

CAUSE NO. DC-23-06025

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
v.	§	DALLAS COUNTY, TEXAS
	§	
	§	
KWEST, INC., KWEST LOGISTICS, LLC,	§	
MEDLOGIX SURGICAL SOLUTIONS, LLC,	§	
FRANK PARKER LEE, CHRIS MERINEY,	§	
OMAR KHAN, JAMES HERRERA JR.	§	101st
Defendants.	§	_____ JUDICIAL DISTRICT
	§	
	§	

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, the STATE OF TEXAS (herein “State”), acting by and through the Attorney General of Texas, KEN PAXTON and on behalf of the public interest, files this petition complaining of Defendants, KWEST, INC., KWEST LOGISTICS, LLC, MEDLOGIX SURGICAL SOLUTIONS, LLC, FRANK PARKER LEE, CHRIS MERINEY, OMAR KHAN, JAMES HERRERA, JR. (herein “Defendants”). In this action, the State alleges that Defendants engaged in false, misleading, and deceptive acts and practices in violation of §17.46 of the Texas Deceptive Trade Practices—Consumer Protection Act (DTPA), Tex. Bus. & Com. Code §§17.41–17.63.

Specifically, Defendants engaged in misleading, deceptive, and fraudulent business practices by taking advantage of a global shortage of Graphic Processing Units (herein “GPUs.”) Defendants deceived consumers regarding their ability to procure GPUs, misrepresented possession and quantity of the GPUs, failed to deliver GPUs to consumers as advertised, and refused to honor requests to cancel or refund orders when the GPUs were not delivered.

Defendants' actions have cost consumers millions of dollars across the United States. In support, the State will respectfully show the Court as follows:

I. DISCOVERY CONTROL PLAN

1. The discovery in this case should be conducted under Level 2 pursuant to Rule 190.3 of the Texas Rule of Civil Procedure ("TRCP").

2. This case is not subject to the restrictions of expedited discovery under Rule 169 of the TRCP because the relief sought by the State includes non-monetary injunctive relief.

3. In addition to non-monetary injunctive relief, the State seeks monetary relief, including civil penalties, attorneys' fees, and costs, in excess of \$250,000, that could exceed \$1,000,000.

II. PUBLIC INTEREST

5. The State has reason to believe that Defendants have engaged in the unlawful practices set forth in this petition. The State has further reason to believe Defendants have caused adverse effects to consumers in Texas. Therefore, the Consumer Protection Division of the Office of the Attorney General of the State of Texas is of the opinion that these proceedings are in the public interest.

III. DEFENDANTS

6. Defendant KWEST, Inc., is a South Dakota corporation with its principal place of business at 14800 Quorum Drive, Suite 100, Dallas, TX 75254, and a mailing address of P.O. Box 803315, Dallas, TX 75380. It may be served with process by servicing its registered agent, Parker Lee Capital, LLC, whose address is 1903 McMillan Ave #3, Dallas, TX 75206. SERVICE OF PROCESS IS HEREBY REQUESTED.

7. Defendant, KWEST Logistics, LLC, is a Dallas-based corporation with its principal place of business at 4100 Spring Valley Road #820, Dallas, TX 75244. It may be served with

process by servicing its registered agent, Seneca West whose address is 4845 Keller Springs Road, Addison, TX 75001. SERVICE OF PROCESS IS HEREBY REQUESTED.

8. Defendant, Medlogix Surgical Solutions, LLC is a Dallas-based Texas Limited Liability Company with its principal place of business at 14800 Quorum Drive, Suite 100, Dallas, TX 75254. It may be served with process by servicing its registered agent, Parker Lee Capital, LLC, whose address is 1903 McMillan Ave #3, Dallas, TX 75206. SERVICE OF PROCESS IS HEREBY REQUESTED.

9. Defendant, Frank Parker Lee resides and does business in Dallas County. Defendant Lee is an agent and owner acting by and through Defendants KWEST, Inc., KWEST Logistics, LLC, and Medlogix Surgical Solutions, LLC. Defendant Lee may be served with process at his residence 3847 Pine Tree Ct., Dallas, TX 75206. SERVICE OF PROCESS IS HEREBY REQUESTED.

