

Protection and Public Health Division in the name of the STATE OF TEXAS and in the public interest under the authority granted to him by § 17.47 of the Deceptive Trade Practices–Consumer Protection Act (“DTPA”), TEX. BUS. & COM. CODE ANN. §§ 17.41 *et seq.*, the Contest and Gift Giveaway Act (“CGGA”), TEX. BUS. & COM. CODE ANN. §§ 40.001 *et. seq.*, and the Texas Telemarketing Disclosure and Privacy Act (“TDPA”), TEX. BUS. & COM. CODE ANN. §§ 44.001 *et seq.*

III. DEFENDANTS

3. Defendant VAVRO, McDONALD & ASSOCIATES, LLC also known as VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC doing business as Sun Country Travel is a Texas limited liability company whose principal place of business was 1611 North IH 35E, Suite 318, Carrollton, Texas 75006. **Service of process may be accomplished by serving Defendant VAVRO, McDONALD & ASSOCIATES, LLC’s President, David G. Vavro, at his current place of business, located at 2415 Avenue J, Suite 114, Arlington, Texas 76006, or wherever he may be found.**

4. Defendant JERRY L. McDONALD, SR. is a Texas resident and is believed to be a member/manager of Defendant VAVRO, McDONALD & ASSOCIATES, LLC. **Service of process will be accomplished by obtaining a Waiver of Citation from Defendant JERRY L. McDONALD, SR. In the alternative, if Defendant does not execute a Waiver of Citation, service of process may be accomplished by serving Defendant at his current place of residence, located at 2440 Spring Valley Drive, Bedford, Texas 76021, or wherever he may be found.**

5. Defendant JERRY L. McDONALD, JR. is a Texas resident and is believed to be a member/manager of Defendant VAVRO, McDONALD & ASSOCIATES, LLC. **Service of process**

will be accomplished by obtaining a Waiver of Citation from Defendant JERRY L. McDONALD, JR. In the alternative, if Defendant does not execute a Waiver of Citation, service of process may be accomplished by serving Defendant at his current place of residence, located at 7538 Ralick Court, Spring, Texas 77379, or wherever he may be found.

6. Defendant DAVID G. VAVRO is a Texas resident and is believed to a owner/officer/director/manager of Defendant VAVRO, McDONALD & ASSOCIATES, LLC. **Service of process may be accomplished by serving Defendant DAVID G. VAVRO at his current place of business, located at 2415 Avenue J, Suite 114, Arlington, Texas 76006, or wherever he may be found.**

IV. VENUE

7. Venue of this action lies in Dallas County pursuant to § 17.47(b) of the DTPA because the transactions and events giving rise to this action occurred in Dallas County and/or because Defendants have done or are doing business in Dallas County.

V. PUBLIC INTEREST

8. By reason of the institution and operation of the unlawful practices set forth herein, Defendants have caused and will continue to cause immediate and irreparable injury, loss and damage to the STATE OF TEXAS and its citizens, and will also cause adverse effects to legitimate business enterprise which conducts its trade and commerce in a lawful manner in this State. Therefore, Attorney General of the State of Texas believes and is of the opinion that these proceedings are in the public interest.

VI. TRADE AND COMMERCE

9. Defendants are engaged in “trade” and “commerce” as defined by § 17.45(6) of the

DTPA, in that Defendants were engaged in the sale discount travel club memberships to Texas consumers.

VII. NOTICE BEFORE SUIT

10. All Defendants have been on notice of the alleged unlawful conduct as set forth in Plaintiff's Second Amended Original petition for more than seven days prior to the instituting of this court action.

VIII. ACTS OF AGENTS

11. Whenever in this Petition it is alleged that Defendants did any act or thing, it is meant that Defendants performed or participated in such act or thing or that such act was performed by the officers, agents or employees of said Defendants, and in each instance, the officers, agents or employees of said Defendants were then authorized to and did in fact act on behalf of Defendants or otherwise acted under the guidance and direction of Defendants.

