

NO. 08-5785

STATE OF TEXAS,
Plaintiff

vs.

NATIONAL VACATIONS, INC. d/b/a
HORIZON TRAVEL; VIP TRAVEL
INCENTIVES, INC.; TRAVEL CLUB
INTERNATIONAL, INC., TRAVEL
CENTER INTERNATIONAL, INC.;
ADVANTAGE TRAVEL, L.C. d/b/a
TRAVEL CLUB INTERNATIONAL;
STRATA FORCE GROUP, L.L.C.; TCI
TRAVEL, INC.; MINNTEX, INC.;
ADVANTAGE TOUR RESOURCE, INC.;
DAVID G. VAVRO, SR., Individually;
LINDA MAYHUGH, Individually;
JOSEPH P. ST. JOHN, Individually;
MARK HILLMAN, Individually;
JOHN P. NAREZ, Individually;
RANDY SIVERSON, Individually;
and BRADLEY J. SMITH, Individually,
Defendants

IN THE DISTRICT COURT OF

DALLAS COUNTY, T E X A S

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JUDICIAL DISTRICT
E-101st

EX PARTE TEMPORARY RESTRAINING ORDER

Plaintiff, State of Texas, has filed its Original Petition in this cause seeking a Temporary and Permanent Injunction against NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL; VIP TRAVEL INCENTIVES, INC.; TRAVEL CLUB INTERNATIONAL, INC.; TRAVEL CENTER INTERNATIONAL, INC.; STRATA FORCE GROUP, L.L.C.; TCI TRAVEL, INC.; MINNTEX, INC.; ADVANTAGE TOUR RESOURCE INC.; DAVID G. VAVRO, SR.; LINDA, MAYHUGH; JOSEPH P. ST. JOHN; MARK HILLMAN; JOHN P. NAREZ; RANDY SIVERSON; and BRADLEY J. SMITH ("Defendants"), and in

the same petition has presented its request for an Ex Parte Temporary Restraining Order. The Court Finds that Defendants may be violating §§17.46(a) and (b) of the Texas Deceptive Trade Practices-Consumer Protection Act, Tex. Bus. & Com. Code Ann. § 17.41 *et. seq.* (DTPA), the Texas Business Corporation Act, Tex. Bus. Corp Act Art. 801(A), and the Contest and Gift Giveaway Act, Tex. Bus. & Com. Code §§ 40.007, 40.033, and 40.036 . It appears from facts set forth in the Plaintiff's Original Petition and the exhibits and sworn affidavits attached thereto, that unless Defendants are immediately restrained from the acts prohibited below, Defendants will commit such acts before notice can be given and a hearing can be held on the State of Texas' request for a Temporary Injunction. Furthermore, Defendants will continue to use deceptive tactics and misrepresentations and may well dissipate and secrete their assets before a Temporary Injunction hearing can be held and a final judgment for restitution can be rendered. Such injury would be irreparable because continued violations of the DTPA may well cause more consumers to lose money through deceptive transactions. Given the likelihood of dissipation of Defendants' assets prior to rendition of a final judgment, the possibility of restitution for consumers will be remote unless an order freezing certain assets is granted.

1. **IT IS THEREFORE ORDERED** that Defendants **NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL; VIP TRAVEL INCENTIVES, INC.; TRAVEL CLUB INTERNATIONAL, INC.; ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL; TRAVEL CENTER INTERNATIONAL, INC.; TCI TRAVEL, INC.; MINNTEX, INC.; ADVANTAGE TOUR RESOURCE, INC.; and DAVID G. VAVRO, SR.,** their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them ^{including TFS} and all financial institutions such as **Bank**

of America¹, Bank One/Chase², Comerica³, Community Bank⁴, Compass Bank⁵, Hiawatha National Bank⁶, and Wells Fargo⁷ holding money or assets of any kind in the name and/or for the benefit of the above-named Defendants, who receive actual notice of this order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be restrained from engaging in the following acts or practices:

A. Transferring, spending, hypothecating, concealing, encumbering, withdrawing, removing,

¹Known accounts at Bank of America subject to this order include, but are not limited to, account numbers _____ standing in the name of Advantage Travel, L.C., account number _____ standing in the name of VIP Travel Incentives Inc. and account number _____ standing in the name of Advantage Tour Resource, Inc.

²Known accounts at Banks One/Chase subject to this order include, but are not limited to, account number _____ standing in the name of David G. or Marily G. Vavro and account number _____ standing in the name of Advantage Travel L.C.

