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11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF NEVADA**

13  
14 \_\_\_\_\_ )  
FEDERAL TRADE COMMISSION, )

15 Plaintiff, )

16 v. )

17 ASQ, INC., a Nevada Corporation, sometimes )  
18 doing business as Resort World, and )

19 FRANK A. ABATANGELO, JR., individually )  
20 and as an officer of ASQ, Inc., )

21 Defendants. )  
\_\_\_\_\_ )

No.

COMPLAINT FOR  
INJUNCTION AND  
OTHER EQUITABLE  
RELIEF

22  
23 Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), for its complaint  
24 alleges:

- 25 1. The Commission brings this action under Sections 13(b) of the Federal Trade Commission  
26 Act ("FTC Act"), 15 U.S.C. §§ 53(b), to secure preliminary and permanent injunctive  
27 relief, restitution, rescission or reformation of contracts, disgorgement, and other equitable

1 relief for defendants' unfair or deceptive acts or practices in violation of Section 5(a) of  
2 the FTC Act, 15 U.S.C. § 45(a).

3 **JURISDICTION AND VENUE**

- 4 2. This Court has subject matter jurisdiction pursuant to 15 U.S.C. §§ 45(a), 53(b), 57b,  
5 6102(c), and 6105(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345.
- 6 3. Venue in this District is proper under and 6103(a) and 28 U.S.C. § 1391(b) and (c), and in  
7 the Southern Division under L.R. IA 6-1 and L.R. 8-1(a).

8  
9 **PLAINTIFF**

- 10 4. Plaintiff Federal Trade Commission is an independent agency of the United States  
11 Government created by statute. 15 U.S.C. §§ *et seq.* The Commission enforces Section  
12 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or  
13 practices in or affecting commerce. The Commission may initiate federal district court  
14 proceedings to enjoin violations of the FTC Act and to secure such equitable relief as may  
15 be appropriate in each case, including restitution for injured consumers. 15 U.S.C.  
16 § 53(b).

17  
18 **DEFENDANTS**

- 19 5. Defendant ASQ, Inc., sometimes doing business as Resort World ("Resort World"), was  
20 incorporated in Nevada in November, 1997. Its principal place of business is at 1050 E.  
21 Flamingo Road, Las Vegas, Nevada. Resort World is in the business of telemarketing  
22 vacation travel packages to consumers throughout the United States. Resort World  
23 transacts or has transacted business in this District and elsewhere.
- 24 6. Defendant Frank A. Abatangelo, Jr. ("Abatangelo") is an owner, director, officer or  
25 manager of defendant ASQ, Inc., and does business at 1050 E. Flamingo Road, Las Vegas,  
26 Nevada. At all times material to this complaint, acting alone or in concert with others, he

1 has formulated, directed, controlled or participated in the acts and practices of defendant  
2 Resort World. He transacts or has transacted business in this District and elsewhere.

3  
4 **COMMERCE**

- 5 7. At all times relevant to this complaint, the defendants have maintained a substantial course  
6 of trade or business in the offering for sale and sale of vacation travel packages, over the  
7 telephone, through the mail, and via facsimile, in or affecting commerce, as "commerce" is  
8 defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

9  
10 **DEFENDANTS' BUSINESS ACTIVITIES**

- 11 8. Since at least January, 1999, and continuing thereafter, defendants have engaged in a plan,  
12 program or campaign to market and sell vacation travel packages to consumers throughout  
13 the United States. Defendants send unsolicited faxes to businesses throughout the United  
14 States. These faxes advertise exceedingly low airfares (e.g. \$99 or \$119 for round-trip  
15 tickets to Hawaii or Cabo San Lucas) and a bonus complimentary vacation, such as a  
16 cruise to Mexico or a trip to Las Vegas. The faxes list an 800-number to call for more  
17 information
- 18 9. Consumers who call the 800-number are told that Resort World will provide the airline  
19 tickets at the advertised fare on the condition that the consumer buys a minimum of four  
20 airline tickets and books an eight-day, seven-night stay at accommodations through Resort  
21 World. Salespersons explain that room rates vary according to the type and class of  
22 accommodation and according to the season (e.g., Christmas holidays are more expensive).  
23 They tell consumers that, in order to receive the bargain airline fares, they have to pay for  
24 the program and then arrange their trip after they receive materials from the company. The  
25 telemarketers do not provide specific information regarding the availability of particular  
26 trips or the total costs of the vacation packages. When asked, however, they do provide  
27 general information, such as approximate prices of accommodations and probable

1 availability of lodging at specific times of the year, and generally indicate that Resort  
2 World will be able to accommodate the traveler's needs. Payment is made by credit card.  
3 After the initial telephone call, a verifier calls from Resort World to confirm the purchase  
4 information.

5 10. About two weeks after the sale is completed and paid for, the consumer receives a package  
6 from Resort World containing instructions and information about the firm, as well as  
7 certificates to send in to request accommodations. Upon reading this material, consumers  
8 learn that Resort World does not allow them to obtain information about room rates,  
9 accommodations or availability of flights to their desired destinations by phone. Rather,  
10 consumers can only request dates, desired destinations, and type of accommodations by  
11 sending in the travel request forms. This process delays the ability for consumers to  
12 arrange their vacation plans as quickly as by telephone.

