

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

In the Matter of

Assurance No. 23-029

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

ALEXANDRA MOHRMANN,

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 § 349 concerning the conduct of Dr. Mark J. Mohrmann and Alexandra Mohrmann with respect to online reviews of Dr. Mohrmann and his medical practice, Highline Orthopaedics, PLLC. This Assurance of Discontinuance (“Assurance”) contains the findings of the OAG’s investigation as it relates to Alexandra Mohrmann (“Ms. Mohrmann” or “Respondent”) and the relief agreed to by the OAG and Respondent (collectively, the “Parties”).

I. OAG’s FINDINGS

1. Alexandra Mohrmann was married to orthopedic surgeon Dr. Mark J. Mohrmann (“Dr. Mohrmann”) at the time the conduct described below took place.
2. Dr. Mohrmann practices orthopedic medicine at his medical practice, Highline Orthopaedics, PLLC (“Highline Orthopaedics”) located at 16 Park Place, New York, NY.

3. From September 2017 – September 2019, Respondent worked for Highline Orthopaedics. Her responsibilities included managing Dr. Mohrmann’s and Highline Orthopaedics’ online presence and reputation.

4. Starting from at least 2017, Respondent, acting in concert with and at the direction of Dr. Mohrmann, engaged in efforts to remove authentic, negative patient reviews and post fake, positive reviews of Dr. Mohrmann and Highline Orthopaedics on various online review platforms, including ZocDoc, Google, Yelp, Healthgrades, Vitals, Md.com, RateMds.com, the Better Business Bureau, and Adviiise.¹

5. In managing Dr. Mohrmann’s and Highline Orthopaedics’ online reviews, Respondent procured hundreds of fake reviews, employing a number of different tactics.

6. One tactic was to ask friends, family, and employees—regardless of whether they were actually Dr. Mohrmann’s patients—to leave positive reviews. Respondent requested several of her friends, her stepmother, and her stylist to leave positive reviews for Dr. Mohrmann on Google, Yelp, and Healthgrades.

7. Another tactic was to hire contractors on platforms such as Fiverr.com (“Fiverr”) and Upwork.com (“Upwork”) to post positive reviews. From 2017–2019, Respondent engaged a number of different contractors through Fiverr and Upwork to post fake positive reviews for Dr. Mohrmann and Highline Orthopaedics. Respondent provided the contractors the text of the reviews, which she either wrote herself or copied from positive reviews of other orthopedic physicians.

¹ Adviiise is an online platform for patients and medical providers founded by Respondent in 2019 and intended to be a competitor to ZocDoc. Adviiise facilitates online bookings and telehealth appointments and allows patient reviews. Respondent transferred ownership of Adviiise to Dr. Mohrmann in 2021.

8. Respondent engaged in the operations of finding, hiring, and directing contractors to post fake positive reviews and drafting or sourcing the text of the reviews. She relied on Dr. Mohrmann to pay the contractors and determine when new positive reviews were needed.

9. Contractor engagements often involved multiple reviews. For example, in March 2019, Respondent engaged two separate contractors on Upwork. Respondent sent one contractor the text of 30 reviews (10 for Dr. Mohrmann and 20 for Highline Orthopaedics) to post and, upon completion of the job, paid him \$150. Respondent paid the other contractor \$200 upon his posting 36 reviews. From September 2017 – September 2019, Dr. Mohrmann spent \$4,000-\$5,000 on procuring fake reviews.

10. Respondent eventually directed most of the fake review postings to one particular contractor who discovered how to evade the filters used by review platforms to block or remove inauthentic reviews. In particular, the reviewer needed to use a paid virtual private network, have access to many different email accounts, and ensure each account reviewed several businesses in addition to the target business.

11. Manipulating ZocDoc reviews required different tactics because only patients who book appointments with the doctor through the platform are permitted to leave a review. In order to push down negative reviews on ZocDoc, Dr. Mohrmann asked Respondent to open a ZocDoc account in her maiden name, book an appointment, and leave a positive review. Respondent did so on two separate occasions.

12. Respondent also tried to suppress negative reviews of Dr. Mohrmann's medical practice by obscuring the physical location of Highline Orthopaedics' office. On Yelp and Vitals.com, Respondent intentionally listed outdated addresses for Dr. Mohrmann's medical practice to make it harder for patients to find the practice and leave a negative review.

