

99-055

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THIRD DISTRICT  
FEB 8 11 19 AM '00  
GENERAL SESSION  
TOPEKA, KANSAS

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS**  
**Division 11**

**STATE OF KANSAS, *ex rel.*,**  
**CARLA J. STOVALL, Attorney General,**

**Plaintiff,**

**v.**

) Case No. 99-C-880

**NATIONAL TRAVEL SERVICES, INC.,**  
**PLAZA RESORTS, INC.,**  
**both d/b/a Ramada Plaza Resorts,**  
**DANIEL LAMBERT, individually, and**  
**JAMES VERRILLO, individually,**

**Defendants.**

(Pursuant to K.S.A. Chapter 60)

**JOURNAL ENTRY OF CONSENT JUDGMENT**

NOW on this 8<sup>th</sup> day of Feb 2000 1999, comes before the Court the Journal Entry of Consent Judgment entered into between the parties pursuant to K.S.A.50-632(b). The Plaintiff, State of Kansas, *ex rel.* Carla J. Stovall, Attorney General, appears by and through counsel, Terry D. Hamblin, Assistant Attorney General. Defendants National Travel Services, Inc.; Plaza Resorts, Inc.; Daniel Lambert; and James Verrillo appear by and through counsel, Len Frischer of Frischer & Russell and Richard W. Epstein of Greenspoon, Marder, Hirschfeld, Rafkin, Ross & Berger. Whereupon, the parties advise the Court they have stipulated and agreed to the following:

## I. THE PARTIES

1. Carla J. Stovall is the duly elected, qualified, and acting Attorney General of the State of Kansas.

2. The Attorney General's authority to bring this action is derived from the statutory and common law of the State of Kansas, specifically the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*

3. Defendant National Travel Services, Inc., (hereinafter "Defendant National Travel Services") is a corporation organized under the laws of the State of Nevada with a principal place of business at 871 West Oakland Park Boulevard, Fort Lauderdale, Florida 33311.

4. Defendant Plaza Resorts, Inc., (hereinafter "Defendant Plaza Resorts") is a corporation organized under the laws of the State of Florida with a principal place of business at 871 West Oakland Park Boulevard, Fort Lauderdale, Florida 33311.

5. Defendant Daniel Lambert (hereinafter "Defendant Lambert") is an individual who resides at 3011 N.E. 55<sup>th</sup> Place, Fort Lauderdale, Florida 33308.

6. Defendant James Verrillo (hereinafter "Defendant Verrillo") is an individual who resides at 4210 N.E. 31<sup>st</sup> Avenue, Fort Lauderdale, Florida 33064

7. Each defendant is a supplier as defined by K.S.A. 50-624(i).

8. At all times relevant hereto, and in the ordinary course of business, each Defendant engaged in consumer transactions as defined by K.S.A. 50-624(c).

## II. JURISDICTION AND VENUE

9. The Court has subject matter jurisdiction over this case under the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*

10. Each Defendant is subject to *in personam* jurisdiction of the Court under the Kansas Consumer Protection Act, specifically K.S.A. 50-638(a), and by consent of the parties.

11. Venue is proper in the Third Judicial District of Kansas (Shawnee County) under K.S.A. 50-638(b) and by consent of the parties.

### **III. DEFINITIONS**

12. As used in this Consent Judgment:

- A. "Clear and conspicuous" means that the required disclosures, when made in writing or by facsimile, televised communications, or the Internet shall be presented in such a manner, given their size, color, contrast and proximity to any related information, as to be readily noticed and understood by consumers. Use of typeface at least as large as typeface contained in the standard text of the offer is clear and conspicuous. A disclosure is not clear and conspicuous if, among other things, it is ambiguous or it is obscured by the background against which it appears, or by its location within a lengthy disclosure of non-material information. Clear and conspicuous also means that the required disclosures, when made in an oral presentation, are presented in a manner that a consumer will hear and understand at a normal speed in the same tone and volume as the sales offer.
- B. "Material" means likely to affect a person's choice of, or decision to purchase or to receive, goods or services.
- C. "Terms and Conditions Box" means a clearly and conspicuously delineated paragraph of material disclosures outlined by a rectangle or in a rectangular form and labeled "Terms and Conditions." The Terms and Conditions Box shall include only material disclosures. The Terms and Conditions Box shall not include any non-material statements regarding this offer. The contents of the Terms and Conditions Box shall be clear and conspicuous. The first sentence of the Terms and Conditions Box shall be: "This is an offer to sell travel." The second sentence of the Terms and Conditions

