



OFFICE OF ATTORNEY GENERAL
 CONSUMER PROTECTION AND ANTITRUST DIVISION
 GATEWAY PROFESSIONAL CENTER
 1050 E INTERSTATE AVENUE, STE 200
 BISMARCK, NORTH DAKOTA 58503-5574



701-328-5570 (Telephone)
 701-328-5568 (Facsimile)

STATE OF NORTH DAKOTA
 OFFICE OF ATTORNEY GENERAL

STATE OF NORTH DAKOTA EX REL.
 WAYNE STENEHJEM,
 ATTORNEY GENERAL,

Petitioner,

-vs-

THOMAS JOSEPH, doing business as
 BEST VALUE GETAWAYS, SOUTHWEST
 GETAWAYS, and SOUTHWEST TRAVEL
 SERVICES,

Respondents.

**CEASE AND DESIST ORDER,
 NOTICE OF CIVIL PENALTY
 AND NOTICE OF RIGHT
 TO REQUEST A HEARING**

CPAT 170216.002

To the Respondents identified below:

BEST VALUE GETAWAYS
 SOUTHWEST GETAWAYS
 SOUTHWEST TRAVEL SERVICES
 702 EXETER AVE. W.
 PITTSTON, PA 18643

THOMAS JOSEPH
 25 BROOK LANE
 MOUNTAIN TOP, PA 18707

BEST VALUE GETAWAYS
 SOUTHWEST GETAWAYS
 SOUTHWEST TRAVEL SERVICES
 THOMAS JOSEPH
 C/O SECRETARY OF STATE
 STATE OF NORTH DAKOTA
 600 E. BOULEVARD AVENUE, DEPT 108
 BISMARCK, ND 58505-0500

BACKGROUND

1. The Attorney General of North Dakota has a reasonable basis to believe Respondents have engaged in, or are engaging in, acts or practices declared unlawful by N.D.C.C. ch. 10-19.1, the North Dakota Business Corporation Act; N.D.C.C. ch. 10-32.1, North Dakota's Uniform Limited Liability Company Act; N.D.C.C. ch. 47-25, North Dakota's Trade Names Law; N.D.C.C. ch. 51-04, North Dakota's Transient Merchants Law; and N.D.C.C. ch. 51-15, commonly referred to as the "Consumer Fraud Law." It is necessary and appropriate in the public interest and for the protection of consumers to restrain Respondents' unlawful acts or practices.

2. Respondents, individually and by and through their agents, are doing business under some or all of the names identified above, and have engaged in violations of North Dakota law by: 1) transacting business in the State without procuring a certificate of authority from the Secretary of State, in violation of N.D.C.C. § 10-19.1-134 or 10-32.1-74(1); 2) engaging in business in the State under trade names not registered with the Secretary of State; 3) engaging in, doing, or transacting business in the State on a transient basis without first obtaining a transient merchant license; and 4) engaging in violations of N.D.C.C. ch. 51-15 by engaging in violations of N.D.C.C. § 51-04-02.

3. Respondent Thomas Joseph's last known address is 25 Brook Lane, Mountain Top, PA 18707.

4. Respondents Best Value Getaways, Southwest Getaways, and Southwest Travel Services are fictitious names registered to Thomas Joseph in Pennsylvania with an address of 702 Exeter Ave. W., Pittston, PA 18643.

5. Respondents are in the business of soliciting and selling merchandise, including selling travel club memberships. Respondents, or Respondents' agents on Respondents' behalf, solicited North Dakota customers.

6. Respondents transacted business in North Dakota without first procuring a certificate of authority from the Secretary of State, in violation of N.D.C.C. § 10-19.1-134 or 10-32.1-74. Under N.D.C.C. § 10-19.1-142(4), the Attorney General may bring proceedings to recover all amounts due the State under N.D.C.C. § 10-19.1-142. Under N.D.C.C. § 10-19.1-142(5), a foreign corporation that transacts business in the State without a valid certificate of authority is subject to a civil penalty not to exceed five thousand dollars (\$5,000.00). Under N.D.C.C. § 10-19.1-142(6), the Attorney General may bring an action to recover penalties due the State pursuant to N.D.C.C. § 10-19.1-142(4). Under N.D.C.C. § 10-32.1-98, the Attorney General may bring an action to enjoin a foreign limited liability company from transacting business in the State in violation of N.D.C.C. ch. 10-32.1.

7. Respondents engaged in business in the State under trade names not registered with the Secretary of State in violation of N.D.C.C. § 47-25-02.

8. Respondents engaged in, did, or transacted business in the State on a transient basis without first obtaining a transient merchant license in violation of N.D.C.C. § 51-04-02. Under N.D.C.C. § 51-04-10, the Attorney General has all the powers provided to it under N.D.C.C. ch. 51-15, and violations of N.D.C.C. ch. 51-04 are violations N.D.C.C. ch. 51-15.

