

STATE OF INDIANA  
IN THE MARION COUNTY \_\_\_\_\_ COURT

MISCELLANEOUS DOCKET NUMBER \_\_\_\_\_

IN RE: Voyageur International, Ltd., and  
Gilford L. Mahaffy

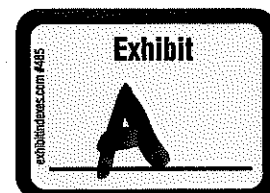
Respondents.

**ASSURANCE OF VOLUNTARY  
COMPLIANCE**

**I. INTRODUCTION**

1. The State of Indiana (the "State"), through the Indiana Office of the Attorney General, by Deputy Attorney General Erica Sullivan, and the Respondents, Voyageurs International, Ltd. and Gilford Mahaffy ("Respondents") enter into an Assurance of Voluntary Compliance pursuant to Indiana Code § 24-5-0.5-7.
2. The State alleges the Respondents violated Indiana's Deceptive Consumer Sales Act ("DCSA"), Ind. Code § 24-5-0.5-1 *et seq.*, in its transactions with Indiana consumers in connection with cancelled "Ambassador of Music" tours.
3. This Assurance is entered into without any adjudication of any issue of fact or law, and upon consent of the parties.
4. Matters addressed in this Assurance, specifically the refunds issued to Indiana residents scheduled to participate in a 2020 Ambassadors of Music tour, may be reopened in the future for further proceedings in the public interest should the restitution payments from the Respondents to the State for the benefit of consumers described herein fail by Respondents failing to pay to the State the amount provided for herein or due to the payments being unavailable to distribute the consumers due to court order or other legal proceeding.

**II. PARTIES**



5. The Attorney General is authorized to enter into this Assurance and file this Assurance with the Marion County Superior or Circuit Court pursuant to Indiana Code § 24-5-0.5-7.
6. The Respondent, Voyageurs International, Ltd. (“VIL”), is a Colorado company engaged in providing students with musical tours of Europe, with a principal place of business located at 3726 Pierce Street, PO Box 173, Wheat Ridge, CO, 80034-0173. Respondent Gilford L. Mahaffy owns and operates VIL. Together, VIL and Gilford L. Mahaffy shall be referred herein as the “Respondents.”

### **III. DEFINITIONS**

The following definitions shall be used in construing the Assurance:

7. “Covered Conduct” means any and all alleged acts or practices (including all communications) by VIL relating to VIL’s 2020 “Indiana Ambassadors of Music” European Tour, 2020 Kentucky Ambassador of Music tour for Indiana residents, and the Greece Extension, which the Indiana Attorney General alleges violated the Ind. Code § 24-5-0.5-1 *et seq.*
8. “Contract” means the Indiana Ambassadors of Music Participant Application/Contract signed by each Indiana resident participating in VIL’s 2020 “Indiana Ambassadors of Music” European Tour or VIL’s 2020 “Kentucky Ambassadors of Music” European Tour for Indiana residents.
9. “Effective Date” means the date on which a copy of the Assurance, duly executed by Respondents and by the Signatory Assistant Attorney General, is approved by, and becomes a Judgment of the Court.
10. “Greece Extension” means the Indiana resident application/contract for the optional four-day tour of Greece purchased by some Indiana residents who signed up for VIL’s 2020 “Kentucky Ambassadors of Music” European Tour. VIL has previously refunded all

amounts it received as a refund from third party vendors in Europe for the Greece Extension to the participating Indiana residents.

11. "Participant" means any State resident that signed the Contract as parent or guardian who remained registered as of March 17, 2020, the date of cancellation.
12. "Parties" means VIL, Gilford L. Mahaffy, and the Attorney General of Indiana.
13. "VIL" or "Voyageurs International" means Voyageurs International, Ltd. and all of its officers, directors, shareholders, employees, independent contractors, representatives, agents, affiliates, parents, subsidiaries, operating companies, assigns, successors and the Indiana Ambassadors of Music.
14. "DCSA" means the Indiana's Deceptive Consumer Sales Act ("DCSA"), Ind. Code § 24-5-0.5-1 *et seq.*, under which the Attorney General has conducted its investigation of VIL.
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.