Box shall be a truthful description of the vacation package offered by Defendants. The third sentence of the Terms and Conditions Box shall be a disclosure that the consumer, to take advantage of the offer, is required to attend a sales presentation for timeshare or interval ownership. Whenever Defendants use a Terms and Conditions Box, Defendants shall provide a clear and conspicuous disclosure on the same page where the first material statement of the offer appears that additional terms and conditions apply to the offer, and shall refer to the page or placement within the solicitation at which such Terms and Conditions Box is found. The Terms and Conditions Box shall be located in a conspicuous place within the solicitation.

- D. "Offer" means an offer of goods and/or services to one or more consumers, including but not limited to an offer of a vacation package, regardless of whether the offer is conveyed in writing, orally or by facsimile, televised communications, the Internet, or in any other manner. The term "offer" includes any solicitation made directly to consumers by telemarketing or any written solicitation or mailing to which consumers are asked to respond by calling a telephone number for the purpose of receiving information regarding the purchase of a vacation package. Offer also includes any solicitation made by means of inviting or asking consumers to register to enter a contest, a random drawing, or any other promotion which results in the consumer being solicited directly or indirectly to purchase a vacation package.
- E. "Represent" and "representation" include any communication, whether made in writing, orally, or by facsimile, televised communication, or the Internet, or in any other manner.

- F. "Solicitation" means any communication to a consumer that contains an offer, whether made in writing, orally, or by facsimile, televised communications, or the Internet, or in any other manner.
- G. "Time-share" means any arrangement whereby a purchaser received a right to use accommodations and/or facilities for specific periods of time on a recurring basis. The term includes any vacation ownership interest or similar interest.
- H. "Vacation package" means goods and/or services which involve a stay in a location away from the consumer's home, and includes use of accommodations whether with or without meals.
- I. "Defendants" means National Travel Services, Inc., Plaza Resorts, Inc., both d/b/a Ramada Plaza Resorts and d/b/a Ramada Plaza Resorts Orlando-Ft. Lauderdale Vacations; Daniel Lambert; and James Verrillo.

#### IV. GENERAL PROVISIONS

- 13. Defendants were duly and properly served with a Summons and Petition.
- 14. All Defendants enter their voluntary general appearances.
- 15. Plaintiff and Defendants have agreed on a basis for settlement of the matters alleged in the Petition and to the entry of this Consent Judgment against Defendants without the need for trial or adjudication of any issue of law or fact.
- 16. Defendants, by entering into this Consent Judgment, neither admit nor deny the allegations set forth in the Petition.
- 17. Defendants recognize and state that this Consent Judgment is entered into voluntarily and that no promises have been made by the Office of the Attorney General of the State of Kansas, or by any member, officer, agent or representative thereof, to induce them to enter into this Consent Judgment, except as provided herein.

18. Defendants waive any right they may have to appeal from this Consent Judgment.

19. Under no circumstances shall this Consent Judgment or the name of the State of Kansas, the Office of the Attorney General, the Consumer Protection Division, or any of their employees or representatives be used by any Defendant, or by their officers, agents, servants, employees, successors, assigns, attorneys or other persons and/or entities acting in concert or participation with Defendants, in connection with any selling, advertising, or promotion of products or services, or as an actual or implied endorsement or approval of Defendants' acts, practices or methods of conducting business.

20. This Consent Judgment shall apply to and bind Defendants whether acting through their principals, officers, directors, agents, telemarketers, direct mail marketers, servants, employees, subsidiaries, successors or assigns, or acting through any corporation or other business entity whose acts, practices or policies are directed, formulated, or controlled by any one or more Defendant.

21. The injunctive provisions of this Consent Judgment shall apply to the Defendants and to the Defendants' successors, assigns, officers, agents, servants, employees, representatives, and all other persons or entities in active concert or participation with the Defendants.

22. All corporate, partnership and individual Defendants, and any shareholder, partner, member, manager, director or officer of the corporate Defendants, shall immediately inform all successors, assigns, transferees, officers, agents, servants, employees, representatives, and all other persons or entities in active concert or participation with Defendants or with the corporations named as Defendants in the Petition, of the terms and conditions of this Consent Judgment and shall direct those persons and/or entities to comply with this Consent Judgment. In addition, the Defendants shall provide copies of the injunctive provisions of this Consent Judgment to all employees, representatives, and sales agents, and upon request, shall make the entire Consent Judgment available to any requesting employee, representative, or sales agent.