IX. NATURE OF DEFENDANTS' CONDUCT

12. Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually, doing business under the name Sun Country Travel, employed false, misleading or deceptive trade practices in the sale and marketing of discount travel club memberships by misrepresenting directly or indirectly that the Attorney General had endorsed, approved, or consented to the content of their sales program; falsely claiming that Sun Country Travel was a member in good standing with the Better Business Bureau; misrepresenting that trips used to entice consumers to attend their sales presentation were "completely free;" failing

to clearly and conspicuously disclose all costs associated with these so-called “free” trips; falsely claiming that Sun Country Travel was a Texas corporation; and misrepresenting the amount and nature of discounts available to its members.

13. Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually sold discount travel club memberships for up to \$6,400 at Sun Country’s sales locations in Michigan and in the Texas cities of Carrollton, Arlington, and Houston by promising consumers substantial discounts on hotels, airfare, cruises, rental cars, and condos. Since at least October 2000, Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually have sold memberships in various travel clubs, including Vacation Travel Club, Travel Service Network, and Grand Getaways Vacation Travel Club. Consumers purchased memberships through Sun Country Travel, and then the travel club acted as the agent for booking travel.

Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually misrepresented that Sun Country’s sales program was endorsed or approved by the Attorney General’s Office.

14. On numerous occasions, Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL

PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually directly or indirectly misrepresented that the Attorney General's Office had endorsed, approved, or consented to Sun Country's sales presentation materials. During a Sun Country group sales presentation on or about January 23, 2003, at the Carrollton sales office, the presenter made several references to the Attorney General and how the Attorney General's Office would "shut us down" if anything was "out of line." It is believed that thousands of other such presentations contained the same misrepresentations and that these presentations were created, approved, endorsed and/or implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually to be carried out and/or implemented by the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by their employees and agents.

15. On or about November 15, 2002, during a group sales presentation at Sun Country's Carrollton sales office, the presenter, Michael Miller referred to the Attorney General's Office at the very beginning of the presentation. He represented to the group that the Attorney General's Office sends secret shoppers to monitor Sun Country's presentations and to verify what he was saying was true and that if it was not, the Attorney General's Office would shut them down. It is believed that this presentation was substantially the same presentation presented by the Defendants VAVRO,

McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or their employees and agents thousands of times and endorsed, approved, sanctioned and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually.

16. On or about November 12, 2002, after the group presentation a salesperson by the name of "Don" represented to prospective members that Sun Country was bonded and the program was approved by the Attorney General and specifically mentioned the Texas Attorney General's Office. Again, it is believed that this presentation was substantially the same presentation presented by the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or their employees and agents thousands of times and endorsed, approved, sanctioned and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually.

17. Defendants' and/or their employees/agents' statements and references to the Attorney General during their sales presentations constitute direct and indirect misrepresentations that the

Attorney General had somehow endorsed or approved Sun Country's sales program. Defendants' program was not endorsed, approved, or in any way consented to by the Office of the Attorney General, as the Attorney General does not approve marketing materials or give advisory opinions on these matters. It is believed that this alleged endorsement was made by the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by their employees and agents many times and endorsed, approved, sanctioned and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and by their employees and agents.

Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually misrepresented that Sun Country was a member in good standing with the Better Business Bureau, when in fact it was not.

18. Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by and through their employee and /or agent falsely claimed in its sales presentations that Sun Country Travel was a member in good

standing with the Better Business Bureau (“BBB”) and had a satisfactory record with the BBB. In fact, Sun Country was not a BBB member and had been denied membership. Since at least May 31, 2002, the BBB reliability report for Sun Country stated:

“Our file experience shows that [Sun Country Travel] has an unsatisfactory record with the Bureau. Specifically, our records show a pattern of complaints regarding misrepresentation in marketing practices.”

It is believed that this alleged claim was made by the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by their employees and agents many times and endorsed, approved, sanctioned and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and by their employees and agents.

19. On or about January 23, 2003, during a group sales presentation at Sun Country’s Carrollton office, the presenter showed the group a document that he represented as proof of Sun Country’s “satisfactory status” with the Better Business Bureau. In fact at that time, Sun Country did not have a satisfactory record with the BBB and was not a member.

It is believed that this alleged claim was made by the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L.

McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by their employees and agents many times and endorsed, approved, sanctioned and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and by their employees and agents.

