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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Scottsdale Gas Company LLC,

10 Plaintiff,

11 v.

12 Tesoro Refining & Marketing Company
13 LLC, et al.,

14 Defendants.

No. CV-19-05291-PHX-SPL

**TEMPORARY
RESTRAINING ORDER**

15
16 The Court has reviewed Plaintiff Scottsdale Gas Company LLC's (the "Plaintiff")
17 Application for Temporary Restraining Order Without Notice and Preliminary Injunction,
18 wherein the Plaintiff alleges that Defendants Tesoro Refining & Marketing Company LLC
19 and Treasure Franchise Company LLC (together, the "Defendants") have employed illegal
20 and improper acts to terminate a gasoline supply contract with Plaintiff. (Doc. 10)

21 **I. Legal Standard and Discussion**

22 A request for a TRO is analyzed under the same standards as a request for a
23 preliminary injunction. *Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co.*, 240 F.3d
24 832, 839 n.7 (9th Cir. 2001). "A preliminary injunction is 'an extraordinary and drastic
25 remedy, one that should not be granted unless the movant, by a clear showing, carries the
26 burden of persuasion.'" *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012) (quoting
27 *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (per curiam) (emphasis omitted); *see also*
28 *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (citation omitted) ("A
preliminary injunction is an extraordinary remedy never awarded as of right").

1 “A plaintiff seeking a preliminary injunction must show that (1) he is likely to
2 succeed on the merits, (2) he is likely to suffer irreparable harm without an injunction, (3)
3 the balance of equities tips in his favor, and (4) an injunction is in the public interest.
4 *Winter*, 555 U.S. at 20. “But if a plaintiff can only show that there are ‘serious questions
5 going to the merits’— a lesser showing than likelihood of success on the merits— then a
6 preliminary injunction may still issue if the ‘balance of hardships tips sharply in the
7 plaintiff’s favor,’ and the other two *Winter* factors are satisfied.” *Shell Offshore, Inc. v.*
8 *Greenpeace, Inc.*, 709 F.3d 1281, 1291 (9th Cir. 2013) (quoting *Alliance for the Wild*
9 *Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011)). Under this serious questions
10 variant of the *Winter* test, “[t]he elements . . . must be balanced, so that a stronger showing
11 of one element may offset a weaker showing of another.” *Lopez*, 680 F.3d at 1072.

12 Plaintiff’s allegations that Defendants have sought to retrieve gasoline through
13 illegal means and prevent Plaintiff from processing credit card transactions leads the Court
14 to find that Plaintiff is likely to suffer irreparable harm in the absence of a temporary
15 restraining order pending a hearing on the merits of a preliminary injunction. The
16 allegations in the complaint demonstrate that Plaintiff has a strong likelihood of success on
17 the merits of its claims under the Petroleum Marketing Practices Act, and a balance of the
18 equities in this case clearly tips in favor of maintaining the status quo for Plaintiff’s
19 operating business. Finally, the Court finds that a temporary restraining order would
20 protect the public interest by maintaining the status quo until a preliminary injunction
21 hearing can be held. Accordingly,

22 **IT IS ORDERED** that Plaintiff’s Application for Temporary Restraining Order
23 Without Notice and Preliminary Injunction (Doc. 10) is **granted**.

24 **IT IS FURTHER ORDERED** that Defendants Tesoro Refining & Marketing
25 Company LLC and Treasure Franchise Company LLC are prohibited from (i) terminating
26 the Contractor Dealer Gasoline Agreement dated June 12, 2006; (ii) acting on any
27 reversionary leasehold interest in the premises located at 10809 North Frank Lloyd Wright
28 Blvd. in Scottsdale, Arizona; (iii) taking any extrajudicial actions affecting Plaintiff or its

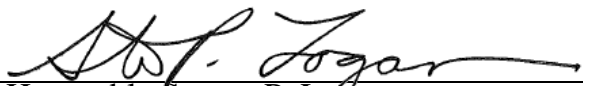
1 ability to operate a retail store and gas station at 10809 North Frank Lloyd Wright Blvd. in
2 Scottsdale, Arizona; and (iv) causing any agents, employees or contractors of Defendants
3 from entering onto the premises located at 10809 North Frank Lloyd Wright Blvd. in
4 Scottsdale, Arizona, except for performing acts in the ordinary course of business.

5 **IT IS FURTHER ORDERED** that Defendants Tesoro Refining & Marketing
6 Company LLC and Treasure Franchise Company LLC shall continue their relationship
7 with Plaintiff as supplier of gasoline and with respect to the processing of credit cards in
8 the same manner as before Defendants sought to terminate the Contractor Dealer Gasoline
9 Agreement dated June 12, 2006.

10 **IT IS FURTHER ORDERED** that Defendants Tesoro Refining & Marketing
11 Company LLC and Treasure Franchise Company LLC must file a response to Plaintiff's
12 Application for Temporary Restraining Order Without Notice and Preliminary Injunction
13 (Doc. 10) no later than **5:00 p.m. on Tuesday, October 8, 2019.**

14 **IT IS FURTHER ORDERED** setting a hearing on Plaintiff's Application for
15 Temporary Restraining Order Without Notice and Preliminary Injunction (Doc. 10) on
16 Thursday, **October 10, 2019 at 1:30 p.m.**, before the Honorable Judge Steven P. Logan,
17 United States District Judge, in the Sandra Day O'Connor United States Courthouse,
18 located at 401 West Washington Street, Phoenix, Arizona 85003, 5th Floor, Courtroom
19 501.

20 Dated this 4th day of October, 2019.

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24 Honorable Steven P. Logan
25 United States District Judge
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