

**IN THE MATTER OF
THE FAIR TRADING ACT**

THIS UNDERTAKING is made pursuant to Section 152 of the Fair Trading Act.

BY:

968362 Alberta Ltd.
operating as Orca Houseboats and/or Today's World Travel Inc. and
Mohamed Abdellal, also known as Aamer Mohamed
c/o 1100-10303 Jasper Avenue
in the City of Edmonton, in the Province of Alberta, T5J3N6

(hereinafter called the "Supplier")

TO:

The **DIRECTOR OF FAIR TRADING,**

(hereinafter called the "Director")

WHEREAS:

- (A) The Supplier has formerly carried on the business of marketing and selling travel club memberships and houseboat charter agreements to consumers at locations in the City of Edmonton, and the City of Calgary, Alberta.
- (B) Between the period of May 17, 2002 and November 30, 2002, the Supplier, in the ordinary course of its business, through its agents, employees, or representatives did operate a travel club business without the required license contrary to S. 104 of the Fair Trading Act.
- (C) Between the period of May 17, 2002 and November 30, 2002, the Supplier, in the ordinary course of its business, through its agents, employees, or representatives failed to recognize Alberta consumers' legislated contract cancellation rights and in doing so neglected to refund monies to consumers who had exercised their legislative cancellation rights, contrary to S. 18(1) of the Travel Club Regulation, AR 56/2002.
- (D) Between the period of May 17, 2002 and November 30, 2002, the Supplier, in the ordinary course of its business, through its agents, employees, or representatives conducted its business in a manner that might be unfair to consumers. More specifically, offered various services such as travel club services and Houseboat Charters on collateral contracts that were vague and failed to fully disclose a consumer's rights and remedies in accordance with the Act.
- (E) The Director asserts that he has reason to believe that the acts or practices of the Supplier described in recitals (B)(C) and (D) constitute breaches of the Fair Trading Act.
- (F) The Director acknowledges that the Supplier has informed the Department that it intends to cease marketing travel club memberships but will focus on Houseboat Charter agreements which it understands may fall within the definition of a time share contract as defined in the Fair Trading Act. The Director also acknowledges the Supplier's contention that it is no longer affiliated with Forum National Investments, formerly known as Intravelnet.com Inc, operating as Snowbird Vacations International.

NOW THEREFORE THIS UNDERTAKING WITNESSES THAT:

1. The Supplier acknowledges and admits that it has failed to comply with the provisions of the Fair Trading Act and undertakes to the Director that this Supplier will not, at any time hereafter, engage in acts or practices similar to those described in recitals (B)(C) and (D).
2. The Supplier shall apply to the Director for a Travel Club license, if at any time in the future, it decides to once again market travel club memberships whereby a travel club means an organization that provides its members with access to goods, services, discounts or other benefits on the future purchase or use of transportation, accommodation, or other services related to travel, as described in the Fair Trading Act and its regulations.
3. The Supplier shall ensure that if it chooses to continue to market Houseboat Charter agreements as timeshare contracts, it will comply with the time share provisions of the Fair Trading Act and the Time Share Contracts Regulation being Alberta Regulation 199/99 for contract requirements and legislated cancellation and refund requirements.
4. The Supplier will, to the best of its ability, ensure that all of its officers, partners, employees, representatives and agents are forthwith acquainted with the requirements of the Fair Trading Act.
5. The Supplier acknowledges that the Director will accept and make contract rescission and full restitution to any consumer who, supported by evidence, has exercised cancellation rights for contracts entered into during the period of May 17, 2002 until December 1, 2002. The Supplier acknowledges that consumers who signed contracts within the aforementioned period of time have 1 (one) calendar year from the date the contract was signed to exercise their right to cancel.
6. The Supplier will submit four deposits to the Director, by installment, totaling the sum of \$90,000 in the following manner. In conjunction, Forum National Investments Ltd. would provide a deposit of \$10,000 such that the aggregate amount of deposit is \$100,000. These deposits represent funds owing to consumers who have or will have exercised the legal right to cancel their contracts.

Upon execution of this Undertaking-	\$25,000
On or before February 2, 2003 -	\$25,000
On or before March 1, 2003 -	\$25,000
On or before April 1, 2003 -	\$15,000

Failure to adhere to any of the above payment dates will cause the balance of the entire deposit of \$90,000 to be due and payable immediately.

7. The Director will have sole discretion on determining the validity of consumer claims. The Director will hold the deposits for a period of one year ending December 1, 2003 at which time the funds will be distributed. In the event the funds are insufficient to cover all legitimate claims, the distribution will be carried out on a prorated basis. In the event a balance exists after December 1, 2003, the remaining funds will be reimbursed to the Supplier and Forum National Investments Ltd. in the same proportion to their contribution to the \$100,000 within a reasonable time following final accounting. Any consumer who is not satisfied with a proposed pro rata distribution is free to pursue their civil options.

At least 14 days prior to the distribution of funds to consumers, the Director shall provide the Supplier with a list of consumers and amounts to be paid. The Supplier shall have the opportunity to provide evidence for the Director's consideration, as to why any particular consumer should not be provided with a portion of the funds.

8. This Undertaking will be binding upon the Supplier and its successors and assigns unless:

- a. terminated by the Director or varied with the consent of the Supplier;
- b. varied by an Order of the Judge of the Court of Queen's Bench where the Judge is satisfied that the circumstances warrant varying the provisions of the Undertaking;
- c. terminated by an Order of a Judge of the Court of Queen's Bench where the Judge is satisfied that the act or practice that the Supplier has undertaken to refrain from engaging in was not unfair;

however, in any such case, the termination or variance does not invalidate anything done under this Undertaking prior to termination or variance.

9. The Supplier acknowledges that the Director may, upon breach by the Supplier of any term of the Undertaking, institute such proceedings and take such action under the Fair Trading Act as he may consider necessary.

10. The terms, warranties, representations, acknowledgements, declarations and undertakings made in this agreement by the Supplier are for the sole benefit of the Director and may only be relied upon by the Director.

IN WITNESS WHEREOF the Supplier, has on the 11 day of December, 2002 caused its common seal to be hereunto affixed and attested by the signatures of its proper officers duly authorized in that behalf.

968362 Alberta Ltd. operating as Orca
Houseboats and Today's World Travel Inc.
and Mohamed Abdellal

PER: 

Mohamed Abdellal aka Aamer Mohamed
Director

ACCEPTED by the Director of Fair Trading this 12 day of December, 2002.



DIRECTOR OF FAIR TRADING