20. On or about November 12, 2002, during a group sales presentation at Sun Country's Carrollton office, Michael Miller, the presenter, represented to the group that Sun Country was a member in good standing with the BBB, while pointing to several BBB logos on the wall. During the one-on-one meeting with a salesperson by the name of "Don," prospective members voiced their concern about not being able to contact the BBB before making such a costly purchase. "Don" pointed to the logos of the BBB on the wall and assured the consumers that Sun Country was a member. In fact at that time, Sun Country did not have a satisfactory record with the BBB and was not a member.

It is believed that this alleged claim was made by the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by their employees and agents many times and endorsed, approved, sanctioned and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a

VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and by their employees and agents.

21. On or about August 9, 2002, at Sun Country's Houston sales office, prospective members met with a salesperson after the group presentation. When the couple expressed skepticism and hesitancy about signing up, the salesperson assured them that Sun Country was very reputable. He took them over to a document displayed on the wall to show that Sun Country was a member in good standing with the Better Business Bureau. In fact, at that time, Sun Country was not a BBB member.

It is believed that this alleged claim was made by the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by their employees and agents many times and endorsed, approved, sanctioned and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and by their employees and agents.

22. Defendants falsely used the name “Sun Country Travel, a Texas Corporation” in its sales contracts. Contracts used by Sun Country in their Carrollton, Arlington, and Houston sales offices identify Sun Country as a Texas corporation, when in fact the Texas Secretary of State has no record of any entity with the name “Sun Country Travel, a Texas Corporation.”

It is believed that this misrepresentation was made by the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by their employees and agents many times and endorsed, approved, sanctioned, directed and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and by their employees and agents.

Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually misrepresented that trips or vacations were “free” during telephone solicitations.

23. Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a

SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually misrepresented that trips used to entice consumers to attend their sales presentation were “free” when in fact, they were not. Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually typically used telephone solicitations to entice consumers to attend their sales presentation by misrepresenting that they are offering a “free” trip in return for the consumer’s attendance at a sales presentation. The trip was not free because consumers were required to pay a deposit to validate the trip plus airline and hotel taxes. Additionally, there were significant limitations on when the trips could be taken.

It is believed that this misrepresentation was made by the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by their employees and agents many times and endorsed, approved, sanctioned, directed and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and by their employees and agents.

24. Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a

SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually failed to clearly and conspicuously disclose costs associated with these so-called “free” trips. One of Defendants’ so-called “free” trips to San Diego requires a \$50.00 per person deposit (2 people must travel) to obtain a Reservation Request Form, airline taxes of \$50 to \$150, and an unstated amount of hotel taxes which are separate from the deposit requirement. Defendants failed to disclose these material terms and conditions until after the consumer had already attended the presentation and had no choice but to accept their “free” trip.

It is believed that this misrepresentation was made by the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by their employees and agents many times and endorsed, approved, sanctioned, directed and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and by their employees and agents.

25. Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually also failed to disclose the significant restrictions on when these so-called “free” trips could be taken, including such restrictions as departures could only be on a Tuesday or Wednesday unless a surcharge was paid and could not be

used 7 days before or after the following holidays: New Year's Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. The trip was only valid for one year and reservation requests had to be submitted 90 days in advance of the requested departure dates. These terms and conditions were also not disclosed until after the presentation was over.

It is believed that this misrepresentation was made by the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by their employees and agents many times and endorsed, approved, sanctioned, directed and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and by their employees and agents.

26. In some instances, Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually misrepresented during telephone solicitations that consumers had won a contest or drawing, when in fact they were being solicited to attend a sales presentation as part of a gift promotion. In a telephone script used by the "Award Redemption Center" on behalf of Sun Country to solicit consumers to attend their presentation, consumers were told that their entry form was "pulled" and that they had been selected to receive a "completely free" weekend cruise. In at least one instance, the consumer who received

this recorded solicitation had not entered a contest, drawing, or filled out any entry forms.

It is believed that this misrepresentation was made by the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by their employees and agents many times and endorsed, approved, sanctioned, directed and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and by their employees and agents.

27. The Office of the Attorney General has received a substantial number of complaints about Defendants' VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually sales and marketing practices. Specifically, consumers allege that they were led to believe that Sun Country was somehow endorsed or approved by the Attorney General's Office, that Sun Country was a member in good standing with the Better Business Bureau, that Sun Country failed to disclose the true costs of the "free" trips used to entice consumers to attend their sales presentation, and that consumers were not able to realize the discounts and savings promised by Sun Country during their sales presentation.