Respondent's Violations

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

14. New York General Business Law (“GBL”) Article 22-A prohibits deceptive acts or practices in the conduct of any business, trade or commerce in this State. GBL § 349.

15. GBL Article 22-A also prohibits false advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this State. GBL § 350.

16. The OAG finds that the practices described above constitute repeated violations of GBL §§ 349 and 350 and New York Executive Law § 63(12).

17. Respondent neither admits nor denies the OAG’s Findings, paragraphs 1 through 12.

18. 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 and to discontinue its investigation.

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

III. PROSPECTIVE RELIEF

19. General Injunction: Respondent shall comply with Executive Law § 63(12) and GBL §§ 349 and 350 in connection with managing reviews for any person or business.

20. In particular, Respondent shall not:

- a. engage in or assist with the preparation or dissemination of any false or deceptive review of any business, website, product, or service; Respondent further agrees

not to engage in or assist with the preparation or dissemination of any review that violates any of the terms of use or service of the website, message board, or application on which the review would be posted;

- b. directly or indirectly solicit, hire, engage, contract with, or compensate any individual or entity to engage in or assist with the preparation or dissemination of a false or deceptive review of any business, website, product, or service;
Respondent further agrees not to directly or indirectly solicit, hire, engage, contract with, or compensate any individual or entity to engage in or assist with the preparation or dissemination of a review of any business, website, product, or service that violates any of the terms of use or service of the business, website, product, or service;
- c. engage in any efforts to suppress authentic reviews or post, procure, or otherwise generate inauthentic reviews.

21. Other Injunctive Relief: Within two (2) months of the effective date of this Assurance, Respondent shall:

- a. with the exception of Advii, for each online review platform on which inauthentic reviews were posted for Dr. Morhmann, Highline Orthopaedics, and any entity in which either she or Dr. Mohrmann has or had a financial interest—including but not limited to ZocDoc, Google, Yelp, Healthgrades, Vitals, Md.com, RateMds.com, the Better Business Bureau—provide written notice identifying each review that is still on the platform that Respondent knows to be inauthentic and requesting the platform to remove the identified reviews; and

- b. request that any of Respondent's friends, family, contractors, and other persons known to Respondent who posted inauthentic reviews for Dr. Mohrmann, Highline Orthopaedics, or any other entity in which either she or Dr. Mohrmann has or had a financial interest take down those reviews, to the extent possible.

22. Within three (3) months of the effective date of this Assurance, Respondent shall submit to the OAG a report, under penalty of perjury, setting forth her efforts to comply with Paragraph 21 and screenshots of any removed reviews along with the removal date.

23. Cooperation: Respondent shall cooperate fully and promptly with the OAG in any pending or subsequently initiated investigation, litigation or other proceeding relating to Dr. Mohrmann, Highline Orthopaedics, any related persons or entities, and/or the subject matter of this Assurance. Respondent shall keep confidential (i) the fact of her cooperation with the OAG, (ii) actions taken in accordance with her agreement to cooperate with the OAG, and (iii) communications with the OAG. Such cooperation shall include, without limitation, and on a best efforts basis:

- a. production, voluntarily and without service of subpoena, upon the request of the OAG, of all documents or other tangible evidence requested by the OAG and any compilations or summaries of information or data that the OAG requests that Respondent prepares, except to the extent such production would require the disclosure of information protected by the attorney-client and/or work product privileges;
- b. without the necessity of a subpoena, attending any Proceedings (as hereinafter defined) in New York State at which the presence of Respondent is requested by the OAG and answering any and all inquiries that may be put by the OAG to her

at any Proceedings or otherwise, except to the extent any sworn testimony would require the disclosure of information protected by the attorney-client and/or work product privileges; “Proceedings” include, but are not limited to, any meetings, interviews, depositions, hearings, trials, grand jury proceedings, administrative hearings or other proceedings;

- c. fully, fairly and truthfully disclosing all information; producing all records and other evidence in her possession, custody or control; and providing sworn written statements relevant to all inquiries made by the OAG concerning Dr. Mohrmann, Highline Orthopaedics, any related persons or entities, and/or the subject matter of this Assurance, except to the extent such inquiries call for the disclosure of information protected by the attorney-client and/or work product privileges.

MISCELLANEOUS

24. Respondent expressly agrees and acknowledges that the OAG 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 29, 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 OAG may use statements, documents or other materials produced or provided by the Respondent prior to or after the effective date of this Assurance, subject to any applicable work product or attorney-client privilege;

- 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; and
- 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).