³Known accounts at Comerica subject to this order includes, but is not limited to, account numbers _____ and _____ standing in the name of National Vacations Inc. d/b/a Horizon Travel; account number _____ standing in the name of David G. or Marilyn G. Vavro; account number _____ standing in the name of Travel Center International, Inc.; account number _____ standing in the name of Travel Club International, Inc.; and account numbers _____ and _____ standing in the name of VIP Travel Incentives, Inc.

⁴Known accounts at Community Bank subject to this order include, but are not limited to account number _____ standing in the name of National Vacations Inc. d/b/a Horizon Travel; account number _____ standing in the name of David G. Vavro and Marilyn M. Vavro; account number _____ standing in the name of David G. Vavro.

⁵Known accounts at Compass Bank subject to this order include but are not limited to account number _____ standing in the name of VIP Travel Incentives, Inc. and account number _____ standing in the name of National Vacations Inc. d/b/a Horizon Travel.

⁶Known account in Hiawatha National Bank subject to this order include, but is not limited to account number _____ standing in the names of David G. Vavro and Marilyn Vavro (deceased).

⁷Known accounts in this bank subject to this order include, but are not limited to account numbers _____ and _____ standing in the name of Minntex, Inc.

dissipating, distributing, or allowing the transfer, removal, withdrawal or encumbering from any financial institution or from any other entity or location or from the jurisdiction of this Court, any money, cash, stocks, bonds, assets, notes, equipment, funds, accounts receivable, policies of insurance, trust agreements, or other property, real, personal or mixed, wherever situated, belonging to or owned by, in possession or custody of, standing in the name of, or claimed by Defendants without further order of this Court;

B. Opening or causing to be opened any safe deposit boxes or storage facilities titled in the name of Defendants or subject to access, ownership or control by Defendants, without providing Plaintiff and the Court prior notice by motion seeking such access.

2. **IT IS ALSO ORDERED** that Defendants **NATIONAL VACATION, INC. d/b/a HORIZON TRAVEL; VIP TRAVEL INCENTIVES, INC.; TRAVEL CLUB INTERNATIONAL, INC.;** **TRAVEL CENTER INTERNATIONAL, INC.; ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL; TCI TRAVEL, INC.; MINNTEX, INC.; ADVANTAGE TOUR RESOURCE, INC.,** and **DAVID G. VAVRO, SR.,** their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them, including are prohibited from transferring, spending, encumbering, withdrawing, or removing any sum of money from any accounts, assets or property referenced in paragraph 1 of this Order or from any other such account(s) and assets where monies or proceeds from the operation of **NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL; VIP TRAVEL INCENTIVES, INC.; TRAVEL CLUB INTERNATIONAL, INC.; ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL; TRAVEL CENTER INTERNATIONAL, INC.; TCI TRAVEL, INC.; MINNTEX, INC.;** and **ADVANTAGE TOUR**

RESOURCE, INC. have been used, placed, deposited, transferred, invested or commingled; however, Defendants DAVID G. VAVRO, SR., LINDA MAYHUGH, JOSEPH P. ST. JOHN, MARK HILLMAN, JOHN P. NAREZ, RANDY SIVERSON, STRATA FORCE GROUP, L.L.C., and BRADLEY J. SMITH are not prohibited from expending monies for reasonable living expenses and attorney fees from other assets standing in their names which have not and do not contain monies or proceeds from the operation of or from monies earned by them or their family members by virtue of other employment or business ventures wholly unrelated to the operation of NATIONAL VACATION, INC. d/b/a HORIZON TRAVEL; VIP TRAVEL INCENTIVES, INC.; TRAVEL CLUB INTERNATIONAL, INC.; TRAVEL CENTER INTERNATIONAL, INC.; ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL; TCI TRAVEL, INC.; MINNTEX, INC.; and ADVANTAGE TOUR RESOURCE, INC.

3. **IT IS ALSO ORDERED** that if any of the parties, persons, or entities referenced in this order agree in writing, through their authorized representatives or counsel, to specify that certain assets be or remain frozen and/or that certain assets be released from the asset freeze ordered herein, pending the completion of any scheduled Temporary Injunction hearing, then such parties or entities may do so. **It is ORDERED** that any bank, financial institution, person, or other entity holding funds in the name of or for the benefit of any party, person, or entity referenced in this order, shall comply with any written directive relating to the freezing or unfreezing of any bank account or asset referenced in this order, without further order of this court pending any scheduled Temporary Injunction hearing, provided such written directive is signed by an Assistant Attorney General representing the State of Texas and an authorized representative or attorney of such Defendant, person or entity with custody or control of the bank account or asset involved.

