

ATTORNEY GENERAL OF THE STATE OF NEW YORK  
BUREAU OF INTERNET & TECHNOLOGY

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In the Matter of

Assurance No. 21-061

**Investigation by LETITIA JAMES,  
Attorney General of the State of New York, of**

**RYADD, INC. d/b/a TICKETSONSALE.COM  
and ONLINECITYTICKETS.COM,**

Respondent.

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**ASSURANCE OF DISCONTINUANCE**

The Office of the Attorney General of the State of New York (“NYAG”) commenced an investigation pursuant to Executive Law § 63(12) and General Business Law § 349 into the resale of event tickets by respondent RYADD, Inc. (“RYADD”), owner and operator of two ticket resale websites, ticketsonsale.com and onlinecitytickets.com. This Assurance of Discontinuance (“Assurance”) contains the findings of NYAG’s investigation and the relief agreed to by NYAG and Respondent, whether acting through its respective directors, officers, employees, representatives, agents, affiliates, or subsidiaries (collectively, the “Parties”).

**FINDINGS OF NYAG**

1. Respondent RYADD is a Florida-based company, which at all relevant periods was engaged in the business of facilitating the resale of tickets to live events through its websites, ticketsonsale.com and onlinecitytickets.com (the “Resale Websites”).

2. Respondent provided marketing services intended to direct internet traffic to the Resale Websites, where prospective buyers can search on the secondary market for tickets to events, for example by event type, artist or team name, venue, or date. A search for tickets on

the Resale Websites displayed tickets that independent third parties have listed for resale on a platform owned and operated by RYADD's third-party vendor, Ticket Fulfillment Services, L.P. ("TFS"), a wholly-owned subsidiary of Vivid Seats LLC.

3. RYADD displayed the TFS platform on the Resale Websites pursuant to a contract with TFS. When a consumer used the Resale Websites to purchase a ticket through the TFS platform, TFS managed, verified, and processed the order, and ensured the fulfillment of the order, including delivery of tickets. RYADD did not itself offer any tickets for resale through the Resale Websites, and did not process or fulfill the orders that customers placed through the Resale Websites.

4. TFS also handled customer service on behalf of RYADD. If a customer called the customer service telephone number displayed on the Resale Websites, opened up a live chat through a chat window on the Resale Websites, or sent an email through the site or to any customer service email address displayed on the Resale Websites, that communication was ultimately received and responded to by TFS. At times, however, TFS would consult with RYADD about how to respond to a particular inquiry.

5. On a weekly basis, TFS disbursed to RYADD the contractual commission it earned for any sales made on the platform through the Resale Websites. RYADD had the ability to adjust the prices of or add service fees to tickets available on the platform through the Resale Websites, which in turn affected the amount of its commission.

6. The parties' contract obligated RYADD to reimburse TFS for any amounts TFS had previously distributed to it, if the event for which the ticket was previously sold were canceled for any reason. TFS also had the right to deduct any such amounts from future payments to RYADD, in lieu of awaiting reimbursement.

7. Prior to April 16, 2020, the Policies section on the Resale Websites promised consumers that they would receive a refund if the event for which they were purchasing a ticket was canceled. At least one of the Resale Websites also promised a “100% Buyer Guarantee,” which, according to the website, “will also cover full refunds for any canceled shows that are not rescheduled.”

8. Over the course of February and March 2020, the threat of the novel coronavirus COVID-19 began to materialize in significant ways. With COVID-19 cases mounting in New York State, on March 12, 2020, New York Governor Andrew Cuomo issued Executive Order 202.1, temporarily prohibiting public gatherings of more than five hundred people. Public ticketed events were canceled en masse both within New York and around the country.

9. During the months of March and April 2020, RYADD and TFS began to confer about the extensive dislocation in the secondary market for ticket events, and its impact on RYADD’s finances.

10. As cancellations continued to pile up, RYADD and TFS coordinated to limit RYADD’s exposure to an anticipated wave of refunds. On or about April 14, 2020, RYADD told TFS that it wanted to modify the terms of the Resale Websites’ Policies and FAQ pages to remove language referring to “full refund[s]” and refer instead to “‘compensate’ or similar language.” TFS promptly revised the policies in line with this request. The new Policies did not explain that the “compensation” RYADD intended to give consumers was in the form of store credit in lieu of a cash refund, even for consumers who had purchased tickets prior to the change in the language.

