

Ann Franz (hereinafter collectively referred to as "Defendants"). The State also brings suit against Relief Defendants Frost Bank, First State Bank of Huntsville, First National Bank of Groesbeck, and Texas Bay Area Credit Union, inasmuch as the Relief Defendants are depositories and/or recipients of funds derived through the unlawful scheme described herein. The State asserts causes of action under the Texas Securities Act, TEX. REV. CIV. STAT. ANN. art. 581,-1 *et seq.* (*Vernon 1964 & Supp. 2003*) ("Securities Act"). The State further makes application for the appointment of a receiver, a temporary restraining order, a temporary injunction, a permanent injunction, and restitution, and in support thereof, would show the court the following:

DISCOVERY LEVEL

1. Discovery is intended to be conducted under Level 2, as set out in Texas Rule of Civil Procedure 190.

NATURE OF THE CASE

2. This action arises from Defendants' unlawful and fraudulent practices concerning the offer for sale and sale of securities in the State of Texas. Defendants are operating a fraudulent precious metals trading program in Houston, Texas, and elsewhere, whereby Defendants are representing that they buy processed titanium overseas and sell it to the United States government and its contractors to be used in submarines and other United States defense weapons and systems for investor profit. Defendants entice people to invest in the trading program with the promise of substantial profits or rates of return. The metals trading program is designated as "metals I" or "metals II" or the like. The profits or returns that have been given to investors on their investments are actually funds which Defendants collected from previous investors. Defendants are also using investor funds to pay their personal expenses and to support their lavish lifestyle.

3. Defendants are not registered to sell securities; the investment contracts they are selling are securities, and these securities are not registered. Defendants are engaging in fraudulent activities. All of these acts are felony violations of the Securities Act and are violations of other Texas laws and pose an immediate threat to the public. The State seeks to cause an immediate halt to Defendants' illegal and fraudulent operations and to freeze the account(s) where investors' funds are held. Finally, the State seeks a court subpoena and an order allowing expedited discovery, requiring the Defendants to appear and to produce documents, records, and books necessary for the Commissioner to notify investors of their rights and assist in restitution efforts.

JURISDICTION

4. This Court has jurisdiction over this action under art. 581-32 of the Securities Act.

VENUE

5. Venue is proper in this Court under art. 581-32 of the Securities Act.

STATUTORY AUTHORITY

6. This action is brought in the name of the State of Texas by the Attorney General of Texas, acting within the scope of his official duties under the authority granted him under the Constitution and the laws of Texas. It is brought for injunctive relief and restitution at the request of the Securities Commissioner, who, in making such request, is acting within the scope of her official duties and authority under the Securities Act.

7. Pursuant to Section 32.B of the Securities Act, the State seeks restitution for the purchasers of the securities sold by Defendants by means of fraudulent practices as described below, and false, misleading, and deceptive acts and practices as described below. The State further seeks the imposition of a constructive trust and equitable lien with respect to assets of any kind obtained

through the fraudulent scheme, including, but not limited to, assets fraudulently transferred to third parties.

8. This request for relief is to protect members of the public, and to prevent continued violations of the Securities Act.

TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF

9. Plaintiff seeks immediate injunctive relief pursuant to Section 32.A of the Securities Act in the form of a Temporary Restraining Order against Defendants Lanny Blake Lown, individually and d/b/a One West Financial Services and One West Financial, LLC, and Lori Ann Franz, and also enjoining their officers, directors, principals, partners, joint ventures, stockholders, employees, agents and/or representatives of the Defendants' entities, to prevent them from engaging in the unlawful acts described below, and from disposing of or concealing in any manner any property, assets, books or records, and to protect any funds obtained from persons who have purchased the securities described below from Defendants or their agents, employees, or representatives.

THE DEFENDANTS

10. Defendant One West Financial Services is an assumed name of Lanny Blake Lown, filed under the laws of the State of Texas. Its principal place of business is 2211 Norfolk, Suite 420, Houston, Texas 77098. Its mailing address is P.O. Box 540147, Houston, Texas 77254-0147. One West Financial Services purports to be an entity which deals with financial and management consulting, mortgages, investments, and debt negotiations. One West Financial Services is the name given to consumers as the entity with whom they will do business. One West Financial Services can

be served with process by serving its owner, Lanny B. Lown, at his place of incarceration or at 221.1 Norfolk, Suite 420, Houston, Texas 77098.

11. Defendant One West Financial, LLC, is a domestic limited liability company established under the laws of the State of Texas. Its principal place of business is 2211 Norfolk, Suite 420, Houston, Texas 77098, the same as the principal place of business for One West Financial Services. Defendant Lanny Blake Lown (hereinafter referred to as "Lown") is the manager of One West Financial, LLC, which can be served with process by serving its registered agent, Stacy L. Stair, at 2211 Norfolk, Suite 400, Houston, Texas 77098.

12. Defendant Lown is the owner of One West Financial Services and the manager of One West Financial, LLC. He can be served with process at his place of incarceration or at 2211 Norfolk, Suite 420, Houston, Texas 77098.

13. Defendant Lori Ann Franz (hereinafter referred to as "Franz") is Director of Operations of One West Financial Services. She can be served with process at 2211 Norfolk, Suite 420, Houston, Texas 77098, or at 4527 Pin Oak, Bellaire, Texas 77401.