It is believed that this misrepresentation was made by the Defendants VAVRO,

McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or by their employees and agents many times and endorsed, approved, sanctioned, directed and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and by their employees and agents.

Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and/or their agents made telemarketing calls to Texas consumers registered on the Texas No-Call list.

28. Defendants and/or their agents/employees violated the Texas Telemarketing Disclosure and Privacy Act by making or causing to be made telemarketing phone calls to individuals in Texas who had their telephone number listed on the Texas No-Call list for 60 days or longer. The Public Utility Commission (“PUC”) has received over 75 complaints about Sun Country Travel making telemarketing calls to consumers on the Texas No-Call list. The following are examples of consumer complaints with the PUC:

- A. A Grapevine, Texas resident registered his residential telephone number on the Texas No-Call list. After being on the list for over 60 days he received two telemarketing calls from Sun Country Travel. In each instance the consumer requested and was

given a manager of Sun Country Travel to speak with concerning his number being on the Texas No-Call list. During a second telephone solicitation on September 9, 2002, a Sun Country manager claimed that Sun Country Travel was out of state and did not have to follow the Texas No-Call list law.

- B. A Highland Village, Texas resident registered both of his home telephone numbers on the Texas No-Call list on January 7, 2002. Despite being on the No-Call list for more than 60 days, Sun Country Travel has repeatedly solicited the consumer on both of his telephone numbers. On September 17, 2002, after previously requesting to be taken off the Sun Country Travel call list and filing an official complaint, the consumer was solicited again by a Sun Country Travel telemarketer.
- C. A Lewisville, Texas resident whose home telephone number was registered on the Texas No-Call list for more than 60 days has receive telephone solicitations from Sun Country Travel, despite repeated requests to cease calling her pursuant to the Texas No-Call list. During a recent phone call a Sun Country Travel representative entered into a verbal argument with the consumer concerning Texas No-Call list laws. After the argument was over, a Sun Country representative posing as a Lewisville, Texas police officer called the consumer and threatened to arrest her if she “misquoted the law again.”
- D. A resident of The Colony, Texas, registered her phone number on the Texas No-Call list in January of 2002. This consumer continued to receive telemarketing calls from Sun Country Travel, including one on September 9, 2002, despite repeated requests for her name to be removed from their call list. A Sun Country Travel representative

told the consumer that they received her name from the No-Call list, that they are allowed to call her number and there is nothing she can do to cease the calling.

- E. An Arlington, Texas resident, whose home telephone number was registered on the Texas No-Call list for more than 60 days was solicited on the phone by Sun Country Travel on both July 18, 2002 and August 8, 2002. During each of the telemarketing calls the operator became extremely rude when the consumer mentioned the Texas No-Call list. During the second phone call from Sun Country, the consumer was told by the operator that his name would be removed from their calling list unless he got “smart” with her.
- F. A Houston, Texas resident, after having his home telephone number registered on the Texas No-Call list for more than 60 days, received a telemarketing call from Sun Country Travel on September 30, 2002. When this consumer informed Sun Country Travel that she was on the Texas No-Call list the operator replied “go ahead . . . report me.”
- G. A Forth Worth, Texas resident, after having registered his home telephone number on the Texas No-Call list for more than 60 days, received two telemarketing calls from Sun Country Travel within a two-week time period including one on October 10, 2002. During each call the consumer requested that his number be removed from Sun Country Travel’s call list.
- H. A Flower Mound, Texas resident, after having registered his home phone number on the Texas No-Call list for more than 60 days, received a telemarketing call from Sun Country Travel on October 7, 2002. The consumer’s daughter answered the phone

and notified the operator that their number was on the No-Call list and requested the company's telephone number. The operator refused to give her the company's phone number and became verbally abusive.

- I. A Flower Mound, Texas resident after having registered his home telephone number on the Texas No-Call list, received a telemarketing call from Sun Country Travel on or about September 3, 2002. When this consumer informed the representative that he was registered on the No-Call list the representative replied that "Sun Country is out of state, and not subject to Texas law."

It is believed that these misrepresentations was made by the employees and agents of Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually many times and endorsed, approved, sanctioned, directed and implemented by Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually and by their employees and agents.

