

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.

I. DISCOVERY CONTROL PLAN

1. Discovery is intended to be conducted under Level 2 of the Texas Rules of Civil Procedure 190.

II. AUTHORITY

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”), Tex. Bus. & Com. Code Ann. Sections 40.122 *et seq.*, the Business and Corporations Act, Tex. Bus. Corp. Act Art. 8, the Contest and Gift Giveaway Act (“CGGA”), Tex. Bus. & Com. Code Ann. §40.001 *et seq.* and the Texas Telemarketing Disclosure and Privacy Act (“TTDPA”), Tex. Bus. & Com. Code Ann. §44.001 *et seq.* 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, where such proceedings are in the public interest.

III. DEFENDANTS

3. Defendant NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL is a domestic corporation, operating in the State of Texas, whose certificate of authority was forfeited pursuant to Section 171.309 of the Texas Tax Code on July 13, 2007 and whose registered agent,

C.T. Corporation System resigned on July 19, 2007. Defendant NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL 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 NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL 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. The last known certain address of its Director, David G. Vavro, is 5612 Big Fork, Forth Worth, Texas, 76119. However, VAVRO currently had his mail delivered to a mail drop in Arlington, Texas and then forwarded to “General Delivery”, Kerens, Navarro County, Texas, 75144.

4. VIP TRAVEL INCENTIVES, INC. (hereinafter “VIP”) is a foreign corporation organized and existing under the laws of the State of Arizona 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 VIP’s home office is 6367 E. Tanque Verde Rd. #205, Tuscon Arizona 85715. Defendant VIP 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 VIP 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. The last known certain address of its Director, David G. Vavro, is 5612 Big Fork, Forth Worth, Texas, 76119.

5. Defendant TRAVEL CLUB INTERNATIONAL, INC. is a foreign corporation, organized and existing under the laws of the State of Arizona 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. Its home office is located at 2227 N. 48th St. Ste A, Tempe, Arizona 85282. TRAVEL CLUB

INTERNATIONAL, 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 Defendant TRAVEL CLUB INTERNATIONAL, 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. The last known certain address of its Director, David Vavro, is 5612 Big Fork, Forth Worth, Texas, 76119.

6. Defendant TRAVEL CENTER INTERNATIONAL, INC. d/b/a TRAVEL INTERNATIONAL, INC. is a foreign corporation, organized and existing under the laws of the State of Florida that engages in business in the State of Texas. TRAVEL CENTER INTERNATIONAL, INC. d/b/a TRAVEL INTERNATIONAL, INC. may be served with process by serving its registered agent, National Registered Agents, Inc. at 16055 Space Center, Suite 234, Houston, TX 77062.

7. Defendant ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL is a foreign corporation, organized and existing under the laws of the State of Wyoming 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. Its home office is located at 4259 S. Florida Ave., Lakeland Florida, 33813. ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL 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 Defendant ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL 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.

8. Defendant STRATA FORCE GROUP, L.L.C. is a foreign corporation, organized and existing under the laws of the State of Florida that engages in business in the State of Texas. Service of process on Defendant may be accomplished by serving the corporation's registered agent, CT Corporation System at 350 North St. Paul St., Dallas, TX 76201.

9. Defendant MINNTEX, 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. Defendant MINNTEX, 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 MINNTEX, 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. The last known certain address of its Director, David G. Vavro, is 5612 Big Fork, Fort Worth, Texas, 76119.

10. Defendant TCI TRAVEL, INC. is a corporation, organized and existing under the laws of the State of Texas that engages in business in the State of Texas. Service of process on Defendant may be accomplished by serving the corporation's registered agent, JOHN P. NAREZ, at his address at 4332 Williamson Lane, Carrollton, TX 75010.

11. Defendant ADVANTAGE TOUR RESOURCE, INC. is a corporation, organized and existing under the laws of the State of Texas that engages in business in the State of Texas. Service of process on Defendant may be accomplished by serving the corporation's registered agent, JOHN P. NAREZ at his address at 4332 Williamson Lane, Carrollton, TX 75010.

12. Defendant DAVID VAVRO is an individual whose last known certain residence was in Tarrant County, Texas, who moved to Hager City, Wisconsin, and now has his mail forwarded

to General Delivery, Kerens, Texas 75144.. Defendant may be served with citation and process at his residence at 5612 Big Fork, Forth Worth, Texas, 76119, or alternatively by certified mail return receipt requested, General Delivery, Kerens, Texas 76119.

13. Defendant LINDA MAYHUGH is an individual who is a nonresident of the State of Texas and who is a member of ADVANTAGE TRAVEL, L.C. and indicates that she is the Chief Operating Officer of ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL. Her place of business is located at 4259 S. Florida Avenue, Lakeland, Florida. Defendant MAYHUGH may be served with process by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as her agent for service of process because defendant is a nonresident who engages in business in Texas and this case arises out of the business done in this state and to which Defendant MAYHUGH is a party. Tex. Civ. Prac. & Rem. Code Ann. §§ 17.044(b) and 17.045.

14. Defendant MARK HILLMAN is an individual who is a nonresident of the State of Texas and who is a president of TRAVEL CENTER INTERNATIONAL, INC. The principle office of the entity is located at 100 West Cypress Rd. Ste. 700, Fort Lauderdale, Florida, 33309. Defendant HILLMAN may be served with process by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as his agent for service of process because defendant is a nonresident who engages in business and this case arises out of the business done in this state and to which Defendant HILLMAN is a party. Tex. Civ. Prac. & Rem. Code Ann. §§ 17.044(b) and 17.045.