11. On April 16, 2020, RYADD informed TFS that it “[did] not see any other way to stay in business unless we offer credit for future purchases on cancelled events” and requested

that TFS help change its default response to canceled events from a full refund to a 120% store credit to be redeemed within the next 12 months. RYADD told TFS that this change was an effort “to do what is best for our customers,” and the following day RYADD asked TFS to send emails to customers notifying them of the new policy. The new policy applied to all canceled events, regardless of the location of the venue or the residency of the purchaser, or whether the purchaser had completed the order at the time when the Resale Websites promised refunds for canceled events. At all relevant times, the Terms of Service on the Resale Websites included a force majeure clause stating that the companies “shall not be deemed in default or otherwise liable under these Terms due to our inability to perform Our obligations by reason of . . . epidemic, . . . any law ordinance or regulation, legal order . . . or any other similar cause not under our control.”

12. By June 22, 2020, RYADD and TFS had provided credits to over 27,000 customers, with a total combined value of more than \$10.7 million. Fewer than 300 of these customers had by that point redeemed an offer for credit. As of August 22, 2020, orders to canceled events placed by New York residents and purchasers to events in New York accounted for over \$964,000 in gross order volume. Although these purchasers were guaranteed a refund from RYADD either by state statute or directly by the company as part of the terms of sale (or, in many cases, both), all of these purchasers were given credit instead.

13. TFS representatives fielding customer service inquiries repeatedly told consumers that they could not receive a refund for canceled events, contrary to New York law. One New York resident who purchased tickets to a New York event received six separate email responses over a period of five days in May 2020 from five different customer service representatives (all of whom communicated from the same email address with a ticketsonsale.com domain)

unlawfully denying him a refund for an event that had been canceled.

14. Throughout this period, RYADD (by and through TFS's direct communications with consumers) continued to deny refunds to thousands of purchasers entitled to refunds by law. Likewise, the company failed to notify consumers that they might be entitled to refunds by law.

15. These practices harmed consumers by failing to provide refunds they were entitled to by law, deceiving consumers by misrepresenting their eligibility for a refund, and failing to honor express refund promises.

16. On April 16, 2021, RYADD and TFS sent emails to all New York residents, who had purchased tickets to cancelled events through the Resale Websites, which provided in part:

You were previously notified that due to the cancellation of your event you are eligible for a 120% store credit that was set to expire 365 days from issue. We have extended your credit for use for another 365 days. This means your original credit is valid for 2 years after its issue date. We would also like to inform you that if you are a New York resident then in accordance with the laws of New York, you have a right to a full refund. No action is necessary if you would like to keep your store credit instead of a refund. If you would prefer a refund, please contact Support at support@ticketsonsale.com within 7 days of receiving this email to make your request. Any used portion of your store credit may be deducted from your refund.

17. On April 23, 2021, RYADD and TFS sent emails to all non-New York residents, who purchased tickets to events through the Resale Websites at New York venues which were cancelled, which provided in part:

You were previously notified that due to the cancellation of your event you are eligible for a 120% store credit that was set to expire 365 days from issue. We have extended your credit for use for another 365 days. This means your original credit is valid for 2 years after its issue date. We would also like to inform you that if your event was to take place in a New York venue then in accordance with the laws of New York, you have a right to a full refund. No action is necessary if you would like to keep your store credit instead of a refund. If you would prefer a refund, please contact Support at support@ticketsonsale.com within 7 days of receiving this email to make your request. Any used portion of your store credit may be deducted from your refund.

## **Regulatory Framework**

18. Executive Law § 63(12) and General Business Law §§ 349 and 350 prohibit

misrepresentation and deceptive acts or practices in the conduct of any business.

19. Executive Law § 63(12) also prohibits illegal practices in the conduct of any business. Arts and Cultural Affairs Law § 25.07 requires any person, firm, or corporation that facilitates the resale of event tickets to guarantee that it will refund to the purchaser the amount paid by the purchaser (including, but not limited to, all fees, regardless of how characterized) if the event for which such ticket has been resold is canceled, notwithstanding any other provision of law.

### **Respondent's Conduct Violated New York Law**

20. NYAG finds that Respondent's conduct violated, *inter alia*, Executive Law § 63(12), which authorizes NYAG to pursue repeated fraudulent or illegal acts; GBL §§ 349 and 350, which prohibit deceptive acts and practices and false advertising, and Arts and Cultural Affairs Law § 25.07, which requires any person, firm, or corporation that facilitates the resale of event tickets to guarantee refunds to purchasers if the event for which the purchaser has bought a ticket is canceled.

21. Respondent neither admits nor denies NYAG's Findings, paragraphs 1–17 above.

22. NYAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. THEREFORE, NYAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violations of Executive Law § 63(12), GBL §§ 349 and 350, and Arts and Cultural Affairs Law § 25.07.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

### **RELIEF**

23. Respondent shall not directly or indirectly – on its own or through any existing or future firm or other business structure – engage, or attempt to engage, in conduct in violation of

Executive Law § 63(12), GBL §§ 349 and 350, and Arts and Cultural Affairs Law § 25.07, and expressly agrees and acknowledges that any such conduct is a violation of the Assurance, and that NYAG thereafter may commence the civil action or proceeding contemplated in paragraph 22, *supra*, in addition to any other appropriate investigation, action, or proceeding.