#### V. INJUNCTIONS

23. Defendants and all successors, assigns, transferees, officers, agents, servants, employees, representatives and all other persons or entities in active concert or participation with Defendants are hereby permanently enjoined and restrained from directly or indirectly engaging in the following acts or practices in the State of Kansas and from failing to comply with the provisions of the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, as it is currently written or as it is amended in the future, including but not limited to:

A. Distributing any solicitation in the State of Kansas unless the solicitation clearly and conspicuously discloses:

1. That a purchase of the vacation package is required, if the consumer is required to make a purchase to receive the subject matter of the solicitation. Such disclosure shall be made on the same page as the first material statement of the offer in any solicitation and shall be made by providing in typeface at least as large as the typeface contained in the standard text of the offer: (a) the total price per person of the vacation package; and/or (b) the statement: "THIS IS AN OFFER TO SELL TRAVEL;" and/or (c) use of other words which clearly convey the message to the recipient that a purchase is required. This disclosure shall not be satisfied by use of a "Terms and Conditions" box. Defendants may satisfy the disclosure requirements of this subparagraph:

a. where a certificate mail piece or letter mailing is used, by providing on the first page of the offer in 12-point type, either: (1) the price of the vacation, or (2) one of the following statements which shall appear verbatim without modification: (i) "This is an Offer to Sell Travel;" (ii) "Call Toll-Free to Purchase;" or (iii) "Purchase Required;" or

- b. where a postcard type mail piece is used, by providing in at least 10-point bold type, either: (1) the price of the vacation, or (2) one of the following statements which shall appear verbatim without modification: (i) "This is an Offer to Sell Travel;" (ii) "Call Toll-Free to Purchase;" or (iii) "Purchase Required." If this section is used by the Defendants, the first sentence of the "Terms and Conditions Box" as defined in paragraph 12(C) above shall be a disclosure that the consumer, to take advantage of the offer, is required to attend a sales presentation for timeshare or interval ownership;
2. Whether the vacation package includes: (a) transportation, including air fare; (b) meals, and/or (c) accommodations, as applicable;
3. That a consumer, when traveling on Defendants' vacation, will be solicited to tour and purchase a time share or vacation ownership interest if: (a) such tour is required; (b) the consumer must participate in the tour to take advantage of the offer; or (c) the failure of the consumer to take the tour will result in a reduction of the level of goods and services the consumer will receive in relation to what the consumers would receive if they participate in the tour;
- B. Failing to disclose all additional material terms and conditions which apply to the offer, including, but not limited to travel restrictions, any types of additional costs and charges for services offered, including but not limited to taxes, hotel upgrades, cabin fees, and/or cancellation fees;
- C. Failing to comply fully with the Telemarketing Fraud statute, K.S.A. 50-671 *et seq.*, when Defendants act as, or through, a telemarketer.

- D. Failing to disclose the terms and conditions for any and all bonus vacations, including whether the bonus vacation will be given if a purchase is not made and whether any further costs or restrictions will be required prior to using the bonus trip;
- E. Failing to comply with the Prize Notification statute, K.S.A. 50-692 *et seq.*, whenever such statute is applicable to the acts or practices of Defendants.
- F. Failing to comply Kansas law regulating solicitations by unsolicited facsimile as set forth in K.S.A. 50-670.
- G. Failing to disclose promptly in a clear and conspicuous manner that a purchase is required;
- H. Failing to promptly state: (1) the identity of the seller; and (2) that the purpose of the call is to sell the consumer a vacation package or other goods and services;
- I. Failing to state the total cost of the trip, including any and all costs or fees paid directly to the supplier, at any time during the call when any cost associated with the trip is provided to the consumer.

For purposes of this paragraph, "promptly" shall mean that the disclosure shall be made prior to the time any substantive information about the vacation package or other goods or service is conveyed to the consumer.