15. Defendant JOHN P. NAREZ is an individual whose residence is in Denton County, Texas. Defendant may be served with citation and process at his residence at 4332 Williamson

Lane, Carrollton, TX 75010 or wherever he may be found.

16. Defendant JOSEPH P. ST. JOHN is an individual who is a nonresident of the State of Texas and who is the manager of ADVANTAGE TRAVEL, L.C. (Exhibit 1) and the manager of STRATA FORCE GROUP, L.L.C. (Exhibit 2). ADVANTAGE TRAVEL, L.C. became the owner of the fictitious name, TRAVEL CLUB INTERNATIONAL, on March 27 , 2007. (Exhibit 3). TRAVEL CLUB INTERNATIONAL is registered with the Secretary of State for the State of Florida as a fictitious name of ADVANTAGE TRAVEL, L.C. (Exhibit 3). Defendant ST. JOHN's place of business is located at 4259 S. Florida Avenue, Lakeland, Florida. Defendant ST. JOHN may be served with process by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as his agent for service of process because defendant is a nonresident who engages in business in Texas and this case arises out of the business done in this state and to which Defendant ST. JOHN is a party. Tex. Civ. Prac. & Rem. Code Ann. §§ 17.044(b) and 17.045.

17. Defendant BRADLEY J. SMITH is an individual who is a nonresident of the State of Texas but who was an employee of NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL whose principle office was in Arlington, Tarrant County, Texas at 2415 Avenue J., Suite 114, Arlington, Texas and who currently resides at W. 7309 130th Avenue, Hager City, Wisconsin 54014. Defendant SMITH may be served with process by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as his agent for service of process because defendant is a nonresident who engaged in business in Texas and this case arises out of the business done in this state to which Defendant SMITH is a party. Tex. Civ. Prac. & Rem. Code Ann. §§ 17.044(b) and 17.045.

18. Defendant RANDY SIVERSON is an individual whose residence is in Tarrant County, who may be served with citation and process at his residence at 5612 Big Fork, Forth

Worth, Texas, 76119. or alternatively at his place of business at Geosphere Inc. 1101 W. Pipeline, Suite 310, Hurst, TX 76053 or wherever he may be found.

IV. VENUE

19. Venue of this action lies in Dallas County pursuant to Section 17.47(b) of the TDTA 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. Moreover, this Court has venue over all of the defendants in all claims or actions arising out of the same transaction, occurrence, or series of transactions or occurrences. Tex. Civ. Prac. & Rem. Code Ann. §15.005.

V. ACTS OF AGENTS

20. 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.

VI. PUBLIC INTEREST

21. 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 enterprises that conduct 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.

VII. TRADE AND COMMERCE

22. Defendants are engaged in “trade” and “commerce” as defined by Section 17.45(6) of the TDTPA, in that Defendants are engaged in the sale of discount travel club memberships to Texas consumers.

VIII. NOTICE BEFORE SUIT

23. 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 were given.

IX. SPECIFIC FACTUAL ALLEGATIONS

24. On February 21, 2003, the Texas Attorney General’s Office filed suit against Sun Country Travel in the 44th District Court, Dallas, Texas. (Exhibit 3). Sun Country Travel was a company that sold discount travel club memberships. The State charged that VAVRO, McDonald & Associates L.C. d/b/a Sun Country Travel committed deceptive trade practices. (Exhibit 4). At the time of the law suit, DAVID G. VAVRO, Sr. was a director of the entity. On March 5, 2003, VAVRO et. al agreed to enter an Agreed Temporary Injunction. (Exhibit 5). VAVRO then became president of Sun Country Travel on April 19, 2003. (Exhibit 6 - p. 7, lines 15-16).

25. According to VAVRO in his deposition taken in the Sun Country case, VAVRO asked JOSEPH P. ST. JOHN to assist Sun Country when it was unable to meet the demands of

the Sun Country travel club members. (Exhibit 6 - p. 129, lines 19-25). Specifically, VAVRO asked JOSEPH ST. JOHN to help him “to fulfill” vacations for Sun Country Travel members. (Exhibit 6 - p. 125, lines 9-15).

26. JOSEPH ST. JOHN was, and still remains, the owner (Exhibits 2 & 7 - p. 20, lines 16-17) of STRATA FORCE GROUP, L.L.C. and is the manager of the limited liability company, Select Travel. (Exhibits 8 & 6 - p. 129, lines 9-10). Select Travel agreed to “provide services to all of the old Sun Country members.” (Exhibit 6 - p. 56, lines 12-14). According to VAVRO, ST. JOHN was his friend and owned ADVANTAGE TRAVEL. (Exhibit 7 - p. 21, lines 18-25).

27. As Sun Country failed, DAVID G. VAVRO created HORIZON TRAVEL, VIP TRAVEL, and TRAVEL CLUB INTERNATIONAL, INC. so that he could continue employing his deceptive trade practices to sell travel club memberships. Subsequently, VAVRO filed papers with the Secretary of State for the State of Texas to incorporate NATIONAL VACATIONS, INC. on or about May 22, 2003 and filed an assumed name certificate indicating that HORIZON TRAVEL would be NATIONAL VACATIONS, INC.’s assumed name on or about June 18, 2003. (Exhibit 9).

