

Cause No. 10-03099

FILED

10 MAR 17 AM 10:03

IN THE DISTRICT COURT

GARY FITZSIMMONS  
DISTRICT CLERK  
DALLAS CO., TEXAS

DEPUTY

STATE OF TEXAS,	§
Plaintiff	§
v.	§
ROYAL PALMS TRAVEL, INC. a.k.a	§
ROYAL PALM TRAVEL and d.b.a	§
ALL INCLUSIVE EXCURSIONS;	§
TRAVEL SERVICES, INC. a.k.a.	§
FUNSEEKERS VACATIONS, INC.;	§
ADRIAN D. MILLER, Individually;	§
WILLIAM H. BAILEY, Individually;	§
and CHRISTY SPENSBERGER;	§
Individually,	§
Defendants	§

162nd-1 JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION FOR CIVIL PENALTIES, INJUNCTIVE RELIEF, AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND TEMPORARY INJUNCTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, the State of Texas, Plaintiff, acting by and through Attorney General Greg Abbott, and files this Plaintiff's Original Petition for Civil Penalties, Injunctive Relief, and Application for Temporary Restraining Order and Temporary Injunction against ROYAL PALMS TRAVEL, INC. a.k.a ROYAL PALM TRAVEL, INC. and d.b.a. ALL INCLUSIVE EXCURSIONS; TRAVEL SERVICES, INC. formerly known as (hereinafter a.k.a.) FUNSEEKERS VACATION, INC.; ADRIAN D. MILLER, individually, WILLIAM H. BAILEY, individually, and CHRISTY SPENSBERGER, individually.

**I. DISCOVERY CONTROL PLAN**

1. Discovery is intended to be conducted under Level 2 of the Texas Rules of Civil Procedure

## II. PARTY PLAINTIFF

2. This suit is brought by the ATTORNEY GENERAL through the Consumer Protection Division in the name of the STATE OF TEXAS and in the public interest under the authority granted to him by Section 17.47 of the Deceptive Trade Practices-Consumer Protection Act (“TDTPA”). The TDTPA permits the Attorney General’s office to bring an action to restrain, by temporary restraining order, temporary injunction, or permanent injunction, the use of any method, act or practice declared to be unlawful by Section 17.46 of the TDTPA.

## III. PARTY DEFENDANTS

- 3.1 Defendant ROYAL PALMS TRAVEL, INC. a.k.a. ROYAL PALM TRAVEL, INC. d.b.a. ALL INCLUSIVE EXCURSIONS is a domestic corporation organized and existing under the laws of the State of Texas that engages in business in the State of Texas. The registered agent for ROYAL PALMS TRAVEL, INC. a.k.a. ROYAL PALM TRAVEL, INC. and d.b.a. ALL INCLUSIVE EXCURSIONS is CT Corporation System. Defendant ROYAL PALMS TRAVEL, INC. d.b.a. ROYAL PALM TRAVEL, INC. and ALL INCLUSIVE EXCURSIONS may be served with process by serving its Registered Agent, CT Corporation System at 350 N. St. Paul Street, Dallas, TX 75201.
- 3.2 Defendant TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATIONS, INC. is a foreign corporation organized and existing under the laws of the State of Delaware that engages in business in the State of Texas but has not designated and does not maintain a resident agent within the State of Texas. Defendant TRAVEL SERVICES, INC. a.k.a.

FUNSEEKERS VACATIONS, INC.'S principal office is 512 E. Edwards St., Litchfield, IL. 62056. Defendant TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATIONS, INC. may be served with process by serving the Secretary of State for the State of Texas, 1019 Brazos Street, Austin, Texas 78701, as its agent for service of process because TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATIONS, INC. has not designated or maintained a resident agent for service of process in Texas, as required by Statute. Tex. Civ. Prac. & Rem. Code Ann. §§ 17.044(a)(1) and 17.045.