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

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

27. Any failure by the OAG 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 OAG, 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 the Respondent.

28. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 23-029, 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 the Respondent, to:

Theresa Trzaskoma

Sher Tremonte LLP
90 Broad Street, 23rd Fl.
New York, NY 10004

If to the OAG, to:

Hanna Baek, Assistant Attorney General, or in her absence, to the person holding the title of Bureau Chief
Bureau of Internet & Technology
28 Liberty Street
New York, NY 10005

29. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to the OAG by the Respondent and her counsel and the OAG's own factual investigation as set forth in Findings, paragraphs 1-12 above. The Respondent represents and warrants that neither she nor her counsel has made any material representations to the OAG that are inaccurate or misleading. If any material representations by Respondent or her counsel are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.

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

31. 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.

32. Respondent shall not make or permit to be made any public statement denying, directly or indirectly, the propriety of this Assurance or the OAG investigation. Nothing in this paragraph affects Respondent's (i) testimonial obligations or (ii) right to take positions in

defense of litigation or other legal proceedings to which the OAG is not a party. This Assurance is not intended for use by any third party in any other proceeding.

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

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

35. 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.

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

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

38. 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.

39. 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.

40. The effective date of this Assurance shall be the date the OAG signs the Assurance.

LETITIA JAMES
ATTORNEY GENERAL OF THE
STATE OF NEW YORK

ALEXANDRA MOHRMANN

By: Hanna Baek
Assistant Attorney General
Bureau of Internet and Technology
Office of the New York State
Attorney General
28 Liberty St.
New York, NY 10005

Date

Date

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

In the Matter of

Assurance No. 23-053

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

HIGHLINE ORTHOPAEDICS, PLLC and
MARK J. MOHRMANN, M.D.

Respondents.

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 § 349 concerning the conduct of Highline Orthopaedics, PLLC (“Practice”), Mark J. Mohrmann, M.D. (“Physician”) and his wife, Alexandra Mohrmann (“Wife”) with respect to online reviews of Physician and the Practice. This Assurance of Discontinuance (“Assurance”) contains the findings of the OAG’s investigation as it relates to the Practice and Physician and the relief agreed to by the OAG and Respondents (collectively, the “Parties”).

I. OAG’s FINDINGS

1. Physician practices orthopedic medicine at the Practice located at 16 Park Place, New York, NY.
2. Starting from 2017, Respondents engaged in efforts to manipulate numerous online review platforms by suppressing authentic, negative patient reviews and procuring

fraudulent, positive reviews of Respondents . Physician enlisted the help of Wife and some members of his staff in these efforts.

3. Respondents' review manipulation tactics were directed to various online platforms including ZocDoc, Google, Yelp, Healthgrades, Vitals, Md.com, RateMds.com, and the Better Business Bureau, and Adviiise.¹

Review Suppression

4. Respondents employed numerous methods to prevent patients from sharing their negative experiences with them.

5. On some platforms, such as Google, Respondents would falsely flag negative reviews as violating the platform's policies prohibiting inappropriate content. This tactic was often effective on Google, as Google's automated system will remove a review that has been flagged without analyzing the content of the review to determine if it in fact violated the platform's policies.

