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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

VOYAGEURS INTERNATIONAL, LTD,
and GILFORD L. MAHAFFY,

Defendants.

NO.

COMPLAINT FOR INJUNCTIVE AND
OTHER RELIEF

The Plaintiff, State of Washington, by and through its attorneys Robert W. Ferguson, Attorney General, and Breena M. Roos and Daniel L. Allen, Assistant Attorneys General, brings this action against corporate defendants Voyageurs International, Ltd. and Gilford L. Mahaffy (collectively, “Defendants”). The State alleges the following on information and belief:

I. PARTIES

1.1 The Plaintiff is the State of Washington.

1.2 Voyageurs International, Ltd. (VIL) is a Colorado company with its principal place of business in Wheat Ridge, Colorado. At all times material to this lawsuit, VIL was registered to do business in the State of Washington and conducted and/or contracted business through its agents, employees, and representatives in counties throughout the State of Washington, including King County.

1.3 Defendant Gilford L. Mahaffy (Mahaffy) is a resident of Colorado and a founder,

1 owner, director, and officer, and employee of Defendant VIL. He serves as VIL’s Chairman of
2 the Board of Directors and as VIL’s President. At all times material to this Complaint, acting
3 alone or in concert with others, Defendant Mahaffy formulated, directed, controlled, had the
4 authority to control, or participated in the acts and practices set forth in this Complaint. At all
5 times material, Defendant Mahaffy transacted, conducted, and/or contracted for business
6 throughout the State of Washington, including King County.

7 **II. JURISDICTION AND VENUE**

8 2.1 The State files this Complaint and institutes these proceedings under the
9 provisions of the Consumer Protection Act, RCW 19.86 and the Sellers of Travel Act, RCW
10 19.138.

11 2.2 The Defendants engaged in the conduct set forth in the State of Washington,
12 including King County.

13 2.3 Venue is proper in King County pursuant to RCW 4.12.020 and 4.12.025, and
14 Civil Rule 82 because Defendants marketed, transacted, and/or contracted business in King
15 County and because the cause or some part thereof arose in King County.

16 2.4 The Attorney General has authority to commence this action as conferred by
17 RCW 19.86.080, RCW 19.86.140, and RCW 19.138.290.

18 **III. FACTS**

19 3.1 Voyageurs International, Ltd. (VIL) is a family-owned and -operated, Colorado-
20 based entity, formed in 1970.

21 3.2 Defendant VIL is registered to do business in Washington (UBI 601 784 195)
22 and, prior to June 1, 2020, was registered in Washington as a Seller of Travel, pursuant to
23 RCW 19.138.

24 3.3 Defendant VIL markets, offers, and sells all-inclusive European summer travel
25 tours for high school music students in at least fourteen states under the name “Ambassadors of
26 Music.”

1 3.4 Beginning in 2019, Defendant VIL began marketing, offering, and selling its
2 2020 “Ambassadors of Music” tours, including in Washington. VIL’s July 2020 “Washington
3 Ambassadors of Music” European Tour was to last sixteen days (July 12-27, 2020) and span
4 seven European countries, with an option for an extension package that included a four-day trip
5 to Greece. The package included air transportation to and from Seattle, Washington, lodging in
6 Europe, ground transportation in Europe, sightseeing, and meals. The cost to each student for
7 the basic tour was \$6,345. The four-day Greece extension package cost an additional \$2,075.

8 3.5 On or before June 15, 2019, VIL solicited and contracted with 235 participants
9 from Washington for VIL’s July 2020 European Tour. Of those 235 participants, 23 students
10 selected and paid for the Greece extension.

11 3.6 Each Washington student and a respective parent/caregiver signed an application
12 titled, “Washington Ambassadors of Music, July 12-July 27, 2020 Participant
13 Application/Contract” (the “Application/Contract”). The Application/Contract purported to give
14 VIL’s President “in his sole discretion the right to cancel any VIL tour.” The
15 Application/Contract included a cancellation schedule that purported to apply whether the travel
16 was canceled by the participating student or by VIL.

17 3.7 On March 17, 2020, as the COVID-19 virus was spreading worldwide, by letter
18 to students and their parents/caregivers, Defendants canceled the July 2020 European Tour. The
19 letter stated, “the President of VIL, in his discretion, has decided to cancel the upcoming summer
20 tours.” The letter informed participants VIL would “refund to each Participant all but \$1900,”
21 and that for the “Greece extension there is no refund.”

22 3.8 In their March 17, 2020 cancellation letter, Defendants stated, “VIL has paid out
23 more than \$1900 per student for the upcoming tour season that it cannot recoup.” In reality,
24 Defendants were able to recoup approximately 61% of the \$1,900 per student retained by VIL.