24. Defendants are hereby further permanently enjoined and restrained from:

- A. Representing, directly or by implication, that a particular destination or particular services are included in the vacation package or bonus package when such is not the case;
- A. Representing, directly or by implication, the nature of any part of the vacation package, through the use of terms such as "world class," "first class," or similar representations unless Defendants can substantiate these representations through

comparable ratings or evaluations by an independent, internationally or nationally recognized publication on travel or tourism;

- B. Representing to any consumer, directly or by implication, that the consumer is a “winner” or that the consumer has been “selected” or is otherwise being included in a select group for receipt of a prize or opportunity unless that is, in fact, true, or that the consumer is entering a “contest,” “sweepstakes,” “drawing,” or other competitive enterprise from which a winner or select group of winners will receive a prize or opportunity when, in fact, the enterprise is a promotional scheme designed to make contact with prospective customers, and all or a substantial number of those “entering” receive the same “prize.”
- C. Representing limitations on the offer or creating a false sense of urgency, directly or by implication, including but not limited to misrepresenting limitations on:
1. The time within which the consumer must take action (including contacting Defendants);
  2. The number of offers of vacation packages;
  3. Who is entitled to take advantage of the vacation package offer; or
  4. The number of contacts that a person or household may make to take advantage of the offer;
- D. Representing, directly or by implication, that a vacation package has been reserved for a consumer, by using the term “Reservation Number” or similar term, unless such number is unique to the consumer;
- E. Using “Control Numbers,” or any similar identifier in any communications relating to a vacation package unless such identifier is in fact employed by Defendants for a specific business purpose;

- F. Representing, directly or by implication, the purpose of its contact or its offer through the following:
1. That the purpose of the contact or offer is to “promote tourism,” or similar wording;
  2. That the purpose of the contact or offer is to “regulate” or “administer” the “disbursement” of vacation packages, or similar wording;
  3. That the purpose of the contact or offer is to engender “word of mouth” advertising, or any similar wording, unless Defendants have a realistic likelihood, based on past experience, of generating substantial business from consumer-to-consumer communications; or
  4. That the purpose of the contact or offer is to lead the consumer to buy another vacation package in the future, unless Defendants have a realistic likelihood, based on past experience, of generating substantial repeat business from consumers;
- H. Representing to any consumer, directly or by implication, that a certain number or percentage of its customers have been satisfied with their vacation packages, or similar wording, unless there is reasonable numerical substantiation for that statement based on documentation from those consumers who have purchased and actually have used the vacation packages from Defendants;
- I. Representing, directly or by implication, through the use of any envelope, other mailing device, or other communication, that Defendants, or the contents of any of their communications, are in any way connected to the government or a government agency, including, but not limited to:
1. Citing the possibility of criminal penalties on the front of an envelope; or

2. Using the names of departments that are non-existent or do not represent actual entities, divisions, or departments, such as “The Office of Records of Entitlement Disbursements Division” and “The Offices of Records Entitlement/Disbursements Division.;

J. Using the term “confidential” when referring to any of Defendants’ written solicitations;

K. Referring to documents as delivered by registered mail, express mail, overnight delivery, special delivery, or any other form of mail or delivery other than by the rate that actually applies such as bulk rate or first class mail; and

L. Representing that the duration of a time share sales presentation tour is of a specific period or amount of time unless there is reasonable substantiation for that statement and unless that substantiation will be provided to Plaintiff upon Plaintiff’s request.

24. Defendants are hereby further permanently enjoined and restrained from misrepresenting, directly or by implication, the price of the vacation package by “unbundling” any part of the cost of the vacation package as a port fee, port charge, port tax, or any other tax unless the entire port fee, port charge, port tax, or other tax is imposed by and passed on to a governmental or quasi-governmental authority. Defendants shall include in the stated or advertised price of their vacation packages all mandatory (non-optional) charges, other than those imposed by, and passed on to, a governmental or quasi-governmental agency. Where a charge is passed on to a governmental or quasi-governmental agency as a port fee, port charge, port tax, or other tax, Defendants shall disclose the amount of the fee at the time the cost of the vacation package is first disclosed. For the purpose of this Consent Judgment, the term “quasi-governmental” shall refer to an entity that is either:

A. A subordinate agency within a foreign, domestic, federal, state, or local governmental authority; or

- B. An entity created or authorized by a foreign or domestic governmental authority to carry out a governmental function for the benefit of the public.

This shall include port authorities within the United States or within a foreign jurisdiction.

