

1 **IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**
2 **Civil Division**

3 **DISTRICT OF COLUMBIA,**

4 Plaintiff,

5 v.

6 **STUBHUB, INC.**

7 Defendant.

Case No.

Judge:

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10 **FINAL CONSENT JUDGMENT**

11 Plaintiff, District of Columbia (“District”) acting by and through the Attorney General for
12 the District of Columbia and Defendant, StubHub, Inc., (“StubHub”), have agreed to the
13 stipulations and terms of this Final Consent Judgment (“Judgment”) as final adjudication of this
14 civil action by the Court without the taking of proof and without trial, without this Judgment
15 constituting evidence of or an admission by StubHub, regarding any issue of law or fact alleged in
16 the Complaint, and without StubHub admitting any liability, and with all parties having waived
17 their right to appeal.

18 This Judgment is entered in connection with the investigation of StubHub undertaken by the
19 Attorneys General of the States and Commonwealths of Arizona, Arkansas, Colorado, Indiana,
20 Maryland, Minnesota, New Hampshire, Ohio, Virginia, Wisconsin, and the District of Columbia
21 (“States”) pursuant to each of the States’ respective Consumer Protection Laws, including unfair
22 and deceptive trade acts or practices statutes. This Judgment is entered into solely for the purposes
23 of settlement and to avoid incurring costs associated with litigation.
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1 **PARTIES**

2 1.

3 Plaintiff District of Columbia (“District”), a municipal corporation empowered to sue and
4 be sued, is the local government for the territory constituting the permanent seat of the government
5 of the United States. The District is represented by and through its chief legal officer, the Attorney
6 General for the District of Columbia. The Attorney General has general charge and conduct of all
7 legal business of the District and all suits initiated by and against the District and is responsible
8 for upholding the public interest. D.C. Code § 1-301.81(a)(1). The Attorney General is specifically
9 authorized to enforce the District’s consumer protection laws, including the Consumer Protection
10 Procedures Act (“CPPA”), D.C. Code § 28-3909.
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12 2.

13 Defendant StubHub is a Delaware corporation with its principal office or place of business
14 located at 199 Fremont Street, San Francisco, California 94105.

15 **DEFINITIONS**

16 3.

17 For purposes of this Judgment, the following definitions apply:

- 18 (a). “Buyer” means any individual who purchased one or more event tickets on
19 StubHub’s ticket marketplace: (1) on or before March 25, 2020 and (2) resided in
20 the District of Columbia at the time of purchase or purchased a ticket for an event
21 in the District of Columbia.
- 22 (b). “Clear and Conspicuous” means that a disclosure is made in such size (*i.e.*, shall be
23 of at least equal prominence to the representation triggering the disclosure), color,
24 contrast, location, duration, and/or audibility that it is difficult to miss (*i.e.*, easily
25 noticeable, readable, understandable, and/or capable of being heard). A disclosure
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1 may not contradict or be inconsistent with any other information with which it is
2 presented. If a disclosure modifies, explains or clarifies other information with
3 which it is presented, then the disclosure must be presented in proximity to the
4 information it modifies, explains, or clarifies, in a manner that is readily noticeable,
5 readable, and understandable, and not obscured in any manner. In addition:

6 (1) The disclosure must be made through the same means, whether audio,
7 visual, or both, through which the representation triggering the disclosure
8 is made.

9 (2) An audio disclosure shall be delivered in a volume and cadence sufficient
10 for a consumer to hear and comprehend it.

11 (3) A visual statement or disclosure by its size, contrast, location, the length
12 of time it appears, and other characteristics, must stand out so that it is
13 easily noticed; shall remain on the screen for a duration sufficient for a
14 consumer to read and comprehend it; and

15 (4) In a disclosure, the disclosure shall appear in a type-size, font, appearance,
16 and location sufficient for a consumer to read and comprehend it.

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19 (c). “Eligible Buyer” means any Buyer who: (1) purchased a ticket to a cancelled event
20 prior to StubHub’s refund policy change on March 25, 2020; (2) has not already
21 received a full cash refund from StubHub or through a credit card chargeback; (3)
22 was defaulted to a credit refund; and (4) has not used credit equal to 100% of their
23 original order amount.
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1 (d). “Express Informed Consent” means an affirmative act or statement giving
2 unambiguous assent following a Clear and Conspicuous disclosure of material
3 facts.

4 (e). “Product or service” means any good or service, including the operation of a ticket
5 marketplace.

6 **BACKGROUND**

7 4.

