

CAUSE NO. 096-312320-19

TEXAS DEPARTMENT OF BANKING	§	IN THE DISTRICT COURT OF
<i>Plaintiff,</i>	§	
	§	
V.	§	TARRANT COUNTY, TEXAS
	§	
CRYSTAL SHOEMAKE, individually and	§	
d/b/a LAVISH BANK AND TRUST and	§	
LAVISH BANK AND TRUST	§	
INTERNATIONAL	§	
<i>Defendant.</i>	§	_____ JUDICIAL DISTRICT

**ORIGINAL PETITION AND APPLICATION FOR
PERMANENT INJUNCTION**

The Texas Department of Banking (“DOB”), acting by and through the Attorney General of Texas, pursuant to Texas Finance Code section 35.210, files this Original Petition and Application for Permanent Injunction against Crystal Shoemake, individually, and doing business as “Lavish Bank and Trust” and “Lavish Bank and Trust International.”¹ In support thereof, the DOB would respectfully show the Court the following:

**I.
Discovery**

1. Discovery is intended to be conducted under Level 2 of the Texas Rules of Civil Procedure.

**II.
Parties**

2. The Texas Department of Banking is an agency of the State of Texas created by the Legislature to regulate Texas state-chartered banks and foreign bank agencies. *See*

¹ The terms “Lavish Bank and Trust”, “Lavish Bank N Trust”, and “Lavish Bank & Trust” and “Lavish Bank and Trust International”, “Lavish Bank N Trust International”, and “Lavish Bank & Trust International” will be used interchangeably throughout this Original Petition in reference to the entities involved.

Tex. Fin. Code § 31.101. The DOB is located at 2601 North Lamar Boulevard, Austin, Texas 78705.

3. Defendant Crystal Shoemake, individually, and d/b/a Lavish Bank and Trust and Lavish Bank and Trust International (“Shoemake”), is a Texas resident and may be served with process at 5208 Kilpatrick Avenue, Fort Worth, TX 76107 and/or PMB 148 6731 Bridge Street, Fort Worth, TX 76112 and/or 4328 Littlejohn Avenue, Fort Worth, TX 76105.

III. Nature of the Case

4. Texas law prohibits a person from using the terms “bank”, “bank and trust”, and/or similar terms or phrases in its name that implies to the public that the person is engaging in the business of banking in this state unless the person is authorized under its charter or the laws of this state or the United States to use such a term or phrase. Tex. Fin. Code § 31.005. Shoemake is a Texas resident who purports to be the owner of “Lavish Bank and Trust” and “Lavish Bank and Trust International”. The entities do not hold a charter and are not authorized under the laws of this state, any other state, or any federal financial regulatory agency to use the aforementioned terms or to engage in the business of banking. Thus, Shoemake is engaging in unauthorized activity.

IV. Jurisdiction

5. This Court has jurisdiction under the Government Code, which provides that the Attorney General may bring an action on behalf of a state agency in district court to enjoin or restrain the continuation or commencement of a violation of a final order or decision or an agency rule, or to compel compliance with the final order or decision or the rule. *See* Tex. Gov’t. Code § 2001.202.

6. This Court also has jurisdiction over the controversy under Texas Government Code Sections 24.007 and 24.008.

7. This Court has jurisdiction over Shoemake because Shoemake resides in and purports to be engaging in the business of banking in the State of Texas, specifically Tarrant County, Texas.

V. Venue

8. Venue is proper in Tarrant County under Texas Government Code Section 2001.202(a).

VI. Facts

9. Shoemake is the purported owner of “Lavish Bank and Trust” and “Lavish Bank and Trust International,” which she represents to be located in Fort Worth, Texas.

10. “Lavish Bank & Trust” and “Lavish Bank & Trust International” are assumed names for unincorporated businesses registered with the Tarrant County Clerk.

Exhibit A.

11. On November 26, 2018, Shoemake contacted the Federal Deposit Insurance Corporation (“FDIC”) via email to inform them that she is the owner of “Lavish Bank and Trust” and “Lavish Bank and Trust International” and requested information regarding paperwork for her businesses.

12. Beginning on around November 29, 2018, DOB began conducting an investigation which revealed the existence of a Facebook business profile page for “Lavish Bank N Trust”, a Facebook business profile page for “Lavish Bank N Trust International”, and a LinkedIn profile for “Crystal Lavish” that shows Shoemake as the “Owner” of “Lavish Bank & Trust”. **Exhibit B.**

13. DOB's investigation revealed that on or about November 27, 2018, Shoemake advised Joseph Meade, Assistant Regional Director, FDIC, via telephone, that she received approval from the state of Texas to operate a bank.

14. Shoemake is not chartered in Texas, authorized to engage in the business of banking in Texas, or supervised by or registered with any Texas or federal financial regulatory agency.

15. Section 31.005 of the Texas Finance Code prohibits a person from using the term "bank," "bank and trust," or a similar term in its name "in a manner that would imply to the public that the person is engaged in the business of banking in this state."

16. Between December 4, 2018 and January 30, 2019, the DOB attempted to notify Shoemake that she was in violation of the Texas Finance Code.

17. On January 30, 2019, DOB staff spoke with Shoemake via telephone and was able to successfully deliver the notification via email. **Exhibit C.**

18. DOB staff engaged in discussion with an individual purporting to represent Shoemake, and gave her until March 8, 2019, to remove the Facebook business profile pages and the LinkedIn profile.

19. On March 18, 2019, the Facebook business profile pages and the LinkedIn pages were still active and using the terms "Lavish Bank and Trust" and "Lavish Bank and Trust International."