10. Defendant, Chris Meriney resides and does business in Dallas County. Defendant Meriney is an agent of and acts by and through Defendants KWEST, Inc. and KWEST Logistics, LLC. Defendant Meriney may be served with process at his residence 2975 Blackburn St. #1002, Dallas, TX 75204. SERVICE OF PROCESS IS HEREBY REQUESTED.

11. Defendant, Omar Kahn resides and does business in Dallas County. Defendant Kahn is an agent of and acts by and through Defendants KWEST, Inc. and KWEST Logistics, LLC. Defendant Kahn may be served with process at his residence 6309 San Marino Dr., Rowlett, TX 75089. SERVICE OF PROCESS IS HEREBY REQUESTED.

12. Defendant, James Herrera Jr. resides and does business in Dallas County. Defendant Herrera is an agent of and acts by and through Defendants KWEST, Inc. and KWEST

Logistics, LLC. Defendant Herrera may be served with process at his residence 322 Alyse Rd., Roanoke, TX 76262. SERVICE OF PROCESS IS HEREBY REQUESTED.

IV. JURISDICTION

13. This enforcement action is brought by Attorney General Ken Paxton, through his Consumer Protection Division, in the name of the STATE OF TEXAS and in the public interest pursuant to the authority granted by §17.47 of the DTPA upon the grounds that the Defendants have engaged in false, deceptive, and misleading acts and practices in the course of trade and commerce as defined in, and declared unlawful by, §17.46 of the DTPA. In enforcement suits filed pursuant to §17.47 of the DTPA, the Attorney General is authorized to seek, *inter alia*, civil penalties and injunctive relief.

14. Defendants are doing business in Texas and are subject to both general and specific personal jurisdiction of this Court.

V. VENUE

15. Venue of this suit lies in Dallas County, Texas under § 17.47(b) of the DTPA, because it is the Defendants principal place of business, transactions made part of this suit occurred in Dallas County, Texas, and Defendants engaged in trade and commerce in Dallas County, Texas.

VI. ACTS OF AGENTS

16. Whenever in this Petition it is alleged that Defendants did any act, it is meant that the named Defendants performed or participated in the act, or the named Defendants' officers, agents, partners, trustees, or employees performed or participated in the act on behalf of and under the authority of Defendants.

VII. TRADE AND COMMERCE

17. At all times described below, Defendants and their agents have engaged in conduct

which constitutes “trade” and “commerce” defined in § 17.45(6) of the DTPA as follows:

“Trade” and “commerce” mean the advertising, offering for sale, sale, lease, or distribution of any good or service, of any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value, wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this state.

VIII. CLAIM FOR RELIEF

18. The State seeks monetary relief—including penalties, costs, expenses, and attorneys’ fees—in excess of \$250,000 and that could exceed \$1,000,000.

19. The State also seeks non-monetary, injunctive relief.

IX. FACTUAL ALLEGATIONS

20. In early 2021, the global market was experiencing a commercial shortage of computer graphic cards, also known as GPUs. GPUs were in high demand as a result of COVID-19, which caused a significantly low supply in the market.

21. Defendants took advantage of the demand for GPUs and began advertising GPUs for sale to consumers in February 2021. Defendants claimed to have procured a shipment of GPUs outside of the United States that were significantly reduced in price.

22. The GPUs were priced 60% under market value, with orders ranging from \$400.00 to \$25,000.00. At such a low price point, Defendants were able to sell a large quantity of GPUs between February 2021 and June 2021, totaling to approximately \$10,329,750.00 to Defendants for the sale of the GPUs.

23. Consumers who purchased the advertised GPUs, were told by the Defendants that orders would be delivered within three to four weeks. However, Defendants never fulfilled the consumer orders.

24. After three to four weeks, absent delivery, consumers inquired, and Defendants

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