RELIEF DEFENDANTS

14. Relief Defendant Frost Bank holds accounts belonging to Defendants that contain funds derived from the unlawful investment scheme described herein. Frost Bank may be served through its Market President, Beth Everett, at 2211 Norfolk, Houston, Texas. No wrongdoing is alleged against Frost Bank.

15. Relief Defendant First State Bank of Huntsville (formerly known as First State Bank of Kosse) holds accounts belonging to Defendants that contain funds derived from the unlawful investment scheme described herein. First State Bank of Huntsville may be served through its

President/CEO, James Blaine, at 33 SH 75 North, Huntsville, Texas 77320. No wrongdoing is alleged against First State Bank of Huntsville.

16. Relief Defendant First National Bank of Groesbeck holds accounts belonging to Defendants that contain funds derived from the unlawful investment scheme described herein. First National Bank of Groesbeck may be served through its Vice President/Cashier, James Black, at 409 South Ellis, Groesbeck, Texas 76642. No wrongdoing is alleged against First National Bank of Groesbeck.

17. Relief Defendant Texas Bay Area Credit Union holds accounts belonging to Defendants that contain funds derived from the unlawful investment scheme described herein. Texas Bay Area Credit Union may be served through its Executive Vice President, Patricia Nichols, or its Vice President of Operations, Deena Knox, at 1301 SH 225, Pasadena, Texas 77506. No wrongdoing is alleged against Texas Bay Area Credit Union.

DEFENDANTS' FRAUDULENT INVESTMENT SCHEME

18. The Defendants are, and have been, the subject of investigations conducted by the Texas State Securities Board and the Harris County District Attorney's Office (hereinafter referred to as "HCDA"). The factual allegations in this petition are sworn to in the affidavit of Karen L. Brisco-Richards, who is the Assistant Director of the Houston Branch Office of the Securities Board. Her affidavit is attached as **Exhibit SSB-1**.

19. In March 2003, the HCDA executed search and arrest warrants in connection with this matter. The search and arrest warrants are attached as **Exhibits HCDA-1(A), HCDA-1(B), and HCDA-1(C)**. Documents seized during the search of Defendants' place of business and residences have revealed that the Defendants have raised millions of dollars from the sale of unregistered

securities, in the form of investment contracts involving a precious metals trading program, to Texas residents and residents of several other states.

20. One West Financial Services, through its principals and agents who are not registered with the Commissioner, entices investors with substantial rates of return on their investment in a short period of time. From January 1, 2002, to the present, Defendants have offered for sale and sold these unregistered securities to known Texas investors and to known investors in several other states from the One West Financial Services office located in Houston, Texas. In violation of art. 581-12 of the Securities Act, the Defendants are not registered with the Commissioner as dealers or agents. Further, in violation of art. 581-7.A of the Securities Act, the securities offered for sale and sold by Defendants are not registered with the Commissioner.

21. In connection with the offer for sale and sale of the securities, Defendants represent to investors that they purchase titanium or titanium alloys from an overseas vendor and sell it to the United States government and its contractors to be used in submarines and other United States defense weapons and systems. Defendants further represent that investor funds are used to bid on the contracts. Defendants entice people with the promise of substantial profits or rates of return up to ten percent per month.

22. Defendants meet with investors. They provide potential investors with an information form to complete and with business cards. The information form requests checking and savings account numbers. At the end of the meeting, potential investors are provided with pre-addressed, stamped envelopes in which to mail the investment check(s) back to Defendants:

23. An examination of Defendants' investor files by the HCDA revealed that Defendants solicited at least 398 people to invest in the metals trading program. A list of investors is attached

as **Exhibit HCDA-2**. Many of the investors worked for Lyondell Citgo, a refinery located in Pasadena, Texas. Between January 1, 2002, and early March, 2003, Defendants collected a total of approximately \$13,400,000.00 in investor funds.

24. An examination of Defendants' financial and bank records by the HCDA revealed that Defendants had an existing balance of approximately \$900,000.00. in the primary account at Frost Bank which had been exhausted at the time of the execution of the search warrant. Between January 1, 2003 and March 13, 2003, Defendants had collected approximately \$3,600,000.00 in investor funds for the metals trading program. There were no deposits from the purported sales of any precious metals. Approximately \$217,000.00 of the investor deposits during this period was returned to investors as purported trading profits. Approximately \$900,000.00 of the funds was expended on the bills or personal expenses of investors for their benefit. Approximately \$1,430,000.00 of the investor funds was spent by Defendants on extravagancies such as jewelry, vehicles, credit cards, furniture, art and other luxuries. Approximately \$1,700,000.00 of the investor funds was transferred to another account.

25. Of the approximately \$13,400,000.00 that Defendants collected in investor funds, approximately \$4,000,000.00 was used to repay investors as purported metals trading profits, withdrawals on investment principal, or payment of investors' bills. The payments that Defendants made on behalf of, or to, earlier investors came solely from new investor deposits. The entire trading program is a "Ponzi" scheme. The financial records reviewed by the HCDA reflected no investments in titanium or any other traded metals.