- 3.3 ADRIAN MILLER is an individual residing in Grapevine and may be served with process at his home at 1800 Hunters Ridge, Grapevine, TX 76051-7923, or at his place of business, 13355 Noel Rd., One Galleria Tower, Suite 1850, Dallas, Texas 75240 or wherever he may be found.
- 3.4 WILLIAM H. BAILEY is an individual who does business in the State of Texas but does not reside in the State of Texas. Defendant WILLIAM H. BAILEY may be served with process at his home at 18686 Country Club Lane, Carlinville, IL. 62626 or at any of his places of business including 512 E. Edwards St., Litchfield, IL. 62056 or 108 W. Union Ave., Litchfield, IL. 62056 or wherever he may found.
- 3.5 CHRISTY SPENSBERGER is an individual who does business in the State of Texas but does not reside in the State of Texas. Defendant CHRISTY SPENSBERGER may be served with citation and process at her home at 18686 Country Club Lane, Carlinville, IL. 62626 or at her place of business 512 E. Edwards St., Litchfield, IL. 62056 or wherever she may be found.

#### **IV. AUTHORITY**

4. This action is brought by the Attorney General through his Consumer Protection Division under the authority granted by section 17.47 of the Texas Deceptive Practices-Consumer Protection Act (TDTPA).

#### **V. VENUE**

- 5.1 Venue of this action lies in Dallas County on the basis of sections 15.002(a)(1) and (3) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this cause of action occurred in Dallas county.
- 5.2 Venue of this action also lies in Dallas County pursuant to section 17.47(b) of the TDTPA because 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.

#### **VI. ACTS OF AGENTS**

6. 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 the Defendants.

#### **VII. PUBLIC INTEREST**

7. By reason of the institution and operation of the unlawful practices set forth herein, Defendants have and will 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, the Attorney General of the State of Texas believes and is of the opinion that these proceedings are in the public interest.

### **VIII. TRADE AND COMMERCE**

8. Defendants are engaged in “trade” and “commerce” as defined by section 17.45(6) of the TDTPA as that Defendants are engaged in the sale of travel club memberships.

### **IX. NOTICE BEFORE SUIT**

9. Plaintiff did not inform Defendants herein at least seven (7) days before instituting this action of the alleged unlawful conduct of which complaint is now made, pursuant to Section 17.47(a) of the TDTPA, for the reason that Plaintiff is of the opinion that there is good cause to believe that such an emergency exists that immediate and irreparable injury, loss or damage would occur as a result of such delay in obtaining a temporary restraining order, and that the Defendants would evade service of process, destroy relevant records and secrete assets if prior notice of this suit was given.

### **X. SPECIFIC FACTUAL ALLEGATIONS**

- 10.1 ROYAL PALMS TRAVEL, INC. a.k.a. ROYAL PALM TRAVEL, INC. and d.b.a. ALL INCLUSIVE EXCURSIONS; TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATION, INC.; ADRIAN D. MILLER, individually, WILLIAM H. BAILEY (a.k.a. Bill Bailey) individually, and CHRISTY SPENSBERGER, individually (hereinafter Defendants) sell and/or have sold Sealand Travel Club memberships using high pressure sales tactics. Consumers complain that they are offered free gifts to attend sales presentations which

ultimately require deposits, payments, or other consideration. Moreover, consumers complain they pay \$2,500 to \$8,000 to join Sealand Travel Club, expecting they will receive deep discounts on travel, only to find that they could obtain the same prices using the internet without the benefit of a club membership. ROYAL PALMS TRAVEL, INC. d.b.a. ROYAL PALM TRAVEL, INC. and ALL INCLUSIVE EXCURSIONS operates out of offices in Dallas<sup>1</sup>, Fort Worth<sup>2</sup>, and San Antonio.<sup>3</sup> While ADRIAN D. MILLER is the front man for ROYAL PALMS TRAVEL, INC., CHRISTY SPENSBERGER and WILLIAM H. BAILEY (a.k.a. Bill Bailey) finance and control the operation. Sealand Travel Club memberships are supplied by TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATION, INC. FUNSEEKERS VACATIONS, INC. is registered with the Illinois Secretary of State as a foreign corporation formed in the State of Delaware. TRAVEL SERVICES, INC. is the amended name of FUNSEEKERS VACATIONS, INC. registered with the Delaware Secretary of State.

