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FEB 8 11 19 AM '00  
GENERAL  
KANSAS

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
Division 6th

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

v.

FLORIDA TRAVEL NETWORK, INC.,  
CROWN PLAZA RESORTS, L.C. d/b/a/  
IMPERIAL MAJESTY CRUISE LINES,  
VANCE L. VOGEL, AND JAMES M.  
HERRON, SR.

Defendants.

Case No.

00 C 157

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

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this 8th day of February, 2000, 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 Florida Travel Network, Inc.; Crown Plaza Resorts, L.C. d/b/a Imperial Majesty Cruise Lines; and Vance L. Vogel; appear by and through counsel,

Jim J. Marquez and A. Brian Albritton of Holland & Knight. Defendant James S. Herron, Sr. appears *Pro Se* having been advised and counseled by Bradley M. Bole, Attorney at Law. 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 Florida Travel Network, Inc. (hereinafter FTN) is a Florida corporation which engaged in the promotion and sale of vacation packages in Kansas and elsewhere. FTN's principal place of business is located at 9641 Gulf Boulevard, Treasure Island, Florida 33706.

4. Defendant Crown Plaza Resorts, L.C. d/b/a/ Imperial Majesty Cruise Lines (hereinafter CPR/IMCL) is a Florida limited liability company which engaged in the promotion and sale of vacation packages in Kansas and elsewhere. CPR/IMCL's principal place of business is located at 9641 Gulf Boulevard, Treasure Island, Florida 33706.

5. Defendant Vance L. Vogel was at one time vice-president of defendant FTN and is now president of both defendants FTN and CPR/IMCL and engaged in the formulation, management, and control of the operation of FTN and CPR/IMCL.

6. Defendant James M. Herron, Sr. was the president of defendant FTN until December 31, 1998, at which time he ceased to have any active role in FTN. Prior to December 31, 1998, but not after, Mr. Herron engaged in the formulation, management, and control of the operation of FTN. Mr. Herron was formerly a shareholder in CPR/IMCL but did not ever have any active role in CPR/IMCL.

7. This Consent Judgment is entered into by the State of Kansas and defendants FTN, CPR/IMCL, Vance L. Vogel, and James M. Herron, Sr. following an investigation by the State of Kansas into the promotion and sale of vacation packages by FTN and CPR/IMCL.

## II. JURISDICTION AND VENUE

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

9. 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).

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

11. 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.

12. 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.

13. Entry of this Judgment is just and proper.

### III. DEFINITIONS

14. 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. 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. “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.

- D. "Represent" and "representation" include any communication, whether made in writing, orally, or by facsimile, televised communication, or the Internet, or in any other manner.
- E. "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.
- F. "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.

- G. "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.
- H. "Defendants" means Florida Travel Network, Inc., Crown Plaza Resorts, L.C. d/b/a Imperial Majesty Cruise Lines, Vance L. Vogel; and James M. Herron, Sr.

#### IV. FACTUAL BACKGROUND

15. FTN and CPR/IMCL advertised their vacation packages in Kansas and other states through the use of mass mailings (an example is attached to this Consent Judgment as Exhibit A and is incorporated by reference), to which consumers are asked to respond by calling a toll-free telephone number.

16. Purchasers of FTN's and CPR/IMCL's vacation packages were strongly urged or, in the case of CPR/IMCL, required to attend a tour or presentation designed to interest them in buying a time share or vacation ownership interest owned by a third party.

17. It is the State of Kansas's position that in promoting and selling vacation packages through both the written materials and the telemarketing presentations, FTN, CPR/IMCL, Vogel, and Herron have violated Kansas consumer protection and prize promotion statutes in Chapter 50 of the Kansas Statutes Annotated and Kansas statutes governing telephonic sales in Chapter 50 of the Kansas Statutes Annotated.

18. FTN, CPR/IMCL, Vogel, and Herron dispute the State of Kansas allegations and further deny that they have violated any statute or regulation of the State of Kansas or of any other governmental authority, and enter into this Consent Judgment without admitting any wrongdoing and for settlement purposes only. This Consent Judgment shall not constitute an admission by the defendants of any allegation.

19. The parties desire to resolve the controversy between them and consent to the entry of this judgment.

#### V. GENERAL PROVISIONS

20. Defendants waive service of a Summons and Petition.

21. All Defendants enter their voluntary general appearances.

22. Plaintiff and Defendants have agreed on a basis for settlement of the matters alleged by the State of Kansas and to the entry of this Consent Judgment against Defendants without a trial or the adjudication of any issue of law or fact.

23. 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.

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

25. 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.

26. 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.

27. 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.

28. 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, and representatives who have responsibilities affected by the terms of this Consent Judgment, and upon request, shall make the entire Consent Judgment available to any requesting employee, representative, or sales agent.

## VI. INJUNCTIONS

29. 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:(1) where a

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, and representatives who have responsibilities affected by the terms of this Consent Judgment, and upon request, shall make the entire Consent Judgment available to any requesting employee, representative, or sales agent.

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- 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:(1) where a

certificate mail piece or letter mailing is used, by providing in at least twelve-point bold print (a) the total price per person of the vacation package; or (b) one of the following statements appearing verbatim without modification: "This Is an Offer To Sell Travel;" "Call Toll Free To Purchase;" or "Purchase Required;" (2) when a postcard type mail piece is used, by providing in at least 10-point bold print (a) the price of the vacation, or (b) one of the following statements "This is an Offer to Sell Travel;" "Call Toll-Free to Purchase;" or "Purchase Required."

