

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

Case Type: Other Civil  
(Consumer Protection)

Court File No. 27-CV-21-10169

In the Matter of Posh Bridal Couture, LLC;  
m. Elizabeth Bridal; and Marie Suchy

**PETITION FOR ORDER  
APPROVING ASSURANCE OF  
DISCONTINUANCE**

The State of Minnesota, by its Attorney General, Keith Ellison, hereby petitions the Court, pursuant to Minn. Stat. §§ 8.31, subd. 2b, for an Order approving the attached, fully-executed Assurance of Discontinuance between the State of Minnesota, through its Attorney General, Keith Ellison, and Posh Bridal Couture, LLC; m. Elizabeth Bridal; and Marie Suchy.

Dated: August 18, 2021

Respectfully submitted,

KEITH ELLISON  
Attorney General  
State of Minnesota

*/s/ Noah Lewellen*

NOAH LEWELLEN  
Assistant Attorney General  
Atty. Reg. No. 0397556

445 Minnesota Street, Suite 1200  
St. Paul, MN 55101-2130  
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ATTORNEYS FOR PLAINTIFF  
STATE OF MINNESOTA

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Elizabeth Bridal; and Marie Suchy.

**ASSURANCE OF  
DISCONTINUANCE**

WHEREAS, this Assurance of Discontinuance (“Assurance”) is entered into pursuant to Minn. Stat. § 8.31, subd. 2b, between the State of Minnesota, through its Attorney General, Keith Ellison and Posh Bridal Couture, LLC; m. Elizabeth Bridal; and Marie Suchy (collectively, “Posh”);

WHEREAS, Posh is a bridal boutique that sells custom-order bridal gowns to consumers in Minnesota;

WHEREAS, the State issued a Civil Investigative Demand pursuant to Minn. Stat. § 8.31 to investigate whether Posh violated the Minnesota Consumer Fraud Act, Minn. Stat. § 325F.69 *et seq.* (“CFA”) and the Minnesota Deceptive Trade Practices Act, Minn. Stat. § 325D.44, *et seq.* (“DTPA”) related to its representations and conduct with consumers to whom it sold bridal gowns. Such representations and conduct included, for example, selling custom-order bridal gowns that were not supplied to consumers in a timely fashion despite oral and/or written representations to the contrary; falsely impugning third parties (such as manufacturers) for delays that were really the result of Posh’s own conduct; and, in some case, deceptively supplying and passing off bridal gowns to consumers that were different from the bridal gowns that consumers had actually purchased;

WHEREAS Minnesota Statutes section 8.31 vests the Attorney General with authority to enforce the CFA and DTPA, including by bringing a civil action in Minnesota state court and pursuing injunctive relief, restitution and/or disgorgement, a civil penalty of up to \$25,000 per violation, and recovery of the State's attorneys' fees and costs;

WHEREAS Minnesota Statutes section 8.31 further vests the Attorney General with the authority to accept an assurance of discontinuance to resolve its investigations, and such an assurance may include a stipulation for performance or remedies provided by section 8.31, and violation of such an assurance is punishable as contempt; and

WHEREAS, the Attorney General and Posh (collectively, the "Parties") desire to resolve fully this matter by entering into this Assurance;

NOW THEREFORE, the Attorney General and Posh hereby agree to entry of an order with the following terms and conditions:

#### **FACTUAL ALLEGATIONS**

1. Posh's principal place of business is located at 11 10<sup>th</sup> Avenue South, Hopkins, MN 55343 and its registered office is located at 810 Lake St E, Wayzata, MN 55391 in Hennepin County. Marie Suchy is the owner and manager of Posh Bridal Couture, LLC. Marie Suchy also previously owned and operated m. Elizabeth Bridal until it ceased independent operation and returned to operating solely under the auspices of Posh Bridal Couture, LLC in or around 2018.
2. The Attorney General alleges that, since at least January 1, 2015 Posh has engaged in deceptive and misleading practices in connection with the sale of its custom-order bridal gowns.
3. Specifically, the Attorney General alleges that:
  - Despite Posh representing orally and/or in writing to consumers that an ordered bridal gown would be supplied within approximately six months of

purchase subject to delays for customizations, changes, or alterations, over 670 of the 3,610 orders Posh made were not completed or supplied to consumers within seven months, including those without such customizations, changes, or alterations;