#### **IV. FINDINGS**

16. Entry of this Assurance is in the public interest and reflects a negotiated agreement among the Parties.
17. The Parties have agreed to resolve the issues resulting from the Covered Conduct by entering into this Assurance.
18. Respondents are willing to enter into this Assurance regarding the Covered Conduct in order to resolve the Attorney General's concerns under the DCSA as to the matters addressed in this Assurance and thereby avoid significant expense, inconvenience, and uncertainty.
19. Respondents are entering into this Assurance solely for the purpose of settlement, 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, all of which Respondents expressly deny. Respondents do not admit any violation of Indiana's DCSA, and do not admit any wrongdoing that was or could have been alleged by any Attorney General before the date of the Assurance under those laws. No part of this Assurance, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by Respondents.

20. This Assurance shall not be construed or used as a waiver or limitation of any defense otherwise available to Respondents in any other action, or of Respondents' right to defend themselves from, or make any arguments in, any other private individual, regulatory, governmental, or class claims or suits relating to the subject matter or terms of this Assurance. This Assurance is made without trial or adjudication of any issue of fact or law or finding of liability of any kind. Notwithstanding the foregoing, the State may file an action to enforce the terms of this Assurance or as permitted by Ind. Code § 24-5-0.5-7.

21. No part of this Assurance shall create a private cause of action or confer any right to any third party for violation of any federal or state statute except that the State may file an action to enforce the terms of this Assurance. It is the intent of the Parties that this Assurance shall not be binding or admissible in any other matter, including, but not limited to, any investigation or litigation, other than in connection with the enforcement of this Assurance.

22. This Assurance resolves with prejudice all claims which could have been raised by the State against the Respondents under the DCSA and state statute arising out of or relating to the acts and commissions in connection with this action, except that if there is a material failure to comply with this Assurance by Respondents then this Assurance shall

permit the Attorney General of Indiana to take such further action against Respondents as provided herein.

#### **V. RELEASE**

23. Released Claims. By its execution of this Assurance, the State releases and forever discharges Respondent VIL, Respondent Mahaffy, and VIL's past and present officers, directors, shareholders, employees, independent contractors, representatives, agents, affiliates, parents, subsidiaries, operating companies, predecessors, assigns, successors, and Indiana Ambassadors of Music (collectively, the "Releasees") from the following: all civil causes of action, claims, damages, restitution, disgorgement, fines, costs, attorney's fees, or penalties that the Indiana Attorney General has asserted or could have asserted against the Releasees under the Indiana DCSA that the Indiana Attorney General has the authority to release resulting from the Covered Conduct up to and including the Effective Date.

#### **VI. AGREEMENT**

24. The terms of this Assurance apply to and are binding upon the Respondents, and any of Respondents' officers, directors, employees, agents, independent contractors, representatives, successors, and assigns.
25. The Respondents agree to immediately refund, within 5 business days of the signing of this Assurance by the Court, to the Indiana Attorney General for all Indiana resident consumers who were parties to the Contract the amount stated herein.
26. The Respondents shall not commit any future unfair, abusive or deceptive acts or practices in connection with consumer transactions, in violation of Ind. Code § 24-5-0.5-3(a).
27. Upon approval of this Assurance, the Respondents shall pay consumer restitution in the

amount of Four Hundred Fifty One Thousand Nine Hundred dollars (\$451,900), payable to the Office of the Attorney General, solely for the benefit of and payment to the Indiana resident consumers scheduled to travel on the 2020 Indiana Ambassadors of Music Tour and Indiana resident consumers scheduled to travel on the 2020 Kentucky Ambassadors of Music Tour, some with the Greece extension, listed in **Exhibit A**, which is on file with the Attorney General and not attached to this Assurance to protect the identity and privacy of the consumers. Respondents represent and warrant that this list is complete and accurate to the best of their knowledge.