2. Whether the vacation package includes: (a) transportation, including air fare; (b) meals, [or some category of meals] and/or (c) accommodations, [or some category of 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 tour is offered to the consumer in such a manner that it may tend to lead the consumer to conclude that the failure to attend the tour

would adversely affect the consumer receiving the vacation package as presented, and/or result in a reduction of the level of goods or services.

- B. Failing to disclose all additional material terms and conditions which apply to the purchase, receipt or use of goods or services that are the subject of the offer, including, but not limited to, travel restrictions and additional fees, costs or charges which the consumer must pay to the defendants and any other types of charges (but not necessarily the amounts) which the consumer must pay to any third parties, such as charges for taxes, gratuities, and the like;
- C. Failing to comply fully with the Kansas Telephone Solicitation Statute, K.S.A. 50-670 and the Kansas Telemarketing Fraud Statutes, K.S.A. 50-671 *et seq.*, whenever Defendants act as, or through, a telemarketer.
- D. If a "bonus" (or words conveying a similar meaning) vacation is referenced in any mail piece, unsolicited call to a consumer, or in telephone calls placed by the consumer in response to defendants' solicitation, then the defendants shall not fail 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, if any further costs or restrictions

will be required prior to using the bonus trip, such costs and restrictions. If the bonus vacation is only referenced in the calls and not the mail piece, then the mail piece is not required to disclose the material terms of the bonus vacation;

- 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.

30. 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;
  - B. 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;
  - C. 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.”

- D. 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;
- E. 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;
- F. 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;
- G. 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;
- 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; and

- M. Disparaging the goods and/or services that are the subject of the offer in order to sell goods and/or services at an additional cost including, but not limited to, hotel or cruise accommodation upgrades.

31. 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.

32. 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.

33. 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.

34. 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).

35. 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.*

#### VII. RESTITUTION

36. 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-seven (37). 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, provided, however, that any individual responsibility of James Herron to make refunds shall be limited to vacation packages that were purchased prior to December 31, 1998.

37. Defendants shall refund any money paid to Defendants by each Kansas 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 other state agency on or before the 60<sup>th</sup> day following the entry of this Consent Judgment, provided, however, that any individual responsibility of James Herron to make refunds shall be limited to vacation packages that were purchased prior to December 31, 1998.

38. 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 other state agency.

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 other state agency. 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 \$35,000.00. This \$35,000.00 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 \$35,000.00, consumers will be paid on a pro rata basis, provided, however, that any individual responsibility of James Herron to make refunds shall be limited to vacation packages that were purchased prior to December 31, 1998.

39. Defendants shall issue all refunds to consumers eligible for refunds as set out in paragraphs thirty-six (36) and thirty-eight (38) as funds become available but in no event more than two-hundred (200) days from the entry of this Consent Judgment.

40. 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

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

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. The State of Kansas shall have access to review these records upon reasonable notice to Defendants.

41. Within two-hundred twenty (220) days of the filing of this Consent Judgment, or within sixty (60) days of the completion of restitution to all consumers pursuant to paragraphs thirty-six (36) through thirty-nine (39), 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 each Kansas consumer to whom restitution has been provided, and the amount of the refund or credit.

#### 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 two thousand five hundred dollars (\$2,500.00) as investigative fees and costs pursuant to K.S.A. 50-636(c). Within ten (10) days after Defendants have completed payment of restitution to consumers pursuant to the provisions of this Consent Judgment, Defendants shall pay the State of Kansas, Office of the Attorney General, the additional sum of two thousand five hundred dollars (\$2,500.00) as investigative fees and costs pursuant to K.S.A. 50-636(c).

43. Upon execution of this Consent Judgment, plaintiffs shall recover from Defendants the sum of \$25,000 for civil penalties pursuant to K.S.A. 50-636(a).



Said \$25,000 shall be paid to the State of Kansas, Office of the Attorney General; provided, however, that such payment shall be suspended indefinitely conditioned on Defendants' full compliance with the restitution provisions set forth in Part VII of this Consent Judgment. In the event Defendants default in any portion of their restitution obligations under Part VII of this Consent Judgment, the payment of \$25,000 shall be unsuspending without notice to Defendants and immediately due and payable.

### IX. ENFORCEMENT

44. 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.

45. 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.

46. 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.

47. 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.

48. 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.

49. 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.

50. 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.

51. 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:**

- A. 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;
- B. that the injunctive relief set forth above is hereby entered;
- C. that judgment is entered in favor of Plaintiff and against Defendants, jointly and severally, for investigative fees and costs pursuant to K.S.A. 50-636(c) in the amount of \$5,000.00 as set forth in this consent judgment;

- D. that judgment is entered in favor of Plaintiff and against Defendants, jointly and severally, for civil penalties pursuant to K.S.A. 50-636(a) in the amount of \$25,000.00 as set forth in this consent judgment.; and
- E. 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.**

s/ Terry L. Bullock  
District Court Judge

Approved by:

Carla J. Stovall  
Carla J. Stovall, #11433  
Attorney General

Terry D. Hamblin  
Terry D. Hamblin, #17781  
Assistant Attorney General

**ATTORNEYS FOR PLAINTIFF**

*Vance L. Vogel*

Florida Travel Network, Inc.  
By Vance L. Vogel, President

*Vance L. Vogel*

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By Vance L. Vogel, President

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