- Posh falsely represented to consumers that delivery delays were due to international customs or were caused by delays by designers or manufacturers, when, in fact, some delays resulted from Posh's delay in paying the gown's designer or manufacturer for the product;
- Posh falsely represented that it could not provide bulk tracking information to consumers for their orders, despite having that information and the ability to provide it;
- Posh deceptively instructed its employees to pass misinformation to consumers, including excuses for delivery delays like false customs or designer issues, while simultaneously instructing employees to decline shipments of gowns so Posh did not have to pay for the dresses upon delivery; and
- Posh refused deliveries because it was unable to provide payment for the gowns upon delivery, and Posh fueled its deceptive ordering scheme by selling more dresses to more consumers.

4. The Attorney General alleges Posh's actions harmed consumers. For example, one bride ordered a custom wedding gown through Posh and was told that she could expect to receive the dress within six months. Eight months later, and three weeks before her wedding, the bride still had not received her dress from Posh. While Posh told the bride that the dress's delivery was delayed because it was being held up "in customs," in reality, Posh had intentionally delayed shipment of the dress for its own financial reasons. As a result of Posh's delays, the bride elected

to purchase a second dress from another store to ensure she had a wedding gown for her wedding. Numerous other brides experienced similar delays and misrepresentations after purchasing wedding gowns from Posh, and Posh's former employees have confirmed that Posh instructed its employees to deceptively blame late dress deliveries on being held up in customs, even when the delivery was delayed due to Posh's failure to pay the designer for the dress.

5. The Attorney General alleges that the above-described alleged conduct constitutes multiple, separate violations of Minnesota Statutes sections 325D.44, subd. 1(5) (representing that good have characteristics that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have), (8) (disparaging the goods, services, or business of another by false or misleading representation of fact); and (13) (engaging in conduct that creates a likelihood of confusion or misunderstanding) and 325F.69, subd. 1 (making misrepresentations, misleading statements, and deceptive practices in connection with the sale of merchandise).

#### **INJUNCTIVE RELIEF**

6. Posh, including its principals, employees, agents, independent contractors, affiliates, as well as other persons in active concert or participation with Posh who receive actual notice of this Assurance, shall comply with the following permanent injunctive terms and provisions:

- a. Upon a consumer placing an order with Posh for a custom-order wedding gown, veil, or any other product requiring the placement of an order with a designer, manufacturer, or other supplier, Posh shall place the order with the designer, manufacturer, or other supplier within five business days of Posh's receipt of the consumer's order.
- b. Upon placing an order for a product with the designer, manufacturer, or other supplier, Posh shall render full payment for that product to the designer, manufacturer, or other supplier within 72 hours of Posh placing the order with a designer.

- c. For every purchase order, contract, or other transaction Posh enters into with a designer, manufacturer, or other supplier of custom wedding gowns or accessories, Posh shall make the requirement under paragraph 6(b) of this Assurance an explicit written obligation of Posh to each such designer, manufacturer, or other supplier of custom wedding gowns or accessories.
- d. Within 72 hours of receiving tracking information from a designer, manufacturer, or other supplier regarding a consumer's order, Posh shall provide that tracking information to the consumer(s) whose goods the tracking information regards.
- e. Posh shall clearly and conspicuously communicate orally and in writing any delays associated with a consumer's order within 48 hours of learning of such delays and shall not misrepresent the cause, source, reason, or responsible party for such delays to consumers.
- f. Posh shall clearly and conspicuously disclose orally and in writing to consumers the nature, duration, terms and conditions of any sales, discounts, or other price concessions it offers and shall not misrepresent the nature, duration, terms, or conditions of its sales, discounts, or its other price concessions.
- g. Posh shall not make any misleading, deceptive, false or fraudulent statements to consumers relating to the sale or delivery of its goods, products, or merchandise.
- h. Posh agrees that, for a period of fifteen months following the execution of this Assurance and upon the request of the Attorney General, Posh will supply to the Attorney General any purchase order, contract, or evidence of transaction so requested for the purpose of ensuring compliance with paragraphs 6(a-d) of this Assurance.