9. On November 15, 2017, the Attorney General learned that Respondents were holding seminars at the Hampton Inn & Suites, located at 2020 Schafer St.,

Bismarck, ND 58501, and were engaged in the sale of travel club memberships that Respondents described as a “vacation discount travel service.”

10. Respondents disseminated cards advertising their seminars on which they represented that all couples who attended their seminars would receive two round-trip, coach class airline vouchers to most major domestic airports along with a three-day, two-night stay at major 3- or 4-star hotels, including the Hilton, Hyatt, and Marriott. Their card represented that “early callers” to reserve a spot at one of Respondents’ seminars would receive a \$100.00 dining card, and consumers who arrived early would receive a \$25.00 Visa gift card.

11. During preliminary telephone calls to Respondents at 800-757-0866, Respondents’ call center representatives refused to answer questions regarding Respondents’ activities in the State. They would not provide the Attorney General with dates and locations where other seminars were scheduled in North Dakota (though confirmed that others were planned), and would not provide basic contact information. Respondents’ call center representatives refused to connect the Attorney General to a manager or supervisor. The Attorney General only reached Respondents’ representatives in North Dakota after contacting the Hampton Inn & Suites where the Bismarck seminars were being held.

12. During a telephone call with Respondents’ sales manager, TJ Burns, Mr. Burns compared their services to Expedia and Hotwire, stating that Respondents’ services were less expensive. Respondents stated that their sales seminars were “not a high pressure operation,” and that they had “licensed representatives that sell their products.” Mr. Burns further said that they had “a lot of members in North Dakota.” Mr.

Burns stated that Respondents do not use “doing business as” names, but, contradictorily, stated that Respondents’ travel club was called “Save On Resorts,” and identified various names used by Respondents, including “Best Value Getaways,” “Southwest Getaways,” and “Southwest Travel.”

13. During a subsequent telephone conversation with Thomas Joseph, the owner of the business, Mr. Joseph requested that the Attorney General not apply North Dakota law to Respondents and not require that Respondents obtain a transient merchant license prior to continuing their seminars in Bismarck.

14. Based on information received, it appeared to the Attorney General that Respondents were engaged in violations of North Dakota law.

15. On November 16, 2017, the Attorney General issued a Civil Investigative Demand (“CID”) to Respondents pursuant to the Attorney General’s authority under N.D.C.C. § 51-15-04. The CID was sent to Respondents at their last known address. Mr. Joseph signed for the CID, but did not indicate the date on which he received it. The CID required response by December 4, 2017. Respondents did not comply with the Attorney General’s CID and did not otherwise communicate with the Attorney General.

16. On January 9, 2018, the Attorney General sent Respondent a letter requesting that Respondents comply with the CID on or before January 23, 2018. In lieu of compliance with the Attorney General’s CID, the Attorney General also offered an Assurance of Voluntary Compliance (“AVC”), pursuant to N.D.C.C. § 51-15-06. Respondents were directed to either return the AVC on or before January 23, 2018 or comply with the Attorney General’s CID as instructed. Respondents did not comply with the Civil Investigative Demand and did not execute and return the AVC. Pursuant to

N.D.C.C. § 51-15-07, the Attorney General may issue a cease and desist order for Respondents' failure to comply with the Attorney General's Civil Investigative Demand.

17. It appears to the Attorney General that Respondents, or Respondents' agents on Respondents' behalf, engaged in violations of N.D.C.C. chs.10-19.1, 10-32.1, 47-25, 51-04, and 51-15 by transacting or engaging in business in the State without first registering as a foreign corporation or foreign limited liability company, by transacting or engaging in business in the State without first registering their trade names, and transacting or engaging in business in the State on a transient basis without first obtaining a transient merchant license.

ORDER

Based upon the foregoing information, it appears to the Attorney General that Respondents have engaged in violations of N.D.C.C. chs. 10-19.1, 10-32.1, 47-25, 51-04, and 51-15, and Respondents have failed or refused to respond to the Attorney General's Civil Investigative Demand as required by N.D.C.C. § 51-15-04; **NOW, THEREFORE, IT IS ORDERED** pursuant to N.D.C.C. § 51-15-07 that Respondents, individually, immediately **CEASE AND DESIST** from: 1) transacting business in the State until it has procured a certificate of authority from the Secretary of State, or otherwise transacting business in the State in violation of N.D.C.C. ch. 10-19.1 or 10-32.1; 2) engaging in business in the State under a trade name not registered with the Secretary of State, or otherwise engaging in business in the State in violation of N.D.C.C. ch. 47-25; 3) engaging in, doing, or transacting business in the State without first obtaining a transient merchant license, or otherwise engaging in business in the State in violation of N.D.C.C. ch. 51-04; 4) and acting, using, or employing any

deceptive acts or practices, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon, in connection with the sale or advertisement of any merchandise, or otherwise engaging in business in the State in violation of N.D.C.C. ch. 51-15; and 5) engaging in the solicitation or sale of travel club memberships or vacation discount travel services in North Dakota. Respondents also shall immediately **CEASE AND DESIST** from issuing any invoices or bills to North Dakota consumers for the sale of travel club memberships or vacation discount travel services until and unless Respondents fully comply with the Attorney General's November 16, 2017 Civil Investigative Demand and **CEASE AND DESIST** from taking any payments from North Dakota consumers including, but not limited to, direct debits or withdrawals from North Dakota consumers' bank accounts, cash, checks, or credit card payments for the sale of travel club memberships or vacation discount travel services until and unless Respondents fully comply with the Attorney General's November 16, 2017 Civil Investigative Demand.

