

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street</p> <p>Denver, Colorado 80202</p>	<p style="text-align: right; color: blue;">DATE FILED: June 6, 2013 8:16 PM FILING ID: 46EB94C2244D1</p> <p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<p>STATE OF COLORADO, ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL</p> <p>Plaintiff,</p> <p>v.</p> <p>SEA TO SKI VACATIONS, LLC; TRADITIONS TRAVEL GROUP, LLC; ANDREW WUNDER, STEPHEN WUNDER, CHRISTIAN WUNDER, AND BETHANY WUNDER,</p> <p>Defendants.</p>	
<p>JOHN W. SUTHERS, Attorney General JAY B. SIMONSON, 24077* First Assistant Attorney General JOHN FEENEY-COYLE, 44970* SARAH PAGE JACKSON, 45212* Assistant Attorneys General 1300 Broadway, 7<sup>th</sup> Floor Denver, CO 80203 (720) 508-6205 (720) 508-6040 (fax) jay.simonson@state.co.us *Counsel of Record</p>	<p>Case No.</p>
<p><b>COMPLAINT</b></p>	

**INTRODUCTION**

This is an action brought by the State of Colorado pursuant to the Colorado Consumer Protection Act, §§ 6-1-101 et. seq., C.R.S. (2013) (“CCPA”), to enjoin and restrain Defendants from engaging in certain unlawful deceptive trade practices, for statutorily mandated civil penalties, for disgorgement, restitution, and other relief as provided in the CCPA.

## **PARTIES**

1. John W. Suthers is the duly appointed Attorney General of the State of Colorado and is authorized under § 6-1-103, C.R.S. (2013), to enforce the provisions of the CCPA.

2. Defendant Sea to Ski Vacations, LLC (“Sea to Ski”) is a Colorado Limited Liability Company organized February 14, 2011 and registered at 2202 W. 118<sup>th</sup> Avenue, Westminster, CO 80234, with a principal place of business of 11570 Colony Row, Broomfield, CO 80021 (“Broomfield address”). It now operates from 8791 Wolff Court, Suite 140, Westminster, CO 80031 (“Westminster address”).

3. Defendant Traditions Travel Group, LLC is a Colorado Limited Liability Company organized October 6, 2011, with a principal place of business at the Broomfield address. Defendant Traditions Travel Group is registered to Defendant Andrew Wunder. It sold Sea to Ski memberships to consumers out of the Sea to Ski Broomfield office and for at least the first year and a half of Sea to Ski’s existence was the sole distributor of Sea to Ski memberships in California.

4. Defendant Andrew Wunder a/k/a Mark Dutell is listed as the registered agent of Defendant Sea to Ski Vacations, LLC. Defendant Andrew Wunder is a manager of Sea to Ski. He has represented himself as the owner of the company at many presentations, and signs on its behalf as “President.” He is married to Defendant Bethany Wunder, is the brother of Defendant Stephen Wunder, and is Defendant Christian Wunder’s father.

5. Defendant Stephen Wunder a/k/a Stephen Andrews, Andrew Stephens, or Michael Miller, stated that he is the “liaison between the distributor and [Sea to Ski].” He has represented himself as the owner of Sea to Ski at several of the company’s presentations and to consumers, but denies any ownership interest in the company or its affiliates. His business card identifies him as the “Managing Director” of Sea to Ski. He has identified himself as “Stephen Andrews” in various press releases about STS. He has stated that he uses the alias “Michael Miller” when handling calls from Distributors of Sea to Ski memberships. A former employee of Sea to Ski stated that she heard him use the alias “Andrew Stephens.”

6. Defendant Christian Wunder purports to be the sole owner and technology manager of Sea to Ski. Contracts with inventory suppliers are signed by Christian Wunder on behalf of Sea to Ski.

7. Defendant Bethany Wunder manages Sea to Ski's travel agents and is listed as the administrative contact and technical contact for the domain name seatoskivacations.com.

### **NON-PARTY AFFILIATES**

8. American Travel Planners ("ATP") is a Wyoming Limited Liability Company. Its principal street address is 3904 Central Ave., Cheyenne, WY 82001. The address for the registered agent is also 2202 W. 118<sup>th</sup> Avenue in Westminster ("home address"), which was the home address of Defendants Andrew and Bethany Wunder. An "American Travel Planners" of the same principal street address was registered in Colorado as a Foreign Limited Liability Company at the home address. The registered agent of ATP is Defendant Andrew Wunder, who claimed that the company was owned by Defendant Christian Wunder. The person causing ATP to be incorporated is Jared Trent, who operates a business with Christian and Andrew Wunder called Rocky Mountain Mobile. ATP does business from the same address as Sea to Ski's Westminster address. Defendant Andrew Wunder is also listed as the administrative contact for the domain name americantravelplanners.com.