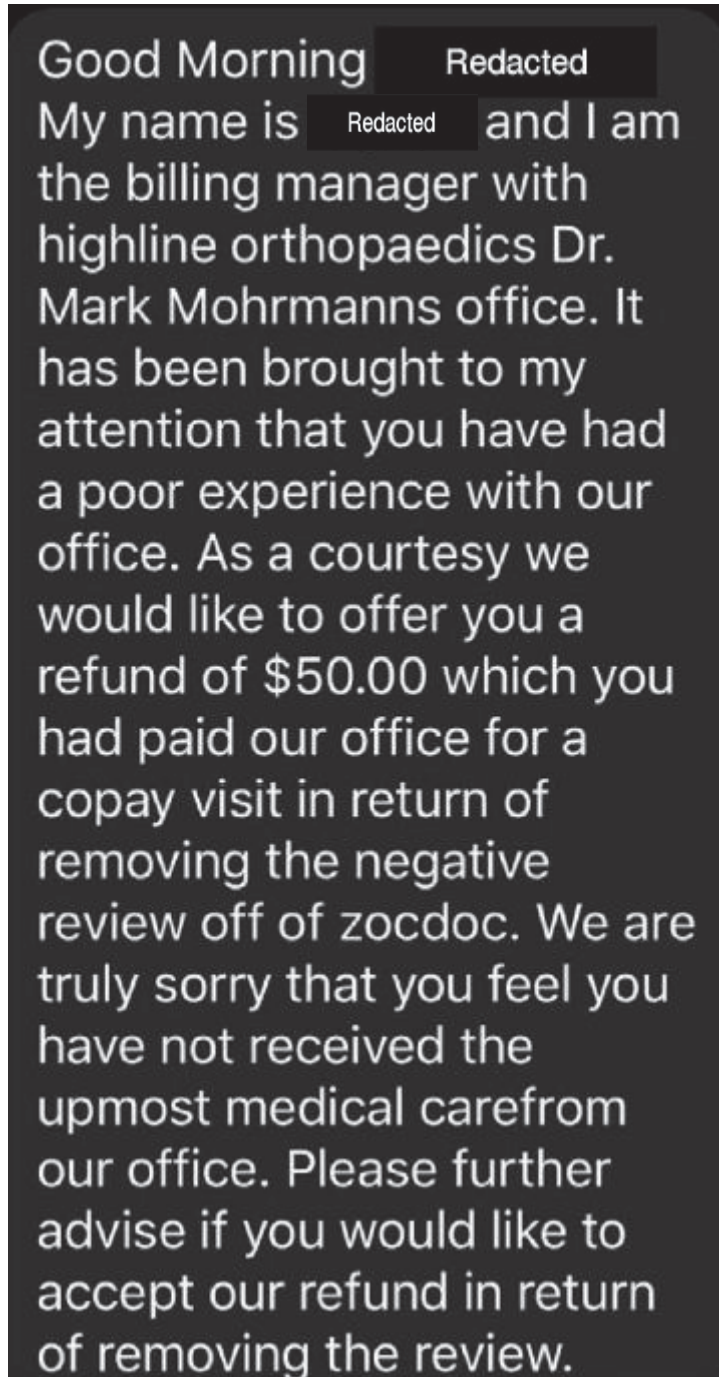
6. Respondents also employed third-party contractors to use more sophisticated techniques, involving networks of verified accounts, to remove negative reviews. For example, between December 2021 and November 2022, Respondents engaged a contractor to remove 47 negative Google reviews of them.

7. Respondents did not have the ability to remove ZocDoc reviews but nevertheless found multiple ways to suppress negative reviews on that platform.

8. One tactic involved offering a patient reimbursement of a \$50 copay to remove a negative review that he/she had posted. For example, in August 2020, a patient of Respondents

¹ Adviiise is an online platform for patients and medical providers founded by Wife in 2019 and intended to be a competitor to ZocDoc. Adviiise facilitates online bookings and telehealth appointments and allows patient reviews. Wife transferred ownership of Adviiise to Physician in 2021.

received the following text message from the Respondents' office after leaving a negative review on ZocDoc:



Good Morning [Redacted]
My name is [Redacted] and I am
the billing manager with
highline orthopaedics Dr.
Mark Mohrmanns office. It
has been brought to my
attention that you have had
a poor experience with our
office. As a courtesy we
would like to offer you a
refund of \$50.00 which you
had paid our office for a
copay visit in return of
removing the negative
review off of zocdoc. We are
truly sorry that you feel you
have not received the
upmost medical care from
our office. Please further
advise if you would like to
accept our refund in return
of removing the review.

9. Respondents also prevented many patients from leaving any review at all by exploiting a ZocDoc feature that only allows patients who are seen by the doctor via

appointments booked through the platform to leave a review. Respondents repeatedly prevented patients from leaving a potentially bad review by falsely indicating on the platform that they had failed to appear at a scheduled appointment.

10. This practice became particularly prevalent in the months following a negative review posted by a patient in July 2019. Following a visit with Physician, a patient posted a one-star review on ZocDoc and stated that she did not understand why he had so many positive reviews when, in her experience, he had poor bedside manner and failed to clearly explain his diagnosis and care plan.

11. In response, Physician messaged Wife and asked her to locate the patient's father, who was a physician, so he could "see him and write a scathing review." He also indicated that he was contemplating "destroy[ing] her on social media" as retribution for the negative review. To ensure that his interaction with patients did not result in any further damage to his ZocDoc profile, he stated his intent to "no show all patients to prevent other bad reviews."