- 10.2 ADRIAN D. MILLER formed ROYAL PALMS TRAVEL, INC. on July 1, 2008. (Exhibit A). MILLER is the director of ROYAL PALMS TRAVEL, INC. On July 2, 2008, CHRISTY SPENSBERGER, opened a small business checking account for ROYAL PALMS TRAVEL, INC at U.S. National Bank Account No. xxxxxxxx8811. (Exhibit B). SPENSBERGER listed the address of ROYAL PALMS TRAVEL, INC. as 512 E. Edwards

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<sup>1</sup> 13355 Noel Rd., Suite 1850, Dallas, TX. 75240.

<sup>2</sup> 5601 Bridge St., Suite 300, Dallas, TX. 76112

<sup>3</sup> 814 Arion Pkwy., San Antonio, TX. 78216.

St., Litchfield, IL. 62056. On January 8, 2009, ADRIAN D. MILLER and BILL BAILEY opened another checking account for ROYAL PALMS TRAVEL, INC. at U.S. National Bank Account No. xxxxxxxx0361 listing its address as 13355 Nole [sic] Rd. Suite 1850, Dallas, TX. 75240. (Exhibit C). On February 17, 2009, CHRISTY SPENSBERGER, WILLIAM H. BAILEY, and ADRIAN D. MILLER opened a third bank account for ROYAL PALMS TRAVEL, INC. at U.S. National Bank Account No. xxxxxxxx0102 listing its address as 13355 Noel Rd. Ste. 1850, Dallas, TX. (Exhibit D). CHRISTY SPENSBERGER is the president of FUNSEEKERS VACATIONS, INC. (Exhibit E). The Consumer Protection and Public Health Division of the Office of the Attorney General has received one hundred six complaints regarding ROYAL PALMS TRAVEL, INC.; ROYAL PALM TRAVEL INC. d.b.a. ALL INCLUSIVE EXCURSIONS; and Sealand Travel Club. The Better Business Bureau has received eighty-six complaints. (Exhibit E).

- 10.3 The phone number listed on all three ROYAL PALMS TRAVEL bank accounts is 217-324-6400. (Exhibits B, C, and D). That phone number is the phone number of the entity FUNSEEKERS VACATIONS, INC. The subscriber for the telephone number 217-324-6400 is Bill Bailey, 16868 Country Club Lane, Carlinville, IL 62626. (Exhibit F). On April 13, 2009, ADRIAN D. MILLER filed an Assumed Name certificate with the Secretary of State of Texas so that ROYAL PALMS TRAVEL, INC. could operate under the name of ALL INCLUSIVE EXCURSIONS. (Exhibit A). FUNSEEKERS VACATIONS, INC. is registered with the Illinois Secretary of State as a foreign corporation formed in the State of Delaware. (Exhibit G). TRAVEL SERVICES, INC. is the Delaware corporation and is the

amended name for FUNSEEKERS VACATIONS, INC. (Exhibit H). Checks written to TRAVEL SERVICES are deposited into a FUNSEEKERS bank account. (Exhibit I). Neither FUNSEEKERS VACATIONS, INC. nor TRAVEL SERVICES, INC. have received a certificate of authority to transact business within the State of Texas (Exhibits J, K).

10.4 Defendants, entice consumers to attend sales presentations by offering free trips, free airline tickets, free groceries and/or free gasoline. Once consumers arrive at the offices of ROYAL PALMS TRAVEL, INC. d.b.a. ALL INCLUSIVE EXCURSIONS, they learn that they will have to pay a fifty dollar per person deposit to obtain the promised free airline tickets and trips. Likewise consumers discover that they will not receive a gas voucher or gas card but will be able to apply for rebates for purchased gas (Exhibits E, L, N). Moreover, instead of receiving a groceries voucher or card, consumers must submit \$100 in grocery receipts monthly in order to receive by mail a \$25 coupon. (Exhibits E, L). When consumers attempt to schedule the “free” trips or utilize the “free” airline tickets, consumers complain that the restrictions are so severe that they are unable to schedule the promised trips. (Exhibits E, N)

10.5 Consumers who attend the sales presentations are promised that if they buy a membership to Sealand Travel Club, they will obtain deep discounts on travel. Moreover, consumers are promised the lowest prices for travel. (Exhibits E, L, M, N). Consumers pay anywhere from \$2,000 to \$8,000 for a membership to Sealand Travel Club. When consumers attempt to make travel reservations using their Sealand Travel Club membership, they are unable to schedule the trips they desire and/or the prices offered by Sealand Travel Club are similar to those that consumers can obtain for themselves using the internet or a travel agent. (Exhibits

E, M, N).

