

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Other Civil  
(Consumer Protection)

Court File No. \_\_\_\_\_

In the Matter of Voyageurs International, Ltd.  
and Gilford Mahaffy,**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 Voyageurs International, Ltd. And Gilford Mahaffy.

Dated: January 14, 2021

Respectfully submitted,

KEITH ELLISON  
Attorney General  
State of Minnesota/s/ Adam Welle  
ADAM WELLE  
Assistant Attorney General  
Atty. Reg. No. 0389951445 Minnesota Street, Suite 1200  
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(651) 757-1425 (Voice)  
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STATE OF MINNESOTA

STATE OF MINNESOTA  
COUNTY OF RAMSEY

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Case Type: Other Civil  
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In the Matter of Voyageurs International, Ltd.  
and Gilford L. Mahaffy,

**ASSURANCE OF  
DISCONTINUANCE**

WHEREAS, this Assurance of Discontinuance (“AOD”) is entered into pursuant to Minn. Stat. § 8.31, subd. 2b, between the State of Minnesota, by and through its Attorney General Keith Ellison (“the State”), Voyageurs International, Ltd., a corporation organized under the laws of Colorado and located at 3726 Pierce Street, Wheat Ridge, Colorado 80033 (“Voyageurs”), and Gilford L. Mahaffy, a resident of Colorado (“Mahaffy”);

WHEREAS, Voyageurs marketed services to Minnesota consumers involving coordination of a European music tour program to be held in the summer of 2020 for Minnesota high-school students and called the “Minnesota Ambassadors of Music” program;

WHEREAS, Mahaffy is an owner, chairman, and president of Voyageurs;

WHEREAS, by participating in the Minnesota Ambassadors of Music program for a cost of \$6,345 for students and \$6,745 for adults, Voyageurs was to provide Minnesota residents (referred to herein as “Participants”) with, among other things, airfare, lodging, meals, event and concert itinerary, guides, transportation, and other services related to the Participants’ travel during the program;

WHEREAS, Participants also had the option to sign up for a “Greece extension” for an additional cost of \$2,075 for students and \$2,265 for adults, which provided for additional travel to and accommodations in Greece as part of the program;

WHEREAS, as a condition to participation in the Minnesota Ambassadors of Music program, Voyageurs required Participants to sign a “Participant Application/Contract” drafted by Voyageurs;

WHEREAS, Voyageurs cancelled the 2020 Minnesota Ambassadors of Music tour by letter dated March 17, 2020, citing the COVID-19 pandemic as the reason for cancellation;

WHEREAS, upon cancellation, pursuant to the terms of the Participant Application/Contract, Voyageurs refunded \$4,445 for students and \$4,845 for adults who had paid in full at the time of cancellation and lesser amounts for those who had not paid in full, but retained a \$1,900 “Cancellation Fee” for every Participant, while Voyageurs states that it did not receive between \$765 and \$775 from the monies refunded from European vendors;

WHEREAS, Voyageurs communicated to Participants that the cancellation fees were necessary because the company “made payments for travel arrangements that [it] w[ould] not be able to recoup” and Voyageurs’ Participant Application/Contract stated that the cancellation fee was “necessary due to non-refundable deposits made on [Participants’] behalf to airlines, hotels, other vendors, administrative costs and general costs of business”;

WHEREAS, the State issued a Civil Investigative Demand pursuant to Minn. Stat. § 8.31 to investigate whether Voyageurs violated the Minnesota Consumer Fraud Act, Minn. Stat. § 325F.69 (“CFA”), and the Minnesota Deceptive Trade Practices Act, Minn. Stat. § 325D.44 (“DTPA”), related to its representations and dealings with Participants in the 2020 Minnesota Ambassadors of Music tour, including to investigate the bases for Voyageurs’ statements concerning non-refundable expenses incurred related to the cancellation;

WHEREAS, Minn. Stat. § 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 a

injunctive relief, a civil penalty of up to \$25,000 per violation, restitution and disgorgement, and recovery of the State's attorneys' fees and costs;

WHEREAS, Minn. Stat. § 8.31 further vests the Attorney General with 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;