4. IT IS FURTHER ORDERED that Defendants their officers, agents servants, employees, attorneys and any other persons in active concert or participation with them, including NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL; VIP TRAVEL INCENTIVES, INC.; TRAVEL CLUB INTERNATIONAL, INC.; ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL; TRAVEL CENTER INTERNATIONAL, INC.; TCI TRAVEL, INC.; MINNTEX, INC.; ADVANTAGE TOUR RESOURCE, INC.; DAVID G. VAVRO, SR.; LINDA MAYHUGH; JOSEPH P. ST. JOHN; MARK HILLMAN; JOHN P. NAREZ; RANDY SIVERSON; STRATA FORCE GROUP, L.L.C.; and BRADLEY J. SMITH who receive actual notice of this order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be restrained from engaging in the following acts or practices:

- A. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, or other written or computer generated materials relating to the business of Defendants currently or hereafter in Defendants' possession, custody or control except in response to further orders or subpoenas in this cause;
- B. Operating NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL in the State of Texas until it has duly applied and received a certificate of authority to transact business in this State and filed all reports required by the Tex. Bus. Corp. Act Art. 8.18(C);
- C. Operating VIP TRAVEL INCENTIVES, INC. in the State of Texas until it has duly applied and received a certificate of authority to transact business in this State and filed all reports required by the Tex. Bus. Corp. Act Art. 8.18(C);
- D. Operating TRAVEL CLUB INTERNATIONAL, INC. in the State of Texas until it has duly

- applied and received a certificate of authority to transact business in this State and filed all reports required by the Tex. Bus. Corp. Act Art. 8.18(C);
- E. Operating ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL in the State of Texas until it has duly applied and received a certificate of authority to transact business in this State and filed all reports required by the Tex. Bus. Corp. Act Art. 8.18(C);
 - F. Operating MINNTEX, INC. in the State of Texas until it has duly applied and received a certificate of authority to transact business in this State and filed all reports required by the Tex. Bus. Corp. Act Art. 8.18(C);
 - G. Soliciting Texas consumers to purchase Travel Club International memberships.
 - H. Soliciting Texas consumers to up grade Travel Club International memberships.
 - I. Soliciting the payment of Travel Club International annual dues, from Texas consumers, unless the consumer has used the service of Travel Club International within the past year.
 - J. Causing confusion or misunderstanding as to the affiliation, connection or association among NATIONAL VACATION INC. d/b/a HORIZON TRAVEL; VIP TRAVEL INCENTIVES, INC.; TRAVEL CLUB INTERNATIONAL, INC.; TRAVEL CENTER INTERNATIONAL, INC.; TCI TRAVEL, INC.; ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL; STRATA FORCE GROUP, L.L.C.; and ADVANTAGE TOUR RESOURCES, INC., interchangeably.
 - K. Falsely representing that Travel Club International (TCI) members will receive substantial travel discounts on cruises, air travel, hotels, and condominiums when discounts, if any, are/were restricted to condominiums.

- L. Falsely representing that friends and family members will be eligible to receive travel discounts based on TCI members' memberships.
- M. Failing to provide TCI membership benefits to family members as previously contracted for by TCI members.
- N. Misrepresenting that membership annual dues are/were due every year as opposed to only the years in which the member uses his or her TCI membership.
- O. Failing to disclose that it has been difficult for TCI members to reach TCI representatives to arrange travel plans.
- P. Failing to disclose that NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL, TRAVEL CLUB INTERNATIONAL, INC. and VIP TRAVEL INCENTIVES, INC. were successors of Sun Country Travel.
- Q. Failing to disclose that JOSEPH ST. JOHN's Select Travel agreed to provide services to DAVID G. VAVRO's failed Sun Country Travel members just as JOSEPH ST. JOHN is again providing services to DAVID G. VAVRO's TRAVEL CLUB INTERNATIONAL, INC. members, this time through ST. JOHN's ADVANTAGE TRAVEL, L.C. entity.
- R. Failing to supply sufficient numbers of available dates for the redemption of travel vouchers;
- S. Misrepresenting that trips used to entice consumers to attend sales presentations are "free" or "completely free," when in fact deposits are required and/or taxes, port charges, or other costs must be born by the consumer.
- T. Failing to disclose the retail value of the gift in violation of Texas Business and Commerce Code Section 40.036(4).