9. Victory Travel Group is a Colorado Limited Liability Company organized November 20, 2012, with a principal place of business of 555 Alter Street, Westminster, CO 80020. Rocky Mountain Mobile, which is not named in this Complaint but affiliated with the Wunders, is also registered to 555 Alter Street. Victory Travel Group appears to sell memberships to ATP.

10. M&H Acquisitions was a Utah Limited Liability Company registered on September 28, 2009. Its registered agent was Defendant Bethany Wunder. M&H Acquisitions was registered by Bethany Wunder as a Foreign Limited Liability Company on September 27, 2010, with a principal office at the home address. The company is currently listed as "delinquent" on the Colorado Secretary of State's website. In the Better Business Bureau's directory, it is listed at 1123 Main Street, Boulder, CO 80321, an address that does not appear to exist. M&H Acquisitions is also listed as the registrant of the domain name seatoskivacations.com, created on July 27, 2010. M&H Acquisitions bought the rights to sell timeshare properties from some members of Sea to Ski.

11. STS Condo Rentals, LLC is a Colorado Limited Liability Company organized January 18, 2012 and registered to Defendant Andrew Wunder, with a principal place of business at the Broomfield address. Its current status is "noncompliant" Defendant Christian Wunder claimed that the company was founded to manage Sea to Ski's condo inventory, which, according to Christian

Wunder, never happened. Defendant Andrew Wunder claimed that the company was founded for credit card processing, but was never used.

12. Sea to Ski Tours, LLC is a Colorado Limited Liability Company organized October 21, 2011, with a principal place of business at the home address. It was dissolved on March 1, 2013. According to Andrew Wunder, the company was set up to reserve and plan tours for large groups of travelers, but was never used.

13. Vacation Rentals STS, LLC is a Colorado Limited Liability Company organized February 3, 2012, with a principal place of business at the Broomfield address. Its current status is “noncompliant.” Defendant Christian Wunder claimed that this company was also founded to manage Sea to Ski’s condo inventory, which, according to Christian Wunder, never happened. However, Defendant Andrew Wunder claimed that this company was founded for credit card processing, but was never used.

14. STS Travel, LLC is a Colorado Limited Liability Company organized August 19, 2011, with a principal place of business at the Broomfield address. According to Defendant Christian Wunder, STS Travel was a predecessor to Sea to Ski, with a similar business model. Defendant Andrew Wunder claimed that STS Travel was founded for credit card processing for Sea to Ski, but was never used.

15. STS Acquisitions LLC is a Colorado Limited Liability Company organized March 11, 2011, with a principal place of business at the home address. According to Defendant Andrew Wunder, STS Acquisitions was formed to sell memberships to travel clubs.

### **JURISDICTION AND VENUE**

16. Pursuant to § 6-1-103 and § 6-1-110(1), C.R.S. (2013), this Court has jurisdiction to enter appropriate orders prior to and following an ultimate determination of liability.

17. The violations alleged herein occurred, in part, in Denver County. Therefore, venue is proper in Denver County, Colorado, pursuant to § 6-1-103, C.R.S., and Colo. R. Civ. P. 98 (2013).

### **RELEVANT TIMES**

18. The conduct that gives rise to the claims for relief contained in this Complaint has been occurring since Defendant Sea to Ski’s inception in February 2011 and continues to this day. This action is timely brought pursuant to § 6-1-115, C.R.S. (2013), in that it is brought within three years of the date on which false,

misleading, and deceptive acts or practices occurred and/or were discovered, and the series of false, misleading, and deceptive acts are continuing.

### **PUBLIC INTEREST**

19. Through the unlawful practices of their business or occupation, Defendants have deceived, misled, and financially injured consumers throughout the nation. Therefore, these legal proceedings are in the public interest and are necessary to safeguard consumers from Defendants' unlawful business activities.

### **GENERAL ALLEGATIONS**

#### **I, Defendants and their Distributors mislead consumers about the benefits of their travel club membership at sales presentations.**

20. Defendants sell membership into Sea to Ski, a members-only vacation "club," for a fee ranging from \$1,900 to \$10,000 and averaging between \$4,000 and \$6,000. Defendants represent that membership will provide exclusive access to week-long, deeply discounted condominium rentals worldwide that will easily justify the expensive membership fee. Defendants represent through promotional materials and at sales presentations that membership will provide access to discounts for other travel needs, including cruises, hotels, airline tickets, and rental cars.