- 10.6 When consumers purchase a membership to Sealand Travel, they receive a Certificate of Membership and a membership kit. ROYAL PALMS TRAVEL, INC. purchases the Sealand Travel Club membership kits from FUNSEEKERS VACATIONS, INC. (Exhibit O). The membership kits promise savings up to 75% on condominiums, 65% on hotels and motels, 50% on cruises, 50% on ski resorts, and 20% on rental cars. (Exhibit N).
- 10.6 The membership certificate lists the address of Sealand Travel as 6324 N. Chatham Avenue, Box 118, Kansas City, MO 64151, phone number 866-571-3694 and the fax number as 866-571-3693. (Exhibits E, L). The address is a mail box rented at a UPS store under the name of Sealand Travel, 512 E. Edwards Street Litchfield, IL 62056. (Exhibit P). CHRISTY SPENSBERGER rented the mail box on February 26, 2008. (Exhibit P). The telephone numbers listed on the Sealand Travel Membership Certificate belong to FUNSEEKERS VACATIONS, INC., 512 East Edwards Street, Litchfield, IL. 62058. (Exhibit F). Bill Bailey of 18686 Country Club Lane, Carlinville, IL 62626 is the subscriber for those telephone numbers. (Exhibit F).

## **XI. VIOLATIONS OF THE DECEPTIVE TRADE PRACTICES**

11. Defendants, as set out in Paragraphs 1 through 10, in the course and conduct of trade and commerce, have directly and indirectly engaged in and will continue to engage in false, misleading, deceptive or unconscionable acts and practices declared unlawful by Sections 17.46(a) and (b) of the Texas Deceptive Trade Practices Act, including but not limited to:
- A. Causing confusion or misunderstanding as to the affiliation, connection, or

association among TRAVEL SERVICES, INC., FUNSEEKERS VACATIONS, INC., ROYAL PALMS TRAVEL, INC., ROYAL PALM TRAVEL, INC., ALL EXCLUSIVE VACATIONS, and Sealand Travel Club.

- B. Representing that the travel club membership offered has sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which it does not have in violation of Section 17.46(b)(5) of the TDTPA;
- C. Representing that any gift offered has the sponsorship, approval, characteristics, ingredients, uses, benefits, qualities, or quantities which it does not have in violation of Section 17.46(b)(5) of the TDTPA;
- D. Falsely representing that Sealand Travel Club members will receive substantial travel discounts on cruises, air travel, hotels and condominiums when discounts, if any, are not better than what consumers can purchase themselves using the internet in violation of Section 17.46(a) of the TDTPA;
- E. Failing to supply sufficient numbers of available dates for the redemption of travel vouchers in violation of Section 17.46(b)(10) of the TDTPA;
- F. Making false or misleading statements of fact concerning the reasons for, existence of, or amount of price reductions regarding vacation travel packages in violation of Section 17.47(b)(11) of the TDTPA;
- G. Misrepresenting that trips, groceries, gas, and plane tickets were “free” or “completely free,” when in fact the trips were not free as consumers were required to pay deposits, or provide receipts or complete surveys to obtain the gifts in

violation of Section 17.46(b)(9) of the TDTPA;

- H. Failing to disclose the retail value of a gift used to entice consumers to attend sales presentations in violation of Section 17.46(b)(24) of the TDTPA;
- I. Failing to disclose that consumers are required to pay deposits and apply for reimbursement after goods have been purchased in order to receive a gift in violation of Section 17.64(b)(24) of the TDTPA.
- J. Engaging in conduct which violates the Texas Contest and Gift Giveaway Act as outlined below.

