

PEOPLE OF THE STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
LABOR BUREAU

IN THE MATTER OF THE INVESTIGATION
BY LETITIA JAMES, ATTORNEY GENERAL
OF THE STATE OF NEW YORK

ASSURANCE OF
DISCONTINUANCE

OF

AOD No. 22-011

MARRIOTT INTERNATIONAL, INC.

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) in April 2021, which examined whether Marriott International, Inc. (“Marriott”) failed to provide workers at the New York Marriott Marquis Hotel (“Marquis”) the severance benefits promised.

This Assurance of Discontinuance (“AOD” or “Assurance”) contains the findings of the OAG’s investigation and the relief agreed to by the OAG and Marriott (collectively, the “Parties”).

FINDINGS

Introduction and Background

1. Marriott is a corporation organized under the laws of the state of Delaware and is registered in New York State.
2. Marriott operates the Marquis, a hotel in New York City with over 1,900 rooms, three restaurants and lounges, and about 50 event spaces.
3. Prior to the COVID-19 pandemic, the Marquis did not have a unionized workforce.

Violation of Executive Law § 63(12)

4. Due to the COVID-19 pandemic and its significant impact upon the hotel industry, in or about late March of 2020 Marriott placed approximately 1,080 of its more than 1,300 Marquis

employees, both hourly employees and managers, on furlough.

5. While the Marquis hourly employees were on furlough, Marriott paid them a week of disaster pay and continued providing medical benefits at no cost to the employees and their families.

6. On or around December 9, 2020, Marriott informed more than 800 of the furloughed employees, both hourly employees and managers, that their positions were being eliminated and that their employment with Marriott at the Marquis would end on March 12, 2021.

7. Marriott offered severance to the severed hourly employees and managers in accordance with the Marriott International, Inc. Severance Plan ("Severance Plan"). The Severance Plan provided that the amount of severance due to each hourly employee depended on the number of years of employment with Marriott but was capped at 10 weeks of pay. Marriott offered severance to the managers based on their years of employment with a cap of 26 weeks of pay.

8. In or around March 2021, the OAG received information from former Marquis employees that over the years some Marquis managers and supervisors had promised Marquis hourly employees that they would receive the same or better pay and benefits than unionized employees at other NYC hotels, and that the severance Marriott offered them was less than what unionized employees at other NYC hotels were entitled to receive. The OAG then commenced an investigation of Marriott.

9. Over the course of the investigation, the OAG interviewed about 30 of the employees that had been severed and reviewed documents provided by Marriott.

10. Based on the investigation, the OAG has concluded that some of the Marquis managers and supervisors made a promise to the hourly employees that Marriott would provide them with the same or better pay and benefits than employees of unionized hotels over the course

of their employment, and that Marriott reinforced this promise by operating the Marquis in a fashion similar to a unionized hotel with regards to seniority, scheduling, pay, and certain benefits.

11. Some unionized hotel workers in New York City are entitled to receive severance based on their years of employment without a cap.

12. Marriott did not provide 565 of the 728 hourly employees with the same or better benefits as union workers when it offered a severance benefit that was capped at 10 weeks of pay.

13. Based on the foregoing, the Attorney General has concluded that Marriott's failure to fulfill its promise violated Executive Law § 63(12).

14. The OAG finds the relief and agreements contained in this AOD appropriate and in the public interest. THEREFORE, the OAG is willing to accept this AOD pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violation of Executive Law § 63(12) based on the conduct described above.

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

RELIEF

Entities Bound By the AOD

15. This AOD binds Marriott, as well as its principals, directors, beneficial owners, officers, shareholders, successors, and assigns.

Compliance with Executive Law § 63(12)

16. With respect to the Marriott Marquis, Marriott shall not engage, or attempt to engage, in conduct in violation of Executive Law § 63(12), and expressly agrees and acknowledges that any such conduct is a violation of the AOD, 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.

17. To the extent not already done so, Marriott will continue implementing the

requirements described in paragraphs 28 and 29 below upon the full execution of this AOD (“Effective Date”) and will continue to implement the relief for two years from the Effective Date (“Effective Period”).

Monetary Payment and Settlement Administration

18. This section of the AOD applies only to the Monetary Relief Amount of Two Million Nine Hundred Fifty Thousand Dollars (\$2,950,000) that Marriott has agreed to pay in resolution of the OAG’s investigation, pursuant to the terms of the Parties’ settlement (the “Monetary Relief Amount”).

19. Definitions: The following terms herein shall have the following meanings:

- a. “Distribution List” means a machine-readable spreadsheet containing the following information, if known, for each Eligible Employee: name, portion of Monetary Relief Amount allocated, last known address, last known telephone number, last known email address, social security number, and preferred language.
- b. “Eligible Employees” means each person whom the Parties identify as eligible to receive a portion of the Monetary Relief Amount.
- c. “Qualified Settlement Fund” or “QSF” means the account established by the Settlement Administrator into which the Monetary Relief Amount will be deposited. The QSF will be controlled by the Settlement Administrator subject to the terms of this AOD. Interest, if any, earned on any monies in the QSF will remain in the QSF.
- d. “Settlement Administrator” means Rust Consulting.
- e. “OAG Settlement Payment” means the amount of the Monetary Relief Amount to be paid to each Eligible Employee from the QSF, which amounts will be set

forth on the Distribution List.