25 3.9 Upon cancellation, Defendants refunded some, but not all, of the funds paid by
26 Washington students who paid for the 2020 European Tour. To date, Defendants have refused

1 to refund \$1,900 per student who paid for the 2020 European Tour and an additional \$775 per
2 student who purchased the Greece extension.

3 3.10 The Washington Sellers of Travel Act (WSTA), RCW 19.138, regulates the
4 advertising, sales, and business practices of “Sellers of Travel” such as VIL. Violations of the
5 WSTA are *per se* violations of the CPA. RCW 19.138.290.

6 3.11 Though VIL was a registered Seller of Travel in Washington up to June 1, 2020,
7 Defendants failed to comply with several important requirements of the WSTA.

8 3.12 For example, the WSTA governs the rights of Washington consumers when travel
9 arrangements are canceled. Where the travel is canceled by the Seller of Travel (i.e., VIL), the
10 WSTA requires the Seller of Travel to refund consumers “all sums paid to the Seller of Travel
11 for services not performed” within 14 to 30 days depending on whether the Seller of Travel needs
12 to recover funds from a travel vendor. RCW 19.138.040(6), .050. The only exception to a full
13 refund is where the Seller of Travel has disclosed any cancellation penalties imposed by its third-
14 party vendors to the consumer. RCW 19.138.050(4).

15 3.13 Defendants’ retention of \$1,900 per student (and an additional \$775 per student
16 who purchased the Greece extension) as a “cancellation fee” upon its own cancellation of the
17 2020 European Tour violated the requirements of the WSTA and is unfair and/or deceptive under
18 the Washington Consumer Protection Act (CPA), RCW 19.86.

19 3.14 As another example, the WSTA also requires a Seller of Travel to furnish, upon
20 full or partial payment for any travel services, a written statement to the person making the
21 payment. RCW 19.138.040. For payments made in person, the statement should be furnished at
22 or prior to the time of full or partial payment. For payments made other than in person, the
23 statement should be transmitted within three business days of receipt or processing the payment.
24 Among other things, RCW 19.138.040 requires that “[a]t or prior to the time of full or partial
25 payment for any travel services, the seller of travel shall furnish to the person making the
26 payment a written statement conspicuously setting” out very specific information, including but

1 without limitation, “[t]he name of the vendor with whom the seller of travel has contracted to
2 provide travel arrangements for a consumer and all pertinent information relating to the travel as
3 known by the seller of travel at the time of booking.” RCW 19.138.040(6) also requires the Seller
4 of Travel to recognize and provide a notice regarding the consumer’s cancellation rights upon
5 cancellation by the seller.

6 3.15 Based on information and belief, Defendants failed to provide students or their
7 parents/caregivers any written statement in conformity with the WSTA, RCW 19.138.040.
8 Defendants did not inform students of the name(s) of vendors with whom VIL contracted to
9 provide travel arrangement for the 2020 European Tour, either within three business days of
10 receipt or payment processing, or when Defendants received information from their vendors.
11 Further, based on information and belief, Defendants failed to provide the cancellation notice as
12 required by RCW 19.138.040(6).

13 3.16 The WSTA also requires that a Seller of Travel establish and maintain a trust
14 account for all sums held for more than five business days that were received from a person for
15 retail travel services (including package tours) offered by the Seller of Travel.
16 RCW 19.138.140(1). Alternatively, the Seller of Travel may file and maintain a surety bond or
17 other instrument if it meets certain conditions, including approval by the Director of the
18 Washington Department of Licensing. RCW 19.138.140(7).

19 3.17 On information and belief, Defendants failed to establish and maintain a trust
20 account, surety bond, or other instrument or account in conformity with RCW 19.138.140. The
21 Application/Contract’s term purporting to give VIL’s President, Defendant Mahaffy, the right to
22 cancel the contract for any reason at his discretion and to retain \$1,900 paid by the participants
23 and their families is unconscionable, void, unenforceable, unfair, and violates the dictates of the
24 WSTA and the CPA.

1 **IV. CAUSE OF ACTION: VIOLATION OF THE WSTA, RCW 19.138.040 AND**
2 **.050, AND THE CONSUMER PROTECTION ACT, RCW 19.86.020**

3 4.1 Plaintiff re-alleges paragraphs 1.1 through 3.17, and fully incorporates them
4 herein.

5 4.2 Defendant VIL accepted, as a Seller of Travel, funds in excess of \$1,900 from at
6 least 235 Washington consumers as payment for the July 2020 European Tour.