26. Defendant Lown currently has title to 28 vehicles purchased with approximately \$1,500,000.00 of the investor funds. He also leased several dozen additional vehicles for himself,

his employees, family and friends. Defendants Lown and Franz have title to five nice-to-extravagant Houston homes. Approximately \$600,000.00 of the investor funds were used to purchase furnishings. Credit card charges for Defendants and associates during this period account for another \$1,000,000.00. Defendant Lown has spent approximately \$1,200,000.00 for personal jewelry since January 2002. He also used investor funds to charter jets and travel. Defendant Lown was arrested in connection with this matter. His bond and a substantial retainer paid to his lawyers were paid with investor funds which were transferred to Defendant Franz's personal account at a local credit union. Approximately \$220,000.00 was transferred from one of Defendant Lown's accounts to an account held by Defendant Franz. Defendant Franz subsequently withdrew approximately \$205,000.00. Of that amount, approximately \$100,000.00 was used to pay Defendant Lown's bond and approximately \$105,000.00 was used to pay Defendant Lown's attorney. Approximately \$21,000.00 remained in Defendant Franz's account. Thirteen investors testified at Defendant Lown's bail hearing.

DEFENDANTS ARE SELLING SECURITIES

27. Section 4.A of the Securities Act defines securities to include any "investment contract."

28. The investment opportunities offered for sale and sold by Defendants involving the purported buying and selling of precious metals by Defendants for investor profit constitute investment contracts and, therefore, are securities as defined by the Securities Act.

29. Under established Texas law, whether there is an investment contract is determined by reference to four factors, to-wit:

- (1) investment of money
- (2) a common enterprise

- (3) expectation of profits, and
- (4) whether the investor makes any significant efforts, and whether the efforts made by those other than the investor are undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise.

30. "Vertical commonality" or commonality between the investor and the promoter exists when the investor's success is dependent on the efforts and success of the promoter and is an indicator of common enterprise. Defendants represent that they receive a percentage of the profits obtained from the buying and selling of metals and that they provide the purchasers with a percentage of those profits Defendants receive. If the Defendants receive nothing, the investors receive nothing. The fortunes of Defendants and the purchasers are, therefore, inextricably linked, especially in light of the fact that the investors cannot profit if Defendants do not.

31. "Horizontal commonality" or commonality between the investors exists when the success of one investor is concomitant with the success of other investors and is also an indicator of common enterprise. In this matter, Defendant Lown told one potential investor that he, Defendant Lown, could make even more money if he included additional investors, indicating that the profit was bigger if the sum of money was bigger. This indicates that Defendant Lown intended to pool investor funds. An employee, agent, or representative of Defendants told another investor that the more money Defendant Lown gets, the bigger the contracts he can bid on. A review by the HCDA of seized financial records revealed that Defendants pooled several million dollars in investor funds into one Frost Bank account.

32. There is an expectation of profits. Defendants enticed potential investors with substantial rates of return, up to ten percent per month.

33. After the investment of funds, investors have no duties other than to wait on their profits or returns. Defendants told investors that Defendants buy and sell metals. Investors are not required to participate in the buying and selling of metals. The efforts made by Defendants are undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise. The success of the metals trading program depends on Defendants' efforts in the buying and selling of metals, which is how the profit is allegedly generated. Defendants' efforts directly affect the failure or success of the enterprise.

34. All four factors have been met in the instant case and the investment opportunities in the metal trading program offered for sale and sold to people were investment contracts; thus, Defendants are selling securities.

SALE OF UNREGISTERED SECURITIES

35. These securities are not registered with the Commissioner as required by the Securities Act.

36. Section 7.A(1) of the Securities Act prohibits the sale or offer for sale of unregistered securities as follows:

No dealer or agent shall sell or offer for sale any securities issued after September 6, 1955, except those which shall have been registered by Notification under subsection B or by Coordination under subsection C of this Section 7 and except those which come within the classes enumerated in Section 5 or Section 6 of this Act, until the issuer of such securities or a dealer registered under the provisions of this Act shall have been granted a permit by the Commissioner

37. The securities offered for sale and sold by Defendants have not, been and are not currently registered with the Securities Commissioner, nor has a permit been granted for the sale of such securities as required by Section 7 of the Securities Act. A certificate of non-registration attesting to this fact is attached hereto as **Exhibit SSB-2**.

FAILURE TO REGISTER PERSONS SELLING

38. Section 12.A of the Securities Act requires that all persons selling or offering to sell securities in Texas must be registered under the Act as follows:

Except as provided in Section 5 of this Act, no person, firm, corporation -or dealer shall, directly or through agents, offer for sale, sell or make a sale of any securities in this state without first being registered as in this Act provided. No agent shall; in behalf of any dealer, sell, offer for sale, or make sale of any securities within the state unless registered as an agent for that particular registered dealer under the provisions of this Act.