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

WHEREAS, Voyageurs and Mahaffy are entering into this AOD for the purpose of avoiding the cost, risk, and expenses associated with investigation and litigation, and nothing contained herein may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, and nothing in this AOD shall be taken to constitute evidence of unlawful activity under Minn. Stat. § 8.31, subd. 3b;

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

### **INJUNCTIVE RELIEF**

1. Voyageurs, including its principals, managers, employees, agents, independent contractors, affiliates, as well as other persons in active concert or participation with Voyageurs who receive actual notice of this order:

- A. shall not further demand, pursue, collect, charge, or otherwise procure or request payment or compensation from Minnesota Participants related to the 2020 Minnesota Ambassadors of Music Tour;
- B. shall—in all agreements, applications, or contracts entered into between Voyageurs and Minnesota residents after the date of this AOD's acceptance by the Ramsey County District Court—fully and clearly disclose its policies with regard to

cancellations not initiated by the consumer (referred to herein as “involuntary cancellations”), including (a) the planned allocation and attribution of any unrefunded expenses incurred by Voyageurs in connection with involuntary cancellations and (b) how Participants are compensated for prepaid expenses refunded to Voyageurs; and

- C. shall, in its course of dealing with Participants and in the case of any involuntary cancellation, fully and accurately disclose the nature of withheld payments and cancellation fees, including how Participants are compensated for prepaid expenses refunded to Voyageurs.

### **MONETARY PAYMENT**

2. On January 11, 2021, Voyageurs provided the Attorney General with a spreadsheet (“Minnesota consumer list”) showing (a) the name and contact information for all Minnesota consumers who participated in the 2020 Minnesota Ambassadors of Music program (b) the total in payments made by each Participant to Voyageurs, and (c) all “cancellation fee” amounts that were not refunded and remained withheld by Voyageurs.<sup>1</sup> Voyageurs represents and warrants that, to the best of its knowledge, the Minnesota consumer list is a complete and accurate list of all Minnesota consumers with whom Voyageurs has contracted for the 2020 Minnesota Ambassadors of Music program. The State has relied on Voyageurs’ representations and warranties in resolving this matter and entering into this AOD. Should Voyageurs become aware of any Minnesota consumer inadvertently omitted from the Minnesota consumer list, Voyageurs will promptly notify the Office of the Minnesota Attorney General to refund that amount.

3. Within five days of approval of this AOD by the Ramsey County District Court, Voyageurs shall pay to the Attorney General the sum of \$664,835 (“the Settlement Sum”) pursuant to section 8.31, which consists of the total amount of funds Voyageurs represented in the spreadsheet referenced in paragraph 2 above that it has not refunded and has withheld from

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<sup>1</sup> The Minnesota consumer list shall be treated as investigative data pursuant to Minn. Stat. § 13.65 and § 13.39.

Minnesota Participants. Mahaffy shall be jointly and severally liable with Voyageurs for payment of the Settlement Sum. Should Voyageurs become aware of any Minnesota consumer inadvertently omitted from the Minnesota consumer list, Voyageurs will pay any additional amounts owed for the omitted consumer within five business days.

4. The Settlement Sum shall be made payable to the State and sent by wire transfer to the Minnesota Attorney General in accordance with instructions provided by the Attorney General's Office to Voyageurs.

5. The Settlement Sum will be distributed to consumers by the Attorney General in his sole discretion pursuant to section 8.31. Any remaining funds shall be remitted to the general fund of the State of Minnesota pursuant to section 8.31.

#### **DEFINITIONS**

6. "Voyageurs" means Voyageurs International, Ltd., and all of its officers, directors, shareholders, employees, representatives, agents, affiliates, parents, subsidiaries, operating companies, assigns and successors, and any other affiliated entity that is working under a contract to provide any type of services to or for Voyageurs International, Ltd. subsequent to its entering into this agreement.

7. "Minnesota resident" means any person with a Minnesota mailing address.

8. "2020 Tour" means the 2020 Voyageurs Minnesota Ambassadors of Music Tour, which included 344 Minnesota residents as Participants.

9. "Covered Conduct" means any and all alleged acts or omissions (including all communications) by Voyageurs relating to the 2020 Tour.

10. "Participant Application/Contract" means the Minnesota Ambassadors of Music Participant Application/Contract signed by each Participant.