8 Defendant operates an online marketplace for secondary tickets to live events. Tickets
9 purchased on Defendant’s marketplace are backed by its refund policy for cancelled events, which,
10 prior to March 25, 2020, provided consumers a cash refund for tickets purchased to cancelled
11 events. In early March 2020, COVID-19 was declared a global pandemic and there was wide-
12 spread cancellation of live in-person events, including events for which District consumers had
13 purchased tickets on StubHub’s marketplace. On or about March 12, 2020, Defendant notified
14 consumers that they could choose to receive a credit in lieu of a cash refund, but that cash refunds
15 remained the default. On or about March 25, 2020, Defendant made the decision to change its
16 refund policy for cancelled events, no longer provided cash refunds to all customers but instead
17 consumers were defaulted to a credit refund. On or about May 3, 2021, Defendant announced that
18 it would provide Eligible Buyers a cash refund, with the ability to elect an account credit in lieu of
19 a refund (“StubHub Refund Program”).

20 5.

21 Defendant represents and warrants to Plaintiff that it is providing restitution to Eligible
22 Buyers consistent with the StubHub Refund Program and Paragraph 12 of this Judgment.

23 6.

24 Defendant contends that it was unable to refund all Eligible Buyers prior to May 3, 2021
25 due to the unforeseen impact that the global COVID-19 pandemic had on its business and the live
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1 in-person event industry, including a near complete loss of revenue and an inability to recoup cash
2 refunds from ticket sellers, and an order from the United Kingdom’s Competition and Markets
3 Authority, preventing Defendant from merging or even communicating about StubHub’s business
4 with its new parent company, viagogo, which purchased Defendant in February 2020.

5 7.

6 Plaintiff and Defendant agree to and do not contest the entry of this Judgment and further
7 agree that this Court has jurisdiction over this matter and waive all rights to appeal or otherwise
8 challenge or contest the validity of this Stipulated General Judgment.

9 8.

10 At all times relevant to this matter Defendant engaged in commerce affecting consumers
11 in the District of Columbia. Therefore, Defendant is subject to the State’s consumer protection
12 laws.

13

INJUNCTIVE RELIEF

14

15 Now therefore, the relief in paragraphs 9 through 15 below is ordered:

COMPLIANCE WITH THE DISTRICT’S CONSUMER PROTECTION LAW

16

17 9.
18 **IT IS ORDERED** that Defendant shall comply with the CPPA in connection with the
19 advertising, promotion, offering for sale, or sale of tickets for live events and shall not make
20 misrepresentations regarding its cancellation or refund policies, including the total costs; any
21 material restrictions, limitations, or conditions; or any other material aspect of the policies.

22 10.

23 Defendant shall not make any misrepresentation, expressly or implied, about any material
24 aspect of the nature or terms of any refund, cancellation, exchange, or credit policy, including, but
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26

1 not limited to, the ability of a consumer to obtain a full or partial refund, or the circumstances in
2 which a full or partial refund will be granted to the consumer.

3 11.

4 Defendant shall honor its refund, cancellation, exchange, credit, or repurchase policy,
5 express or implied, in effect at the time of each sale, unless such refund policy has been
6 subsequently modified by agreement between the Defendant and the consumer with the
7 consumer's Express Informed Consent.

8 12.

9 Within sixty (60) days of Defendant verifying that an event for which an Eligible Buyer
10 purchased tickets prior to March 25, 2020, has been canceled, or that an Eligible Buyer's tickets
11 will not be honored because of capacity restrictions, Defendant shall initiate payment of a cash
12 refund to the Eligible Buyer for the full amount of the ticket order, including any taxes and fees
13 (less any of the amount already redeemed from the credit), unless, prior to the initiation of the
14 payment of the cash refund, an Eligible Buyer informs Defendant that the Eligible Buyer prefers
15 a credit. Notwithstanding the foregoing, Defendant shall initiate payment of a cash refund within
16 15 days of an express request for a cash refund made by an Eligible Buyer through Defendant's
17 standard customer service channels

18 **COOPERATION WITH ATTORNEY GENERAL**

19 13.

20 **IT IS FURTHER ORDERED** that no later than ninety (90) days after entry of this
21 Judgment, Defendant must submit to Plaintiff a detailed report regarding the StubHub Refund
22 Program. The report shall include, at a minimum, the following information for each Eligible
23 Buyer included in the StubHub Refund Program:

- 24 (a) the name, address, email address, and phone number of each Eligible
Buyer who purchased the ticket(s);
- 25 (a) the name of the event for which the ticket(s) was/were purchased;
- (b) the date of the event for which the ticket(s) was/were purchased;
- 26 (c) the number of tickets purchased by the Eligible Buyer;

- 1 (d) the purchase price of the ticket(s);
2 (e) the amount of any refund paid to the consumer;
3 (f) the amount of any credit the consumer elected to receive; and
4 (g) the date that any refund or credit was issued.