39. During the period that securities were sold and offered for sale, Defendants were not registered as dealers or agents as required by Section 12.A of the Securities Act. Certificates of non-registration attesting to this fact are attached hereto as **Exhibits SSB-3(A), SSB-3(B), SSB-3(C), AND SSB-3(D).**

FRAUDULENT PRACTICES IN THE SALE OF SECURITIES

40. The use of fraud and fraudulent practices in connection with the offer for sale and sale of securities is prohibited by Sections 4.F, 25-1, and 32.A of the Securities Act. In Section 4.F of the Securities Act, fraud is defined as follows:

The term "fraud" or "fraudulent practice" shall include any misrepresentations, in any manner, of a relevant fact; any promise or representation or prediction as to the future not made honestly and in good faith, or an intentional failure to disclose a material fact; . . . provided, that nothing herein shall limit or diminish the full meaning of the terms "fraud," "fraudulent," and "fraudulent practice" as applied or accepted in courts of law or equity.

41. Defendants, in the issuance, sale, promotion, negotiations, advertisement, or distribution of securities in the State of Texas, have engaged in fraud and fraudulent practices by misrepresenting material facts, including, but not limited to, the following:

- a. Representing that payments made to investors are returns of interest and principal.

In fact, the distributions to investors come from investor funds deposited in Defendants' bank account(s).

42. Defendants have further engaged in fraud and fraudulent conduct in connection with the offer and sale of securities by intentionally failing to disclose material facts, including, but not limited to, the following:

- a. Investors' funds would be diverted to Defendants' personal use;
- b. The securities sold by Defendants are not registered with the Securities Commissioner; and
- c. Defendants are not registered as dealers or agents under the Securities Act.

43. Defendants, with intent to deceive or defraud or with reckless disregard for the truth or the law, have materially aided, and are materially aiding, one another in the fraudulent practices set forth above.

NEED FOR INJUNCTIVE RELIEF

44. Immediate injunctive relief in the form of a temporary restraining order against Defendants is necessary to prevent the continuing unlawful acts and to mitigate the harm that is being done to investors. Without injunctive relief, Defendants will continue to engage in fraud and fraudulent practices as set forth above. Defendants will continue to sell unregistered securities in violation of the laws of the State of Texas and divert the proceeds to their personal use, to the severe harm of the investors and general public, unless enjoined from doing so.

45. Immediate injunctive relief is also necessary to restrain Defendants from further wasting, secreting, and otherwise dissipating the investors' funds, derived funds, revenues, and other assets acquired and held in connection with the sale of the above-described securities to the public,

and from destroying or hiding records from which restitution may be made and which are necessary for the Commissioner to discover the extent of Defendants' illegal operation.

46. Immediate injunctive relief is also necessary to restrain Defendants from interfering in any way with the investigation into their securities-related activities for the purpose of detecting or preventing violations of the Securities Act pursuant to art. 581-3. . . . ,

47. All of the above-stated harm to present and future investors and to the general public of the State of Texas resulting from Defendants' unlawful activities is substantial and immediate and will be irreparable without immediate injunctive relief. There is no adequate remedy at law.

48. The needed immediate injunctive relief should be granted without notice by temporary restraining order. After notice and hearing, the State of Texas asks that the injunctive relief be granted and extended by a temporary injunction, and after final hearing, the State of Texas asks that Defendants be permanently enjoined.

49. All injunctive relief sought in this case is available to the State of Texas as plaintiff without bond under Section 32.A of the Securities Act and under Section 6.001 of the Civil Practice and Remedies Code.

NEED FOR A RECEIVER

50. Defendant Lanny Blake Lown, individually and d/b/a One West Financial Services and One West Financial, LLC, acts as a dealer or issuer in the sale of securities, and Defendant Lori Ann Franz acts as a dealer, issuer, or an affiliate of a dealer or issuer in the sale of securities. Defendants engage in fraud and fraudulent acts in connection with the activities described above.

51. A receiver is needed for the funds and assets of Defendants in order to conserve and protect said funds and assets for the benefit of the investors should restitution be granted in this case

under Section 32 of the Securities Act. Unless receivership relief is granted and a temporary receiver is appointed for the affairs of Defendants, the funds and other property held by the Defendants will be dissipated and lost to the immediate and irreparable harm of the persons who purchased securities from Defendants and to the harm of the general public. There is no adequate remedy at law. A receiver maybe appointed without notice to Defendants pursuant to Section 25-1.C of the Securities Act.

52. For the aforementioned reasons, an order should be issued, before notice and hearing, appointing a temporary receiver for all money, property, and assets of any kind held in the name of One West Financial Services and/or One West Financial, LLC; all records pertaining to the sale of securities by Defendants; and all money, property, and assets of Defendants Lanny Blake Lown and Lori Ann Franz containing or derived from proceeds of Defendants' sale of securities or used in furtherance thereof, specifically including, but not limited to:

- (1) Account 53-2011352, Lanny Lown, Frost Bank, Houston, Texas
- (2) Account 53-8005664, Lanny Lown, Frost Bank, Houston, Texas
- (3) Account 1083534, Lanny Lown, First State Bank of Huntsville (formerly known as First State Bank of Kosse), Huntsville, Texas
- (4) Account 1108109, Lanny Lown, First State Bank of Huntsville (formerly known as First State Bank of Kosse), Huntsville, Texas
- (5) Account 1083500, Lanny Lown, First State Bank of Huntsville (formerly known as First State Bank of Kosse), Huntsville, Texas
- (6) Account 1053305, Vernita Hunter, L. Lown, First State Bank of Huntsville (formerly known as First State Bank of Kosse), Huntsville, Texas
- (7) Account 10532604, L. Lown, First State Bank of Huntsville (formerly known as First State Bank of Kosse), Huntsville, Texas