25. Defendants are hereby further permanently enjoined and restrained from informing any and all consumers they are confirmed for a specific date for their trip unless:

- A. Defendants have accommodations available at a specific hotel as promised for the confirmed date at the time the confirmation is initially made to the consumer;
- B. The consumers must take no further actions to confirm the date upon receipt and timely return of the confirmation notice; and
- C. Defendants do not in any way attempt to alter the confirmed date unless specifically requested to do so by the consumer.

26. Defendants shall disclose any right of cancellation as applicable, and if no right of cancellation is applicable, then Defendants shall inform consumers that no right of cancellation exists prior to accepting payments towards the purchase price of the vacation package.

27. Defendants are hereby further permanently enjoined and restrained from:

- A. Representing to consumers that Defendants' vacation packages are being sold at prices which are below the cost consumers would pay if they did not acquire the accommodations through the purchase of Defendants' vacation packages unless such representation is true and can be substantiated on a quantifiable basis with figures provided to the Kansas Attorney General's office on the first day of every six (6) months for the first twenty-four (24) months after the date of this agreement and upon request after the twenty-four (24) month period is ended;
- B. Representing to consumers that Defendants are paying for a portion of the cost of each vacation package unless such representations are true and can be substantiated

on a quantifiable basis with figures provided to the Office of the Attorney General of the State of Kansas on the first day of every six (6) months for the first twenty-four (24) months after the date of this agreement and upon request after the twenty-four (24) month period is ended;

- C. Including any bonus days in the calculation of the cost per day of the vacation package, unless Defendants at the time of making any such representation also disclose (1) that such bonus days are included in such calculation, and the number thereof; (2) that transportation to the bonus location(s) is not included in the price(s) quoted for the vacation package; (3) that customers must take the Ft. Lauderdale vacation package (initial or original trip) before they can take the bonus trip(s); and (4) that the vacation package and the bonus trips must all be completed within the 18-month period, unless the customer pays an additional fee for the extension of such period (if that is an option and if that is the case).

28. Defendants are hereby further permanently enjoined and restrained from using a spokesperson, endorser, or other representative, or the likeness of such person, to sponsor, approve, or endorse Defendants' vacation package or other travel-related services unless Defendants are in full compliance with the FTC Guides Concerning Use of Endorsements and Testimonials in Advertising at 16 C.F.R. § 255 *et seq.*

## **VI. RESTITUTION**

29. Defendants shall refund the total price of the vacation package to consumers: (1) who purchased a vacation package from Defendants; (2) who have not traveled on that vacation package; and (3) who request a refund in the manner set out in paragraph thirty (30). Any consumers who have already received a partial refund or have not paid the entire cost of the vacation package shall only be refunded the amount they have paid to Defendants for the package.

30. Defendants shall refund any money paid to Defendants by each consumer who purchased a vacation package from Defendants, and who has not yet traveled using the vacation package, and who has complained in writing to the Defendants, or to the Consumer Protection Division of the Office of the Attorney General of the State of Kansas, or to any state or local governmental consumer protection agency or bureau located in the State of Kansas, or any Better Business Bureau located in the State of Kansas; or Kansas consumers who have filed with any other agency or Better Business Bureau, on or before the 60<sup>th</sup> day following the entry of this Consent Judgment.

31. Defendants shall refund \$200.00 to each Kansas consumer who:

- A. Purchased a vacation package from Defendants, and who traveled using the vacation package, and who has, on or before the date of entry of this Consent Judgment, complained in writing, to the Defendants or to the Consumer Protection Division of the Office of the Attorney General of the State of Kansas or to any state or local governmental consumer protection agency or bureau located in the State of Kansas, to any Better Business Bureau located in the State of Kansas, or to any other agency or Better Business Bureau.
- B. Purchased a vacation package from Defendants, and who traveled using the vacation package, and who complains in writing to the Consumer Protection Division of the Office of the Attorney General of the State of Kansas, or to any state or local governmental consumer protection agency or bureau located in the State of Kansas, to any Better Business Bureau located in the State of Kansas, or to any other agency or Better Business Bureau. This complaint must cite specific instances where the vacation accommodations were not as represented or portrayed by the Defendants and must be in verified form, i.e., it must either be notarized or submitted on a Consumer Complaint form provided by the Office of the Attorney General of the

State of Kansas, which contains a statement of verification, and which is signed by the consumer. This complaint must be postmarked no later than thirty (30) days after the entry of this Consent Judgment. For those consumers who file pursuant to this paragraph, Defendants will be responsible for payment up to but not exceeding \$250,000.00. This \$250,000.00 is exclusive of any other financial limitations or amounts set forth in this Consent Judgment and is an aggregate cap for all states participating in the settlement of this action.<sup>1</sup> Should consumer claims under this section exceed \$250,000.00, consumers will be paid on a pro rata basis.