28. In his deposition of February 24th, 2005, VAVRO testified that he was the sole owner and shareholder of NATIONAL VACATIONS, INC. (Exhibit 6 - p. 137, lines 4-12). According to the Articles of Incorporation, VAVRO and his wife, Marilyn Vavro (now deceased), were the sole directors. (Exhibit 9).

29. On June 20, 2003, DAVID G. VAVRO filed papers with the Arizona Corporation Commission to incorporate TRAVEL CLUB INTERNATIONAL, INC. (“TCI”). (Exhibit 10).

DAVID G. VAVRO was president and director of TCI. In his deposition of February 24th, 2005, VAVRO testified that TCI “is the fulfillment arm of HORIZON TRAVEL.” (Exhibit 6 - p. 43, lines 22-23). By that he explained, “...after a membership is sold, it goes to TRAVEL CLUB INTERNATIONAL and TRAVEL CLUB INTERNATIONAL gets the discount travel, travels the member, provides the services.” (Exhibit 6 - p. 44, lines 17-24). NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL (“HORIZON”) was the vendor for TCI, meaning that HORIZON’s purpose was to sell TCI memberships. (Exhibit 11). Sun Travel Inc. registered that it owned the factitious name TRAVEL CLUB INTERNATIONAL on December 7, 2005 with the State of Florida. (Exhibit 12). VIP TRAVEL INCENTIVES, INC., through its agent DAVID G. VAVRO registered that it owned the factitious name TRAVEL CLUB INTERNATIONAL on March 20, 2006. (Exhibit 13). ADVANTAGE TRAVEL, L.C., through its agent JOSEPH P. ST. JOHN, registered that it owned the factitious name TRAVEL CLUB INTERNATIONAL on March 27, 2007. (Exhibit 3).

30. On or about March 4, 2004, DAVID G. VAVRO filed papers with the Arizona Corporation Commission to incorporate VIP TRAVEL INCENTIVES, INC. (“VIP”). (Exhibit 14). DAVID G. VAVRO was president and director of VIP. (Exhibit 15). In his deposition of February 24th, 2005, VAVRO testified that he owned VIP (Exhibit 6 - p. 41, lines 20-24) and that VIP “provides the travel incentive for a tour to come in.” (Exhibit 6 - p. 42 lines 4-6). On the day of the deposition, VAVRO testified that VIP only provided certs (certifications) for HORIZON and for no other companies. (Exhibit 6 - p. 42 lines 10-11).

31. DAVID G. VAVRO, doing business in the name of NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL, employed false, misleading and deceptive trade practices in the

sale and marketing of discount travel club memberships from his headquarters in Arlington and his offices in Austin; as well as offices in Salem, New Hampshire; Knoxville, Tennessee; Norwalk, Connecticut; and Greenville, South Carolina. RANDY SIVERSON, JOHN NAREZ, (Exhibit 16 - p. 28, December 12, 2005) and BRAD SMITH were HORIZON employees. (Exhibit 11). VAVRO and his associates sponsored sessions at HORIZON locations to pressure consumers to purchase discount travel memberships with TCI. In the presentations, HORIZON employees verbally promised special, “member only” rates on all travel packages. (Exhibit 11).

32. HORIZON offered “free” VIP vacation certificates to entice people to attend HORIZON’S hard-sell promotions. (Exhibits 11, 17, 18, 19, 20 & 21). HORIZON solicited persons to attend Horizon sales promotion sessions through telephone and mail solicitations as well as by giving away VIP certificates. (Exhibit 11, 17, 18, 19, 20 & 21). In payment for attending the high pressure sales presentations, consumers received VIP vouchers for “free” cruises and trips. (Exhibit 17, 18 & 19). Ultimately, consumers had difficulty redeeming VIP vouchers. (Exhibits 17, 18 & 21). Moreover, instead of a “free” trip, consumers were asked to pay \$100 as a “good faith” deposit. (Exhibits 17, 18 & 21). After consumers mailed their checks for \$100 to VIP, they attempted to schedule the “free trip.” Along with the check, the consumer would provide dates to VIP when they could travel. Frequently, VIP would reply that those travel dates were not available, and the consumer would supply additional travel dates. In response, VIP would send a notice by mail that those travel dates were not available either. Eventually, the VIP voucher would expire with the consumer having paid \$100 for the “free” vacation trip that never took place. (Exhibit 17, 18, & 21).

33. To add further insult to injury, many consumers complained VIP would not return

the

\$100 “good faith deposit.” (Exhibit 18). There were also extra costs incurred such as taxes and port charges on the “free” travel . (Exhibit 19). When consumers complained to HORIZON employees about their difficulties in redeeming VIP travel vouchers, HORIZON employees denied any relationship between HORIZON and VIP and referred consumers to VIP to place their complaints. (Exhibit 21).

34. HORIZON employees and VAVRO’s associates pressured consumers into buying TCI memberships for amounts ranging from \$2000 to \$6,000. (Exhibit 11, 17, 19, 20, & 21). It was TCI’s role to “fulfill” the vacation requests. (Exhibit 6 - p. 43, lines 22 - 23). While TCI memberships were sold to the purchaser of the membership, TCI members were also able to avail their family members of the “members only discount travel.” (Exhibits 20 & 21). Additionally, TCI members were told verbally in the presentations that they would be charged \$179 annually to continue their memberships only if they used the membership that year. (Exhibits 17, 19 & 20).

