

can be held on the State of Texas' request for a Temporary Injunction. Furthermore, Defendants will continue to use deceptive tactics and misrepresentations 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.

1. **IT IS THEREFORE ORDERED** that Defendants **ROYAL PALMS TRAVEL, INC. a.k.a. ROYAL PALM TRAVEL, INC. d.b.a. ALL INCLUSIVE EXCURSIONS; TRAVEL SERVICES, INC. d.b.a. FUNSEEKERS VACATIONS, INC.; ADRIAN D. MILLER, WILLIAM H. BAILEY, and CHRISTY SPENSBERGER** their officers, agents servants, employees, attorneys and any other persons in active concert or participation with them, including 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 TRAVEL 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 and filed all reports required by the Tex. Bus. Corp. Act Art. 8.18(C);
- C. Causing confusion or misunderstanding as to the affiliation, connection or association among TRAVEL SERVICES, INC., FUNSEEKERS VACATION, INC., and ROYAL PALM TRAVEL, 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.

2. **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)” ROYAL PALMS TRAVEL, INC. a.k.a ROYAL PALM TRAVEL, INC. and d.b.a. ALL INCLUSIVE EXCURSIONS; TRAVEL SERVICES, INC. d.b.a. FUNSEEKERS VACATIONS, INC.; ADRIAN D. MILLER, WILLIAM H. BAILEY, and CHRISTY SPENSBERGER means 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.
- E. “Travel club” means any entity from which consumers purchase memberships to obtain travel at a retail or discount rate.

- F. "Travel club membership" means any purchased access to obtain travel through an entity at discount or retain prices.
- G. "Clear and Conspicuous" means 10 point Times New Roman font.
- H. "Gift" means an item of value that is offered, transferred, or given to a person as an inducement to attend a sales presentation but that is not offered, transferred, or awarded by chance through a contest.
- I. "Sales presentation" means a transaction or occurrence in which a consumer is solicited to execute a contract that obligates the consumer to purchase goods and services.
- J. "Retail value of prize or gift" means the price at which a substantial number of sales of the exact item of the same manufacturer, brand, model, and type have been made to members of the public by at least two principal retail outlets in Texas during the six months preceding the offering of the prize or gift. If a substantial number of sales of a particular item have not been made in Texas in six months preceding the offering of the item described in the solicitation, or if the offerer elects, the retail value of the actual cost of the item to the offerer, net of any rebates, plus 200 percent. If a prize or gift involves lodging, airfare, a trip, or a recreational activity, the retail value is the retail sales price of that lodging, airfare, trip, or recreational activity to a member of the public who is not involved in a promotional or other discount transaction.

3. **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.

4. **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.

5. 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).

6. Hearing on Plaintiff, State of Texas' Application for a Temporary Injunction is hereby set for the 30 day of March, 2010, at 2:00 o'clock . M.

SIGNED this 17 day of March 2010 at 10:35 o'clock, a m.

Sheryl Day McFarlin
JUDGE PRESIDING