

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CIVIL ACTION NO. _____

In re EF Institute for Cultural Exchange, Inc. and EF Explore America, Inc.

ASSURANCE OF DISCONTINUANCE
PURSUANT TO M.G.L. CHAPTER 93A, § 5

I. INTRODUCTION

1. The Commonwealth of Massachusetts (the “Commonwealth”), through the Office of Attorney General Maura Healey (“AGO”), enters into this Assurance of Discontinuance (“AOD”) pursuant to G.L. c. 93A, § 5, with EF Institute for Cultural Exchange, Inc. (“EF Institute”) and EF Explore America, Inc. (“EF Explore America”; collectively with EF Institute for purposes of this AOD, “EF”).

II. DEFINITIONS

The following definitions shall apply to this AOD:

2. “Covered Consumer” shall include Massachusetts residents who contracted for an International Program, a Domestic Air Program, or a Domestic Bus Program (as those terms are defined below), with travel departures scheduled to occur on or after March 11, 2020 through May 14, 2020, and whose educational travel program was not able to depart as scheduled because of government ordered travel bans, travel restrictions, shelter-in-place orders and similar orders and advisories arising from the COVID-19 public health emergency. This shall also include Massachusetts residents who contracted for an International Program, Domestic Air

Program, or Domestic Bus Program, who chose to cancel their participation in those programs on or after March 1, 2020, prior to their travel program not being able to depart as scheduled.

3. “International Program” shall refer to an educational travel program with the trade name “EF Educational Tours” marketed by EF Institute and purchased by a Covered Consumer with an international travel departure scheduled to occur on or after March 11, 2020 and on or before May 14, 2020.

4. “Domestic Air Program” shall refer to an educational travel program with the trade name “EF Explore America” operated by EF Explore America and purchased by a Covered Consumer with a domestic travel departure scheduled to occur by air travel on or after March 11, 2020 and on or before May 14, 2020.

5. “Domestic Bus Program” shall refer to an educational travel program with the trade name “EF Explore America” operated by EF Explore America and purchased by a Covered Consumer with a domestic travel departure scheduled to occur by bus travel on and after March 11, 2020 and on or before May 14, 2020.

6. “Covered Conduct” shall mean any and all actions undertaken by EF with regard to Massachusetts residents who contracted for an International Program, a Domestic Air Program, or a Domestic Bus Program and whose departures were scheduled to occur on and after March 11, 2020 and on or before September 30, 2020, and whose educational travel program was not able to depart as scheduled because of government ordered travel bans, travel restrictions, shelter-in-place orders and similar orders and advisories arising from the COVID-19 public health emergency.

7. “Covered Parties” shall mean EF Institute for Cultural Exchange, Inc. and EF Explore America, Inc.

8. “Effective Date” means the date of the execution of this AOD by the Covered Parties and the AGO.

9. “EF Institute for Cultural Exchange, Inc.” or “EF Institute” means EF Institute for Cultural Exchange, Inc., the California corporation with a principal place of business of Two Education Circle, Cambridge, MA, 02141, and as well as any entity under the direct or indirect control of EF Institute by means of membership, ownership, voting or appointment rights or otherwise and any of its predecessors in interest, successors in interest, parent corporations, holding companies, subdivisions, subsidiaries, affiliated entities, officers, directors, trustees, partners, agents, servants, employees and contract workers.

10. “EF Explore America, Inc.” or “EF Explore America” means EF Explore America, Inc., the California corporation with a principal place of business of Two Education Circle, Cambridge, MA, 02141, and as well as any entity under the direct or indirect control of EF Explore America by means of membership, ownership, voting or appointment rights or otherwise and any of its predecessors in interest, successors in interest, parent corporations, holding companies, subdivisions, subsidiaries, affiliated entities, officers, directors, trustees, partners, agents, servants, employees and contract workers.