21. In order to sell memberships, Defendant Sea to Ski partners with "Distributors" who act as Sea to Ski's sales representatives at presentations nationwide. Defendant Sea to Ski and its Distributors conduct sales presentations touting the benefits of memberships in Sea to Ski. The sales presentation uses high pressure sales techniques including claims of a limited supply of memberships, isolation of customers, lengthy presentations, and one time offers in order to convince consumers to purchase a membership with Sea to Ski. Sea to Ski provides to the Distributors marketing materials, such as power point presentations and promotional books.

22. Defendant Traditions Travel Group, owned by Defendant Andrew Wunder, is Sea to Ski's most successful distributor. Traditions had an exclusive right to sell memberships in southern California, where it recruited approximately one-third of Sea to Ski's members. Traditions Travel also operated out of Sea to Ski's former Broomfield address.

23. Despite denying participation in Distributor presentations, Defendants Andrew Wunder and Stephen Wunder travel throughout the country to sell

memberships at the Distributor presentations, and sell memberships themselves out of the Broomfield address through Traditions Travel. At these presentations, Defendants sometimes use aliases: Andrew Wunder acts as “Mark Dutell” and Stephen Wunder acts as “Stephen Andrews” or “Andrew Stephens.”

24. In the out-of-state presentations, Sea to Ski’s logos pervade the presentation, even if the presentation is supposedly hosted by one of the sales Distributor companies. Sea to Ski gives all Distributors the power point presentation, promotional books about Sea to Ski, and a selection of one-time only offers to entice consumers. Additionally, Defendants Stephen and Andrew Wunder, when not actively participating in out-of-town events, are available telephonically for questions.

25. After the club’s benefits are explained, consumers are separated from other consumers. Then, a salesperson continues to pressure them into purchasing a membership to Sea to Ski. Sometimes, the salesperson will push the sale for several hours. Sea to Ski requires that those who are married attend with their spouse as to prevent the excuse of needing to ask for a second opinion before joining.

26. Defendants and their agents start with a membership quote of up to \$10,000. If consumers balk, the price is progressively lowered to an average of \$4,000 to \$6,000.

**II. Defendants claim that Sea to Ski offers “exclusive” deals to its members, when in fact the “exclusive” deals are rarely available and rarely exclusive.**

27. Consumers are shown a power point presentation describing what they can expect from their membership: lavish vacations in condos around the world, priced from \$99 to \$899 per week. Consumers are told they can expect to go to any one of Sea to Ski’s thousands of properties for “deep discounts” because of Sea to Ski’s “exclusive” deals with a variety of condo, timeshare, or resort companies all over the world.

28. Defendant Sea to Ski’s website advertises properties that it cannot deliver. Properties listed on the website for \$99 to \$899 per week are frequently unavailable when members request them.

29. When Sea to Ski is able to deliver condos for under \$899, the source is generally through websites accessible to the public. Consumers are enticed to join Sea to Ski to get “exclusive” deals, but Sea to Ski has no “exclusive” relationship resulting in deep discounts for condos.

30. More than 63 percent of the quotes provided by Sea to Ski for condos are over \$899. Only 10 percent of members received a quote from Sea to Ski's purported "exclusive" source, and only 7 percent of members received a quote from the "exclusive" source for less than \$899.

31. When Sea to Ski cannot get members discount condos, a Sea to Ski "travel agent" will offer a substitute, either another condo or a hotel at its nightly rate. These alternatives are frequently more expensive than the maximum of \$899 Sea to Ski advertised at the presentation and advertises to its members on the website.

32. Many of the properties offered on the Sea to Ski website, as well as those offered by Sea to Ski's travel agents, have accompanying fees that are not clearly disclosed. For example, many of the resorts shown on the Sea to Ski website are all-inclusive resorts. Defendants mislead consumers that the quoted price encompasses all costs. Upon arrival, consumers discover that they are responsible for the all-inclusive charges, which can add thousands to the cost of the trip.

**III. Defendants entice consumers with the promise of a "buy-back guarantee" but hide the fact that it is not Sea to Ski that guarantees its own membership.**

33. Salespeople entice consumers with "deals" or incentives that are only available that day. These incentives include a buy-back guarantee promising a full membership fee refund if the consumer is not satisfied.

