

DISTRICT COURT, CITY AND COUNTY OF
DENVER, COLORADO

1437 Bannock Street
Denver, CO 80202

STATE OF COLORADO, *ex rel.* CYNTHIA H.
COFFMAN, Attorney General,

Plaintiff,

v.

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,

Defendants.

CYNTHIA H. COFFMAN, Attorney General

JENNIFER H. HUNT, #29964*

First Assistant Attorney General

JENNIFER MINER DETHMERS, #32519*

LAUREN M. DICKEY, #45773*

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Courtroom: 209

**STIPULATION TO ENTER PRELIMINARY INJUNCTION AND VACATE
HEARING**

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, Bryan Jensen, Ethan Eaton aka Ethan Graham, Billy Fuston, and Bailey Perez (collectively, “Defendants”) hereby stipulate and agree as follows:

WHEREAS, the State commenced this action by filing a Complaint on September 17, 2015, and a First Amended Complaint on October 8, 2015, seeking injunctive and other relief against Defendants; and

WHEREAS, the State filed a Motion for Preliminary Injunctive Relief on or about November 11, 2015;

WHEREAS, Defendants filed a Request for Evidentiary Hearing on Plaintiff’s Motion for Preliminary Injunction and Brief Regarding Same on December 28, 2015;

WHEREAS, a hearing on the State’s Motion for Preliminary Injunctive Relief is set for a one-day hearing on April 29, 2016, at 8:30 a.m.;

WHEREAS, this Court has jurisdiction over Defendants and the subject matter of this action; and

WHEREAS, all parties believe that it is in their best interests to enter into this Stipulation to Enter Preliminary Injunction and Vacate Hearing (“Stipulation”) to reduce costs of litigation and promote a fair, just, and equitable preliminary resolution of this action;

IT IS THEREFORE STIPULATED AND AGREED by and between the State and Defendants as follows:

1. This Stipulation is entered into solely for the purpose of effectuating a compromise and cost-effective resolution of the State’s Motion for Preliminary Injunctive Relief. By entering into this Stipulation, Defendants admit no fault, wrongdoing, or liability of any kind.

2. The parties voluntarily agree and consent to entry of an Order of Preliminary Injunction and Other Relief (“Order”) in the form attached hereto and

incorporated herein by reference. All terms of the Order shall remain in effect throughout the duration of the action or until vacated by the Court.

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

4. This Stipulation contains the sole and entire agreement of the parties regarding the subject matter hereof. No party, agent, representative, nor attorney of any party has made any promise or representation concerning this Stipulation (or to induce its execution) which is not expressly set forth herein.

5. Through the signature of their counsel below, Defendants acknowledge that they have executed this Stipulation voluntarily, have had the opportunity to confer with legal counsel prior to executing this Stipulation, and have been advised of and understand the legal consequences of this Stipulation and accompanying Order. Defendants acknowledge that no promise, threat, or inducement of any kind, except as stated herein, has been made to induce them to enter into this Stipulation.

6. The Court shall retain jurisdiction of this action and reserve the power to enter additional orders to effectuate the fair and orderly administration of this action as may be appropriate and to ensure the parties' compliance with the Stipulation and Order.

7. To the extent required by the Colorado Rules of Civil Procedure or other authority, all Defendants agree to waive service of the Order of Preliminary Injunction and Stipulation and agree that execution by the Court shall constitute notice to all Defendants.

8. The parties agree that the Order describes in reasonable detail the acts sought to be restrained.

Respectfully submitted this 19th day of April, 2016.

For the Plaintiff
CYNTHIA H. COFFMAN
Attorney General

s/Jennifer Miner Dethmers _____

JENNIFER H. HUNT, 29964*
First Assistant Attorney General
JENNIFER MINER DETHMERS, 32519*
LAUREN M. DICKEY, 45773*
Assistant Attorneys General
Consumer Protection Section

Date

Attorneys for Plaintiff
**Counsel of Record*

For Defendants
FOSTER GRAHAM MILSTEIN & CALISHER, LLP

s/ D. Chandler Kelley _____

DANIEL K. CALISHER
D. CHANDLER KELLEY

Date

Attorneys for Defendants Austin Home Ventures, LLC
dba Capital Asset Recovery dba Capital Realty, Bryan
Jensen, Ethan Eaton, Billy Fuston, and Bailey Perez

CERTIFICATE OF SERVICE

This is to certify that I have served the **STIPULATION TO ENTER PRELIMINARY INJUNCTION AND VACATE HEARING** upon all parties herein by e-filing and service via ICCES on April 19, 2016:

Daniel K. Calisher
D. Chandler Kelley
Foster Graham Milstein & Calisher, LLP
360 South Garfield Street, Suite 600
Denver, CO 80209

*Attorneys for Defendants Austin Home Ventures, LLC
dba Capital Asset Recovery dba Capital Realty, Bryan
Jensen, Ethan Eaton, Billy Fuston, and Bailey Perez*

s/ Melissa Ball