32. Within thirty (30) days of the close of the claims period as set forth in paragraphs thirty (30) and thirty-one (31), Defendants shall refund \$200.00 to consumers who took the trip as set forth in paragraph thirty-one (31) and shall refund any unrefunded monies paid for a vacation package as set forth in paragraph thirty (30), or notify consumers who have not traveled that they are entitled to choose one of the following options from Defendants:

- A. A refund of previously unrefunded monies paid for a vacation package; or
- B. An eighteen-month extension of the vacation package and a waiver of any and all additional service charges, with such extension beginning to run at the date it is issued or at the expiration of the date of the vacation package, whichever is later.

33. In any notice to eligible consumers of these options, which shall be in the form attached hereto as Exhibit A, Defendants shall state that the choice of remedy belongs to the consumer and that in order to obtain an extension in lieu of a refund, the consumer must notify Defendants within thirty (30) days of his or her decision.

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<sup>1</sup> These states include Arizona, Arkansas, Connecticut, the District of Columbia, Florida, Illinois, Kansas, Michigan, Missouri, Nevada, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, Washington, West Virginia and Wisconsin.

34. Defendants shall make a refund pursuant to paragraph twenty-nine (29), less any amount already refunded or credited, to each consumer who declines Defendants' offer to extend the vacation certificate within thirty (30) days of Defendants' receipt of the consumer's response, or if no response, upon expiration of thirty-five (35) days of the mailing of the notice as provided in paragraph thirty-three (33).

35. Defendants shall adopt and maintain procedures with regard to the handling of claims and/or requests for refunds from consumers, including maintaining copies of all written complaints or requests for refunds received, and records of all oral complaints or requests for refunds. Such records shall include the name and address of each Kansas consumer from whom a complaint or request for refund was received, the amount of refund requested, the resolution of each complaint, and the amount refunded, if any.

36. Within one-hundred and eighty (180) days of the filing of this Consent Judgment, or within sixty (60) days of the completion of restitution to all consumers pursuant to paragraphs twenty-nine (29) through thirty-two (32), whichever is earlier, Defendants shall submit an affidavit to the Consumer Protection Division of the Office of the Attorney General of the State of Kansas identifying by name and address: (1) each Kansas consumer who mailed a written request for a refund to the Office of the Attorney General of the State of Kansas, to any state or local governmental consumer protection agency or bureau located in the State of Kansas, to the Better Business Bureaus located in the State of Kansas, and whose identity and address is timely delivered to Defendants, or to Defendants within the time period specified in paragraphs thirty (30) and thirty-one (31) of this Consent Judgment; (2) each Kansas consumer to whom the Defendant mailed a notice of the offer to extend the vacation package in lieu of a refund as set forth in paragraph thirty-two (32); (3) each Kansas consumer to whom restitution has been provided, and the amount of the refund or credit; (4) each Kansas consumer who has elected the alternative remedy of extension of the vacation package in lieu of a refund; and (5) each consumer who traveled and received a refund of \$200.00 per vacation package purchased.

37. If notice is not mailed to consumers as set forth in paragraph thirty-two (32) of this Consent Judgment, and/or if the corporate Defendants are in default per paragraph thirty-eight (38) below, then Defendants Lambert and Verrillo shall pay consumer claims as set forth in paragraphs twenty-nine (29) through thirty-six (36) within thirty (30) days of the date the notice should have been mailed, or payments made, to consumers as set forth in paragraphs thirty-nine (39) through forty-one (41) below. Defendants Lambert's and Verrillo's liability for these payments is subject to the limitations set forth in paragraph forty (40) below;

38. If restitution is not paid within thirty (30) days as set forth in paragraphs twenty-nine (29) through thirty-seven (37), Defendants National Travel Services, Inc., and Plaza Resorts, Inc., d/b/a Ramada Plaza Resorts and d/b/a Ramada Plaza Resorts Orlando/Ft. Lauderdale Vacations, shall be deemed in default of this Consent Judgment.