34. Defendants fail to conspicuously disclose that the buy-back "guarantee" comes with conditions. Defendants require that consumers "register" the buy-back guarantee within 60 days of joining, by registered mail, or forever lose the opportunity to enforce the buy-back guarantee. This registration is to Sea to Ski's Broomfield office, rather than with the Distributor. Defendants further fail to disclose that consumers are required to pay for one week-long vacation in order to invoke the guarantee.

35. Additionally, the buy-back guarantee is not a special or one-time-only incentive: it is featured on promotional materials given to Distributors by Sea to Ski as something that is available to all potential members.

36. Defendants fail to disclose that the refund will not be honored by Sea to Ski and that the consumer must look to the Distributor for their refund, despite the fact that the buy-back guarantee must be registered with Sea to Ski itself.

37. Additionally, customers are told at presentations that they have a statutory right to cancel their contract with Sea to Ski within 72 hours of joining. Consumers who call to test their membership within this cancellation period are not allowed to speak to Sea to Ski's travel agents. The agents are instructed by Bethany Wunder to forward all such calls to her or another member of the family. Sea to Ski travel agents are warned by the Wunders that they will be fired if they talk to consumers calling within the 72-hour cancellation period.

38. Defendants deliberately misrepresent the discounts available to members in order to entice new members to stay. The discounts offered during the cancellation period are actually paid for by Defendants themselves from new membership fees. Ex-employee travel agents state that the quotes they obtain for members are not significantly different than what is available to the general public, if at all. Members booking travel outside the 72-hour cancellation period are angry to find that the purported discounts are no longer available.

#### **IV. Defendants use marketing gimmicks to entice consumers with free vouchers with the knowledge that the vouchers are effectively impossible to use.**

39. To entice consumers to come to presentations about Sea to Ski, Defendant Sea to Ski and its Distributors partner with marketers who solicit customers with postcards, emails, and phone calls promising two free airline tickets or other prizes. Redemption of the "free" prize is conditioned upon attending a presentation about Sea to Ski.

40. These free prize giveaways are so riddled with conditions and loopholes that their value is nonexistent. When consumers call or contact Sea to Ski to report difficulties using their airline vouchers, Sea to Ski disclaims all responsibility and tells consumers they must look to the "third party" providers for relief.

41. Some of the marketing incentives are admittedly provided by Sea to Ski. Distributors have the option of purchasing "free vacations" at one of Sea to Ski's properties from Sea to Ski to give to consumers who join. However, one former employee of Sea to Ski states that it was impossible to fulfill the marketing gimmick: there were always too many conditions placed on price, location, and time available.

42. Free airline ticket vouchers were given as incentives to attend presentations at Sea to Ski's Broomfield address. A former employee stated that they ran out of vouchers on several occasions, but she was instructed by Defendants Andrew Wunder and Christian Wunder to photocopy the voucher. Of course, this necessarily means that the voucher is rendered unusable for all but one recipient.

**V. Defendant Sea to Ski began operating as “American Travel Planners” shortly after Plaintiff’s initial subpoena.**

43. Defendant Sea to Ski changed its name shortly after the Attorney General notified Defendants of its investigation on October 2, 2012. Sea to Ski is now operating as “American Travel Planners,” which Defendant Andrew Wunder says operates out of the same office. Distributors now sell memberships for American Travel Planners.

**FIRST CLAIM**

(Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations, or quantities of goods, food, services, or property or a false representation as to the sponsorship, approval, status, affiliation, or connection of a person therewith)

44. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 43 of this Complaint.

45. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have knowingly made false representations as to the benefits or quantities of goods, services, or property in violation of § 6-1-105(1)(e), C.R.S. (2013).

46. Defendant Sea to Ski makes false representations as to the benefits of its membership. Sea to Ski represents to consumers that a membership will give them access to thousands of luxury vacation properties and other travel services that are not available to the general public. In reality, the “thousands” of properties available are far from exclusive. A membership with Sea to Ski rarely provides benefits beyond those that a consumer would receive from logging into an Expedia or Travelocity account for free, as Sea to Ski does not have the inventory or exclusive relationships it claims to have.

47. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from consumers from Colorado and throughout the nation.

**SECOND CLAIM**

(Makes false or misleading statements of fact concerning the price of goods, services, or property or the reasons for, existence of, or amounts of price reductions)

48. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 47 of this Complaint.

49. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have made false and misleading statements of fact concerning the price of goods and services or the reasons for, existence of, or amounts of price reductions in violation of § 6-1-105(1)(l), C.R.S. (2013).

50. Defendant Sea to Ski tells their members that they can travel to exotic places throughout the world for as little as \$99 for one week of accommodations. Although Sea to Ski may have a limited supply of those vacation accommodations, the cost to members to stay at those resorts does not include the often-mandatory all-inclusive package, which can cost consumers an additional several thousand dollars.