- (8) Account 2330223, Lanny Lown, First National Bank of Groesbeck, Groesbeck, Texas
- (9) Account 53-2010399, Lori Franz, Frost Bank, Houston, Texas
- (10) Account 489720-1, Lori Franz, Texas Bay Area Credit Union Pasadena, Texas
- (11) 2001 X5 BMW, Lanny Lown, VIN #WBAFB33581LH24970
- (12) 2001 F150 Ford, Lanny Lown, VIN #1FTRW08L31KB76762
- (13) 2002 Navigator RV, Lanny Lown, VIN #1RF14551821017982
- (14) 2002 F150 Ford, Lanny Lown, VIN #1FTRX08L32KC49871
- (15) 2002 525ia BMW, Lanny Lown, VIN #WBADT43412GZ98780
- (16) 2002 Mercedes CL500, Lanny Lown, VIN #WDBPJ75J32A029686
- (17) 2002 Mercedes S500v, Lanny Lown, VIN #WDBNG75J22A290233
- (18) 2002 Ford F150, Lanny Lown, VIN #1FTRX17W22KC50799
- (19) 2003 Mercedes SL55, Lanny Lown, VIN #WDBSK74F53F017550
- (20) 2003 Ford F250; Lanny Lown, VIN #1FTRW08LX3KB06162
- (21) 2002 Lincoln LS2000, Lanny Lown, VIN #ILNHM87A32Y713611
- (22) 2003 Mercedes P3852, Lanny Lown, VIN #WDBNG76J53A330644
- (23) 2003 Nissan 350z, Lanny Lown, VIN #JN1AZ34D63TI09142
- (24) 2003 Ford F350, Lanny Lown, VIN #1FTWW33P53EB99217
- (25) 2003 GMC Savana, Lanny Lown, VIN #1GDFG15T131119541
- (26) 2003 Ford Thunderbird, Lanny Lown, VIN #1FAHP60A53Y102898
- (27) 2003 760i BMW, Lanny Lown, VIN #WBAGN83463DK10058
- (28) 2003 Ford F350, Lanny Lown, VIN #1FTSW31PX3EC42144

- (29) 1999 Trailer, Lanny Lown, VIN #5BMUT121XWIA12706
- (30) 2002 Motorcycle, Yamaha, Lanny Lown, VIN #JY4AM02Y02C018459
- (31) 2002 Motorcycle, Yamaha, Lanny Lown, VIN #JY4AM02Y12C014758
- (32) 1998 Motorcycle, Yamaha, Lanny Lown, VIN #JY48J0IW3WA025061
- (33) 1999 Trailer, Boat, Lanny Lown, VIN #1VMBG1926X1011528
- (34) 2002 Sport GT-40 Boat and Trailer, Lanny Lown, VIN #1MDKB3X2X2A212657
- (35) 2003 Honda ATV, VIN #478TE260434206607
- (36) 2002 Ford Focus, L. B. Lown, VIN #1FAFP38352W221766
- (37) 2001 Enni FB Trailer, Lanny Lown, VIN # 1E9FU10181E273608
- (38) 2000 528ia BMW, Lanny Lown, VIN #WBADM6348YGU25697
- (39) Property located at 4151 Bissonnet Street, Houston, Texas 77005, Owner Name: Lanny B. Lown
- (40) Property located at 4148 Coleridge Street, Houston, Texas 77005, Owner Name: Lanny B. Lown
- (41) Property located at 1403 Hyde Park Boulevard, Houston, Texas 77006, Owner Name: Lanny B. Lown
- (42) Property located at 3015 Avalon Terrace, Houston, Texas 77057, Owner Name: Lori Ann Franz
- (43) Property located at 4527 Pine Oak Lane, Bellaire, Texas 77401, Owner Name: Lori Franz
- (44) Any and all furnishings located at any and all properties listed above
- (45) Jewelry owned by Lanny Lown held in the possession of George Poe at Fairmont Jewelry located at 411 Fairmont Parkway, Houston, Texas 77504
- (46) Any other unrecovered jewelry owned by any Defendant

NEED FOR A SUBPOENA

53. Section 32.A of the Securities Act authorizes the Attorney General to apply for a court subpoena requiring the appearance of Defendants to testify and give evidence concerning the acts or conduct complained of in this cause and requiring Defendants to produce documents, books, and records as may appear necessary for a hearing. The State seeks such a subpoena in order to discover the extent of Defendants' unlawful and fraudulent activities pertaining to the offer and sale of securities; to discover the names of all investors; and to trace the disposition and location of all funds obtained from investors in order that restitution may be made.

RESTITUTION

54. Pursuant to Section 32.B of the Securities Act, the State requests that on final hearing of this cause, the Court order Defendants to deliver, to each victim of the fraudulent schemes described herein, the amount of money or property that Defendants obtained from the person by the fraudulent practices.