35. When members attempted to make reservations, members found that the rates they were offered, were also offered to the general public. (Exhibits 17, 19, 20 & 21). Moreover, consumers had difficulty making contact with the company representatives and were frequently unable to make reservations. (Exhibit 19 & 21). When “members” complained to HORIZON employees, HORIZON indicated that those complaints had to be addressed to TCI employees. (Exhibit 21).

36. In the State’s case against VAVRO and Sun Country, in June 2006, the jury found VAVRO and the other Sun Country defendants guilty and ordered them to pay \$64 million (Exhibit 22), but the trial court did not enter a judgment until December 2006. VAVRO’s HORIZON

continued promoting TCI and selling TCI memberships until the fall of 2006. (Exhibit 11). The Office of the Attorney General and the Better Business Bureau have received hundreds of complaints regarding HORIZON TRAVEL, TRAVEL CLUB INTERNATIONAL, and VIP. (Exhibits 23 & 24). In the Spring of 2006, VAVRO moved large amounts of money between his NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL and an account opened in the name of MINNTEX, INC. including a check for \$210,000 in February 22, 2006. (Exhibit 25). MINNTEX, INC. is a Delaware Corporation of which VAVRO is director (Exhibit 26).

37. VAVRO also opened a Comerica Account in October 2006 in the name of TRAVEL CENTER INTERNATIONAL, INC. with MARK HILLMAN and bookkeeper Carolyn Thompsen as signers. (Exhibits 27 & 28, p. 16, lines 6-14). VAVRO deposited \$12,768.35 from one of his personal accounts into a TRAVEL CENTER INTERNATIONAL, INC. account in December 2006 & January 2007.¹ (Exhibits 29, 30 & 31). Marilyn VAVRO similarly deposited \$15,724.00 from the MINNTEX, INC. account to the TRAVEL CENTER INTERNATIONAL, INC. account on December 8, 2006. (Exhibit 32). TRAVEL CENTER INTERNATIONAL, INC. was incorporated in September 2006 with MARK W. HILLMAN as president. (Exhibit 33). VAVRO & HILLMAN transferred large amounts of money from TRAVEL CENTER INTERNATIONAL, INC. to ADVANTAGE TOUR RESOURCE, INC. (Exhibit 34) which was incorporated in April 2006 of

¹ Vavro wrote two checks one for \$2,768.35 and another for \$10,000 from his Hiawatha account #10302838 to Travel Center International

which JOHN P. NAREZ is the director and Harry Swart is the organizer.^{2,3} (Exhibit 35). In January of 2007, JOHN NAREZ formed the similarly named TCI TRAVEL, INC. (Exhibit 36). Again, Florida based Harry J. Swart organized the entity. (Exhibit 36).

38. Beginning on January 16, 2007, VAVRO rented post office box 200038, Arlington, Texas, 76006 for all mail delivered to NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL, Arlington, Texas headquarters at 2415 Ave. J, Suite 114, Arlington, Texas (Exhibits 10 & 37). The mail that arrived at that post office box was forwarded to either VAVRO's 5612 Big Fork Drive address or to TCI TRAVEL CLUB INC. or TRAVEL CLUB INTERNATIONAL, both at P.O. Box 6780, Lakeland, Florida 33807. (Exhibits 10 & 37). VAVRO's "former" employee, RANDY SIVERSON, resides at 5612 Big Fork Drive (Exhibit 10). Hugh Herrington, who is president of Geosphere (the same company of which Defendant JOHN P. NAREZ is Director and Harry Swart organized) signed as an authorized agent so that the mail could be forwarded from the Arlington P.O. Box. (Exhibits 37 & 38).

39. In the Spring of 2007, JOSEPH P. ST. JOHN and LINDA MAYHUGH of ADVANTAGE TRAVEL, L.C. d/b/a TCI contacted TCI members and indicated that their memberships had been "transferred" to ADVANTAGE TRAVEL, L.C., in a letter written by LINDA MAYHUGH, the chief operating officer. (Exhibit 39). Members were assured that their "travel club benefits have not changed." (Exhibit 39). Travel Club International, based at the same

² Four checks in amounts ranging from \$6,000 to \$15,000 were written from Travel Center International, Inc.'s Comerica account #1881093965 to Advantage Tour Resource between December 14, 2006 and December 28, 2006.. Also a check was written to Advantage Tour Resource from Travel Club International, Inc.'s Comerica account #880989259 for \$10,000 on August 9, 2006 and a check for \$5,000 in November 14, 2006 with a notation "Advance."

³ Vavro transferred \$4,000 from his personal Hiawatha account #10302838 to Advantage Tour Resource Inc. on December 19, 2006.

address as ADVANTAGE TRAVEL, L.C., next sent letters to TCI members telling members it was time to send in \$179 to pay their annual dues. Charges would be “processed by ADVANTAGE TRAVEL.” (Exhibit 40). In response to a complaint by a consumer that annual dues were required when the member had not in fact used the TCI membership within the past year, Dustin Rainey, Executive Compliance Administrator of ADVANTAGE TRAVEL d/b/a TCI explained that ADVANTAGE TOUR RESOURCES, INC. (ATR) had acquired HORIZON TRAVEL and TRAVEL CLUB INTERNATIONAL, INC. (Exhibit 19). Further, according to Rainey, in March 2007, ADVANTAGE TRAVEL, L.C. had entered an agreement with ATR to acquire the “rights to service these members as well as the right to the brand ‘Travel Club International’.” (Exhibit 19). Annual dues were now required regardless of membership use. (Exhibit 19).