12. Respondents then began routinely marking patients he had seen as no-shows to prevent them from leaving potentially negative reviews. From July through November 2019, Respondents received 1,494 bookings through the ZocDoc platform and marked 756 of those patients, more than 50%, as no-shows.

13. Following a report to ZocDoc by a patient who stated that Respondents had falsely marked them as a no-show, ZocDoc admonished Physician and briefly suspended him from the platform in December 2019. Physician's rates of no-shows dropped precipitously immediately thereafter. In the ensuing four months, December 2019 to March 2020, Physician received 909 bookings through the ZocDoc platform and marked only 10 of those patients, 1.1%, as no-shows.

Procurement of Fraudulent Reviews

14. In addition to preventing patients from sharing their negative experiences, Respondents manipulated the review platforms by procuring fraudulent positive reviews.

15. Between 2017 and 2021, with assistance from Wife, staff, paid contractors and others, Respondents procured hundreds of fake reviews, employing several different tactics.

16. One tactic was to ask friends, family, and employees to leave positive reviews for him on ZocDoc, Google, Yelp, and Healthgrades, regardless of whether they were patients of Respondents.

17. This method was particularly important for Physician in manipulating his ZocDoc profile because only registered ZocDoc users are able to post reviews.

18. For example, following the negative ZocDoc review described above in paragraph 8 above, Physician instructed Wife to post a positive ZocDoc review using her maiden name, noting that it would “push down the bad review.”

19. Wife also procured fraudulent positive reviews from contractors who advertised review-related services on platforms such as Fiverr.com (“Fiverr”) and Upwork.com (“Upwork”).

20. From 2017–2019, Wife, with Respondents’ knowledge, engaged several different contractors through Fiverr and Upwork to post fake positive reviews for Respondents. Respondents determined when they needed new positive reviews and, whenever the time came, directed Wife to procure them. Wife engaged in the day-to-day operations of finding, hiring, and directing the contractors, and Respondents paid the contractors.

21. From September 2017 – September 2019, Respondents spent \$4,000-\$5,000 on procuring fake reviews.

22. In 2019, Physician became estranged from Wife and started communicating directly with the one of the contractors to request removal of negative reviews.

Misleading Ratings and Review Profiles

23. As a result of Respondents' efforts to manipulate the reviews on the platforms described above, patients searching for orthopedic treatment were misled by ratings and reviews on ZocDoc, Google, Yelp, Healthgrades, Vitals, Md.com, RateMds.com, and the Better Business Bureau, and Adviiise that did not accurately reflect the aggregate experiences of patients who had been treated by Physician.

24. Had it not been for Respondents' efforts to suppress negative reviews, prospective patients would have been able to ascertain some common complaints voiced by patients of Respondents, including poor bedside manner, poor communication, surprise charges, and not listening to patient concerns.

25. Instead, patients were misled by fraudulent positive reviews that had no bearing on the level of service and care provided by Respondents and were disappointed when their experience with Respondents did not reflect the type of service and care that had been described in the fraudulent reviews.

26. Respondents' conduct denied such patients the opportunity to evaluate them based on a complete and accurate assessment of other patients' experiences and, instead, enticed them to book appointments with manipulated online profiles.

Respondent's Violations

27. New York General Business Law (“GBL”) Article 22-A prohibits deceptive acts or practices in the conduct of any business, trade or commerce in this State. GBL § 349.

28. GBL Article 22-A also prohibits false advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this State. GBL § 350.

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

30. The OAG finds that the practices described above constitute repeated violations of GBL §§ 349 and 350 and New York Executive Law § 63(12).

31. Respondent neither admits nor denies the OAG’s Findings, paragraphs 1 through 26.

32. 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 and to discontinue its investigation.

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

III. PROSPECTIVE RELIEF

33. General Injunction: Respondent shall comply with Executive Law § 63(12) and GBL §§ 349 and 350 in connection with managing reviews for any person or business.

34. In particular, Respondent shall not:

- a. engage in or assist with the preparation, procurement, or dissemination of any false or deceptive review of any business, website, product, or service.

Respondent further agrees not to engage in or assist with the preparation,

procurement or dissemination of any review that violates any of the terms of use or service of the website, message board, or application on which the review would be posted.