FEEES FOR SALES OF UNREGISTERED SECURITIES

55. Under art. 581-35-2 of the Securities Act, if, after notice and hearing, the Commissioner or any court of competent jurisdiction finds that an offer has sold securities in this State pursuant to an offering, no part of which has been registered under Section 7 or 10 of the Securities Act and for which the transactions or securities are not exempt under Section 5 or 6 of the Securities Act, the Court may impose a fee equal to six times the amount that would have been paid if an issuer of securities had filed an application to register the securities and paid the fee prescribed in Subsection E of art. 581-35, based on the aggregate amount of sales made in Texas within the prior three years, plus interest on that amount. Neither the transactions nor the securities at issue are

exempt. The State asks the Court, after notice and a hearing, to impose the fee described in art. 581-35-2.

ATTORNEY FEES

56. Pursuant to Section 402.006 of the Texas Government Code, the State requests an award of all reasonable and necessary attorney fees incurred in preparing and prosecuting this action.

CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, The State of Texas prays that:

1. The Court grant a temporary restraining order, rendered before notice and hearing and without bond, until determination of the State's Application for Temporary Injunction or other order of the Court, enjoining Defendants, their officers, agents, servants, employees, and attorneys, and those persons in active concert of participation with them who receive actual notice of the order by personal service or otherwise, from engaging in the following acts:

- a. Dissipation of assets. Disposing of, transferring, selling, assigning, negotiation, expending, encumbering, partitioning, canceling, concealing, secreting, disguising, or hypothecating or removing from the jurisdiction of this Court, money, assets, notes, equipment, fixtures, receivables, expectancies, funds or other property or objects of value, whether real, personal, or mixed and whether tangible or intangible, wherever situated, belonging to, owned by, in the possession of, acquired by, or claimed by Defendants, their affiliated companies, and their officers, directors, principals, partners, joint venturers, successors, shareholders, employees, agents, representatives, and attorneys, and others acting in concert with or in behalf of the Defendants, or insofar as such property relates to, arises out of, or is derived from the sale of securities in connection with the business or operation of the Defendants;
- b. Destruction or removal of books and records. Disposing of, transferring, selling, assigning, canceling, concealing, secreting, disguising, or hypothecating of the books, records, ledgers, journals, invoices, contracts, notes, leases, investors lists, investor files, investor subscription agreements, tax forms or advice, receipts or any other documents of tangible items relating in any way to Defendants, their affiliated companies, or relating in

any manner whatsoever to the securities offered and sold by Defendants which are now or which come within the possession, custody, or control of Defendants, their affiliated companies, and their officers, directors, principals, partners, joint venturers, successors, shareholders, employees, agents, representatives, and attorneys, and others acting ,in concert with or in behalf of Defendants;

- c. Selling securities. Directly or indirectly promoting, issuing, selling, offering for sale, negotiating, advertising, soliciting, dealing in or distributing any security or securities, including trading programs involving the buying and selling of precious metals by Defendants, without complying with the Securities Act, in any way and by any manner or means, either directly or indirectly through agents, servants, officers, directors, shareholders, employees, representatives, or any other entity acting for them or in their behalf;
- d. Acting as an agent or dealer. Acting as an agent or dealer in securities, including trading programs involving the buying and selling of precious metals, without complying with all dealer and agent registration requirements of the Securities Act;
- e. Engaging in fraud. Engaging in fraud and fraudulent practices in connection with the sale of securities, including trading programs involving the buying and selling of precious metals by Defendants, in violation of the Securities Act or other laws of Texas; and,
- f. Interfering with investigation. Interfering in any way with the lawful investigation of the Securities Board and the Attorney General into Defendants' activities concerning the offer and sale of securities or the activities of the Receiver appointed by the Court.

2. That an order be rendered, before notice and hearing, appointing a temporary receiver to take charge of the property and assets held and claimed by Defendants which contains, or is derived from, proceeds of their sale of securities or used in furtherance thereof, and to conduct the business affairs of Defendants with the following powers:

- a. To take possession and full legal control of all property, records, computers, and assets of whatever nature and wherever located (within or without the State of Texas) belonging to, claimed by, or controlled by Defendants, and all money, property, and assets of Defendants which appear to the Receiver

to contain, or be derived from, proceeds of Defendants' sale of securities or used in furtherance thereof, specifically including, but not limited to:

- (1) Account 53-2011352, Lanny Lown, Frost Bank, Houston, Texas
- (2) Account 53-8005664, Lanny Lown, Frost Bank, Houston, Texas
- (3) Account 1083534, Lanny Lown, First State Bank of Huntsville (formerly known as First State Bank of Kosse), Huntsville, Texas
- (4) Account 1108109, Lanny Lown, First State Bank of Huntsville (formerly known as First State Bank of Kosse), Huntsville, Texas
- (5) Account 1083500, Lanny Lown, First State Bank of Huntsville (formerly known as First State Bank of Kosse), Huntsville, Texas
- (6) Account 1053305, Vernita Hunter, L. Lown, First State Bank of Huntsville (formerly known as First State Bank of Kosse), Huntsville, Texas
- (7) Account 10532604, L. Lown, First State Bank of Huntsville (formerly known as First State Bank of Kosse), Huntsville, Texas
- (8) Account 2330223, Lanny Lown, First National Bank of Groesbeck, Groesbeck, Texas
- (9) Account 53-2010399, Lori Franz, Frost Bank, Houston, Texas
- (10) Account 489720-1, Lori Franz, Texas Bay Area Credit Union, Pasadena, Texas
- (11) 2001 X5 BMW, Lanny Lown, VIN #WBAFB33581LH24970
- (12) 2001 F150 Ford, Lanny Lown, VIN #1FTRW08L31KB76762
- (13) 2002 Navigator RV, Lanny Lown, VIN #1RF14551821017982
- (14) 2002 F150 Ford, Lanny Lown, VIN #1FTRX08L32KC49871
- (15) 2002 525ia BMW, Lanny Lown, VIN #WBADT43412GZ98780
- (16) 2002 Mercedes CL500, Lanny Lown, VIN #WDBPJ75J32A029686
- (17) 2002 Mercedes S500v, Lanny Lown, VIN #WDBNG75J22A290233