7. Posh shall fulfill the terms of this Assurance, and all of its principals, employees, agents, independent contractors, affiliates, as well as other persons in active concert or participation with Posh who receive actual notice of this order shall be bound by this Assurance as if they had signed this Assurance, so as to accomplish the full relief contemplated by this Assurance. Posh shall not affect any change in its form of doing business as a method or means of attempting to avoid the requirements of this Assurance.

### **MONETARY PAYMENT**

8. Within 30 days of the filing of this Assurance with Hennepin County District Court, Posh shall pay to the Attorney General the sum of \$5,000 (the “Initial Payment”) followed by 10 monthly payments of \$4,500.00 on the first day of each month (“Monthly Payments”) for a total of \$50,000.00 (“Settlement Sum”) pursuant to Minnesota Statutes section 8.31. All or any portion of the Settlement Sum may be distributed to consumers by the Attorney General in his discretion pursuant to Minnesota Statutes section 8.31. Monies from the Settlement Sum may also be used for settlement administration expenses, including payment to a settlement administrator. Any remaining funds shall be remitted to the general fund of the State of Minnesota pursuant to Minnesota Statutes sections 8.31 and 16A.151.

9. The above-referenced Settlement Sum payments shall be made payable to the State of Minnesota and sent by check to Assistant Attorney General Noah Lewellen, Minnesota Attorney General’s Office, 445 Minnesota Street, Suite 1200, St. Paul, Minnesota 55101.

### **STAYED CIVIL PENALTY**

10. Posh shall pay a stayed civil penalty of \$75,000 to the Attorney General upon application to the Court and a showing by the Attorney General that Posh has violated any of the terms of this Assurance and Order. The Court shall decide whether the stayed civil penalty shall be imposed and may hold an evidentiary hearing, if it deems such hearing necessary. The release in Paragraph 12 does not prevent the Attorney General from moving for, or collecting, the stayed civil penalty described in this Paragraph.

11. If Posh does not cure a failure to comply with the payment schedule specified in Paragraph 8, Posh consents to and authorizes the AGO to, ex parte, immediately file with the Court the Confession of Judgment that Posh has executed in relation to this Assurance pursuant to Minn.

Stat. § 548.22, thereby rendering Posh immediately liable for the entire Settlement Sum, minus any amounts already paid by Posh pursuant to this Assurance. Posh consents to the Court Administrator or Clerk of Court entering the Confession of Judgment forthwith without any additional notice or other action.

### **GENERAL TERMS**

11. Nothing in this Assurance shall relieve Posh of its obligation to comply with all applicable Minnesota and federal laws and regulations.

12. In consideration of the stipulated relief and contingent upon the Court's entry of this Assurance, the Attorney General, by execution of this Assurance, hereby fully and completely releases Posh of any and all claims of the Attorney General under Minnesota Statutes section 325D.44, subdivision 1 and 325F.69, subdivision 1, connected with or arising out of the allegations contained in this Assurance, up to and including the date of this Assurance. The Attorney General through this Assurance does not settle, release, or resolve any claim against Posh or any other person or entity involving any private causes of action, claims, and remedies, including, but not limited to, private causes of action, claims, or remedies provided for under Minn. Stat. § 8.31. This release does not apply in any way to claims of any other Minnesota state agency, department, official, or division.

13. This Assurance may be executed in counterparts, each of which constitutes an original, and all of which shall constitute one and the same agreement. This Assurance may be executed by facsimile or electronic copy in any image format.