- b. directly or indirectly solicit, hire, engage, contract with, or compensate any individual or entity to engage in or assist with the preparation, procurement or dissemination of a false or deceptive review of any business, website, product, or service. Respondent further agrees not to directly or indirectly solicit, hire, engage, contract with, or compensate any individual or entity to engage in or assist with the preparation or dissemination of a review of any business, website, product, or service that violates any of the terms of use or service of the business, website, product, or service.
- c. engage in any efforts to suppress or remove authentic reviews or post, procure, or otherwise generate inauthentic reviews.

Other Injunctive Relief:

Within one (1) month of the effective date of this Assurance, Respondents shall review all reviews on Advise regarding them to ensure their authenticity and remove any inauthentic reviews. Within fourteen (14) days thereafter, Respondents shall submit a letter to the AOG affirming, under penalty of perjury, that they have complied with this provision.

Within one (1) month of the effective date of this Assurance, Respondents shall use their best efforts to notify, in writing, friends, family, contractors, or Practice employees, who they believe may have posted inauthentic online reviews about them that still remain online, and request that they remove same. Within fourteen (14) days

thereafter, Respondents shall submit copies of the writings sent to the aforementioned persons to the AOG affirming, under penalty of perjury, that they have complied with this provision. In the event that the AOG believes that a person or entity should have received a writing from Respondents pursuant to this paragraph but did not, then the AOG will notify Respondents of same in writing with a ten (10) day notice to cure same explaining why said person or entity should have received such a writing from the Respondents. Respondents will then ten (10) days to cure any default and send an appropriate writing to the person or entity referenced in the AOG's notice.

IV. MONETARY RELIEF

35. Respondents shall pay to the State of New York a total of one hundred thousand dollars (\$100,000.00) in penalties (the "Monetary Relief Amount") within 30 days of all Parties executing this AOD.

36. All payments shall reference AOD No. 23-053.

37. Payments shall be made by wire transfer in accordance with instructions provided by an OAG representative.

MISCELLANEOUS

38. Respondents expressly agree and acknowledges that the OAG 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 44 and agree 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 OAG may use statements, documents or other materials produced or provided by the Respondents prior to or after the effective date of this Assurance, subject to any applicable work product or attorney-client privilege;
- c. any civil action or proceeding must be adjudicated by the courts of the State of New York, and that Respondents irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue; and
- 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).

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

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

41. Any failure by the OAG to insist upon the strict performance by Respondents of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the OAG, 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 the Respondents.

42. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 23-053 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 the Respondents, to:

Alan E. Sash, Esq.
Bushell, Sovak, Kane & Sash LLP
274 Madison Avenue
Suite 1500
New York, NY 10016
asash@bushellsovak.com

If to the OAG, to:

Marc Montgomery, Assistant Attorney General, or in her absence, to the person holding the title of Bureau Chief
Bureau of Internet & Technology
28 Liberty Street
New York, NY 10005

43. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to the OAG by the Respondents and her counsel and the OAG's own factual investigation as set forth in Findings, paragraphs 1- 26 above. The Respondents represent and warrant that neither they nor their counsel has made any material representations to the OAG that are inaccurate or misleading. If any material representations by Respondents or their counsel are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.

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

45. Unless a term limit for compliance is otherwise specified within this Assurance, the Respondents' obligations under this Assurance are enduring. Nothing in this Agreement

shall relieve Respondents of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

46. Respondents shall not make or permit to be made any public statement denying, directly or indirectly, the propriety of this Assurance or the OAG investigation. Nothing in this paragraph affects Respondents' (i) testimonial obligations or (ii) right to take positions in defense of litigation or other legal proceedings to which the OAG is not a party. This Assurance is not intended for use by any third party in any other proceeding.

47. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that the Respondents violate the Assurance after its effective date.

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

49. 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.

50. Respondents acknowledge that they have entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.

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

52. 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.

53. 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.

54. The effective date of this Assurance shall be October 18, 2023.

LETITIA JAMES
ATTORNEY GENERAL OF THE
STATE OF NEW YORK



By: Marc Montgomery
Assistant Attorney General
Bureau of Internet and Technology
Office of the New York State
Attorney General
28 Liberty St.
New York, NY 10005

10/30/23

Date

MARK MOHRMANN



10/18/2023

Date

HIGHLINE ORTHOPAEDICS, PLLC

By: 
Print Name: Mark Mohrmann
Title: Owner

Date