24. Within fourteen (14) days of the Effective Date of this Assurance, Respondent shall conduct a full review of the statements on the Resale Websites concerning refunds for canceled events and shall ensure that any and all such statements disclose that consumers may be entitled to refunds under applicable law.

25. In any communication occurring after the Effective Date of this Assurance that is made to a consumer concerning a canceled event, Respondent shall clearly and conspicuously inform the consumer that he or she may be entitled to a refund under applicable law, including pursuant to Title 25 of the New York Arts and Cultural Affairs Law.

#### **MISCELLANEOUS**

26. Acceptance of this Assurance by NYAG is not an approval or endorsement by NYAG of any of Respondent's policies, practices, or procedures, and Respondent shall make no representation to the contrary.

27. Respondent expressly agrees and acknowledges that NYAG may initiate a subsequent investigation, civil action, or proceeding to enforce this Assurance, for violations of the Assurance, or if the Assurance is voided pursuant to paragraph 34, and agrees and acknowledges that in such event:

- a. any statute of limitations or other time-related defenses are tolled from and after the effective date of this Assurance;

b. the NYAG may use statements, documents or other materials produced or provided by Respondent prior to or after the effective date of this Assurance;

c. any civil action or proceeding must be adjudicated by the courts of the State of New York, and that Respondent irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue.

d. evidence of a violation of this Assurance shall constitute prima facie proof of a violation of the applicable law pursuant to Executive Law § 63(15).

28. If a court of competent jurisdiction determines that Respondent has violated the Assurance, Respondent shall pay to the NYAG the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

29. This Assurance is not intended for use by any third party in any other proceeding.

30. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of Respondent. Respondent shall include any such successor, assignment or transfer agreement a provision that binds the successor, assignee or transferee to the terms of the Assurance. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of NYAG.

31. Nothing contained herein shall be construed as to deprive any person of any private right under the law, nor to waive any legal argument or defense not expressly waived herein.

32. Any failure by the NYAG to insist upon the strict performance by Respondent of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the NYAG, notwithstanding that failure, shall have the right thereafter to insist upon

the strict performance of any and all of the provisions of this Assurance to be performed by Respondent.

33. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 21-061, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery; express courier; or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

If to Respondent, to:

Ryan Bagley  
CEO  
RYADD, Inc.  
1317 Edgewater Dr., #3223  
Orlando, FL 32804

If to NYAG, to:

Bureau Chief  
Bureau of Internet & Technology  
New York State Office of the Attorney General  
28 Liberty Street  
New York, NY 10005

34. NYAG has agreed to the terms of this Assurance based on, among other things, the representations made to NYAG by Respondent and its counsel and NYAG's own factual investigation as set forth in Findings, paragraphs 1–17 above. Respondent represents and warrants that neither it nor its counsel has made any material representations to NYAG that are inaccurate or misleading. If any material representations by Respondent or its counsel are later found to be inaccurate or misleading, this Assurance is voidable by NYAG in its sole discretion.

35. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Respondent in agreeing to this Assurance.

36. Respondent represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved.

37. Unless a term limit for compliance is otherwise specified within this Assurance, the Respondent's obligations under this Assurance are enduring. Nothing in this Agreement shall relieve Respondent of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

38. Respondent agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the Assurance or creating the impression that the Assurance is without legal or factual basis. Nothing in this paragraph affects Respondent's right to take legal or factual positions in defense of litigation or other legal proceedings to which the NYAG is not a party.

39. Nothing contained herein shall be construed to limit the remedies available to NYAG in the event that Respondent violates the Assurance after its effective date.

40. This Assurance may not be amended except by an instrument in writing signed on behalf of the Parties to this Assurance.

41. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of NYAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

42. Respondent acknowledges that it has entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.

43. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

44. The Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

45. This Assurance may be executed in multiple counterparts by the Parties hereto. All counterparts so executed shall constitute one agreement binding upon all Parties, notwithstanding that all Parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Assurance, all of which shall constitute one agreement to be valid as of the effective date of this Assurance. For purposes of this Assurance, copies of signatures shall be treated the same as originals. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Assurance and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

46. The effective date of this Assurance shall be September 20, 2021.

LETITIA JAMES  
Attorney General of the State of New York  
28 Liberty Street  
New York, NY 10005

By:



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Ezra Sternstein  
Assistant Attorney General  
Bureau of Internet & Technology

**RYADD, INC.**

By: *Ryan Bagley*  
Ryan Bagley, CEO

9/9/2021  
Date