11. CFA means the Minnesota Consumer Fraud Act, Minn. Stat. § 325F.69 and DTPA means the Minnesota Deceptive Trade Practices Act, Minn. Stat. § 325D.44 (“DTPA”), under which the Attorney General has conducted the investigation.

12. “State” means the State of Minnesota.

13. “Parties” means Voyageurs, Mahaffy, and the State.

14. “Participant” means any State resident that signed the Participant Application/Contract as parent or guardian and was signed up on March 17, 2020, the date of cancellation.

15. Any reference to a written document shall mean a physical paper copy of the document, electronic version of the document, or electronic access to such document.

### **RELEASE**

21. In consideration of the stipulated relief and contingent upon the Court’s entry of this AOD, the Attorney General, by execution of this AOD, hereby fully and completely releases Voyageurs and Mahaffy of any and all claims of the Attorney General under the DTPA or CFA connected with or arising out of the State’s investigation and the Covered Conduct and matters described in the recitals above. The Attorney General through this AOD does not settle, release, or resolve any claim against Voyageurs, Mahaffy, 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.

### **GENERAL TERMS**

22. Nothing in this AOD shall relieve Voyageurs or Mahaffy of its obligation to comply with all applicable Minnesota and federal laws and regulations.

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

24. The person signing this AOD for Voyageurs warrants that Voyageurs has authorized the person to execute this AOD and that he or she executes this AOD in an official capacity that binds Voyageurs.

25. This AOD constitutes the full and complete terms of the agreement entered into by Voyageurs, Mahaffy, and the Attorney General.

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

27. The Ramsey County District Court shall retain jurisdiction of this matter for purposes of enforcing this AOD. The Attorney General may make such application as appropriate to enforce or interpret the provisions of this AOD 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 AOD. The parties agree that, in any action brought by the Attorney General to enforce the terms of this AOD, the Court shall have the authority to award equitable relief, including specific performance.

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

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

30. Voyageurs and Mahaffy understand that if a Court of competent jurisdiction holds that Voyageurs and/or Mahaffy committed a violation of this AOD, that such violation may subject



Voyageurs and/or Mahaffy 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 Voyageurs and/or Mahaffy for any and all violations of this AOD.

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

32. Voyageurs and Mahaffy shall not state or imply, directly or indirectly, that the State of Minnesota or the Attorney General have approved of, condone, or agree with any conduct or actions by Voyageurs.

33. Voyageurs and Mahaffy agree that the Attorney General, without further notice to Voyageurs and Mahaffy, may file this AOD with the Ramsey County District Court on an *ex parte* basis, and that the Court may issue the Order below without further proceedings.

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

Adam Welle, Assistant Attorney General  
Office of the Minnesota Attorney General  
445 Minnesota Street, Suite 1200  
St. Paul, Minnesota 55101  
Email: adam.welle@ag.state.mn.us

Counsel for Voyageurs and Mahaffy  
Stephan J. Nickels  
Minnesota Bar #  
Foley & Lardner  
150 E. Gilman St.  
Madison, WI 53703  
Email: SNickels@foley.com

With a copy to:  
John R. Flanders  
Campbell, Killin, Brittan & Ray, LLC  
270 St. Paul Street, Suite 200  
Denver, CO 80206  
Email: JFlanders@ckbrlaw.com

KEITH ELLISON  
Attorney General  
State of Minnesota

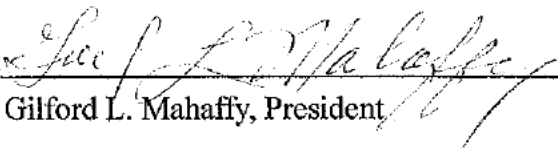
Date: Jan. 12, 2021

By: /s/ Adam Welle

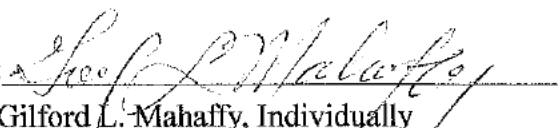
Adam Welle  
Assistant Attorney General  
Minn. Bar. No. 0389951

VOYAGEURS INTERNATIONAL, LTD.

Date: 1-12-2021

By:   
Gilford L. Mahaffy, President

Date: 1-12-2021

By:   
Gilford L. Mahaffy, Individually

**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: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF DISTRICT COURT

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