U. Changing defendants' telephone numbers, facsimile numbers, and web page without providing instructions as to how consumers can contact Defendants for refunds and complaints.

5. IT IS FURTHER ORDERED that Defendants NATIONAL VACATION, INC. d/b/a HORIZON TRAVEL; VIP TRAVEL INCENTIVES, INC.; TRAVEL CLUB INTERNATIONAL, INC.; ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL; TRAVEL CENTER INTERNATIONAL, INC.; TCI TRAVEL, INC.; MINNTEX, INC.; ADVANTAGE TOUR RESOURCE, INC.; DAVID G. VAVRO, SR.; LINDA MAYHUGH; JOSEPH P. ST. JOHN; MARK HILLMAN; JOHN P. NAREZ; RANDY SIVERSON; STRATA FORCE GROUP, L.L.C.; and BRADLEY J. SMITH advise any financial or brokerage institution, escrow agent, title company, storage facility, commodity trading company, business entity or person maintaining or having custody or control of any account or other asset of Defendants, to within five (5) business days of the date of service of this Order, provide to counsel for the Plaintiff and the Defendant/account holder a statement or letter setting forth:

- A. The identification of each account or asset titled in the name, individually or jointly, of Defendants, or held on behalf of, or for the benefit of, Defendants;
- B. The balance of each such account, or a description and estimated value of such assets, as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other assets was transferred or remitted; and
- C. The identification of any safe deposit box or storage facility that is in the name individually or jointly of Defendants or is otherwise subject to access or control by Defendants.

6. **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that, as used in this Judgment, the following terms are defined as follows:

- A. "Consumer" means an individual, partnership, corporation, or entity of any kind, including this state, or a subdivision or agency of this state who seeks or acquires, by purchase or lease, any goods or services;
- B. "Defendant(s)" means **NATIONAL VACATION, INC. d/b/a HORIZON TRAVEL; VIP TRAVEL INCENTIVES, INC.; TRAVEL CLUB INTERNATIONAL, INCL; TRAVEL CENTER INTERNATIONAL, INC.; ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL; TCI TRAVEL, INC.; MINNTEX, INC.; ADVANTAGE TOUR RESOURCE, INC.; DAVID G. VAVRO, SR.; LINDA MAYHUGH; JOSEPH P. ST. JOHN; MARK HILLMAN; JOHN P. NAREZ; RANDY SIVERSON; STRATA FORCE GROUP, L.L.C.; and BRADLEY J. SMITH** their successors, assigns, officers, agents, subcontractors, servants, employees, corporations and any other persons in active concert or participation with them;
- C. "Person" means an individual, sole proprietorship, firm, partnership, corporation, association, joint venture or other group, or business entity, however organized;
- D. "Representing", "selling", "marketing", "promoting", "distributing", "advertising" or "soliciting" means any type of contact with a person or entity for the purpose of requesting, persuading, or seeking any type of contribution, sponsorship, compensation, or anything of value from said person or entity for any reason whatsoever, including use of the Internet.

~~7. **IT IS FURTHER ORDERED** that Plaintiff shall be granted leave to take telephonic, video, written,~~

~~and other depositions with a Request for Production of any party, person or witness prior to any scheduled temporary injunction hearing and prior to Defendants' answer date upon reasonable shortened notice to Defendants or their attorneys, if known.~~

8. **IT IS FURTHER ORDERED** that Defendants in this cause be and hereby are commanded forthwith to comply with this Order from the date of entry until and to the fourteenth (14) day after entry or until further order of this Court, whichever is less.

9. The Clerk of the above-entitled Court shall forthwith issue an ex parte temporary restraining order in conformity with the law and the terms of this Order. This Order shall be effective without the execution and filing of a bond as Plaintiff, State of Texas is exempt from such bond under TEX. BUS. & COM. CODE ANN. §17.47(b).

10. Hearing on Plaintiff, State of Texas' Application for a Temporary Injunction is hereby set for the 5th day of June, 2008, at 1:30 o'clock P. M.

SIGNED this 27 day of May 2008 at 12:20 o'clock, P. m.

JUDGE PRESIDING

Teresa Guerra Snalson
Teresa Guerra Snalson

Associate Judge

1014 Sitting for the
Civil District Court