13 11. Consumers send in their requests to Resort World. Resort World frequently does not  
14 respond in a timely manner, so that consumers are unable to make arrangements for their  
15 trips. In addition, in some instances, accommodations are not available when the traveler  
16 wants to travel, or, if available, they are substantially more expensive than projected by the  
17 telemarketers. Defendants are routinely unable to fulfill requests for specific destinations  
18 or dates. Many consumers, having spent an inordinate amount of time unsuccessfully  
19 attempting to arrange travel arrangements through defendants, give up, forgoing the money  
20 they paid for the "discounted" airline tickets, which they could not use.

21 **VIOLATIONS OF SECTION 5 OF THE FTC ACT**

22 12. As set forth below, defendants, individually and in concert with others, have violated  
23 Section 5(a) of the FTC Act in connection with the marketing, promotion, offering for sale  
24 and sale of vacation travel packages.

25  
26 **COUNT I**

1 13. In numerous instances since at least January, 1999, in connection with the advertising,  
2 marketing, promotion, offering for sale, or sale of discounted airfares as part of vacation  
3 travel packages, defendants have represented, expressly or by implication, that their  
4 vacation travel packages will include lodging at or around specific or "competitive" prices  
5 or for the dates and destinations consumers request.

6 14. In truth and in fact, in numerous instances, defendants' vacation travel packages do not  
7 include lodging at or around specific or "competitive" prices or for the dates and  
8 destinations consumers request.

9 15. Therefore, defendants' representation set forth in Paragraph 13 is false and misleading and  
10 constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15  
11 U.S.C. § 45(a).

12  
13 **COUNT II**

14 16. In numerous instances since at least January, 1999, in connection with the advertising,  
15 marketing, promotion, offering for sale, or sale of discounted airfares as part of vacation  
16 travel packages, defendants have represented, expressly or by implication, that they will  
17 fill consumers' vacation travel needs in a timely manner.

18 17. In truth and in fact, in numerous instances, defendants do not fill consumers' vacation travel  
19 needs in a timely manner. In some instances, defendants are unable to fill consumers'  
20 travel needs at all.

21 18. Therefore, defendants' representation set forth in Paragraph 16 is false and misleading and  
22 constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15  
23 U.S.C. § 45(a).

24  
25 **COUNT III**

26 19. In numerous instances, since at least January, 1999, in connection with the advertising,  
27 marketing, promotion, offering for sale, or sale of discounted airfares as part of vacation

1 travel packages, defendants have failed to disclose, in a clear and conspicuous manner,  
2 until after the consumer pays for the discounted airfare advertised, material facts regarding  
3 goods or services that are the subject of the sales offer, including but not limited to  
4 additional costs and conditions.

- 5 20. Defendants' failure to disclose material facts as set forth in Paragraph 19 is false and  
6 misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the  
7 FTC Act, 15 U.S.C. § 45(a).

8  
9 **CONSUMER INJURY**

- 10 21. Consumers throughout the United States have suffered substantial monetary loss as a result  
11 of defendants' unlawful acts and practices. In addition, defendants have been unjustly  
12 enriched as a result of their unlawful acts and practices. Absent injunctive relief,  
13 defendants are likely to continue to injure consumers, reap unjust enrichment and harm the  
14 public.

15  
16 **THIS COURT'S POWER TO GRANT RELIEF**

- 17 22. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), authorizes this Court to issue an  
18 injunction against defendants' violation of the FTC Act and, in the exercise of its equitable  
19 jurisdiction, to order such ancillary relief as consumer redress, rescission, restitution and  
20 disgorgement of profits resulting from defendants' unlawful acts or practices, and other  
21 remedial measures.

22  
23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff Federal Trade Commission, pursuant to Section 13(b) of the FTC  
25 Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, request that the Court:

- 26 1. Award plaintiff such preliminary injunctive and ancillary relief as may be  
27 necessary to avert the likelihood of consumer injury during the pendency of this action and to

1 preserve the possibility of effective final relief, including but not limited to, temporary and  
2 preliminary injunctions, appointment of a receiver for Resort World, and an order freezing certain  
3 defendants' assets;

4 2. Permanently enjoin defendants from violating the FTC Act, as alleged herein;

5 3. Award such relief as the Court finds necessary to redress injury to consumers  
6 resulting from defendants' violations of the FTC Act, including, but not limited to, rescission or  
7 reformation of contracts, restitution, refund of monies paid, and disgorgement of ill-gotten monies;  
8 and

9 4. Award plaintiff the costs of bringing this action, as well as such other and  
10 additional relief as the Court may determine to be just and proper.

11  
12  
13 Dated: \_\_\_\_\_ 1999

\_\_\_\_\_  
Jerome M. Steiner, Jr.  
Attorney for Plaintiff  
Federal Trade Commission