- (18) 2002 Ford F150, Lanny Lown, VIN #1FTRX17W22KC50799
- (19) 2003 Mercedes SL55, Lanny Lown, VIN #WDBSK74F53F017550
- (20) 2003 Ford F250, Lanny Lown, VIN #1FTRW08LX3KB06162
- (21) 2002 Lincoln LS2000, Lanny Lown, VIN #ILNHMI87A32Y713611
- (22) 2003 Mercedes P3852, Lanny Lown, VIN #WDBNG76J53A330644
- (23) 2003 Nissan 350z, Lanny Lown, VIN #JN1AZ34D63T109142
- (24) 2003 Ford F350, Lanny Lown, VIN #1FTWW33P53EB99217
- (25) 2003 GMC Savana, Lanny Lown, VIN #1GDFG15T131119541
- (26) 2003 Ford Thunderbird, Lanny Lown, VIN #1FAHP60A53Y102898
- (27) 2003 760i BMW, Lanny Lown, VIN #WBAGN83463DK10058
- (28) 2003 Ford F350, Lanny Lown, VIN #1FTSW31PX3EC42144
- (29) 1999 Trailer, Lanny Lown, VIN #5BMUT121XW1A12706
- (30) 2002 Motorcycle, Yamaha, Lanny Lown, VIN #JY4AM02Y02C018459
- (31) 2002 Motorcycle, Yamaha, Lanny Lown, VIN #JY4AM02Y12C014758
- (32) 1998 Motorcycle, Yamaha, Lanny Lown, VIN #JY48J01W3WA025061
- (33) 1999 Trailer, Boat, Lanny Lown, VIN #1VMBG1926X1011528
- (34) 2002 Sport GT-40 Boat and Trailer, Lanny Lown, VIN #1MDKB3X2X2A212657
- (35) 2003 Honda ATV, VIN #478TE260434206607
- (36) 2002 Ford Focus, L. B. Lown, VIN #1FAFP38352W221766
- (37) 2001 Enni FB Trailer, Lanny Lown, VIN #IE9FU10181E273608

- (38) 2000 528ia BMW, Lanny Lown, VIN #WBADM6348YGU25697
 - (39) Property located at 4151 Bissonnet Street, Houston, Texas 77005, Owner Name: Lanny B. Lown
 - (40) Property located at 4148 Coleridge Street, Houston, Texas 77005, Owner Name: Lanny B. Lown
 - (41) Property located at 1403 Hyde Park Boulevard, Houston, Texas 77006, Owner Name: Lanny B. Lown
 - (42) Property located at 3015 Avalon Terrace, Houston, Texas 77057, Owner Name: Lori Ann Franz
 - (43) Property located at 4527 Pine Oak Lane, Bellaire, Texas 77401, Owner Name: Lori Franz
 - (44) Any and all furnishings located at any and all properties listed above
 - (45) Jewelry owned by Lanny Lown held in the possession of George Poe at Fairmont Jewelry located at 411 Fairmont Parkway, Houston, Texas 77504
 - (46) Any other unrecovered jewelry owned by any Defendant
- b. To take possession and full legal control of all material, whether written or stored in computers, relating to the operation of Defendants One West Financial Services, an assumed name of Defendant Lown, and One West Financial, LLC, and all money, property, and assets of Defendants Lown and/or Franz which appear to the Receiver to contain, or be derived from, proceeds of Defendants' sale of securities or used in furtherance thereof, including financial and other records, books of account, checks, passbooks, account numbers, and access codes for the accounts of deposit of Defendants One West Financial Services, One West Financial, LLC, Lown and/or Franz enumerated above, wherever and by whomever these records or accounts may be held;
 - c. To enter, occupy, and take full legal control of the leased premises at 2211 Norfolk, Suite 420, Houston, Texas 77098, including changing locks and security codes;
 - d. To take charge of, conduct and manage all affairs of, and on behalf of, Defendant One West Financial Services, an assumed name of Defendant Lown, and One West Financial, LLC;

