinquent or in default, with the exceptions set forth in ¶ 12 below;

- c. Transferring any real property interest they currently have in 4508 Bramble Lane, Colorado Springs, CO 80925, via quitclaim deed, warranty deed, or otherwise, without first obtaining express written consent from Kyle L. Anderson; and
- d. Acting as a real estate broker or performing activities for which a real estate broker license is required.

12. Defendants Austin Home Ventures, Jensen, and Eaton are not enjoined from collecting rent or otherwise managing the following properties:

- a. 4508 Bramble Lane, Colorado Springs, CO 80925; and
- b. 10319 Desert Bloom Way, Colorado Springs, CO 80925.

13. The State's Motion for Preliminary Injunction is voluntarily WITHDRAWN. The hearing set for April 29, 2016, at 8:30 a.m. is VACATED.

14. Defendants' affirmative defenses asserted in the following paragraphs of their answer are dismissed: ¶ 3, ¶ 7, ¶ 8 (but only as to the affirmative defenses of authority and license), and ¶¶ 9-14.

SO ORDERED and SIGNED this ____ day of _____, 2016.

BY THE COURT:

Hon. Morris B. Hoffman
District Court Judge