

**ATTORNEY GENERAL OF THE STATE OF NEW YORK
CONSUMER FRAUDS AND PROTECTION BUREAU**

In the Matter of

Assurance No. 19-013

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

SINDI SAITA d/b/a APROPOS PROM & BRIDAL,

Respondent.

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York ("OAG") commenced an investigation pursuant to Executive Law § 63(12) and General Business Law Article 22-A of the business practices of Sindi Saita d/b/a Apropos Prom & Bridal ("Respondent"). This Assurance of Discontinuance ("Assurance") contains the findings of OAG's investigation and the relief agreed to by OAG and Respondent (collectively, the "Parties").

OAG's FINDINGS

1. Respondent owns and operates Apropos Prom & Bridal, a women's formalwear store located in Latham, New York. It formerly operated in Guilderland, New York. Respondent is actively involved in the day-to-day operation of the business. Until 2018, Respondent employed a handful of part-time workers who assist in the store's retail operations. Since approximately January 2018, Respondent has operated the business by herself.

2. Until 2017, the majority of Respondent's business consisted of the sale of "special order" dresses, typically prom, bridesmaid, and bridal gowns.¹ For "special order" dresses, a customer views and/or tries on a dress in Respondent's shop. When a consumer chooses to purchase that dress in a specific size and color, Respondent requires a deposit, typically half of the purchase price, and then orders the dress directly from the manufacturer for that customer. Often, the dresses require alterations, which are typically done by Respondent or a seamstress she has hired, for an additional fee after the dress arrives and the consumer comes in for a fitting.

3. Typically, when consumers special order dresses, Respondent provides them with a hand-written slip that typically states the current date; consumer's name, amount of deposit paid and balance due. Although the slip will typically specify the type of dress, *e.g.*, "bridesmaid," it does not specify the manufacturer, model number, color or size. Nor does it provide any information about when Respondent expects to receive the dress. Rather, Respondent typically advises the consumer orally of the estimated date of arrival for the dress and promises to call when it arrives.

4. Between 2016 and 2017, the OAG reviewed a number of complaints and spoke with other consumers who described problems similar to those reflected in the consumer complaints.

5. The complaints detail a variety of problems, most of which concern Respondent's failure to timely provide consumers with their dresses. In many cases, consumers have complained that they did not receive a call from Respondent about the arrival of their dress within the estimated timeframe, and when they subsequently called to inquire about when the

¹ In 2017, Respondent stopped accepting special orders for prom dresses.

dress would arrive, they often got a busy signal or the phone rang continuously with no answer or voicemail. Even when consumers managed to reach someone at the business, they were often given vague information but no specific date, for instance that the dress would "be in soon" or was "on its way." When consumers asked why the arrival was delayed, they were often told they had to speak to Respondent, but when consumers left messages for her, she failed to respond. When consumers confronted Respondent in person, she often provided reasons or excuses for the delays ("the lace had to be ordered from China"; "the shipment was delayed due to a snowstorm"), which did not give assurances that their dress would arrive in time for their event. In some cases, after they still had not received their dresses long after they were promised, and as their event dates drew near, consumers were forced to purchase a different gown elsewhere. Consumers allege that Respondent then repeatedly refused to return consumers' deposits.

6. Some consumers also complained that the dress Respondent gave them did not appear to be new or special ordered; but rather, a floor-model dress. For instance, consumers have complained that dresses had ripped seams, imperfect beading—often the same defects/problems that consumers remembered from the floor model—or were significantly too large or small, even though Respondent had taken their measurements at the time they ordered the dress. In fact, former employees have advised the OAG that on some occasions, Respondent did pass off floor model dresses to consumers as having been special ordered.

7. Respondent did not utilize any electronic record keeping method to track consumers' orders, which caused confusion for employees, delays in placing orders and difficulty tracking the status of consumers' orders.

8. Respondent has also refused to provide consumers with refunds in circumstances where they are clearly warranted, notwithstanding Respondent's "all sales final" policy.

9. Respondent has since resolved some of these complaints by issuing refunds to consumers. In other instances, consumers disputed charges with credit card companies and were able to have them reversed.

10. New York Executive Law § 63(12) prohibits persons or businesses from engaging in repeated fraudulent or illegal acts or otherwise demonstrating persistent fraud or illegality in the carrying on, conducting or transaction of business.

11. New York General Business Law ("GBL") § 349 prohibits deceptive acts or practices.

12. The OAG finds that Respondent's conduct as described above is in violation of Executive Law § 63(12) and GBL 349.

13. Respondent admits to the OAG's Findings contained in paragraphs 1-9 above.

14. The OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. THEREFORE, the OAG 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) and GBL § 349, based on the conduct described above, from 2016 through the present.

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

RELIEF

General Injunction:

15. Respondent shall not engage, or attempt to engage, in violations of any applicable laws, including but not limited to Executive Law § 63(12) and GBL §§ 349.