40. In June of 2007, TCI members were contacted by ADVANTAGE TRAVEL, L.C. and asked to attend meetings at the Radisson Hotel in Richardson, Texas regarding their TCI memberships. (Exhibit 20). At those meetings, STRATA FORCE representatives told members that the benefits of the TCI memberships would no longer apply to TCI family members. At the same meeting, STRATA FORCE representatives attempted to sell additional time shares to TCI members. (Exhibit 20). In the meantime, TCI continued to market its memberships in St. Thomas under the name of Resort Vacation Club. (Exhibit 41). TCI members did not receive the Fall 2007 TCI - ADVANTAGE publication offering special travel deals until February 2008. (Exhibit 17). By that time, the special offers had expired. (Exhibit 17). The Winter 2007 edition of the TCI - ADVANTAGE publication did not arrive at one consumer’s home until March 12, 2008. (Exhibit 17).

41. DAVID G. VAVRO breached his duty of care as director/owner of NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL, TRAVEL CLUB INTERNATIONAL, INC., and

VIP TRAVEL INCENTIVES, INC. by failing to adequately supervise the conduct of their employees, when VAVRO knew or should have known that violations of the Deceptive Trade Practices Act and violations of the Texas Business Corporation Act were taking place. Moreover, the entities were under capitalized, and the corporations were in fact operated as sham corporations strictly for the benefit of their president, owner, and director, DAVID G. VAVRO. VAVRO dissipated the bank accounts of NATIONAL VACATIONS, INC., TRAVEL CLUB INTERNATIONAL, INC. and VIP INCENTIVES, INC. transferring funds to sham entities owned by VAVRO including, MINNTEX, INC., and entities that were created and owned by his former associates and employees including ADVANTAGE TOUR RESOURCES, INC. (incorporated in April 2006) and TRAVEL CENTER INTERNATIONAL, INC. (incorporated in September 2006).

42. Finally, VAVRO (1) conspired with ST. JOHN and MAYHUGH to transfer his failed vacation club memberships again, as he had done when Sun Country failed, (2) conspired with HILLMAN and NAREZ to transfer NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL, TRAVEL CLUB INTERNATIONAL, INC., and VIP TRAVEL INCENTIVES, INC. funds to them and to their similarly named entities in order to dissipate corporate funds prior to the entry of the Sun Country judgment and to continue the same deceptive trade practices, and (3) conspired with RANDY SIVERSON and BRADLEY J. SMITH to assist in concealing VAVRO's actual location so that VAVRO would be protected from complaints lodged against NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL, VIP TRAVEL INCENTIVES, INC, and TRAVEL CLUB INTERNATIONAL, INC. by consumers. NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL, VIP TRAVEL INCENTIVES, INC, and TRAVEL CLUB INTERNATIONAL, INC. acted as a single business enterprise in that the entities had common employees, common offices, common accounting, undocumented transfers of funds between

corporate entities, and an unclear allocation of profits and losses between the corporations. VAVRO is individually liable for the liabilities of NATIONAL VACATIONS, INC., TRAVEL CLUB INTERNATIONAL, INC., and VIP INCENTIVES, INC.

43. VAVRO closed his HORIZON office and made his last lease payments for his offices at 2415 Avenue J, Suite 114 and 2401 Avenue J. Suite 215, Arlington, Texas 76006 on February 20, 2007 even though the lease agreement extended until August 2007. (Exhibits 11 & 42). Subsequently, VAVRO also rented a mailbox at EZ Mail, 1861 Brown Blvd. Box 743, Arlington, Texas 76006 for DAVID G. VAVRO, Marilyn Vavro, MINNTEX, INC., and NATIONAL VACATIONS, INC. (Exhibit 41). Pursuant to VAVRO's instructions, the mail from the EZ Mail drop was forwarded to DAVID G. VAVRO at West 7295 130 St., Hager City, Wisconsin. (Exhibit 42). VAVRO formerly owned the residence at W7295 W. 130th Ave., Hager City, Wisconsin 54014 but sold the residence to BRADLEY J. SMITH in 2006. (Exhibit 11). BRADLEY J. SMITH also owns the adjacent home at W7309 130th Ave. Hager City, Wisconsin 54014. (Exhibit 11). As of March 20, 2008, VAVRO instructed EZ Mail to forward all mail to General Delivery, Kerens, TX. 75144. (Exhibit 43). VAVRO has made it virtually impossible for consumers to contact him or to seek compensation for their claims.

X. VIOLATIONS OF THE DECEPTIVE TRADE PRACTICES ACT

44. Defendants, as set out in Paragraphs 1 through 41, 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 NATIONAL VACATIONS, INC.; HORIZON TRAVEL; STRATA FORCE GROUP, L.L.C.; TCI TRAVEL, INC.; VIP TRAVEL INCENTIVES, INC.; TRAVEL CLUB INTERNATIONAL, INC.; ADVANTAGE

TRAVEL, L.C.; MINNTEX INC., TRAVEL CENTER INTERNATIONAL, INC., and ADVANTAGE TOUR RESOURCE, INC. in violation of Section 17.46(b)(3) of the TDTPA;

