Government of Alberta ■

Service Alberta

Consumer Services Branch Consumer Programs 3rd floor, Commerce Place 10155 - 102 Street Edmonton Alberta T5J 4L4

1204583 ALBERTA INC. WILD ROSE VACATIONS JACK PURDY JAMES HESLOP

This Director's Order was issued under s. 157 of the *Fair Trading Act* in response to, in the opinion of the Director, contraventions of the Act. As mandated by s. 157.1 of the *Fair Trading Act*, this Director's Order is part of the public record.

For more information on the Fair Trading Act, business licensing in Alberta or to search for a licensed business, please click here:

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DIRECTOR'S ORDER UNDER SECTION 157 OF THE FAIR TRADING ACT

TO
1204583 ALBERTA INC.
D.B.A.
WILD ROSE VACATIONS
AND TO
JACK PURDY
AND TO
JAMES HESLOP

Service Alberta has investigated and confirmed that:

| 1. | entered into a sales contract with Wild Rose Vacations |
|----|--|
| | on January 9, 2008 and cancelled the contract within 10 days. The consumers did no |
| | get a full refund within the 15 days as required under the Fair Trading Act. |

- 2. entered into a sales contract with Wild Rose Vacations on October 25, 2007 and cancelled the contract within 10 days. They were told that they were not entitled to a refund because there was a \$250 administration fee. The consumers did not get a full refund within the 15 days as required under the Fair Trading Act.
- and entered into a sales contract with Wild Rose Vacations on March 15, 2008 and cancelled the contract within 10 days. They did not get a full refund within the 15 days as required under the *Fair Trading Act*.
- 4. entered into a sales contract with Wild Rose Vacations on March 12, 2008 and cancelled the contract within 10 days. The consumers did not get a full refund within the 15 days as required under the *Fair Trading Act*.
- 5. Wild Rose Vacations used a "Fee for Service Contract" that alters the cancellation rights granted under the Fair Trading Act. Consumers cannot waive or release their rights under the Fair Trading Act or the Travel Clubs Regulation and this contract is unenforceable.
- 6. Wild Rose Vacations advises consumers who cancel their contracts that they will not process a refund until promotional materials are returned and the consumer has signed a Release & Confidentiality Agreement. Wild Rose Vacations cannot impose requirements on consumers who cancel their contracts in the manner set out in the *Travel Clubs Regulation*.
- 7. Wild Rose Vacations has been repeatedly informed of the regulatory requirements related to cancellation rights by Service Alberta staff.

LEGISLATION

The Fair Trading Act states:

Section 2

- (1) Any waiver or release by a person of the person's rights, benefits or protections under this Act or the regulations is void.
- (2) Subsection (1) does not apply to a release made by a person in the settlement of a dispute.

The Travel Clubs Regulation AR 56/2002 states:

Section 13: A consumer may cancel a travel club contract at any time after the date the contract is entered into until 10 days after the consumer receives a copy of the signed contract.

Section 17 (1) The cancellation of a travel club contract in accordance with this Regulation operates to cancel the contract as if the travel club contract had never existed.

Section 18

- (1) Within 15 days after a travel club contract is cancelled under section 13, the travel club operator must refund to the consumer the total consideration paid by the consumer to enter into the contract.
- (2) Where a travel club contract has been cancelled under section 13 and the consumer has received goods or services under the contract, the travel club operator is entitled to reasonable compensation from the consumer for the goods or services provided by the travel club operator, but the travel club operator's right under this subsection does not arise until the travel club operator complies with subsection (1).

ORDER:

- 1204583 Alberta Inc.; Wild Rose Vacations; Jack Purdy; James Heslop, individually or through any employee, representative, agent or associate must immediately cease refusing or delaying full reimbursement to consumers who exercise their cancellation rights under the Fair Trading Act.
- 1204583 Alberta Inc.; Wild Rose Vacations; Jack Purdy; James Heslop, individually or through any employee, representative, agent or associate must, within 15 days, issue full refunds to consumers who exercise their cancellation rights under the Fair Trading Act.

- 1204583 Alberta Inc.; Wild Rose Vacations; Jack Purdy; James Heslop, individually or through any employee, representative, agent or associate must immediately cease using the Fee for Service Contract as it contravenes the consumers rights, benefits or protection under the Fair Trading Act.
- 1204583 Alberta Inc.; Wild Rose Vacations; Jack Purdy; James Heslop, individually or through any employee, representative, agent or associate must immediately cease misleading the consumers by demanding they return the binder and sign a Release & Confidentiality Agreement before processing a refund due where the consumer has cancellation rights.

NON COMPLIANCE WITH ORDER

- FAILURE TO ABIDE BY THE ABOVE ORDERS WILL RESULT IN THE REVIEW OF THE TRAVEL CLUB LICENSE STATUS AND COULD LEAD TO A SUSPENSION OR CANCELLATION OF THE LICENSE; AND
- ANY PERSON WHO FAILS TO COMPLY WITH AN ORDER OF THE DIRECTOR UNDER SECTION 157 OF THE FAIR TRADING ACT CONTRAVENES THIS ACT AND IS GUILTY OF AN OFFENCE AND MAY BE PROSECUTED PURSUANT TO SECTION 163 OF THE FAIR TRADING ACT.

Darren Thomas

Director of Fair Trading (as delegated)

AMEN HOWAK

May 15, 2008