III. ASSURANCES AND UNDERTAKINGS

11. The Covered Parties shall take the actions described below.

A. Monetary Refund Option to Covered Consumers

12. For any Covered Consumer who has elected or elects by September 30, 2022 to receive a cash refund for an International Program, EF Institute shall offer a cash refund of all money paid by a Covered Consumer in connection with an International Program less \$565, and to process

any such cash refund by a Covered Consumer who has already elected or elects such refund within six weeks.

13. For any Covered Consumer who has elected or elects by September 30, 2022 to receive a cash refund for a Domestic Air Program, EF Explore America shall offer a cash refund of all money paid by a Covered Consumer in connection with a Domestic Air Program less \$450, and to process any such cash refund by a Covered Consumer who has already elected or elects such refund within six weeks.

14. For any Covered Consumer who has elected or elects by September 30, 2022 to receive a cash refund for a Domestic Bus Program, EF Explore America shall offer a cash refund of all money paid by a Covered Consumer in connection with a Domestic Air Program less \$150, and to process any such cash refund by a Covered Consumer who has already elected or elects such refund within 6 weeks.

IV. RELEASE

15. The AGO fully and finally releases EF Institute for Cultural Exchange, Inc., EF Explore America, Inc. and its and their parent companies, subsidiaries, affiliates, officers, directors, employees, shareholders, agents, attorneys, servants, subdivisions, successors, assigns, or merged or acquired entities (collectively, the "EF Released Parties") from any and all claims that were or could have been asserted by the Attorney General prior to the Effective Date of the AOD that relate to, or are based on, the Covered Conduct, including, but not limited to, claims that could be asserted by the Attorney General for violations of M.G.L. c. 93A and of any all regulations promulgated pursuant M.G.L. c. 93A, § 2(c), including, but not limited to, 940 CMR 15.00 *et seq.* However, nothing in this paragraph releases or bars the Attorney General from asserting a claim for any violation of the terms of this AOD.

VI. GENERAL PROVISIONS

16. This AOD shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts. The Suffolk Superior Court of the Commonwealth shall retain jurisdiction over this AOD.

17. This AOD constitutes the entire agreement between the AGO and the Covered Parties and supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of this AOD.

18. This AOD does not supersede or alter the Covered Parties' obligations to comply with any applicable law.

19. The Covered Party hereby waives all rights to appeal or otherwise challenge or contest the validity of this AOD.

20. This AOD may be signed in multiple counterparts, each of which all be considered an original.

21. This AOD may be amended or supplemented only by a written document signed by all parties or by court order. Amendments or supplements may be executed in separate counterparts, with signatures conveyed by mail, facsimile, electronic mail, or other means.

22. This AOD does not resolve, settle, release, or otherwise affect any actual or potential claims, including those claims based on the Covered Conduct, against the Covered Party by any party other than the Attorney General.

23. EF shall not require any consumer to waive any claim against EF or any other party as a condition of receiving the benefit of the Assurances set forth herein, including paragraphs 12 through 14.

24. Nothing in this AOD is intended to or shall prohibit EF from asserting in any action that it shall be entitled to a set-off or other defense for amounts accepted as a result of this AOD or that such acceptance constitutes an accord or satisfaction of any pending or future dispute with EF.

25. By entering into this AOD, EF Institute and EF Explore America expressly deny any liability for noncompliance with any state or federal law, rule, regulation, or the common law with respect to the Covered Conduct.

26. Nothing in this AOD is to be construed as or deemed an admission by EF Institute or EF Explore America of any liability, culpability, negligence, wrongdoing, or noncompliance with any state or federal law, rule, regulation, or the common law.

27. This AOD shall be effective upon its execution by all parties hereto and shall thereafter be filed by the AGO in the Superior Court for Suffolk County.

28. The signatories for the Covered Parties represent and warrant that they have the full legal power, capacity, and authority to bind the party for which they are executing this AOD. The Covered Parties acknowledges that they were represented by counsel in this matter and had the opportunity to read and consult with counsel regarding all the terms of this AOD.

29. By signing below, each Covered Party agrees to comply with all the terms of this AOD.

Dated: May 20, 2020

[Signatures on p. 7]

The Commonwealth of Massachusetts

BY

its Attorney General, Maura Healey

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