- B. Falsely representing that TCI members will receive substantial travel discounts on cruises, air travel, hotels and condominiums, when discounts, if any, were restricted to condominiums in violation of Section 17.46(b)(5) of the TDTPA;
- C. Falsely representing that friends and family members will be eligible to receive travel discounts based on TCI members' memberships in violation of Section 17.46(b)(5) of the TDTPA;
- D. Failing to disclose that NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVELS, TCI, and VIP were successors of Sun Country Travel in violation of Section 17.46(b)(24) of the TDTPA;
- E. Failing to disclose that the State of Texas prevailed against Vavro, McDonald & Associates LLC a/k/a Vavro, McDonald, Kennedy & Associates, LLC, Texas Travel Partners, LLC d/b/a Sun Country Travel; and DAVID G. VAVRO, Sr. in a cause of action brought under the DTPA related to travel and vacation sales in violation of Section 17.46(b)(24) of the TDTPA;
- F. Failing to disclose that it was difficult for TCI members to reach TCI representatives to arrange travel plans in violation of Section 17.46(b)(24) of the TDTPA;
- G. Misrepresenting that membership dues were due every year as opposed to only the years in which the member used his or her TCI membership in violation of Section 17.46(b)(5) of the TDTPA;
- H. Failing to provide for the access of TCI benefits to family members as contracted for by TCI members in violation of Section 17.46(b)(5) of the TDTPA;
- I. 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;
- J. 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 17.46(b)(11) of the TDTPA.
- K. Misrepresenting that trips used to entice consumers to attend HORIZON'S sales presentations were "free" or "completely free," when in fact the trips were not free as consumers were required to pay, taxes, port charges, and a deposit of one hundred dollars for each "free trip" in violation of Section 17.46(b)(9) of the TDTPA.
- L. Failing to disclose the retail value of a gift used to entice consumers to attend HORIZON TRAVEL's sales presentation in violation of Section 17.46(b)(24) of the

TDTPA;

- M. Failing to disclose that VAVRO was dissipating HORIZON'S, VIP'S, and TCI'S corporate assets in violation of Section 17.46(b)(24) of the TDTPA;
- N. Failing to disclose that VIP is not authorized to do business in Texas in violation of Section 17.46(b)(24) of the TDTPA;
- O. Failing to disclose that TCI is not authorized to do business in Texas in violation of Section 17.46(b)(24) of the TDTPA;
- P. Failing to disclose that ADVANTAGE TRAVEL, L.C. is not authorized to do business in Texas in violation of Section 17.46(b)(24) of the TDTPA;
- Q. Failing to offer travel discount opportunities until the discounted travel deal is no longer in effect in violation of Section 17.46(b)(9) of the TDTPA; and
- R. Engaging in conduct which violates the Contest and Gift Act, which as outlined below.

45. Moreover, the Consumer Protection 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

TDTPA:

- A. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services in violation of Section 17.46(b)(2) of the TDTPA; and
- B. Failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer to a transaction into which the consumer would not have entered had the information been disclosed, in violation of Section 17.46(b)(24) of the TDTPA.

XI. VIOLATIONS OF THE BUSINESS CORPORATION ACT

46. The Business Corporation Act provides that no foreign corporation may transact business in this State until it shall have procured a certificate of authority to do so from the Secretary of State. Tex. Bus. Corp. Act Art. 801(A). Defendants VIP TRAVEL INCENTIVES, INC., TRAVEL CLUB INTERNATIONAL, INC., and ADVANTAGE TRAVEL, L.C. are foreign

corporations organized and existing under the laws of the States of Arizona and Wyoming. (Exhibits 1, 10, & 14). But Defendants have never procured certificates of authority from the Texas Secretary of State. (Exhibits 44, 45, & 46).

47. Defendant VIP TRAVEL INCENTIVES, INC. has transacted business in this State without a certificate of authority at least since March 2004 through the present day. (Exhibit 14).

48. Defendant TRAVEL CLUB INTERNATIONAL, INC. has transacted business in this State without a certificate of authority at least since June 2003. (Exhibit 10).

49. Defendants ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL is a foreign corporation organized and existing under the laws of the State of Wyoming (Exhibit 1). But Defendants have never procured a certificate of authority from the Texas Secretary of State (Exhibit 46).

50. Defendant ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL has transacted business in this State without a certificate of authority at least since March 2007 through the present day, for a total of nine months. (Exhibits 39 & 46).

51. For unlawfully transacting business in the State of Texas, Defendant VIP TRAVEL INCENTIVES, INC. is liable for the years 2003 to 2007 in an amount equal to all fees and franchise taxes, which would have been imposed by law upon Defendant VIP had it duly applied and received a certificate of authority to transact business in this State and thereafter filed all reports required by law. *See* Tex. Bus. Corp. Act Art. 8.18(C).

52. Similarly, Defendant TRAVEL CLUB INTERNATIONAL, INC. is liable for the years 2004 to 2007 in an amount equal to all fees and franchise taxes, which would have been imposed by law upon Defendant TRAVEL CLUB INTERNATIONAL, INC. had it duly applied

and received a certificate of authority to transact business in this State and thereafter filed all reports required by law. *See id.*

53. Similarly, Defendant ADVANTAGE TRAVEL, L.C., d/b/a TRAVEL CLUB INTERNATIONAL is liable for the year 2007 in an amount equal to all fees and franchise taxes, which would have been imposed by law upon Defendant ADVANTAGE TRAVEL, L.C., d/b/a TRAVEL CLUB INTERNATIONAL had it duly applied and received a certificate of authority to transact business in this State and thereafter filed all reports required by law. *See id.*

