



heights. Mr. Duarte orchestrated a scheme in which hundreds of millions of dollars earmarked for social programs were diverted to an elaborate network of phantom companies – among other misdeeds. Indeed, he is alleged to have absconded with nearly \$3 billion of his state’s money. This stolen money was used to make investments and purchase luxury homes and cars all over the United States. As the allegations against him grew, Mr. Duarte eventually fled Veracruz, and then Mexico. Mr. Duarte was later indicted, and then arrested in Guatemala as a fugitive. He was ultimately extradited to Mexico, where he is currently jailed.

The money stolen by Duarte rightfully belongs to the people of the State of Veracruz. The State thus files this and other actions in an effort to recover those funds stolen by Duarte and those acting in concert with him. Veracruz also seeks to recover assets purchased with such stolen funds.

Each of the Defendants named conspired with Javier Duarte to steal government funds from the State of Veracruz. Defendant Jose A. Bandin, who is married to Defendant Monica Babayan, has very close ties to Javier Duarte. Both BBVA Compass and Wells Fargo have bank branches in The Woodlands that are holding monies on behalf of the Defendants that belong to the State of Veracruz. CW Operating is in receipt of monies that belong to the State of Veracruz paid to it in exchange for a golf membership.

**I.**  
**Discovery Control Plan**

Plaintiff intends to conduct discovery under Level 2.

**II.**  
**Parties**

Plaintiff Veracruz is a foreign state entity of Mexico.

CW Operating Company, Inc. is a domestic nonprofit corporation that is doing business in Texas. This defendant can be served via personal service via its registered agent, O'Donnell, Ferebee & Frazer, PC, at Two Hughes Landing, 1790 Hughes Landing Blvd. #550, The Woodlands, Texas 77380.

Defendant BBVA Compass Bankshares, Inc. is a domestic for profit corporation that is doing business in Texas. This defendant can be served via personal service via its registered agent, CT Corp. System, at 1999 Bryan St., Ste. 900, Dallas, TX 75201.

Defendant Wells Fargo Bank, N.A. is a foreign corporate fiduciary that can be served via its registered agent, Corporation Service Company, at 211 E. 7th Street, Suite 620, Austin, TX 78701.

Defendant Javier Duarte is a foreign individual that will be served via the Hague Convention. He is currently jailed in Veracruz.

Defendant Jose A. Bandin is an individual residing in Texas. He may be served with personal service at 8350 Ashlane Way, Ste. 104-23, The Woodlands, Texas 77382, or wherever he may be found. Jose A. Bandin is married to Defendant Monica Babayan.

Defendant Monica Babayan is an individual residing in Texas. She can be served at 8350 Ashlane Way, Ste. 104-23, The Woodlands, Texas 77382, or wherever she may be found. She is the wife of Defendant Jose A. Bandin.

### **III.** **Venue and Jurisdiction**

Plaintiff seeks damages in excess of \$75,000.00, exclusive of interest and costs; however, federal courts lack subject matter over this action, as there is no federal question and there is incomplete diversity of citizenship due to the presence of a defendant who is a resident and citizen of Texas. Removal would thus be improper. No party is asserting any claims arising

under the Constitution, treaties, or laws of the United States. Venue is proper in this County as at least one Defendant maintains a principal office here and most of the properties involved are here.

**IV.**  
**Causes of Action**

**Conversion – CW Operating, Duarte, Bandin, Babayan**

Plaintiff incorporates the preceding paragraphs of this Petition as if set forth fully below.

Plaintiff owned, possessed, and had the right to the funds that were stolen by Javier Duarte and his network to invest into the above referenced assets. These funds were the property of State of Veracruz. Defendants are currently wrongfully exercising control over this property.

Plaintiff has suffered injury because of these actions.

**Theft Liability Act – CW Operating, Duarte, Bandin, Babayan**

Plaintiff incorporates the preceding paragraphs of this Petition as if set forth fully below.

Defendant Duarte unlawfully appropriated property with the intent to deprive the owner of this property. In this case, the property belonged to the State of Veracruz. Currently, this property is owned or controlled by Defendants.

**Constructive Trust – All Defendants**

Plaintiff incorporates the preceding paragraphs of this Petition as if set forth fully below.

Plaintiff seeks a constructive trust over Mr. Duarte and his associates' interest in the subject account and associated funds. Mr. Duarte and his associates conspired together and looted government coffers and engaged in other graft that stole money from the State of Veracruz. Mr. Duarte and his associates took those funds and placed them into the above referenced banks or into CW Operating, among other things. Mr. Duarte had a fiduciary relationship with the State of Veracruz. More importantly, Mr. Duarte and his associates committed both actual and

constructive fraud in obtaining these funds. These funds were then placed into these accounts and the golf club at issue.

**Civil Conspiracy – All Defendants**

Plaintiffs would show that Duarte, together with Jose Bandin and Monica Babayan, conspired with Duarte and his associates to steal and embezzle, and to commit fraud on Plaintiff. The purpose of the conspiracy was move as much money as possible from the State of Veracruz to the United States for the benefit of Mr. Duarte and his family. Duarte, Bandin and Babayan had a meeting of the minds on this objective and, as shown in detail above, together, made one or more unlawful and overt acts towards this objective. As a result, Plaintiff suffered damages. Plaintiff also seeks punitive damages.