14. The person signing this Assurance for Posh warrants that Posh has authorized the person to execute this Assurance and that he or she executes this Assurance in an official capacity that binds Posh and its successors.



15. This Assurance constitutes the full and complete terms of the agreement entered into by Posh and the Attorney General.

16. The Parties agree that this Assurance, including any issues related to interpretation or enforcement, shall be governed by the laws of the State of Minnesota.

17. The Hennepin County District Court shall retain jurisdiction of this matter for purposes of enforcing this Assurance. The Attorney General may make such application as appropriate to enforce or interpret the provisions of this Assurance or, in the alternative, maintain any action within his legal authority for such other and further relief as he determines is proper and necessary for the enforcement of this Assurance. The parties agree that, in any action brought by the Attorney General to enforce the terms of this Assurance, the Court shall have the authority to award equitable relief, including specific performance.

18. The failure of a party to exercise any rights under this Assurance shall not be deemed to be a waiver of any right or any future rights.

19. Nothing in this Assurance shall be construed to limit the power or authority of the State of Minnesota or the Attorney General except as expressly set forth herein.

20. Posh neither admits nor denies the allegations of the Attorney General.

21. Posh agrees that the facts alleged in this Assurance will be taken as true without further proof for the purposes of determining the nondischargeability of the State's monetary judgment, as ordered by this Assurance, in any bankruptcy proceeding.

22. Posh agrees that the facts alleged in this Assurance establish all elements necessary to sustain an action by the Attorney General pursuant to section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Assurance will have collateral estoppel effect for such purposes.

23. Posh agrees that the Stayed Civil Penalty in Paragraph 9 of this Assurance, if imposed by any court, represents a civil penalty owed to the State of Minnesota, is not compensation for actual pecuniary loss, and, therefore, is not subject to discharge under the Bankruptcy Code pursuant to 11 U.S.C. § 523(a)(7).

24. Posh understands that if a Court of competent jurisdiction holds that Posh has committed a violation of this Assurance, that such violation may subject Posh to sanctions for contempt pursuant to Minn. Stat. § 8.31, subdivision 2b, and that the Attorney General may thereafter, in his sole discretion, initiate legal proceedings against Posh for any and all violations of this Assurance.

25. Each party shall perform such further acts and execute and deliver such further documents as may reasonably be necessary to carry out this Assurance.

26. Posh shall not state or imply, directly or indirectly, that the State of Minnesota or the Attorney General have approved of, condoned, or agree with any conduct or actions by Posh.

27. Posh agrees that the Attorney General, without further notice to Posh, may file this Assurance with the Hennepin County District Court on an *ex parte* basis, and that the Court may issue the Order below without further proceedings.

28. Service of notices required by this Assurance shall be served on the following persons, or any person subsequently designated by the parties to receive such notices:

Noah Lewellen, Assistant Attorney General  
Office of the Minnesota Attorney General  
445 Minnesota Street, Suite 1200  
St. Paul, Minnesota 55101

Posh Bridal Couture, LLC  
810 Lake Street E  
Wayzata, MN 55391

KEITH ELLISON  
Attorney General  
State of Minnesota

Date: 8/16/2021

By: /s/ Noah Lewellen  
Noah Lewellen  
Assistant Attorney General

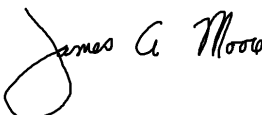
Date: 8/16/2021

By:   
Marie Suchy  
Owner, Posh Bridal Couture, LLC  
Owner, m. Elizabeth Bridal

**ORDER**

Having reviewed the terms of the foregoing Assurance of Discontinuance, which is incorporated herein by reference, and which the Court finds reasonable and appropriate, it is SO ORDERED.

Date: August 20, 2021

  
Moore, James  
Aug 20 2021 7:33 AM  
JUDGE OF DISTRICT COURT

THERE BEING NO CAUSE FOR FURTHER DELAY, LET JUDGMENT BE ENTERED IMMEDIATELY.