

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 09c08023513

STATE OF NORTH CAROLINA *ex rel.*)
ROY COOPER, Attorney General,)
)
Plaintiff,)
)
v.)
)
PHOENIX HOUSING GROUP, INC., D/B/A)
HOMESAMERICA, GARY LEE GOOD, DENNIS)
PARRIS, ROGER DEAN BAILEY, JR., YO XEY)
HER A/K/A JOE HERR, DENNIS SETZER,)
W.R. STARKEY MORTGAGE, L.L.P.,)
MARINA MCCUEN, IKE VINSON, K AND B)
HOME BUILDERS, INC., GEORGE WILLIAM)
VARSAMIS, TRAVIS DWAYNE KANUPP,)
AND KATHY SMITH)
)
Defendants.)

TEMPORARY RESTRAINING
ORDER

THIS CAUSE came on before the undersigned Superior Court Judge on the State's motion for an *ex parte* temporary restraining order pursuant to N.C.G.S. § 75-14, Rule 65 of the North Carolina Rules of Civil Procedure, and Chapter 114 of the North Carolina General Statutes. It appears to the Court from the complaint and the motion and affidavits filed herein that there is good and sufficient cause to believe that the defendants Roger Dean Bailey, Jr., Yo Xey Her a/k/a/ Joe Herr, George William Varsamis, Travis Dwayne Kanupp, and K and B Home Builders, Inc. (K&B) are engaged in unfair and deceptive commercial practices in violation of N.C.G.S. § 75-1.1 while selling parcels of real property, manufactured homes, land-home packages, modular homes, stick-built homes, and foreclosed property to consumers and assisting consumers in applying for credit to finance the purchases.

It further appears to the Court that immediate and continuing loss to the consuming public

will occur unless defendants are temporarily enjoined from violations of the law, and the Court therefore finds the State is entitled to a temporary restraining order.

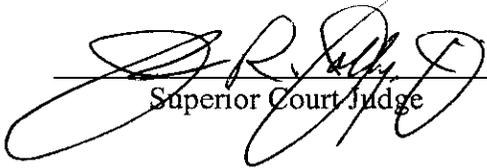
IT IS THEREFORE ORDERED that defendants Roger Dean Bailey, Jr., Yo Xey Her a/k/a/ Joe Herr, George William Varsamis, Travis Dwayne Kanupp, and K&B, their agents, employees, representatives, and persons acting in concert with them are temporarily restrained from:

- (a) soliciting and entering into sales contracts with consumers who do not have the income, net worth, or credit scores needed to qualify for financing to purchase the parcels of real property, manufactured homes, land-home packages, modular homes, stick-built homes, or foreclosed property that defendants are selling;
- (b) assisting or taking any action to assist consumers in applying for loans to purchase parcels of real property, manufactured homes, land-home packages, modular homes, stick-built homes, and foreclosed property from defendants or their agents, employees, representatives or those acting in concert with them;
- (c) directly or indirectly falsifying loan applications and other financial information, including information on income, assets, and liabilities as well as letters of explanation, verifications of employment, verifications of rent, and budget letters;
- (d) directly or indirectly making down payments for consumers or assisting consumers in any way in making down payments;
- (e) directly or indirectly assisting consumers in paying debts to qualify consumers for financing;
- (f) requiring consumers, as part of the purchase agreement, to sign promissory notes agreeing to pay a sum certain if they fail to close on the purchase of the home;

- (g) directly or indirectly misrepresenting the amount or source of down payments;
- (h) directly or indirectly preparing, soliciting, arranging or encouraging inflated appraisals on homes and land sold to consumers;
- (i) failing to give timely and proper disclosures to consumers of the costs and terms of credit transactions as required by law;
- (j) willfully destroying, concealing, transferring, erasing, or otherwise disposing of any business or financial records related in any way to defendants' sale or financing of parcels of real property manufactured homes, land-home packages, modular homes, stick-built homes, and foreclosed property in North Carolina; and
- (k) withdrawing any money from any financial institution, bank, savings and loan, mutual fund, brokerage account, or any other financial account in the name of or under the control of defendant K&B or any other entities that are related to the individual or corporate defendants and are selling parcels of real property, manufactured homes, land-home packages, modular homes, stick-built homes, and foreclosed property in North Carolina.

IT IS FURTHER ORDERED that this matter be heard before the Superior Court Judge presiding at the Wake County Courthouse, Courtroom 5 ^{JKS} A on November ^{JKS} 30, 2009, at ^{JKS} 10:00 A.M. or as soon thereafter as this matter can be heard, on the State's motion for a preliminary injunction.

This the 18th day of November, 2009, at 2:35 P. M.



Superior Court Judge