51. Further, because of Sea to Ski's limited supply of the \$99-\$899 "exclusive" properties, consumers frequently have to pay more for other condo accommodations or week-long hotel reservations. Quotes for condos exceed \$899 nearly two-thirds of the time.

52. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from consumers from Colorado and throughout the nation.

### **THIRD CLAIM**

(Advertises or otherwise represents that goods or services are guaranteed without clearly and conspicuously disclosing the nature and extent of the guarantee, any material conditions or limitations in the guarantee which are imposed by the guarantor, the manner in which the guarantor will perform, and the identity of such guarantor)

53. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 52 of this Complaint.

54. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have advertised or otherwise represented goods or services that are guaranteed without clearly and conspicuously disclosing the nature and extent of the guarantee, any material conditions or limitations imposed by the guarantor, the manner in which the guarantor will perform, and the identity of the guarantor in violation of § 6-1-105(1)(r), C.R.S. (2013).

55. The identity of the guarantor of the buy-back guarantee appears to be Sea to Ski when in fact the guarantor is the Distributor. An impression that the Sea to Ski membership is guaranteed by Sea to Ski is created by misleading paperwork with Sea to Ski logos and names, misleadingly similar names of companies “guaranteeing” the membership, and the fact that the buy-back guarantee must be registered directly to Sea to Ski’s Broomfield office.

56. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from consumers from Colorado and throughout the nation.

#### **FOURTH CLAIM**

(Fails to disclose material information concerning goods, services, or property which information was known at the time of an advertisement or sale if such failure to disclose such information was intended to induce the consumer to enter into a transaction)

57. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 56 of this Complaint.

58. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have failed to disclose material information concerning goods and services which information was known at the time of advertisement or sale in order to induce the consumer to enter into a transaction in violation of § 6-1-105(1)(u), C.R.S. (2013).

59. Defendant Sea to Ski convinces many consumers to purchase a membership with a “buy-back guarantee,” allowing the members to recoup all of their money if they are not satisfied with their membership benefits. However, Sea to Ski does not conspicuously disclose that the guarantee is not offered by Sea to Ski, but by one of their sales Distributors. Furthermore, Sea to Ski does not conspicuously disclose that the guarantee requires the member to register within sixty days of purchasing the membership, and requires the member to purchase at least one one-week vacation before they can enforce the “buy-back guarantee.”

60. Defendant Sea to Ski uses sales Distributors who use deceptive advertising techniques to lure consumers into purchasing a membership. The sales Distributors offer free airline tickets and free exotic vacations to induce consumers to attend Sea to Ski presentations and purchase a membership. In nearly all instances, those free airline tickets or free trips are non-existent, or so burdened by restrictions that it is virtually impossible for consumers to redeem the offer.

Defendant Sea to Ski knows its sales Distributors employ these sales tactics and make these false promises, yet continually fails to disclose this deception or take responsibility for correcting the deceptive practices.

61. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from consumers from Colorado and throughout the nation.

### **RELIEF REQUESTED**

WHEREFORE, Plaintiff prays for judgment against Defendants and the following relief:

A. An order declaring Defendants' above-described conduct to be in violation of the Colorado Consumer Protection Act, § 6-1-105 (1)(e), (l), (r), and (u), C.R.S. (2013).

B. An order permanently enjoining Defendants, their officers, directors, successors, assigns, agents, employees, and anyone in active concert or participation with Defendants with notice of such injunctive orders, from engaging in any deceptive trade practices as defined in and proscribed by the CCPA and as set forth in this Complaint.

C. Appropriate orders necessary to prevent Defendants' continued or future deceptive trade practices.

D. A judgment in an amount to be determined at trial for restitution, disgorgement, or other equitable relief pursuant to § 6-1-110(1), C.R.S. (2013).

E. An order requiring Defendants to forfeit and pay to the General Fund of the State of Colorado, civil penalties pursuant to § 6-1-112(1), C.R.S. (2013) and § 6-1-112(3), C.R.S. (2013).

F. An order requiring Defendants to pay the costs and expenses of this action incurred by the Attorney General, including, but not limited to, Plaintiff's attorney fees, pursuant to § 6-1-113(4), C.R.S. (2013).

G. Any such further orders as the Court may deem just and proper to effectuate the purposes of the CCPA.

Dated this 6th day of June, 2013.

JOHN W. SUTHERS  
Attorney General

*s/ Jay B. Simonson* \_\_\_\_\_

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