X. VIOLATIONS OF THE DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT

29. Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a

SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually, as set out in Paragraphs 1 through 28, in the course and conduct of trade and commerce, have **directly and indirectly by their own acts** engaged in false, misleading, deceptive or unconscionable acts and practices declared unlawful by Section 17.46(a) and (b) of the Texas Deceptive Trade Practices–Consumer Protection Act, including but not limited to:

- A. Misrepresenting directly or indirectly that the Attorney General’s Office had endorsed, approved, or consented to the content of Sun Country’s sales program;
- B. Falsely claiming that Sun Country Travel was a member in good standing with the Better Business Bureau;
- C. Falsely claiming that Sun Country Travel had a “satisfactory record” with the Better Business Bureau;
- D. Causing confusion or misunderstanding regarding Sun Country Travel’s membership with the Better Business Bureau by referring to or citing to another entity’s membership with the Bureau;
- E. Misrepresenting that trips used to entice consumers to attend Sun Country’s sales presentations were “free” or “completely free,” when in fact the trips were not free as consumers were required to pay a deposit and taxes of up to several hundred dollars;
- F. Failing to clearly and conspicuously disclose at the time of the solicitation all costs consumers were required to pay to redeem trips or vacations that were used to entice consumers to attend Sun Country’s sales presentations;
- G. Failing to clearly and conspicuously disclose at the time of the solicitation that a refundable deposit was required to redeem a trip offered to entice consumers to attend Sun Country’s sales presentations;
- H. Misrepresenting directly or indirectly that a consumer won a contest or drawing for a trip or vacation, when in fact the consumer had not won a contest or drawing but was instead being solicited as part of an advertising promotion;
- I. Failing to disclose the retail value of a gift used to entice consumers to attend Sun

Country's sales presentation; and

- J. Engaging in conduct which violates the Contest and Gift Giveaway Act, which, as outlined below, constitutes *per se* violation of the DTPA.

30. Moreover, the Consumer Protection and Public Health Division has reason to believe that the above actions specifically violate section 17.46(a), and the following provisions of section 17.46(b) of the DTPA:

- A. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services in violation of § 17.46(b)(2);
- B. Causing confusion or misunderstanding as to the affiliation, connection, or association with or certification by another in violation of § 17.46(b)(3);
- C. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which they do not have in violation of § 17.46(b)(5);
- D. Failing to disclose information concerning goods or services which was known at the time of the transaction when such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed in violation of § 17.46(b)(24); and
- E. Using the term "corporation," "incorporated," or an abbreviation of either of those terms in the name of a business entity that is not incorporated under the laws of this state or another jurisdiction in violation of § 17.46(b)(25).

XI. VIOLATIONS OF THE CONTEST AND GIFT GIVEAWAY ACT

31. Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually, as set out in Paragraphs 1 through 30, engaged, **directly or indirectly by their own acts**, in practices that constitute false, misleading or

deceptive trade practices declared unlawful by the Contest and Gift Giveaway Act, including but not limited to the following:

- A. Failing to clearly and conspicuously disclose that a refundable deposit was required in a gift or prize involving lodging, airfare, a trip, or a recreational activity in violation of CGGA § 40.007;
- B. Notifying a person that the person would receive a gift, a condition of receipt of which required the person to pay consideration of any kind or a charge or expense to a person for the gift, unless the consideration, charge, or expense was fully, clearly, and conspicuously disclosed in violation of CGGA § 40.033;
- C. Directly representing or implying that a gift promotion was a contest in violation of CGGA § 40.036(2);
- D. In a gift promotion using such words or phrases as “won,” “will win,” “will be awarded,” “sweepstakes” or “contest” or phrases of similar meaning that implied that the person was being solicited to enter or had won a contest in violation of CGGA § 40.036(3); and
- E. Failing to disclose the retail value of a gift in violation of CGGA § 40.036(4).

XII. VIOLATIONS OF THE TELEMARKETING DISCLOSURE AND PRIVACY ACT (Texas No-Call Statute)

32. Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually, as set out in Paragraphs 1 through 31, **directly and indirectly by their own acts** violated the Texas Telemarketing Disclosure and Privacy Act, TEX. BUS. & COM. CODE ANN. § 44.001 *et seq.*, in numerous instances as follows:

- A. Making a telemarketing call to a telephone number that had been published on the Texas No-Call list more than 60 days after the telephone number appeared on the then-current list in violation of TDPA § 44.102(a).