54. Furthermore, Defendants VIP TRAVEL INCENTIVES, INC., TRAVEL CLUB INTERNATIONAL, INC. and ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL should forfeit to this State an amount not less than One Hundred Dollars (\$100) nor more than Five Thousand Dollars (\$5,000) for each month or fraction thereof that Defendants VIP TRAVEL INCENTIVES, INC., TRAVEL CLUB INTERNATIONAL, INC., and ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL transacted business in this State without a certificate. *See id.*

XII. VIOLATIONS OF THE CONTEST AND GIFT GIVEAWAY ACT

55. Defendants, as set out in Paragraphs 1 through 33, have engaged in and continue to engage 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 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 40.007;
- B. 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 in violation of Texas Business and Commerce Code Section 40.033;

- C. Using the term “gift” or similar term in a false, misleading, or deceptive manner in violation of Texas Business and Commerce Code Section 40.036(1);
- D. Directly representing or implying that a gift promotion is a contest in violation of Texas Business and Commerce Code Section 40.036(2);
- E. 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 in violation of Texas Business and Commerce Code Section 40.036(3); and
- F. Failing to disclose the retail value of a gift in violation of Texas Business and Commerce Code Section 40.036(4)

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

56. Defendants DAVID G. VAVRO, NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL; VIP TRAVEL INCENTIVES, INC; and TRAVEL CLUB INTERNATIONAL, INC. as set out in Paragraphs 1 through 40, 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).

**XIV. LIABILITY OF DAVID G. VAVRO, JOSEPH P.
ST. JOHN, LINDA MAYHUGH, MARK HILLMAN, AND JOHN P. NAREZ
INDIVIDUALLY**

57. The 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 holder, 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. Corp. Act Art. 2.21(2). Moreover, “Courts will not disregard the corporation fiction and hold individual officers, directors, or stockholders liable on the obligations 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.*, 431S.W.2d 336 at 340 (Tex. 1968). Consequently,

DAVID G. VAVRO, JOSEPH P. ST. JOHN, LINDA MAYHUGH, MARK HILLMAN, and JOHN P. NAREZ are individually liable for the following:

- A. DAVID G. VAVRO used his entities NATIONAL VACATIONS, INC. d/b/a HORIZON, TRAVEL CLUB INTERNATIONAL, INC., and VIP TRAVEL INCENTIVES, INC. as shams to perpetrate a fraud and to avoid personal liability in his deceptive sale of travel club memberships to consumers.
- B. DAVID G. VAVRO used his entities MINNTEX, INC., NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL, VIP TRAVEL INCENTIVES, INC., and TRAVEL CLUB INTERNATIONAL, INC. as shams to perpetrate a fraud and to avoid personal liability in dissipating corporate funds so that refunds would not be available to consumers.
- C. JOSEPH P. ST. JOHN used his entities ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL and STRATA FORCE GROUP, L.L.C. as shams to perpetrate a fraud and to avoid personal liability in his deceptive sale of travel club memberships to consumers.
- D. LINDA MAYHUGH used her entity, ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL as a sham to perpetrate a fraud and to avoid personal liability in her deceptive sale of travel club memberships to consumers.
- E. MARK HILLMAN used his entity TRAVEL CENTER INTERNATIONAL, INC. d/b/a TRAVEL INTERNATIONAL, INC. as a sham to perpetrate a fraud and to assist VAVRO to avoid personal liability in his deceptive sale of travel club memberships to consumers.
- F. JOHN NAREZ used his entities TCI TRAVEL, INC. and ADVANTAGE TOUR RESOURCE, INC. as shams to perpetrate a fraud and to assist VAVRO to avoid personal liability in his deceptive sale of travel club memberships to consumers.

XV. INJURY TO CONSUMERS

58. 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

59. 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. REPATRIATION OF ASSETS

60. After due notice and a hearing, the court should order that all of the Defendants' assets situated outside the jurisdiction of this Court be deposited into an appropriate financial institution within the jurisdiction of this Court.

XVIII. NECESSITY OF IMMEDIATE RELIEF TO PRESERVE DEFENDANTS ASSETS

61. Plaintiff requests immediate relief by way of a Temporary Restraining Order, Temporary Injunction, and Asset Freeze to preserve and protect the Defendant DAVID G. VAVRO'S assets from dissipation including but not limited to any accounts held in the name of DAVID G. VAVRO, NATIONAL VACATIONS, INC., VIP TRAVEL INCENTIVES, INC., TRAVEL CLUB INTERNATIONAL, INC., TRAVEL CENTER INTERNATIONAL, INC. ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL; MINNTEX, INC.; TCI TRAVEL, INC.; and

ADVANTAGE TOUR RESOURCE, INC., so that the many victims of Defendants' actions can receive the restitution to which they are entitled. The Defendants receive large sums derived from the sale of TRAVEL CLUB INTERNATIONAL memberships by NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL and ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL and for travel incentives not provided by VIP TRAVEL INCENTIVES, INC.

62. Thus the money collected from consumers constitutes contraband which should be returned to its rightful owners. The assets of the DAVID G. VAVRO, NATIONAL VACATIONS, INC. d/b/a HORIZON TRAVEL, VIP TRAVEL INCENTIVES, INC., and TRAVEL CLUB INTERNATIONAL INC., ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL, MINNTEX, INC., TRAVEL CENTER INTERNATIONAL, INC., TCI TRAVEL, INC., and ADVANTAGE TOUR RESOURCE, INC., are subject to dissipation and secretion and therefore should be frozen pending final trial so restitution can be made, and full and final relief can be awarded at the resolution of this litigation.