- e. To receive, collect and open all mail directed to Defendants or delivered to any address or post office box used by Defendants;
- f. To sign checks or other instruments withdrawing, depositing or transferring funds with respect to any depository account listed above;
- g. To negotiate, transfer, or redeem any certificate, contract, instrument or security held by, or in the name of, Defendant One West Financial Services, an assumed name of Defendant Lown, or One West Financial, LLC;
- h. To dismiss employees, contractors, consultants, or assistants of Defendant One West Financial Services, an assumed name of Defendant Lown, and One West Financial, LLC, or to change the terms of employment or engagement with any of them, or to hire, as employees, contractors; or consultants, under terms to be determined by the Temporary Receiver, any accountants, legal assistants, or other assistants whose services, in the sole discretion of the Temporary Receiver, are necessary for an efficient and accurate administration of the receivership estate;
- i. To recover, by taking full legal control and ownership of, assets or property acquired with funds derived from or obtained through Defendants, whether directly or indirectly;
- j. To file, prosecute or defend any suit or suits by or against Defendants which may be deemed necessary, in the sole discretion of the Temporary Receiver, to further the obligations of the Temporary Receiver as set out above, but not to serve as an arbiter of claims by trade creditors of Defendants, or other claimants who are not investor-victims, as determined in the sole discretion of the Temporary Receiver;
- k. To dispose, for the benefit of the investor-victims, of real and personal property of Defendants if that property is determined by the Temporary Receiver to have been obtained or derived from the unlawful sale of securities;
- l. To open accounts and transfer money from one institution to another, as necessary in the Temporary Receiver's sole discretion, and under terms the Temporary Receiver considers appropriate, for orderly administration and restitution;
- m. To enter contracts as necessary for the orderly administration of the receivership estate;

- n. To pay reasonable and necessary expenses incurred in connection with the foregoing duties out of the receivership estate; and,
- o. To exercise all equitable powers under the statutes and the common law of this State authorizing the appointment of a receiver.

3. That the Court order the State to notify the following banks and institutions of the entry of the temporary restraining order and order appointing a temporary receiver, in that such accounts are held in the name of Defendants and/or proceeds from the unlawful and fraudulent scheme described herein have been deposited in such banks and institutions:

- a. FROST BANK

Lanny Lown, Account #53-2011352
Lanny Lown, Account #53-8005664
Lori Franz, Account #53-2010399
- b. FIRST STATE BANK OF HUNTSVILLE (formerly known as First State Bank of Kosse)

Lanny Lown, Account #1083534
Lanny Lown, Account #1108109
Lanny Lown, Account #1083500
Vernita Hunter, L. Lown, Account #105330
Lanny Lown, Account #10532604
- c. FIRST NATIONAL BANK OF GROESBECK

L. Lown, Account #2330223
- d. TEXAS BAY AREA CREDIT UNION
Lori Franz, Account #489720-1

4. All property and assets enumerated in paragraph 3 above be placed in *custodia legis* as of the date of the appointment of the temporary receiver herein;

5. The Court issue subpoenas ordering Defendants to appear for deposition, to testify and give evidence concerning the acts or conduct or things complained of in this cause;

6. The Court grant a temporary injunction after notice and hearing, enjoining the Defendants from engaging in the acts listed in paragraph 1 (a-f) of this Prayer;

7. The Court, after notice and hearing, extend the appointment of the temporary receiver;

8. All persons be enjoined and restrained by the temporary injunction from interfering with these proceedings, and from commencing or prosecuting any action or appeal or obtaining any preference, judgment, attachment, garnishment, or other lien, or making any levy, against the receiver, or against any receivership assets or any part thereof, and from asserting any claims against them, except in these proceedings;

9. The Court exercise exclusive jurisdiction over all claims and causes of action against Defendants arising from, or related to, the operation of Defendant One West Financial Services, an assumed name of Defendant Lown, or One West Financial, LLC, or the sale or offer for sale of securities by Defendants;

10. The Court impose a constructive trust and equitable lien on any assets belonging to Defendants insofar as these assets are derived from defrauded investors;

11. Upon final hearing hereof, the temporary injunction be made a permanent injunction;

12. Upon final hearing hereof, the order directing the receiver to take possession of the affairs of the Defendants be made permanent and that the Court direct the receiver to liquidate the affairs of Defendants as the facts and circumstances may require;

13. Upon final hearing, the court order restitution to be made to defrauded investors, identifiable at the final hearing, pursuant to Section 32.B of The Securities Act.;

14. The Court award the State its reasonable and necessary attorney fees for preparing and prosecuting this cause;

15. No bond be required by the State; and,
16. Such further relief to which the State of Texas may be justly entitled.

Respectfully submitted,

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Attorney General

BARRY R. McBEE
First Assistant Attorney General

JEFFREY S. BOYD
Deputy Attorney General for Litigation

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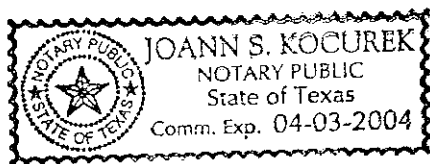
VERIFICATION

STATE OF TEXAS §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Denise Voigt Crawford, Securities Commissioner of the State of Texas, who, being by me first duly sworn, deposed and said that she has read the allegations in the foregoing application for temporary restraining order, temporary and permanent injunction, restitution, receivership and the accompanying affidavits and upon information and belief, each and every fact and matter therein stated is believed to be true and correct.

Denise Voigt Crawford
DENISE VOIGT CRAWFORD
Securities Commissioner
State of Texas

SUBSCRIBED AND SWORN to before me, this 10th day of April, 2003.



Joann S. Kocurek
Notary Public in and for
The State of Texas