

STATE OF OREGON
Marion County Circuit Courts
FEB 20 2009
ENTERED

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FILED

4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MARION

6 IN THE MATTER OF:
7 Eternity at Sea Inc., and
8 Mimi Morissette, Rudi Milpacher,
9 individually,

Case No. 09C12084
AMENDED ASSURANCE OF VOLUNTARY
COMPLIANCE
2-20-09
1.

10 Eternity at Sea, Inc., an Oregon Corporation, and Mimi Morissette and Rudi
11 Milpacher, individually, do business in Oregon and are the Respondents, herein. This agreement is
12 between respondents and the Oregon Department of Justice (DOJ) acting pursuant to ORS
13 646.632(1).

14 PROCEDURE

15 2.

16 This Assurance of Voluntary Compliance (AVC) is a settlement of a disputed matter and
17 respondents, by signing this AVC, do not admit to and specifically deny having violated any
18 federal or state laws, administrative rules or regulations in the operation of their business.
19 Respondents and DOJ agree that no provision of the AVC operates as a penalty, forfeiture, or
20 punishment under the Constitution of the United States, under the Constitution of the State of
21 Oregon, or under any law, administrative rule or regulation. Neither the fact that the parties
22 entered into this AVC nor anything contained in this AVC is or implies an admission that
23 respondents have engaged in any trade practices prohibited by Oregon Unlawful Trade Practices
24 Act or any other federal or state law, administrative rule or regulation.

25 3.

26 Respondents understand and agree this AVC applies to respondents jointly and severally.

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Respondents hereby waive the right to receive notice from the State of Oregon pursuant to ORS 646.632(2) of the alleged unlawful trade practice and the relief to be sought.

Respondents are not represented by an attorney and agree DOJ may communicate directly with respondents. DOJ shall direct communications to respondents at the address set forth below respondents' signature on the AVC and to the attention of Rudi Milpacher, or his designee.

Respondents understand and agree that if this AVC is accepted by DOJ, it shall be submitted to the Circuit Court of the State of Oregon for Marion County for approval, and, if approved, shall be filed with the court pursuant to ORS 646.632(2).

Respondents waive any further notice of submission to and filing with the court of this AVC.

Respondents shall accept service of a conformed copy of this AVC, after it has been approved by the court, which the DOJ shall mail by prepaid first class mail in accordance with paragraph 5 of this AVC.

If monies which are ordered to be paid in the AVC are not paid timely, DOJ may convert the AVC to a money judgment under ORS 646.632 (2) without notice to respondents. Respondents agree a copy of the money judgment may be sent to respondents, first class mail to the address following respondents' signatures.

Respondents understand that, in addition to any other sanctions which may be imposed under this AVC or under the law, violation of any of the terms of this AVC may result in contempt of Court proceedings, civil penalties of up to \$25,000 for each violation, and such further relief as

1 the Court may deem appropriate. ORS 646.632(4), ORS 646.642(1) and ORS 646.642(2).

2 11.

3 No other promises, representations or agreements of any nature have been made or entered
4 into by the parties, except as set forth in this AVC. This AVC constitutes a single and entire
5 agreement that is not severable or divisible, except that if any provision of this AVC is held to be
6 legally insufficient or unenforceable, the remaining provisions shall continue in full force and
7 effect.

8 12.

9 Respondents shall not represent or imply that DOJ acquiesces, authorizes or approves of
10 respondents' past, present or future business practices. This AVC does not constitute approval by
11 DOJ of any past, present, or future business practice.

12 **Remedies**

13 13.

14 DOJ shall, where reasonably practicable, notify respondents, in writing, of any future
15 consumer complaint received by DOJ. DOJ's agreement to notify respondents of consumer
16 complaints received by DOJ is not a waiver of DOJ's authority to exercise its statutory powers
17 pursuant to ORS 646.632(5) and (6), or any other law.

18 14.