XIX. REQUEST TO CONDUCT DISCOVERY PRIOR TO TEMPORARY INJUNCTION HEARING

63. 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 or employees of Defendants, prior to any scheduled Temporary Injunction Hearing and prior to Defendants' answer date. 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.

64. 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 JOSEPH P. ST. JOHN;
- b) Subpoena for witness deposition with request for production for DAVID G. VAVRO;
- c) Subpoena for witness deposition with request for production notice for LINDA MAYHUGH;
- d) Subpoena for witness deposition with request for production for JOHN P. NAREZ;
- e) Subpoena for witness deposition with request for production for MARK HILLMAN;
- f) Subpoena for witness deposition with request for production for RANDY SIVERSON;
- g) Subpoena for witness deposition with request for production BRADLEY J. SMITH.

XX. PRAYER

65. 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 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, STRATA FORCE GROUP, L.L.C., MINNTEX, INC., ADVANTAGE TOUR RESOURCE, INC., TCI TRAVEL,

INC., TRAVEL CENTER INTERNATIONAL, INC., DAVID G. VAVRO, SR., LINDA MAYHUGH, JOSEPH P. ST. JOHN, MARK HILLMAN, JOHN P. NAREZ, RANDY SIVERSON, and BRADLEY J. SMITH, 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, invoices or other written 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 case;
- B. Transferring, spending, hypothecating, concealing, encumbering, depleting, modifying, dissipating, distributing, or removing from the jurisdiction of this Court any money, 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 of, or claimed by these Defendants, insofar as such property relates to, arises out of or is derived from the unlawful business operation of these Defendants within the State of Texas;
- C. Opening or causing to be opened any safe deposit boxes or storage facilities titled in the name of these Defendants, or subject to access or control by Defendant, without providing Plaintiff and the Court prior notice by motion seeking such access;
- D. 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 Texas Business Corporation Act Article 8.18(C);
- E. 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 file all reports required by the Texas Business Corporation Act Article 8.18(C);

F. 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 Texas Business Corporation Act Article 8.18(C);

G. 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 Texas Business Corporation Act Article 8.18(C);

H. 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 Texas Business Corporation Act Article 8.18(C);

I. Soliciting consumers to purchase TRAVEL CLUB INTERNATIONAL, INC. memberships in the State of Texas;

J. Soliciting consumers to up grade TRAVEL CLUB INTERNATIONAL, INC. memberships in the State of Texas;

K. Causing confusion as to the identity of the entity by using the names NATIONAL VACATIONS, 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, LLC; and ADVANTAGE TOUR

RESOURCE, INC. interchangeably;

L. 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;

M. 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;

N. Using the term “gift” or similar term in a false, misleading, or deceptive manner in;

O. Directly representing or implying that a gift promotion is a contest;

P. In a gift promotion using such as “won,” “will win,” “will be awarded”, awarded,” “sweepstakes” or “contest” or phrases of similar meaning that imply that the person is being solicited to enter or has won a contest;

Q. Failing to disclose the retail value of a gift in violation of Texas Business and Commerce Code Section 40.036(4).

R. Changing defendants’ telephone number, facsimile number and web page without providing instructions as to how consumers can contact Defendants for refunds and complaints; and

66. Plaintiff further prays that upon final hearing this Court orders each and every Defendant to pay 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).

67. Plaintiff further prays that upon final hearing this Court orders each and every Defendant to pay civil penalties in the amount 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).

68. Plaintiff further prays that, upon final hearing, this court order each and every Defendant to 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. *See* Texas Deceptive Trade Practices Act §17.47(d).

69. 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 DTPA.

70. Plaintiff further prays that, upon final hearing, this Court order Defendants to pay civil penalties described below for the duration of time that Defendants, foreign corporations, VIP TRAVEL INCENTIVES, INC., TRAVEL CLUB INTERNATIONAL, INC.; and ADVANTAGE TRAVEL d/b/a TRAVEL CLUB INTERNATIONAL engaged in actions violating Article 8.1A of the Business Corporation Act 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 as follows: (1) in an amount equal to all fees and franchise taxes that would have been imposed by law upon Defendants VIP TRAVEL INCENTIVES, INC., TRAVEL CLUB INTERNATIONAL, INC.; and ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL 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 franchise taxes; and (2) in an amount of \$5,000 for each month or fraction thereof for each month that VIP TRAVEL INCENTIVES, INC., TRAVEL CLUB INTERNATIONAL, INC.; and ADVANTAGE TRAVEL, L.C. d/b/a TRAVEL CLUB INTERNATIONAL each transacted business in this State without a certificate. *See* Tex.

Bus. Corp. Act Art. 8.18(C).

71. Plaintiff further prays that this Court order the Defendants 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, to pay civil penalties to the State of Texas in the amount of \$3,000 for any willful or knowing violation of Section 44.102(c) of the Texas Business and Commerce Code.

72. Plaintiff further prays that this Court order the Defendants 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, to pay civil penalties to the State of Texas in the amount of \$1,000 for any violation of Section 44.102(c) of the Texas Business and Commerce Code.

73. Plaintiff further prays for costs of Court, reasonable attorney fees as provided in Texas Government Code Ann. Section 402.006(c), and such other relief to which Plaintiff may

may be justly entitled.

Respectfully submitted,

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