5 14.

6 **IT IS FURTHER ORDERED** that Defendant shall notify Plaintiff at least thirty (30) days
7 prior to any change in the corporation that may affect compliance obligations arising under this
8 Judgment, including, but not limited to: a dissolution, assignment, sale, merger, or other action
9 that would result in the emergence of a successor corporation; the creation or dissolution of a
10 subsidiary, parent, or affiliate that engages in any acts or practices subject to this Judgment; the
11 proposed filing of a bankruptcy petition; or a change in the corporate name or address.

12 15.

13 One (1) year after the date of the entry of this Judgment, Defendant must submit a
14 compliance report, sworn under penalty of perjury, in which Defendant must:

- 15 a. Identify the primary physical, postal, and email address and telephone number, as
16 designated points of contact, which Plaintiff may use to communicate with Defendant;
17 b. Identify all of the Defendant's businesses by all of their names, telephone numbers, and
18 physical, postal, email, and Internet addresses;
19 c. Describe the activities of each business, including the products and services offered,
20 the means of advertising, marketing, and sales, and refund or credit policies; and
21 d. Describe in detail whether and how Defendant is in compliance with each provision of
22 this Judgment, including a discussion of all of the changes Defendant has made to
23 comply with the Judgment.

24 **RELEASE**

25 16.

26 Plaintiff hereby releases Defendant and its Principals in their capacities as officers,
directors, or employees of Defendant from any and all civil claims that could be asserted by the

1 Attorney General under the CPPA prior to the effective date of this Judgment that relate to, or are
2 based on Defendant’s failure to refund Eligible Buyers who purchased tickets to live events using
3 Defendant’s marketplace prior to March 25, 2020, whose events were subsequently cancelled
4 (“Released Claims”). Nothing contained in this paragraph shall be construed to limit the ability of
5 the Attorney General to enforce the obligations that Defendant, its officers, subsidiaries, affiliates,
6 agents, representatives, employees, successors, and assigns have under this Judgment, including
7 any claim for costs, attorneys’ fees, and any other relief the Attorney General is entitled to seek
8 pursuant to the CPPA as part of an action brought to enforce this Judgment.

9 17.

10 Plaintiff specifically reserves and excludes the following forms of liability under the CPPA
11 from the Released Claims:

- 12 a. Any violation of the CPPA in connection with the StubHub Refund Program; and,
- 13 b. A Buyer’s inability to use credits provided pursuant to the StubHub Refund Program
14 due to event cancellations and capacity restrictions.

15 18.

16 Notwithstanding any term of this Judgment, any and all of the following forms of liability
17 are specifically reserved and excluded from the Released Claims:

- 18 a. Any criminal liability that Defendant has or may have in the District of Columbia;
- 19 b. Any civil or administrative liability that Defendant has or may have under any statute,
20 regulation or rule not expressly covered by the release in the preceding paragraph 16,
21 including but not limited to, any and all of the following claims:
 - 22 1. District of Columbia or federal antitrust violations,
 - 23 2. District of Columbia or federal securities violations, and
 - 24 3. District of Columbia or federal tax claims.

1 19.

2 This release shall be binding only upon Defendant and does not extend to, release, cover,
3 or in any way apply to any entities on whose behalf Defendant acted as an agent or business
4 associate or on whose behalf it engaged in debt collection activities.

5 **PAYMENT TO THE DISTRICT**

6 20.

7 Judgment is hereby rendered against Defendant and in favor of the Plaintiff in the total
8 amount of Four Hundred and Sixty-Eight Thousand and Fifty dollars (\$468,050). Any money
9 received by the Attorney General pursuant to this paragraph may be used for purposes that may
10 include, but are not limited to, attorneys' fees, and other costs of investigation and litigation, or be
11 placed in, or applied to, any consumer protection law enforcement fund, including future consumer
12 protection enforcement, consumer education, litigation or local consumer aid fund or revolving
13 fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted by District
14 of Columbia law, at the sole discretion of the Attorney General.

15 21.

16 Collection of the monetary amount described in paragraph 20 above is suspended subject
17 to the provisions noted below:

- 18 a. Plaintiff's agreement to suspend collection of this Judgment is premised on the truth
19 and accuracy of the information provided by Defendant.
- 20 b. The suspension of the collection of this Judgment will be lifted if, upon motion filed
21 by the Plaintiff on or before eighteen (18) months from the date of the entry of this
22 Judgment, this Court finds that Defendant has failed to comply with the requirements
23 of paragraphs 9 through 15.
- 24 c. If the suspension of the collection of this Judgment is lifted, the Judgment amount shall
25 become immediately due and payable to Plaintiff.