YOU ARE NOTIFIED that pursuant to N.D.C.C. § 12.1-09-03 a person is guilty of a criminal offense if he or she intentionally "alters, destroys, mutilates, conceals, or removes a record, document, or thing with intent to impair its verity or availability" in an official proceeding. As such, intentional destruction of any documents related to this matter may result in criminal prosecution.

NOTICE OF CIVIL PENALTIES

YOU ARE FURTHER NOTIFIED that pursuant to N.D.C.C. § 51-15-07 any violation of this Cease and Desist Order is subject to civil penalties not to exceed \$1,000.00 per violation. Any violation of this Order that also is a violation of N.D.C.C. ch.

51-15 may result in additional civil penalties of not more than \$5,000.00 per violation. Such penalties are separate and in addition to any civil penalties, costs, expenses, investigation fees, and attorney fees pursuant to N.D.C.C. ch. 51-15 or any other applicable statute. Nothing in this Order is intended to limit or waive any rights and remedies available to the State of North Dakota or consumers.

NOTICE OF RIGHT TO REQUEST HEARING

YOU ARE NOTIFIED that pursuant to N.D.C.C. § 51-15-07 you may request a hearing before the Attorney General if such a request is made in writing WITHIN TEN (10) DAYS AFTER THE RECEIPT OF THIS ORDER. Respondents have the right to be represented by legal counsel at the hearing at Respondents' expense.

Dated this 31st day of January, 2018.

STATE OF NORTH DAKOTA

Wayne Stenehjem
Attorney General

BY:



Parrell D. Grossman, NDBID 04684
Assistant Attorney General
Director
Consumer Protection and
Antitrust Division
Office of Attorney General
Gateway Professional Center
1050 E. Interstate Ave., Suite 200
Bismarck, ND 58503-5574
(701) 328-5570

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE OF NORTH DAKOTA EX REL.
WAYNE STENEHJEM,
ATTORNEY GENERAL,

Petitioner,

-vs-

THOMAS JOSEPH, doing business as
BEST VALUE GETAWAYS, SOUTHWEST
GETAWAYS, and SOUTHWEST TRAVEL
SERVICES,

Respondents.

**AFFIDAVIT OF SERVICE
BY MAIL AND CERTIFIED MAIL**

CPAT 170216.002

STATE OF NORTH DAKOTA)
) ss
COUNTY OF BURLEIGH)

1. Alexis Bieber states under oath as follows: I swear and affirm upon penalty of perjury that the statements made in this affidavit are true and correct and made upon personal knowledge.

2. I am of legal age and on the 31st day of January, 2018 I served the CEASE AND DESIST ORDER, NOTICE OF CIVIL PENALTY AND NOTICE OF RIGHT TO REQUEST A HEARING upon the following by placing true and correct copies thereof in an envelope addressed as follows:

FIRST CLASS MAIL

BEST VALUE GETAWAYS
SOUTHWEST GETAWAYS
SOUTHWEST TRAVEL SERVICES
702 EXETER AVE W
PITTSTON PA 18643

CERTIFIED MAIL RECEIPT # 7014 1820 0000 9090 9950

BEST VALUE GETAWAYS
SOUTHWEST GETAWAYS
SOUTHWEST TRAVEL SERVICES
702 EXETER AVE W
PITTSTON PA 18643

FIRST CLASS MAIL

CERTIFIED MAIL RECEIPT # 7014 1820 0000 9090 9943

THOMAS JOSEPH
25 BROOK LANE
MOUNTAIN TOP PA 18707

THOMAS JOSEPH
25 BROOK LANE
MOUNTAIN TOP PA 18707

CERTIFIED MAIL RECEIPT # 7014 1820 0000 9090 9936

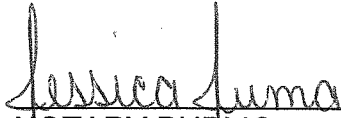
DARCY HURLEY
SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 E BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

and depositing the same, with postage prepaid, in the United States mail at Bismarck,
North Dakota, as first class mail and as CERTIFIED MAIL, RETURN RECEIPT
REQUESTED.



Alexis Bieber

Subscribed and sworn to before me
this 31st day of January, 2018.



NOTARY PUBLIC