**Joint and Several Liability – All Defendants**

Duarte and the other defendants are joint and severally liable for all acts of Duarte and his associates, the conspirators as referenced above. Duarte and the other defendants planned and assisted in this conspiracy, and, as such, they are jointly and severally liable for all acts done by any member of the conspiracy in furtherance of such.

**Texas Penal Code 31.03(e)(7) – All Defendants**

The previous paragraphs are incorporated herein. Defendants unlawfully appropriated property with intent to deprive the owner, the State of Veracruz, of its property. Defendants did not have the effective consent of the State of Veracruz. Additionally, the property at issue is stolen and the various actors appropriated the property knowing it was stolen by another.

**Declaratory Judgment – BBVA Compass and Wells Fargo**

Plaintiff seeks declaratory relief pursuant to CPRC §37.004. Specifically, Plaintiff seeks a declaratory judgment that the monies held in the accounts in The Woodlands branches of BBVA Compass and Wells Fargo belong to the State of Veracruz.

Plaintiff reserves the right to seek and obtain any supplemental relief to which it may be entitled under CPRC §37.011, to the extent such supplemental relief is found appropriate by this Court after resolution of Plaintiff's request for declaratory judgment.

**REQUEST FOR INJUNCTIVE RELIEF**

Plaintiff's application for a temporary restraining order is authorized by TEX. CIV. PRAC. & REM. CODE § 65.011(1), (5). Plaintiff seeks a temporary and permanent injunction requiring Defendants BBVA and Wells Fargo to (1) prohibit any and all transfer or withdrawal of funds from bank accounts in the name of Monica Babayan or Jose Bandin at their respective branches; (2) provide an accounting of all funds in these accounts; (3) and transfer all of the funds in these accounts to Plaintiff.

A temporary injunction is required to preserve the subject matter of the suit. Plaintiff asks the Court to do the following:

- This Court hereby restrains Defendants Wells Fargo and BBVA Compass from transferring or withdrawing any money out of the accounts belonging to Monica Babayan or Jose Bandin, until a hearing on the temporary injunction can be had;
- This Court hereby restrains Defendants from incurring any debt on or borrowing against these account, until a hearing on the temporary injunction can be had; and
- Defendants BBVA and Wells Fargo shall, within five days, make available to Plaintiff, and his attorneys or representatives, all records related to these accounts, including transfers into and out of these bank accounts.

Defendants Babayan and Bandin are under investigation in Mexico. Defendants are close personal friends of the jailed ex-Governor of Veracruz Javier Duarte. Defendants Babayan and Bandin have been thoroughly investigated by the State of Veracruz, and both have been

found to have stolen money from state coffers in concert with Javier Duarte. It is probable that Plaintiff will recover from Defendants after a trial on the merits because of Defendants' inability to explain where these funds originated and the evidence provided by the State of Veracruz that these funds were sourced from state accounts. Defendants are wasting assets of the State of Veracruz, and such conduct continues today, and will continue without equitable relief. Restraint is necessary to protect and preserve the subject matter of the pending litigation. If Plaintiff's application is not granted, harm is imminent because Plaintiff is not permitted access to the records, and harm will result if the temporary restraining order is not issued. Such harm is irreparable because Plaintiffs cannot be adequately compensated in damages and the State's assets will be, or have been depleted, and Defendants will be unable to pay the damages. Plaintiff thus has no adequate remedy at law.

Plaintiff is willing to post bond.

There is insufficient time to serve notice on defendant and to hold a hearing on this application. Defendants may deplete, withdraw, or transfer these funds, unless the Court enters Temporary Restraining Order, restraining the Defendants from withdrawing, transferring or borrowing against these funds in these accounts. In order for Plaintiff to properly investigate its claims, this Court should restrain Defendants, its agents, servants, employees, contractors, contract employees, attorneys and those acting in concert with Defendants.

## **V.** **Damages**

As a direct and proximate result of the foregoing events, Veracruz suffered damages in the form of stolen funds, all for which Plaintiff seeks recovery herein.

**VI.**  
**Exemplary Damages**

Plaintiff seeks to recover exemplary damages against all Defendants based on their criminal conduct and resulting injuries and damages made the basis of this suit. Any caps or limits on punitive damages should not be applied because Defendants' conduct and violations of the Penal Code, including 31.03, disqualifies them from the benefit of any caps.

**VII.**  
**Demand for Jury**

Plaintiff demands a jury trial and has tendered the appropriate fee.

**VIII.**  
**Requests for Disclosure**

Pursuant to Tex. R. Civ. P. 194, Plaintiff requests that each Defendant disclose within fifty (50) days of service of this Request for Disclosure, the information and/or material described in Rule 194.2.

**IX.**  
**Prayer**

For these reasons, Plaintiff asks that Defendants be cited to appear and answer, and that they have judgment against Defendants for the following:

- a. Actual damages within the jurisdictional limits of this Court, but no less than \$2,000,000;
- b. Exemplary damages;
- c. Court costs;
- d. Pre and post judgment interest; and
- e. All other relief to which the Plaintiff is justly entitled.



Respectfully submitted,

**THE BUZBEE LAW FIRM**

By: /s/ Anthony G. Buzbee

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