#### **VII. FINANCIAL RESPONSIBILITY OF DEFENDANTS**

39. Defendants shall be jointly and severally liable for performance of all of the terms and conditions of this Consent Judgment. With respect to all monetary obligations, payment will be made from the assets of Defendant National Travel Services, Inc., and Defendant Plaza Resorts, Inc., d/b/a Ramada Plaza Resorts Orlando/Ft. Lauderdale Vacations. Defendants Lambert and Verrillo shall pay subject to the limitations of paragraph forty (40) hereof any consumer claims that are not paid by Defendants National Travel Services or Plaza Resorts, Inc., pursuant to paragraphs twenty-nine (29) through thirty-eight (38) of this Consent Judgment.

40. Concurrently with the execution of this Consent Judgment, the Defendants shall advance the sum of \$1,500,000.00 to be utilized for payment of consumer claims from the participating states referred to in paragraph thirty-one (31) above. Such monies shall be deposited in an account established and held by Greenspoon, Marder, Hirschfeld, Rafkin, Ross & Berger, P.A., located at Trade Centre South, Suite 700, 100 West Cypress Creek Road, Fort Lauderdale, Florida 33309, in a special trust account and shall be distributed

in accordance with the terms of this Consent Judgment in payment of the obligations of Defendants National Travel Services and Plaza Resorts for consumer restitution. In the event such monies shall be fully utilized to pay consumer claims, Defendants National Travel Services and Plaza Resorts shall continue to make payment from their respective assets for the consumer claims in excess of \$1,500,000.00 made pursuant to paragraphs twenty-nine (29) through thirty-eight (38) of this Consent Judgment. Should Defendants National Travel Services and Plaza Resorts default on payment of consumer claims, Defendants Lambert and Verrillo shall each be individually responsible for \$500,000.00 (for a total of \$1,000,000.00) in unpaid monetary and/or consumer claims from the participating states referenced in paragraph thirty-one (31) above and beyond the \$1,500,000.00. Defendants Lambert and Verrillo's personal guaranty of the payment of sums hereunder is evidenced by the Guaranty Agreement marked EXHIBIT B attached hereto and incorporated by reference herein and made a part hereof as if fully set forth herein.

41. Should Defendant National Travel Services, Inc., and Defendant Plaza Resorts, Inc., d/b/a Ramada Plaza Resorts Orlando/Ft. Lauderdale Vacations default, and Defendants Lambert and Verrillo make total payments of \$1,000,000.00, in settlement of their financial responsibilities outlined herein, the State of Kansas reserves its right to pursue Defendant National Travel Services, Inc., and Defendant Plaza Resorts, Inc., d/b/a Ramada Plaza Resorts Orlando/Ft. Lauderdale Vacations for all remaining monetary obligations arising from this Consent Judgment.

#### **VIII. COSTS, FEES AND CIVIL PENALTIES**

42. Upon execution of this Consent Judgment, Defendants shall pay the State of Kansas, Office of the Attorney General, the sum of thirty-five thousand dollars (\$35,000.00) pursuant to K.S.A. 50-623 *et seq.*

43. Pursuant to K.S.A. 50-636, Plaintiff has authority to seek civil penalties, and the amount of civil penalties which could be imposed in this case significantly exceed \$35,000.00; however, Plaintiff

suspends further attempts to impose civil penalties based upon Defendants' full compliance with all provisions of this Consent Judgment.

44. In the event the Defendants default with respect to compliance with the terms of this Consent Judgment, Plaintiff retains the right to return to Court and seek civil penalties for, among other things, conduct which took place prior to the entry of this Consent Judgment.

### **IX. ENFORCEMENT**

45. For a period of three (3) years from the date of the entry of this Consent Judgment, Defendants shall provide a copy of this Consent Judgment to all officers, employees, and agents (including "independent contractors") who have responsibility for developing, authorizing, or using promotional materials, scripts, or marketing programs for vacation packages. Defendants may redact the amount of any monetary payment prior to distribution of a copy of the Consent Judgment.

46. For a period of three (3) years after the date of this Consent Judgment, and except as the same may be filed otherwise with the State of Kansas or any agency thereof pursuant to any applicable Kansas law, upon request by any Kansas state agency, Defendants shall, within thirty (30) days of the request, provide the requester a copy of all promotional materials and scripts used in the solicitation or sale of vacation packages to residents in the State of Kansas since the date of entry of this Consent Judgment.