1 22.

2 Unless a motion is filed by Plaintiff pursuant to paragraph 21(b) of this Judgment within
3 eighteen (18) months after the date of the entry of this Judgment, the suspended payment shall be
4 deemed satisfied and permanently forgiven.

5 **NOTICES**

6 23.

7 Unless otherwise provided, any notices or documents required to be sent to the Parties
8 pursuant to this Judgment (including requests related to the cooperation requirements of
9 paragraphs 13 through 15) shall be sent to the following address via overnight courier and
10 electronic mail (unless after the effective date, a different address is communicated in writing by
11 the party requesting a change of designee or address):

- 12 a. For the Attorney General: Benjamin Wiseman
13 Director, Office of Consumer Protection
14 District of Columbia Attorney General's Office
15 400 6th Street, N.W., 10th Floor
16 Washington, D.C. 20001
17 benjamin.wiseman@dc.gov
- 18 b. For Defendant: Marty Linne, General Counsel
19 StubHub, Inc.
20 199 Fremont Street, 4th Floor
21 San Francisco, CA 94105
22 mlinne@stubhub.com

23 **GENERAL PROVISIONS**

24 24.

25 The terms of this Judgment are not intended to be construed as an admission or concession
26 or evidence of liability or wrongdoing on the part of Defendant.

27 25.

28 The terms of this Judgment shall not be construed as an admission or concession or any
29 other evidence that the CPPA applies to the Defendant or Defendant's business activities.

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26.

Acceptance and entry of this Judgment is not an approval of any of Defendant’s business practices and Defendant is enjoined from making any representations regarding approval.

27.

Defendant shall not participate in any activity to form a separate entity for the purpose of engaging in acts or practices prohibited by this Judgment or for any other purpose that would circumvent this Judgment

28.

Subject to the release included herein, nothing in this Judgment shall be construed to limit the authority of the Attorney General to protect the interests of the State or its citizens, or to enforce any laws, regulations, or rules against Defendant.

29.

Subject to the release recited herein, this Judgment does not affect any private right of action that any consumer, person, entity, or federal, state, or local governmental entity may have against Defendant.

30.

Nothing in this Judgment waives or affects any claims of sovereign immunity by the State.

31.

Defendant expressly waives any rights, remedies, appeals, or other interests related to a jury trial or any related or derivative rights under District of Columbia law or United States Constitution or other laws as to this Judgment.

32.

If any provision of this Judgment shall be held unenforceable, the Judgment shall be construed as if such provision did not exist.

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33.

This Judgment may be executed in counterparts, that, together, will constitute one whole document.

34.

This Judgment is being entered along with judgments in the following States: Arizona, Arkansas, Colorado, Indiana, Maryland, Minnesota, New Hampshire, Ohio, Virginia, and Wisconsin, to resolve multiple state investigations into StubHub’s refund practices. Within thirty (30) days of this Judgment’s entry, Defendant shall provide a copy of this Judgment, or a judgment entered into with one of the other settling states, provided that state’s judgment does not contain any terms that are materially different from this Judgment, to each of its officers and directors, owners, applicable agents, and any other employees with managerial responsibilities or who otherwise participate in cancellation or refund policy or advertising decisions of the Defendant. Defendant shall, within forty-five (45) days of this Judgment’s entry, provide a certification under oath to the Attorney General that affirms compliance with this paragraph.

35.

All costs associated with this action and Judgment shall be borne by the party incurring same.

36.

This Judgment sets forth the entire agreement between the parties.

IT IS SO ORDERED, ADJUDGED, AND DECREED:

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IT IS SO STIPULATED:

[see signatures on subsequent pages]

1 **For Defendant, StubHub, Inc., by:**

2 By: /s/ Marty Linne
Marty Linne, General Counsel

Date: September 10, 2021

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4

5 **Counsel for Defendant, StubHub, Inc.:**

6

7 By: /s/ Jonathan A. Drenfeld
Jonathan A. Drenfeld, D.C. Bar #989432
Maria J. Rouvalis
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Date: September 10, 2021

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17 **For Plaintiff, District of Columbia:**

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KARL A. RACINE
Attorney General for the District of Columbia

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20

KATHLEEN KONOPKA
Deputy Attorney General, Public Advocacy Division

21

22

JIMMY ROCK
Assistant Deputy Attorney General, Public Advocacy Division

23

/s/ Benjamin Wiseman
BENJAMIN WISEMAN
Director, Office of Consumer Protection

September 13, 2021
Date

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/s/ Lindsay Marks
LINDSAY MARKS, #1618037
Assistant Attorney General

September 13, 2021
Date