Affirmative Obligations

16. Respondent shall:

- a. when accepting a deposit on a dress, provide the consumer with, and retain a copy of, a receipt or other written record describing the dress ordered, including the manufacturer, size, color, and style, price, the amount of deposit and balance due, the date of the event for which the dress is ordered and the date by which Respondent expects to receive the dress from the manufacturer;
- b. timely place the order;
- c. upon learning that a dress ordered by a consumer is no longer available from the manufacturer, contact the consumer within two business days to advise her of such, and give her the option to get a full refund;
- d. upon learning that a dress ordered by a consumer will not arrive within one week of the delivery date stated on the sales slip, contact the consumer within two business days to advise her of such and advise her of the new estimated arrival date of the dress;
- e. if the revised arrival date is more than three weeks later than the delivery date stated on the sales slip *and* less than four weeks before the date of the event stated on the sales slip, Respondent shall give the consumer the option to get a full refund. Respondent shall provide a full refund to the consumer no later than 48 hours after receiving the consumer's request for a refund;
- f. within six months of the effective date of this Assurance, record and track all orders electronically through the use of a computer system, which shall include, at the very least, the following information regarding each order: consumer name and contact information; date order was placed; date of the event for which it is purchased; the manufacturer, size, color, and style of the dress; and the amount of

- the deposit paid. Respondent shall require all employees to utilize the system and ensure that they are adequately trained to use it;
- g. utilize a telephone system that allows consumers to leave messages and respond to consumers' phone calls or messages, as well as any e-mail messages, within two business days;
 - h. provide consumers with any refund requested where the dress has not arrived either within three weeks of the date provided on the sales slip; or at least a month before the event date;
 - i. conspicuously post Respondent's refund policy in a manner consistent with GBL § 218-a.

Prohibitions:

- 17. Respondent shall not:
 - a. misrepresent, directly or by implication, the time frame within which a consumer's custom-order dress will arrive from the manufacturer; and
 - b. provide a consumer with a floor model or other dress if the consumer had placed a special order dress, unless the consumer consents to accepting a floor model or substitution and is given a discounted price.

Monetary Relief:

- 18. Respondent shall pay to the State \$9,778.58 in penalties, costs, and restitution (the "Monetary Relief Amount"), \$4,778.58 of which shall be used to provide restitution to consumers who: filed complaints with the OAG or BBB that have not been resolved; complained directly to Respondent; and/or obtained a small claims judgment related to Respondent's

business activities that have not been satisfied, as detailed in Exhibit A. The OAG agrees to suspend the remaining \$5,000 from said Monetary Relief Amount, provided that Respondent complies with the payment schedule set forth in paragraphs 19 and 20.

19. In addition to the Monetary Relief Amount, Respondent shall make restitution in the following manner to any consumer who files a complaint with the Attorney General within 90 days of the effective date of this Assurance, which establishes an injury from Respondent's deceptive and/or illegal acts and practices described herein. The Attorney General shall notify Respondent of receipt of each complaint and provide any supporting documentation by mail or e-mail. Within 25 days after mailing or transmittal, Respondent shall submit any written objections to the Attorney General concerning each complaint. The Attorney General shall be the final arbiter of all disputed claims and upon either the expiration of 25 days after mailing or transmitting consumer complaints to Respondent or considering any objections submitted by it, the Attorney General shall determine the amount of restitution that shall be paid by Respondent, if any, and shall notify Respondent by mail or e-mail.

20. Within 15 days of the execution and delivery of this Assurance, Respondent shall make a payment of \$1,000 toward the unsuspended portion of the Monetary Relief Amount.

21. Payment of the remainder of the unsuspended portion of the Monetary Relief Amount, as well as the additional restitution due pursuant to the procedure described in paragraph 18, shall be made by Respondent in monthly payments of \$350, to be paid on or before the 15th day of each month, commencing the month following the effective date of this Assurance and continuing thereafter until payment is made in full.

22. Payments shall be made by certified check or bank draft, which shall be made payable to the "State of New York," and shall reference Assurance No. 19-013; payments shall

be addressed to the attention of Assistant Attorney General Amy Schallop, State of New York, Office of the Attorney General, Consumer Frauds and Protection Bureau, The Capitol, Albany, New York 12224.

23. To secure the payment described by paragraph 18, Respondent will execute and deliver, at the time of the execution and delivery of this Assurance, the accompanying Affidavit of Judgment by Confession (attached hereto as Exhibit B), confessing judgment for the Monetary Relief Amount of \$9,778.58, plus collection fees of twenty-two percent (22%) of the Monetary Relief Amount (\$2,151.29), for a collection fee total of \$11,929.87.

24. In the event that Respondent fails to timely and properly make payments as required by paragraphs 20 and 21, the OAG shall provide Respondent with twenty (20) days written notice, by first class mail, to cure such failure, and upon the failure of Respondent to cure such failure, the OAG may file and enter the applicable Affidavit for Judgment by Confession against Respondent, at any time, and without further notice, for the balance owed pursuant to this Assurance.