47. At any time upon proper notice, any party to this Consent Decree may apply to this Court, which shall retain jurisdiction, for such further orders as may be necessary or appropriate for the construction or modification of any of the provisions thereof, or the enforcement of, compliance therewith, and for the punishment of violations thereof.

48. This Consent Judgment does not constitute an approval by the State of Kansas of any of Defendants' advertising, programs, or practices, and Defendants shall make no representation to the contrary.

49. This Consent Judgment shall supersede any and all agreements that Defendants may have, prior to the entry date of this Consent Judgment, with the Consumer Protection Division of the Office of the

Attorney General of the State of Kansas in connection with the advertising, promoting, and marketing of its vacation packages, and any prior agreements shall be deemed terminated. The Consent Judgment shall not bind any other offices, boards, commissions, or agencies of the State of Kansas except as to the matters specified herein. This Consent Judgment finally resolves all claims that the Office of the Attorney General, Consumer Protection Division, may have against Defendants in connection with the promoting and marketing of its vacation packages prior to the date of entry of this Consent Judgment.

50. Defendants shall submit to the jurisdiction of the Courts of the State of Kansas for the purposes of any action taken to enforce this Consent Decree, including any action seeking sanctions for violations of the same. Unless a temporary restraining order is sought, Plaintiff shall make reasonable efforts to notify Defendants in writing, prior to instituting any action to enforce this Consent Judgment, that Plaintiff believes Defendants to be in violation of any provision of this Consent Judgment. Notwithstanding the foregoing, such notice shall not be deemed to be a jurisdictional prerequisite for the Office of the Attorney General to institute an enforcement action. The notice to Defendants shall set forth the basis for Plaintiff's belief that Defendants have violated any provision of this Consent Judgment.

51. This Consent Judgment does not limit the remedies available to the Office of the Attorney General in connection with any future violations of Kansas laws or regulations by Defendants which are not specifically addressed herein.

52. This Consent Judgment shall not affect the rights of any private party to pursue any remedy or remedies pursuant to the laws of the State of Kansas.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that the Court hereby approves the Consent Judgment, pursuant to K.S.A. 50-632(b), and adopts the same as the Order of the Court;

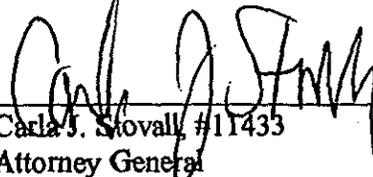
**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that judgment is entered in favor of Plaintiff and against Defendants, jointly and severally, in the amount of \$35,000.00.

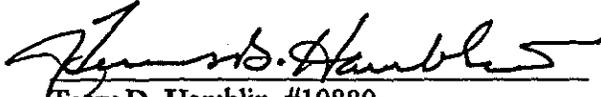
**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendants are ordered, pursuant to K.S.A. 50-632(c)(2), to pay restitution to damaged consumers in the manner set forth in this Consent Judgment.

**IT IS SO ORDERED.**

\_\_\_\_\_  
Honorable Matthew J. Dowd  
District Court Judge

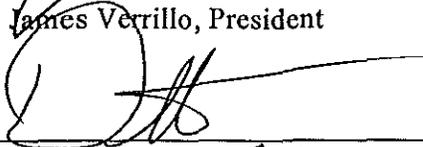
Approved by:

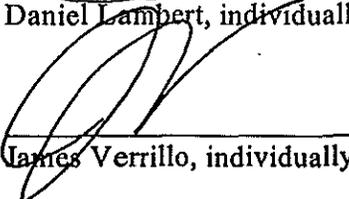
  
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Carla J. Stovall, #11433  
Attorney General

  
\_\_\_\_\_  
Terry D. Hamblin, #10880  
Assistant Attorney General  
Attorneys for Plaintiff

  
\_\_\_\_\_  
National Travel Services, Inc.  
By James Verrillo, President

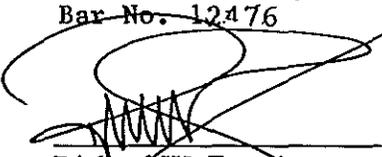
\_\_\_\_\_  
Plaza Resorts, Inc.  
By James Verrillo, President

  
\_\_\_\_\_  
Daniel Lambert, individually

  
\_\_\_\_\_  
James Verrillo, individually

Defendants

  
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