## **XII. VIOLATIONS OF THE CONTEST AND GIFT GIVEAWAY ACT**

- 12. Defendants, as set out in Paragraphs 1 through 10, have engaged in and continue to engage in practices that constitute false, misleading or deceptive trade practices declared unlawful by the Texas Contest and Gift Giveaway Act, including but not limited to the following:
  - A. 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 in violation of Texas Business and Commerce Code Section 621.006;
  - B. Using the term “gift” or similar term in a false, misleading, or deceptive manner in violation of Texas Business and Commerce Code Section 621.053(1); and
  - C. Failing to disclose the retail value of a gift in violation of Texas Business and Commerce Code Section 621.052(b)(1).

## **XIII. VIOLATIONS OF THE BUSINESS ORGANIZATIONS CODE**

- 13.1 The Texas Business Organizations Code provides that a foreign entity must register and

maintain the entity's registry with the State to transact business in the State. Tex. Bus. Org. Code Section 9.001 (1), (2). Defendant TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATIONS, INC. is a foreign corporation organized and existing under the laws of the State of Delaware. (Exhibit H). But Defendant has not Texas Secretary of State. (Exhibits J, K). TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATIONS, INC. has transacted business in this State without a certificate of authority at least since February 28<sup>th</sup>, 2008 through the present day.

- 13.2 For unlawfully transacting business in the State of Texas, Defendant TRAVEL SERVICES, INC. d.b.a. FUNSEEKERS VACATIONS, INC. is liable for the years 2008 through 2010 in an amount equal to all fees and franchise taxes, which would have been imposed by law upon Defendant TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATIONS, INC. had it duly applied for and received a certificate of authority to transact business in this State and thereafter filed all reports required by law. Tex. Bus. Org. Code § 9.052. Moreover, on application by the attorney general, a court may enjoin a foreign filing entity or the entity's agent from transacting business in this state if the entity is not registered in the state or the entity's registration is obtained on the basis of a false or misleading representing. Tex. Bus. Org. Code § 9.051(a)(1), (2).

**XIV. LIABILITY OF ADRIAN D. MILLER, CHRISTY SPENSBERGER, AND  
WILLIAM H. BAILEY (a.k.a. Bill Bailey)**

14. The Texas Business Corporation Act provides that a holder of shares, an owner of any beneficial interest in shares, is under no obligation to the corporation or to the obligees

unless the obligee demonstrates that the owner, subscriber, or affiliate caused the corporation to be sued for the purpose of perpetrating and did perpetrate an actual fraud on the obligee primarily for the direct personal benefit of the holder, owner, subscriber, or affiliate. Tex. Bus. Org. Code § 21.223(b). Moreover, “Courts will not disregard the corporation fiction and hold individual officers, directors, or stockholders liable on the obligation of a corporation except where it appears the individuals are using the corporate entity as a sham to perpetrate a fraud, to avoid personal liability, avoid the effect of a statute, or in a few other exceptional situations.” *Bell Oil & Gas Co. v. Allied Chemical Corp.*, 41 S.W. 2d 336 at 340 (Tex. 1968). Consequently, ADRIAN D. MILLER, CHRISTY SPENSBERGER, and WILLIAM H. HARRIS are individually liable for the following:

- A. ADRIAN D. MILLER, CHRISTY SPENSBERGER, and WILLIAM H. HARRIS used their entity, ROYAL PALMS TRAVEL, INC. as a sham to perpetuate a fraud and to avoid personal liability in their deceptive sale of travel club memberships to consumers.
- B. CHRISTY SPENSBERGER, and WILLIAM H. HARRIS used their entity, TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATIONS, INC. as a sham to perpetuate a fraud and to avoid personal liability in their deceptive sale of travel club memberships to consumers.

## **XV. INJURY TO CONSUMERS**

- 15. By means of the foregoing unlawful acts and practices, Defendants have acquired money or other property from identifiable persons to whom such money should be restored, or who in

the alternative are entitled to an award of damages.

#### **XVI. DISGORGEMENT**

16. All of the 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 putting fraudulently converted property to a profitable use. 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.