XII. INJURY TO CONSUMERS

33. By means of the foregoing unlawful acts and practices, Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually acquired money or other property from identifiable persons to whom such money or property should be restored, or who in the alternative are entitled to an award of damages. Further, Plaintiff alleges that Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually practices were calculated to acquire or deprive money or other property from consumers who were 65 years of age or older.

XIII. DISGORGEMENT

34. Defendants' assets are subject to the equitable remedy of disgorgement, which is the forced relinquishment of all benefits that would be unjust for Defendants to retain, including all ill-gotten gains and benefits or profits that result from Defendants' conduct. Defendants should be ordered to disgorge all monies fraudulently taken from individuals and businesses together with all of the proceeds, profits, income, interest and accessions thereto. Such disgorgement should be for the benefit of victimized consumers and the State of Texas.

XIV. PRAYER

35. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that VAVRO,

McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually, be cited according to law to appear and answer herein; that upon final hearing a PERMANENT INJUNCTION be issued restraining and enjoining Defendants individually and by their agents, servants, employees, and representatives from making the representations, doing the acts, and engaging in the practices set out in the proceeding paragraphs as well as from making the following representations and doing the following acts and engaging in the following practices in the pursuit and conduct of trade or commerce within the State of Texas as follows:

- A. Misrepresenting directly or indirectly that the Attorney General's Office has endorsed, approved, or consented to the content of a sales program for Defendants' business in the travel industry;
- B. Referring to the Office of the Attorney General in any oral or written solicitations without disclosing that Defendants have been sued by the Attorney General for false, misleading, or deceptive trade practices;
- C. Falsely claiming that Defendants' business in the travel industry is a member in good standing with the Better Business Bureau;
- D. Falsely claiming that Defendants' business in the travel industry has a "satisfactory record" with the Better Business Bureau;
- E. Causing confusion or misunderstanding regarding the membership of Defendants' business in the travel industry with the Better Business Bureau by referring to or citing to another entity's membership with the Bureau;
- F. Referring to or citing to another entity's membership status with the Better Business Bureau without disclosing the status of the membership of Defendants' business in the travel industry with the BBB;
- G. Referring to or citing to another entity's Better Business Bureau reliability report or customer experience record without disclosing the current BBB reliability report or customer experience record for Defendants' business in the travel industry ;

- H. Misrepresenting that trips used to entice consumers to attend sales presentations of Defendants' business in the travel industry are "free" or "completely free," if consumers are required to pay a deposit or taxes;
- I. Failing to clearly and conspicuously disclose at the time of the solicitation all costs consumers are required to pay to redeem trips or vacations that are used to entice consumers to attend sales presentations of Defendants' business in the travel industry;
- J. Failing to clearly and conspicuously disclose at the time of the solicitation that a refundable deposit is required to redeem a trip offered to entice consumers to attend sales presentations for Defendants' business in the travel industry ;
- K. Misrepresenting directly or indirectly that a consumer has won a contest or drawing for a trip or vacation, when in fact the consumer has not won a contest or drawing but is instead being solicited as part of an advertising promotion;
- L. Failing to disclose the retail value of a gift used to entice consumers to attend a sales presentation of Defendants' business in the travel industry;
- M. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
- N. Causing confusion or misunderstanding as to the affiliation, connection, or association with or certification by another;
- O. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which they do not have;
- P. Failing to disclose information concerning goods or services which was known at the time of the transaction when such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed;
- Q. Using the term "corporation," "incorporated," or an abbreviation of either of those terms in the name of a business entity that is not incorporated under the laws of this state or another jurisdiction;
- R. Failing to clearly and conspicuously disclose that a refundable deposit is required in a gift or prize involving lodging, airfare, a trip, or a recreational activity;
- S. Notifying a person that the person will receive a gift, a condition of receipt of which

requires the person to pay consideration of any kind or a charge or expense to a person for the gift, unless the consideration, charge, or expense is fully, clearly, and conspicuously disclosed;

- T. Directly representing or implying that a gift promotion is a contest;
- U. In a gift promotion using such as “won,” “will win,” “will be awarded,” “sweepstakes” or “contest” or phrases of similar meaning that imply that the person is being solicited to enter or has won a contest;
- V. Failing to disclose the retail value of a gift;
- W. Failing to provide to any of Defendants’ agents, servants, employees or representatives, written notice of the existence and terms of any injunction entered in this case, and of their duty to comply with its terms; and
- X. Making telemarketing phone calls to phone numbers which have been on the Texas No-Call list for over 60 days.