7 4.3 On March 17, 2020, Defendants canceled the 2020 European Tour, representing,
8 “VIL has paid out more than \$1900 per student for the upcoming tour season that it cannot
9 recoup.” In reality, Defendants were able to recoup approximately 61% of the \$1,900 per student
10 retained by VIL.

11 4.4 Upon cancellation of the July 2020 European Tour, Defendants improperly
12 retained \$1,900 or more as a “cancellation fee.”

13 4.5 Defendants’ advertising, sales, contracting, acts, practices, and business services
14 associated with the July 2020 “Washington Ambassadors of Music” European Tour violated the
15 WSTA in the following ways:

- 16 a. Defendants’ retention of \$1,900 (or \$2,675, for students who purchased the
17 Greece extension) from each Washington participant as a “cancellation fee”
18 violated the WSTA’s requirement that, where the travel is canceled by the
19 Seller of Travel (here, VIL), the Seller of Travel must refund consumers “all
20 sums paid to the seller of travel for services not performed” within 14 to 30
21 days depending on whether the seller of travel needs to recover funds from
22 a travel vendor. RCW 19.138.040(6), .050.
- 23 b. Defendants failed to properly and timely provide the written statement
24 mandated by RCW 19.138.040.
- 25 c. Defendants failed to establish and maintain a trust account, surety bond, or
26 other instrument or account in conformity with RCW 19.138.140.

1 Each of these violations of the WSTA constitutes a *per se* violation of the CPA. RCW
2 19.138.290.

3 4.6 In addition, and in the alternative, Defendants' actions constituted unfair and/or
4 deceptive acts in violation of the CPA, RCW 19.86.020, notwithstanding the *per se* CPA
5 violation, because Defendants retained funds from consumers for travel services that it did not
6 provide.

7 4.7 In addition, and in the alternative, Defendants' misrepresentation in its March 17,
8 2020 cancellation letter that "VIL has paid out more than \$1900 per student for the upcoming
9 tour season that it cannot recoup" constituted an unfair and/or deceptive acts in violation of the
10 CPA. RCW 19.86.020.

11 4.8 The acts or practices described herein occurred in trade or commerce as defined
12 in RCW 19.86.010(2) because they included the advertising and sale of travel services to
13 Washington consumers and business practices and commerce affecting the people of the state of
14 Washington.

15 4.9 These practices affected the public interest because they impacted numerous
16 Washington consumers. These practices constituted a pattern of conduct that Defendants
17 committed in the course of business and for which there is a real and substantial potential for
18 repetition.

19 V. PRAYER FOR RELIEF

20 Wherefore, the State prays for the following relief:

21 5.1 That the Court adjudge and decree that Defendants have engaged in the conduct
22 complained of herein.

23 5.2 That the Court adjudge and decree that the conduct complained of herein constitutes
24 unfair and deceptive acts or practices in violation of the Consumer Protection Act, RCW 19.86.

25 5.3 That the Court adjudge and decree that the conduct complained of herein violates
26

1 the Washington Sellers of Travel Act, RCW 19.138, which constitutes a per se violation of the
2 Consumer Protection Act, RCW 19.86.

3 5.4 That the Court issue a permanent injunction enjoining and restraining Defendants
4 and their representatives, successors, assignees, officers, agents, servants, employees, and all other
5 persons acting or claiming to act for, on behalf of, or in active concert or participation with
6 Defendants from continuing or engaging in the unlawful conduct complained of herein, and
7 ordering that Defendants come into and remain in compliance with the obligations of the
8 Washington Sellers of Travel Act.

9 5.5 That the Court assess civil penalties, pursuant to RCW 19.86.140, of up to \$2,000
10 per violation against Defendants for each and every violation of RCW 19.86.020 alleged herein.

11 5.6 That the Court, as an equitable remedy, disgorge Defendants of money or property
12 acquired by Defendants as a result of the conduct and violations complained of herein.

13 5.7 That the Court make such orders pursuant to RCW 19.86.080 as it deems
14 appropriate and necessary to restore to Washington consumers all money acquired by Defendants
15 as a result of the conduct, acts, and violations complained of herein.

16 5.8 That the Court make such orders pursuant to RCW 19.86.080 to award Plaintiff the
17 costs of this action including reasonable attorneys' fees.

18 5.9 That the Court award prejudgment interest.

19 5.10 That the Court order such other relief as it may deem just and proper to fully and
20 effectively dissipate the effects of the conduct and violations complained of herein, or which may
21 otherwise seem proper to the Court.
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1 DATED this 24th day of December, 2020.

2 ROBERT W. FERGUSON
3 Attorney General

4 s/ Daniel L. Allen

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