#### **XVII. NECESSITY OF IMMEDIATE HALT TO DECEPTIVE TRADE PRACTICES**

17. Plaintiff requests immediate relief by way of a Temporary Restraining Order, Temporary Injunction to prevent Defendants ROYAL PALMS TRAVEL, INC. dba ALL INCLUSIVE EXCURSIONS; TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATION, INC.; ADRIAN D. MILLER, individually, WILLIAM H. BAILEY, individually, and CHRISTY SPENSBERGER, individually from harming additional consumers resulting in the consumers' loss of money.

#### **XVIII. REQUEST TO CONDUCT DISCOVERY PRIOR TO TEMPORARY**

##### **INJUNCTION HEARING**

- 18.1 The STATE OF TEXAS requests leave of this Court to conduct telephone, oral, written, and other depositions with requests for production of witnesses, including Defendants of employees of Defendants, prior to any scheduled Temporary Injunction Hearing and prior

to Defendants' answer dates. There are a number of witnesses who may need to be deposed prior to any scheduled Temporary Injunction Hearing. Any depositions, telephonic or otherwise, would be conducted with reasonable shortened notice to Defendants and their attorneys if known.

18.2 The following Subpoena for Witness Depositions with Requests for Production are attached to this petition:

- A. Subpoena for witness deposition with request for production for ADRIAN D. MILLER;
- B. Subpoena for witness deposition with request for production for WILLIAM H. BAILEY; and
- C. Subpoena for witness deposition with request for production for CHRISTY SPENSBERGER.

#### **XIX. PRAYER**

19.1 Wherefore, premises considered, Plaintiff prays that a TEMPORARY RESTRAINING ORDER be issued; that after due notice and hearing a TEMPORARY INJUNCTION be issued; and upon final hearing a PERMANENT INJUNCTION be issued restraining and enjoining ROYAL PALMS TRAVEL, INC. d.b.a. ALL INCLUSIVE EXCURSIONS; TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATION, INC.; ADRIAN D. MILLER, individually, WILLIAM H. BAILEY, individually, CHRISTY SPENSBERGER, individually; their successors, assigns, officers, agents, servants, employees, and attorneys and any other person in active concert or participation with these Defendants 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 TRAVE SERVICES, INC. and FUNSEEKERS VACATIONS, INC. in the State of Texas until it has duly applied for and received a certificate of authority to transact business in this State. Tex. Bus. Org. Code § 9.051(a).
- C. Causing confusion or misunderstanding as to the affiliation, connection or association among TRAVEL SERVICES, INC., FUNSEEKERS VACATION, INC., ROYAL PALM TRAVELS, INC. ROYAL PALMS TRAVEL, INC. ALL INCLUSIVE EXCURSIONS, and Sealand Travel.
- D. Failing to clearly and conspicuously disclose that a refundable deposit is required for a gift or prize involving lodging, airfare, trip, or a recreational activity;
- E. Using the term "gift" or similar term in a false, misleading, or deceptive manner such as failing to disclose consideration of any kind or a charge or expense to a person for the "gift," "promotional gift," or "complementary gift" unless the consideration, charge or expense is fully, clearly, and conspicuously disclosed;
- F. Failing to disclose the retail value of a gift in violation of Texas Business and Commerce Code Section 621.052;

- G. Notifying a consumer that the person will receive a gift, a condition of receipt of which requires the consumer 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;
- H. Misrepresenting the prices of travel (including cruises, air travel, hotels, and condominiums) that are typically available to a consumer who purchases a travel club membership when discounts, if any are minimal at best;
- I. Failing to supply a reasonable number of available dates for the redemption of travel vouchers with the intent not to supply a reasonable expected public demand unless a limitation of quantity is disclosed;
- J. Misrepresenting that trips used to entice consumers to attend travel club sales presentations are “free” or completely “free,” when in fact the trips are not free as consumers are required to pay taxes, port charges, and/or a deposit for the “free” trip.
- K. Causing confusion or misunderstanding as to the membership of any entity to the Better Business Bureau.
- L. Changing the names and contact information of the entities that sell and service Sealand Travel memberships without notifying the members of Sealand Travel.