MISCELLANEOUS

25. Respondent expressly agrees and acknowledges that a default in the performance of any obligation under this Assurance is a violation of the Assurance, and that the OAG thereafter may commence the civil action or proceeding contemplated in paragraph 14, supra, in addition to any other appropriate investigation, action, or proceeding, and that evidence that the Assurance has been violated shall constitute prima facie proof of the statutory violations described in paragraph 12, pursuant to Executive Law § 63(15).

26. In any subsequent investigation, civil action, or proceeding by the OAG to enforce this Assurance, for violations of the Assurance, or if the Assurance is voided pursuant to paragraph 35, Respondent expressly agrees and acknowledges that:

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

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

28. To the extent not already provided under this Assurance, Respondent shall, upon request by OAG, provide all documentation and information necessary for OAG to verify compliance with and effectuate the terms of this Assurance.

Effects of Assurance:

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

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

31. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of Respondent. Respondent shall cause this Assurance to be adopted in any such transfer agreement. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of OAG.

32. Nothing contained herein shall be construed to deprive any person of any private right under the law.

33. Any failure by the Attorney General 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 Attorney General, 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.

Communications:

34. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 19-013, 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: Sindi Saita, 12 Wedgewood Drive, Voorheesville, New York 12186.

If to the OAG, to: Assistant Attorney General Emily Auletta, or in her absence, to the person holding the title of Bureau Chief, Consumer Frauds and Protection Bureau.

Representations and Warranties:

35. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to OAG by Respondent and OAG's own factual investigation as set forth in Findings, paragraphs 1 – 9 above. Respondent represents and warrants that she has not made any material representations to the OAG that are inaccurate or misleading. If any material representations by Respondent are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.

36. 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.

37. Respondent represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved, and execution of this Assurance is duly authorized. Respondent shall not take any action or make any statement denying, directly or indirectly, the propriety of this Assurance, or expressing the view that this Assurance is without factual basis. Nothing in this paragraph affects Respondent's (i) testimonial obligations or (ii) right to take legal or factual positions in defense of litigation or other legal proceedings to which the OAG is not a party.

General Principles:

38. Unless a term limit for compliance is otherwise specified within this Assurance, 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.

39. Nothing contained herein shall be construed to limit the remedies available to the OAG 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 the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

42. Respondent acknowledges that she has entered this Assurance freely and voluntarily.

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 counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

46. The effective date of this Assurance shall be ^{December 30} _____, 2019.

LETITIA JAMES
Attorney General of the State of New York
By:

Jane M. Azia
JANE M. AZIA
Bureau Chief
Bureau of Consumer Frauds and Protection

Amy Schutt
~~EMILY L. ACIETTA~~ *Amy Schutt*
Assistant Attorney General

SINDI SAITA d/b/a APROPOS PROM & BRIDAL

By: Sindi M Saita
SINDI SAITA
Owner, Apropos Prom & Bridal
12 Wedgewood Drive
Voorheesville, New York 12186

Dated: December 27, 2019

STATE OF New York)
COUNTY OF Albany)

ss.:

On this 16th day of December, 2019, Sindi Saita, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, appeared before the undersigned and acknowledged to me that she executed the within instrument by her signature on the instrument.

Sworn to before me this
16th day of December, 2019

Deborah H. Sheehan
NOTARY PUBLIC

DEBORAH H. SHEEHAN
Notary Public, State of New York
No. 02SH4890168
Qualified in Albany county
Commission Expires March 30, 2023

Exhibit A – Apropos AOD

Consumer Name	Amount Owed
Baumann, Olivia	\$302 (small claims judgment)
Connally, Lisa	\$345.58
Cox, Graci	\$232.19
Deyo, Louise (daughter Gianna)	\$269.98
Goergen, Emily	\$161.98
Graham, Kaitlyn	\$242.99
Hartleb, Monica	\$350.50
Hendrickson, Amy	\$300.00
Huff, Amanda	\$853.19
Huston, Elise	\$124.78
Jones, Emily	\$400.00
Levasseur, Noelle	\$220.00
Meade, Christine (daughter Kaycie)	\$253.79
Record, Courtney	\$40.00
Stackman, Bridget	\$390.00
Williams, Victoria	\$291.60

Total: \$4,778.58

collection fee total of \$11,929.87, and statutory costs of \$15.00, for a total amount of \$11,944.87.

4. Upon all payments being made under the Assurance of Discontinuance, this Confession of Judgment shall be invalidated and any monies due and owing under it shall be voided.

5. Pursuant to New York CPLR § 3218(a)(1) and § 501, I hereby authorize entry of said judgment in the County of Albany, State of New York.

SINDI SAITA d/b/a APROPOS PROM & BRIDAL

By: 
Sindi Saita

Sworn to before me this
16th day of December, 2019


NOTARY PUBLIC

DEBORAH H. SHEEHAN
Notary Public, State of New York
No. 028H4890188
Qualified in Albany county
Commission Expires March 30, 2023