36. Plaintiff further prays that upon final hearing this Court order Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually to restore all money or other property taken from identifiable persons by means of Defendants’ unlawful acts or practices, or, in the alternative, award judgment for damages to compensate identifiable persons for such losses as provided in § 17.47(d) of the DTPA.

37. Plaintiff further prays that upon final hearing this Court order Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually to pay civil penalties of \$2,000.00 per violation of the DTPA, not to exceed a total of \$10,000.00, to the State of Texas,

as provided in § 17.47(c)(1) of the DTPA.

38. Plaintiff further prays that this Court will adjudge against Defendant DAVID G. VAVRO, individually, civil penalties in favor of Plaintiff, STATE OF TEXAS, in an amount up to \$20,000 per violation, allowed by law under the DTPA, specifically, § 17.47(c)(1) of the Texas Business and Commerce Code;

39. Plaintiff further prays that upon final hearing this Court order Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; and JERRY L. McDONALD, JR., individually; pay civil penalties of \$10,000.00 per violation of the DTPA, not to exceed a total of \$100,000.00, to the State of Texas, for any act or practice that was calculated to acquire or deprive money or other property from a consumer who was 65 years of age or older when the act or practice occurred as provided in § 17.47(c)(2) of the DTPA;

40. Plaintiff further prays that upon final hearing this Court enhance the civil penalties by adjudging against Defendant DAVID G. VAVRO, individually, civil penalties in favor of Plaintiff STATE OF TEXAS in an amount up to \$250,000 as allowed by law under the DTPA, specifically, §17.47(c)(2) of the Texas Business and Commerce Code, as Defendant DAVID G. VAVRO, individually, committed acts and practices which were calculated to acquire or deprive money or other property from consumers who were 65 years of age or older when the act or practice occurred;

41. Plaintiff further prays that this Court order the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and

TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually to pay civil penalties to the State of Texas in the amount of \$3,000 for any willful or knowing violation of § 44.102(a) of the TDPA;

42. Plaintiff further prays that this Court order the Defendants VAVRO, McDONALD & ASSOCIATES, LLC a/k/a VAVRO, McDONALD, KENNEDY & ASSOCIATES, LLC and TEXAS TRAVEL PARTNERS, LLC d/b/a SUN COUNTRY TRAVEL; JERRY L. McDONALD, SR., individually; JERRY L. McDONALD, JR., individually; and DAVID G. VAVRO, individually to pay civil penalties to the State of Texas in the amount of \$1,000 of each violation of § 44.102(a) of the TDPA;

43. Plaintiff further prays for costs of Court, reasonable attorney fees as provided in TEX. GOV'T CODE ANN. §§ 402.006(c) and 2107.006, and such other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection & Public Health Division



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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Plaintiff's Third Amended Original Petition* was served on the 21st day of April, 2006 as follows:

PK

VAVRO, MCDONALD & ASSOCIATES, LLC

attn: David G. Vavro, President
c/o John E. Collins
Burluson, Pate & Gibson, L.L.P.
2414 N. Akard, Suite 700
Dallas, Texas 75201

Via CMRRR 7005 1820 0004 5385 8323

DAVID G. VAVRO

By and Through His Attorney of Record
John E. Collins, Esq.
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Via Hand Delivery

JERRY L. MCDONALD, SR.

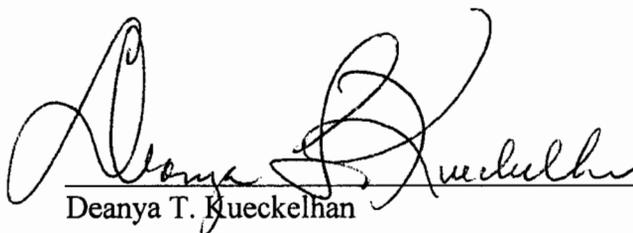
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Via CMRRR 7005 1160 0001 0703 7710

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Via CMRRR 7005 1160 0001 0703 7727


Deanya T. Kueckelhan