19 Effective immediately upon approval by the court of this AVC, respondents shall:

- 20 A) Cease and desist from any marketing and/or sales or offers of prospective sales of
21 their Cemetery services unless and until they have received approval and a
22 Certificate from the Oregon Mortuary and Cemetery Board.
- 23 B) Respondent shall offer a full refund to any Oregon consumer who has purchased an
24 Eternity at Sea Certificate from Respondents.
- 25 C) Respondents shall pay restitution to DOJ for the benefit of the below listed
26

1 Consumers and any subsequently identified consumers at the rate of \$1,000.00 per
2 month beginning on April 1, 2009, which

3 shall be dispersed (pro-rata until paid in full) :

4 (a) Susan Paine : \$1,440.00

5 (b) Terri Reynolds: Re: Mother: DOD '04, \$1,000.00

6 (c) Catherine Wilcox: \$1,400.00

7 (d) Ken Palmrose :Re mother: \$1,500.00.

8 (1) Alternatively, Respondents may – upon prior receipt of all expenses
9 associated with retrieval of the father’s cremains at Respondents Cemetery –
10 bring back said cremains and entrust same to Mr. Ken Palmrose. However,
11 in the event the parties are not able to agree on such arrangements,
12 Respondent’s obligations shall be limited to the refund, supra.

13 (e) Suzanne and Charles Bolen : \$1,500.00

14 (f) Mike Hieb: \$1,200

15 (g) Dennis Jones: \$ 1,920

16 (h) Ann Verblaauw: \$1,200

17 (i) Pat Ferrelly: \$1,200

18 Payment of the restitution amounts listed above by respondents is not a bar to any
19 cause of action or claim by any of the above listed consumers.
20

21 APPROVAL BY COURT

22 APPROVED FOR FILING and SO ORDERED this 20th day of February, 2009

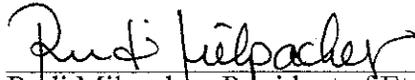
23
24
25 Circuit Court Judge

26 RESPONDENTS' SIGNATURES AND ACKNOWLEDGMENTS

1 Respondents have read and understand this agreement and each of its terms. Respondents
2 agree to each and every term.

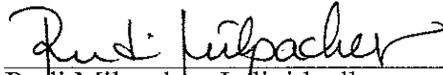
3 **Corporate Respondent**

4 I, Rudi Milpacher, being first duly sworn on oath depose and say that I am the President of
5 Eternity at Sea Inc., and am fully authorized and empowered to sign this Assurance of Voluntary
6 Compliance on behalf of Eternity at Sea, Inc. and bind the same to the terms hereof.

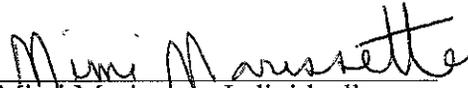
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8 Rudi Milpacher, President of Eternity at Sea, Inc
122 SW 1st Ave.,
Portland, Or 97204

9
10 **Individual Respondents**

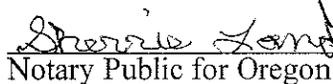
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13 Rudi Milpacher, Individually
14 122 SW 1st Ave.,
Portland, Or 97204

15 

16 Mimi Morissette, Individually
17 1801 NE 82nd St,
Vancouver, WA 98665
18 P.O. Box 1958
Portland, OR 97207

19 SUBSCRIBED AND SWORN to before me this 17 day of February, 2009.

20 
21 Notary Public for Oregon

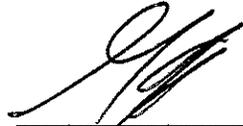


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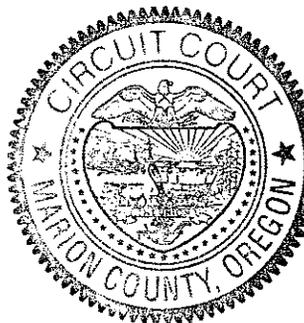
ACCEPTANCE OF DOJ

4
5 Accepted this 17 day of Feb, 2009.

6
7 John R. Kroger #077207
8 Attorney General



9
10 Gregory A. Smith #86291
11 Assistant Attorney General
12 Department of Justice
13 Of Attorneys for Plaintiff
14 1162 Court Street NE
15 Salem, OR 97301-4096
16 Gregory.A.Smith@doj.state.or.us
17 Tel: (503) 934-4400
18 Fax: (503) 378-5017
19 Trial Attorney for Plaintiff



STATE OF OREGON }
County of Marion } ss

The foregoing copy has been compared and is certified by me as a full, true and correct copy of the original on file in my office and in my custody.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the

Court on: 2/20/09
TRIAL COURT ADMINISTRATOR

By [Signature]