

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

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ENTERED

SUGARLAND PROPERTIES INCORPORATED,

§ NOV 10 1999

Plaintiff,

§ Michael N. Milby, Clerk

versus

§ Civil Action No. H-99-3662

FIRST COLONY LIMOUSINE, INC.

Defendant.

Agreed Permanent Injunction

1. Defendant is ordered, pursuant to 15 U.S.C. § 1118, to deliver up for destruction to plaintiff's attorneys, within ninety (90) days after entry of the judgment, all literature, signs, labels, prints, packages, wrappers, containers, advertising materials, stationery, any other items in its 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.
2. Thirty (30) days after entry of this judgment defendant shall take the following actions. If "First Colony" is used in a dba, defendant 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 defendant shall (a) change the name of the corporation to delete the term


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“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 general counsel, and 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 its 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 defendant may use the term “First Colony” as part of an informational statement that defendant serves or has served the “First Colony subdivision”, 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 ninety (90) days after entry of this judgment. However, until December 31, 2000, defendant may state when answering the telephone that defendant's business was previously known as “First Colony Limousine”.

4. Defendant shall change its equipment and materials used for printing its invoices, so that ninety (90) days after entry of this judgment its 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 general counsel, with a copy to SPI's attorney-in-charge, ninety (90) 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 10th day of November, 1999.



Lee H. Rosenthal
United States District Judge

APPROVED AS TO FORM AND SUBSTANCE:

Mark Kerstein

Date: 11-9-99

Mark Kerstein
Attorney-in-charge for Defendant
State Bar No. 24007477
Southern District Bar No. 23036
Binion, Harmon, & Lindley, P.C.
2727 Allen Parkway, Suite 850
Houston, Texas 77019
Telephone: 713-526-9555
Facsimile: 713-526-9583

Tim Headley

Date: 11-9-99

Tim Headley
Attorney-in-charge for Plaintiff
State Bar No. 09325210
Southern District Bar No. 1003
Haynes and Boone, L.L.P.
1000 Louisiana, Suite 4300
Houston, Texas 77002
Telephone: 713-547-2040
Facsimile: 713-236-5526