28. The State has relied upon the representations regarding the number of consumers eligible for the Refund Amount as put forth by Respondent VIL in the list of consumers provided to the Office of the Attorney General in accordance with Paragraph 27 above. The Respondents stipulate that an intentional failure to identify and disclose any consumer owed the Refund Amount shall constitute a knowing deceptive act, as defined by Ind. Code § 24-5-0.5-4(g) and subject the Respondent to a penalty of up to five thousand dollars (\$5,000.00) for each consumer that was not previously disclosed. Should VIL become aware of any Indiana resident eligible for the Refund Amount inadvertently omitted from Exhibit A, VIL will promptly notify the Office of the Indiana Attorney General and, within five business days, remit the additional Refund Amount to the Office of the Attorney General for disbursement to the omitted resident or consumer.

29. In the event that a Participant who is owed the Refund Amount under this Assurance cannot be located after a diligent effort by the Office of the Attorney General, refuses payment, or any other situation occurs in which the consumer does not receive the Refund Amount, the amount shall be deposited in the to the abandoned property fund in accordance with Ind. Code § 4-12-16-3(b). For purposes of this Assurance, "diligent

effort” shall mean as follows: if a mailing containing a Refund Amount is returned as undeliverable, the Respondent shall send the Refund Amount to the forwarding address listed on the returned mailing. If the second mailing containing the Refund Amount is subsequently returned as undeliverable, or if no return address is listed on the first returned mailing, the office of the Attorney General will make efforts to determine the correct address and contact information for the consumer. If additional contact information is learned, the Office of the Attorney General shall make efforts to contact this individual and provide the individual with the check.

30. Any items to be mailed in the envelope along with the Refund Amount, including but not limited to any letters, coupons, or vouchers, must be approved by the Office of the Attorney General

31. The Respondents shall not represent that the Office of the Attorney General approves or endorses Respondents’ past or future business practices, or that execution of this Assurance constitutes such approval or endorsement.

32. The Respondents shall cooperate with the Office of the Attorney General in attempting to resolve any future written complaints against the Respondents received by the Office of the Attorney General.

33. The Office of the Attorney General shall file this Assurance with the Marion County Superior or Circuit Court and petition the Court to approve this Assurance, as required by Ind. Code § 24-5-0.5-7(a).

34. The Court’s approval of this Assurance shall not act as a bar to any private right of action.

35. NOTICES. 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:

Erica Sullivan  
Deputy Attorney General  
Office of Attorney General  
Indiana Government Center South  
302 West Washington St., 5th Floor  
Indianapolis, IN 46204

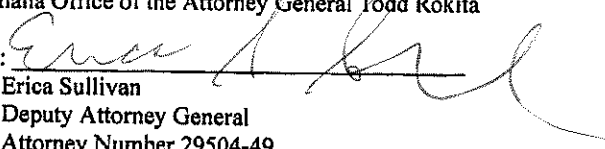
*Counsel for Voyageurs and Mahaffy*  
Jonathan W. Garlough  
Foley & Lardner LLP  
321 North Clark Street  
Suite 3000  
Chicago, Illinois 60654-4762  
Email: JGarlough@foley.com

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

[Signatures on following page]




DATED this 19<sup>th</sup> day of February, 2021  
STATE OF INDIANA  
Indiana Office of the Attorney General Todd Rokita

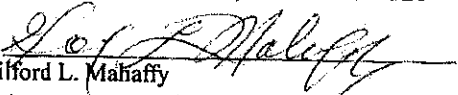
By:   
Erica Sullivan  
Deputy Attorney General  
Attorney Number 29504-49

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Indianapolis, IN 46204  
Telephone: (317) 232-5931  
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Erica.Sullivan@atg.in.gov

**VOYAGEURS INTERNATIONAL, LTD.**

By:   
Gilford L. Mahaffy  
Title: President  
Date: - 2-06-2021

**GILFORD L. MAHAFFY, INDIVIDUALLY**

By:   
Gilford L. Mahaffy  
Date: - 2-06-2021

*Counsel for Respondents:*  
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