20. On April 10, 2019, pursuant to the Texas Finance Code, the Banking Commissioner of the State of Texas ("Commissioner") issued a Cease and Desist order (the "Order") to Shoemake, ordering the dissolution of "Lavish Bank and Trust" and "Lavish Bank and Trust International," for which assumed names were filed with the Tarrant County Clerk's Office and to have those filings removed or made inactive within

ten days of the date of the Order. The Commissioner further ordered the removal of the Facebook business profile pages, the LinkedIn profile page, and any other associated websites within ten days of the date of the order. **Exhibit D.**

21. On April 11, 2019, the Order was mailed via first class mail and certified mail to Shoemake at 5208 Kilpatrick Avenue, Fort Worth, TX 76107 and it was “delivered, left with individual” by the United States Postal Service on April 13, 2019. **Exhibit E.**

22. On April 11, 2019, the Order was mailed via first class mail and certified mail to Shoemake at PMB 148 6731 Bridge Street, Fort Worth, TX 76112 and it was “delivered, left with individual” by the United States Postal Service on April 13, 2019. **Exhibit F.**

23. On April 11, 2019, the Order was mailed via first class mail and certified mail to Shoemake at 4328 Littlejohn Avenue, Fort Worth, TX 76105 however it was returned to the DOB as “unclaimed” by the United States Postal Service on May 3, 2019.

Exhibit G.

24. The Order took effect May 2, 2019 (21 days after the date it was mailed). Tex. Fin. Code § 35.207. Because Shoemake did not request a hearing in writing prior to the effective date of the Order, the Order took effect on May 2, 2019 and is final and not appealable. *Id.*

25. As of the date of this filing, Shoemake is in violation of the Order. The Facebook business profile pages for “Lavish Bank N Trust” and “Lavish Bank N Trust International” and the LinkedIn profile for “Crystal Lavish” that shows Shoemake as the “Owner” of “Lavish Bank & Trust” are still active. Further, the assumed name certificates that are on file with the Tarrant County Clerk’s Office are still active.

VII.
Application for Permanent Injunction

26. Plaintiff requests that this Court, after hearing the evidence in support of its application, issue a permanent injunction against Defendant.

27. Injunction under the Government Code. Section 2001.202 of the Texas Government Code provides for an injunction against any person who is violating, about to violate, or failing or refusing to comply with a final order or decision or agency rule. Tex. Gov't Code § 2001.202(a)(1).

28. Injunction under the Finance Code. Section 35.210 provides that “if the banking commissioner reasonably believes that a person has violated a final and enforceable cease and desist order, the banking commissioner may refer the matter to the attorney general for enforcement by injunction...”. Tex. Fin. Code § 35.210(a)(2).

29. Because Shoemake is violating Section 35.210 of the Finance Code, the DOB seeks an order enjoining Shoemake from implying to the public that she is engaged in the business of banking and from using terms, including, but not limited to, “bank” and “bank and trust”.

30. DOB further seeks an order enjoining Shoemake from having an active assumed name certificate on file with the Tarrant County Clerk’s office or any County Clerk’s Office in the State of Texas for “Lavish Bank and Trust” and “Lavish Bank and Trust International.”

VIII.
Attorney’s Fees and Administrative Penalty

31. The DOB requests that the Court order Shoemake to pay its reasonable attorney’s fees as provided by Finance Code section 35.210(b). Tex. Fin. Code §35.210(b).

32. The DOB requests that the Court order Shoemake to pay an administrative

penalty of no more than \$25,000.00 for each unauthorized act pursuant to Finance Code section 35.211(c)(1). Tex. Fin. Code § 35.211(c)(1).

**IX.
Prayer**

WHEREFORE, PREMISES CONSIDERED, the DOB prays that Defendant Shoemake be cited to appear on behalf of herself and as owner of Lavish Bank and Trust and Lavish Bank and Trust International and show cause why she should not be enjoined, and that upon hearing the Court grant:

(1) Injunctive relief prohibiting Crystal Shoemake, individually, and/or doing business as Lavish Bank and Trust, and/or Lavish Bank and Trust International, and any of its owners, officers, agents, servants, employees, and attorneys and any one acting in active concert or participation with Crystal Shoemake, individually, and/or doing business as Lavish Bank and Trust, and/or Lavish Bank and Trust International, from violating Section 31.005 of the Texas Finance Code and from directly or indirectly from engaging in the practice banking or implying to the public that she is engaging in the practice of banking as defined in Section 31.005 of the Texas Finance Code, or using terms including, but not limited to, “bank,” and “bank and trust,” and implying to the public that she is engaged in the business of banking;

(2) Injunctive relief prohibiting Crystal Shoemake, individually, and/or doing business as Lavish Bank and Trust, and/or Lavish Bank and Trust International from having an active assumed name certificate on file with the Tarrant County Clerk’s Office or any Clerk’s Office in the State of Texas for “Lavish Bank and Trust” and/or “Lavish Bank and Trust International;

(3) Judgment against Crystal Shoemake, individually, and/or doing business as Lavish Bank and Trust, and/or Lavish Bank and Trust International requiring her to pay the DOB's reasonable attorney's fees;

(4) Judgment against Crystal Shoemake, individually, and/or doing business as Lavish Bank and Trust, and/or Lavish Bank and Trust International requiring her to pay an administrative penalty of not more than \$25,000.00 for each unauthorized act; and

(5) Such other and further relief to which the Board may show itself justly entitled.

Respectfully submitted,

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