19.2. Plaintiff further prays that upon final hearing, this Court grant a judgment against Defendants jointly and severally for payment of civil penalties of \$20,000.00 per violation of the TDTPA to the State of Texas. *See Texas Deceptive Trade Practices Act § 17.47(c)(1).*

19.3. Plaintiff further prays that upon final hearing this Court grant a judgment against Defendants

jointly and severally for payment of civil penalties of \$250,000.00 per violation of the TDTPA if the consumer was 65 years of age or older. *See* Texas Deceptive Trade Practices Act § 17.47(c)(2).

19.4 Plaintiff further prays that, upon final hearing, this Court order Defendants to pay civil penalties described below for the duration of time that TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATIONS, INC. engaged in actions violating Texas Business Organizations Code Section 9.052 by transacting business in this State without first procuring a certificate of authority from the Secretary of State. Plaintiff prays for the aforementioned civil penalties in an amount equal to all fees and taxes that would have been imposed by law upon Defendants TRAVEL SERVICES, INC. a.k.a. FUNSEEKERS VACATIONS, INC. had they duly applied for and received a certificate of authority to transact business in this State as required by law and thereafter filed all reports required by law, plus all penalties imposed by law for failure to pay such fees and taxes. Tex. Bus. Org. Code § 9.052(a)(1), (2).

19.5 Plaintiff further prays that, upon final hearing, this Court order Defendants to jointly and severally restore all money or other property taken from identifiable persons by means of unlawful acts or practices, or in the alternative, award judgment for damages to compensate for such losses. Texas Deceptive Trade Practices Act § 17.47(d).

19.6 Plaintiff further prays that this Court order Defendants to jointly and severally pay civil penalties to the State of Texas in the amount of not less than \$5,000 for each violation of the Texas Contest and Gift Giveaway Act nor more than \$50,000 for each violation of the Texas

Contest and Gift Giveaway Act. Tex. Bus & Com. Code § 622.202(a).

- 19.7 Plaintiff further prays that, upon final hearing, this Court order each and every Defendant to disgorge all monies taken from consumers through deceptive practices, including gains and benefits or profits resulting from violations of the TDTPA § 17.47(e).
- 19.8 Plaintiff further prays for costs of Court, reasonable attorneys' fees as provided in Texas Government Code Ann. Section 402.006(c), that any and all relief be denied Defendants and for such other and further relief to which Plaintiff may be justly entitled.

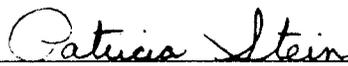
Respectfully submitted,

GREG ABBOTT  
Attorney General of Texas

C. ANDREW WEBER  
First Assistant Attorney General

DAVID S. MORALES  
Deputy Attorney General for Civil Litigation

PAUL D. CARMONA  
Assistant Attorney General  
Chief, Consumer Protection Division



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PATRICIA STEIN, State Bar No. 24033222  
ANDREW LEONIE, State Bar No. 12216500  
MADALYN WELLS, State Bar No. 24027430  
STEVEN ROBINSON, State Bar No. 24046738  
Assistant Attorneys General  
Consumer Protection & Public Health Division  
1412 Main Street, Suite 810  
Dallas, Texas 75202  
Telephone: (214) 969-7639, ext. 8816  
Facsimile: (214) 969-7615

VERIFICATION

STATE OF TEXAS

§

COUNTY OF DALLAS

§

§

Before me, the undersigned Notary Public, on this day personally appeared Patricia Stein, who, after being duly sworn, stated under oath that she is one of the attorneys for Plaintiff in this action, that she has read the above Application, and that every statement contained in Plaintiff's Original Petition for Civil Penalties, Injunctive Relief, and Application for Temporary Restraining Order and Temporary Injunction is true and correct and within the personal knowledge of the affiant.

*Kelle Slaughter*  
Kelle Slaughter, Investigator

SUBSCRIBED AND SWORN TO before me, on the 16<sup>th</sup> day of March, 2010 to certify which witness my hand and official seal.

*Olivia S. Ybarra*  
Notary Public, State of Texas

