

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
ENTERED

MAY 28 1999

Michael N. Milby, Clerk of Court

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

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SUGARLAND PROPERTIES INCORPORATED, §

Plaintiff, §

*versus* §

Civil Action No. H-98-3091

JAMES W. BALLOUN, DBA §

FIRST COLONY PLUMBING COMPANY §

Defendant. §

**Agreed Final Judgment and Permanent Injunction**


1. Defendant is ordered, pursuant to 15 U.S.C. § 1118, to destroy or deliver up for destruction to plaintiff's attorneys, within thirty (30) days after entry of the judgment, all literature, signs, labels, prints, packages, wrappers, containers, advertising materials, stationery, any other items in his possession or control which contain the infringing designation "First Colony", either alone or in combination with other words or symbols, and all plates, molds, matrices, masters, and other means of making any of the infringing items (except for old documents necessary for accounting records, such as canceled checks, past accounting records and past invoices). Thirty (30) days after entry of the judgment, defendant shall state in writing to plaintiff's attorney that he has complied with this paragraph.

2. Thirty (30) days after entry of this judgment defendant shall take the following actions. If "First Colony" is used in a d/b/a, he shall (a) file a withdrawal certificate withdrawing the assumed name which has "First Colony" as part of the name and (b) file a new assumed name certificate which does not have "First Colony" as part of the name. If defendant uses "First Colony" in a corporate name he shall (a) change the name of the corporation to delete the term "First Colony", and (b) file amended articles of incorporation with the Texas Secretary of State, indicating the name change. Defendant shall request the telephone directory company to change the name of defendant's business in the alphabetical listings, the topical listings, and in any advertisement in the telephone books. Defendant shall provide SPI's attorney-in-charge with a copy of all paperwork associated with the withdrawal certificate, the new assumed name, amended articles of incorporation, the filing of those articles with the Texas Secretary of State, and the requests to the telephone directory companies.
3. Defendant and his agents and employees, and all others in concert or participation with them, are enjoined from using (a) "First Colony Area"; or (b) the name "First Colony" as a part of defendant's trade name or in any other manner, except that Balloun may use the term "First Colony" as part of an informational statement that Balloun serves or has served the "First Colony subdivisions", in which statement the word "First Colony" shall appear in the same size, format, color, and type style as the other words in the statement.

Defendant shall be in compliance with these provisions no later than thirty (30) days after entry of this judgment.

4. Defendant shall change his equipment and materials used for printing his invoices, so that thirty (30) days after entry of this judgment his invoices shall be in conformance with this judgment.
5. Effective immediately, defendant shall not create, order, or contract for any invoices, literature, posters, cards, labels, prints, packages, wrappers, containers, advertising materials, or other items which contain the term "First Colony" in any form, except as specifically permitted in this judgment. Defendant shall deliver a written certification to SPI's attorney-in-charge thirty (30) days after entry of this judgment as to when all existing advertising contracts expire, and shall further certify that defendant has changed all invoices, listings, advertisements, and signs to be in conformance with this judgment.
6. Defendant shall pay plaintiff's attorneys' fees for any legal action plaintiff takes to enforce this judgment.

SIGNED this 28 day of May, 1999.



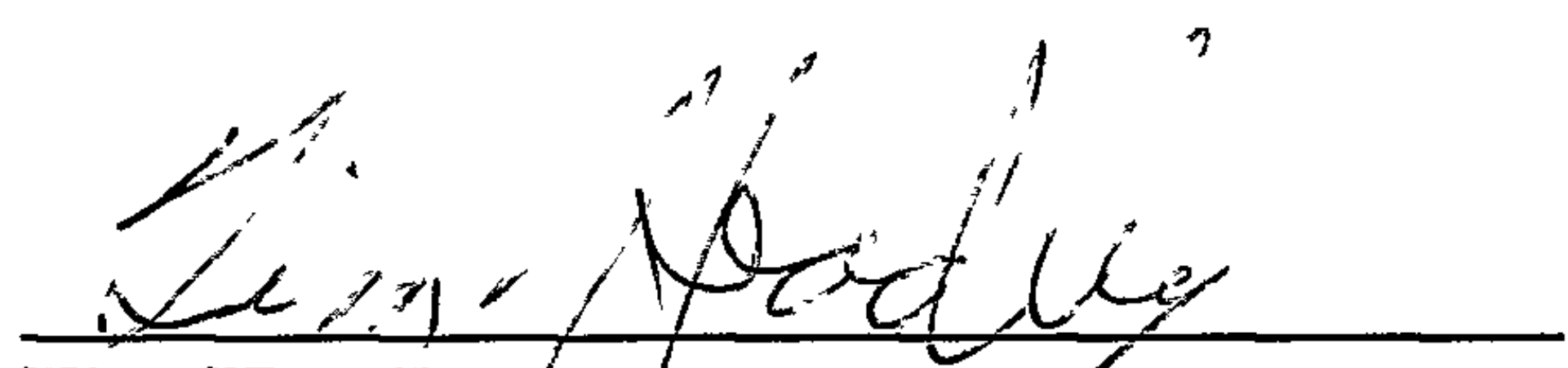
*Lynn N. Hughes*  
United States District Judge

APPROVED AS TO FORM AND SUBSTANCE:



Date: 5/26/99

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Date: 5-26-99

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