20. Marriott will cover separately the costs of the Settlement Administrator.
21. The OAG will have sole discretion to require a replacement of the Settlement Administrator upon a reasonable and good faith determination that the Settlement Administrator has materially failed to carry out its duties pursuant to this AOD.
22. For each OAG Settlement Payment to an Eligible Employee on the Distribution List, no later than thirty (30) days after the end of the calendar year in which payments are made, the Settlement Administrator shall provide Marriott with an accounting of the Monetary Relief Amount issued and received by Eligible Employees constituting unpaid severance, for which the Settlement Administrator shall issue IRS W-2 tax forms to each Eligible Employee. The Settlement Administrator shall calculate, and Marriott shall pay, separately and in addition to the Monetary Relief Amount, all of the employer's payroll taxes, including the employer portion of FICA, FUTA, SDI, and any other federal and state payroll taxes arising from any payments classified as wages. The OAG is not responsible for any tax withholding, reporting, or other obligations incurred as a result of the distribution from the QSF.
23. Within fourteen (14) business days of the Effective Date, Marriott shall transmit the Monetary Relief Amount of Two Million Nine Hundred Fifty Thousand Dollars (\$2,950,000) by wire transfer to the Settlement Administrator. Marriott shall send proof of payment to OAG on the same day. The payment must reference "AOD No. 22-011."
24. The Settlement Administrator shall deposit the Monetary Relief Amount into the QSF within 24 hours of receipt.
25. The parties will agree upon the OAG Settlement Payment allocated to each Eligible Employee which will be included in the Distribution List. Marriott will provide the Settlement Administrator with the Distribution List, and will provide the OAG with a list showing only Name,

ALT ID Number and portion of Monetary Relief Amount allocated three (3) calendar days after the Effective Date, provided that upon request by the OAG the Settlement Administrator will provide OAG with any other information in the Distribution List that the OAG needs to assist in finding any Eligible Employee, answering any Eligible Employee's questions or otherwise implementing or administering this Settlement.

26. Marriott agrees to cooperate with the Settlement Administrator who will conduct a skip trace to locate current and former employees who may be eligible to receive an OAG Settlement Payment, including providing, if known, for each worker eligible to receive an OAG Settlement Payment their last known address, last known telephone number, last-known email address, social security number, and preferred language. In consideration for, and as a condition to, receiving any monetary award pursuant to this AOD, each employee shall execute a written release of claims to Marriott.

27. Upon receipt of the Distribution List, receipt of the wire transfer of the Monetary Relief Amount, and instructions from the OAG, the Settlement Administrator will begin to disburse funds from the QSF in accordance with instructions from Marriott and the OAG to Eligible Employees who have returned to the Administrator a signed and dated written release form. All funds will be distributed by the OAG, and no amount shall revert to Marriott. Any OAG Settlement Payment that is declined by an Eligible Employee or which cannot be distributed to an Eligible Employee will be processed by the OAG in accordance with applicable law.

Other Relief

28. Marriott shall notify the OAG of any reports or complaints from workers about the amount of their OAG Settlement Payment or from workers who did not receive an OAG Settlement Payment but claim to be entitled to receive one. Marriott shall instruct workers who raise such complaints to contact the Settlement Administrator for assistance.

29. Marriott shall provide the severed workers instructions on how to request a verification of their employment at Marriott and Marriott will take reasonable measures to ensure that the severed workers are able to obtain said verifications.

No Retaliation

30. Marriott agrees that it shall not in any manner discriminate or retaliate against any employees or former employees of the Marriott Marquis who cooperated or are perceived to have cooperated with the OAG's investigation of this matter. Marriott agrees not to discharge, refuse to hire, or take any adverse action against any of these employees except for legitimate, non-discriminatory reasons unrelated to the investigation or to any past, present or future participation in any activities involving the exercise of their legal rights.

Ongoing Cooperation

31. Marriott agrees to provide reasonable cooperation with all ongoing requests by the OAG for information related to this investigation and related investigations.

Consequence of Non-Compliance

32. Marriott expressly agrees and acknowledges that any uncured default in the performance of any obligation under this AOD during the Effective Period is a violation of the AOD, and that the OAG thereafter may commence the civil action, proceeding, or other enforcement action contemplated in Paragraph 14, in addition to any other appropriate investigation, action, or proceeding, and that evidence that the AOD has been violated shall constitute prima facie proof of the statutory violation described in Paragraph 13, pursuant to Executive Law § 63(15). Notwithstanding the foregoing, the OAG shall give Marriott written notice of any default in the performance of any obligation during the Effective Period, and Marriott shall be afforded thirty (30) days from the date written notice is received by Marriott via first class mail or e-mail in which to cure any such default ("Cure Period").

MISCELLANEOUS

Representations and Warranties

33. The OAG has agreed to the terms of this AOD based on, among other things, the representations made to the OAG by Marriott and the OAG's own factual investigation as set forth in paragraphs 1 through 13 above. Marriott represents and warrants that it has not made any material representations to the OAG that are inaccurate or misleading. If any material representations by Marriott or its counsel are later found to be inaccurate or misleading, this AOD is voidable by the OAG in its sole discretion.

34. No representation, inducement, promise, understanding, condition, or warranty not set forth in this AOD has been made or relied upon by Marriott in agreeing to this AOD.

35. Marriott represents and warrants, through the signatures below, that the terms and conditions of this AOD are duly approved and execution of this AOD is duly authorized.

General Principles

36. Unless a term limit for compliance is otherwise specified within this AOD, Marriott's obligations under this AOD are enduring. Nothing in this AOD shall relieve Marriott of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

37. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that Marriott violates the AOD after its Effective Date.

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

39. In the event that any one or more of the provisions contained in this AOD 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 AOD.

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

41. Marriott acknowledges that it has entered this AOD freely and voluntarily and upon due deliberation with the advice of counsel.

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

43. The AOD 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.

44. All notices, reports, requests, and other communications to any party pursuant to this AOD must reference AOD No. 22-011, shall be in writing and be directed by first class mail or e-mail as follows:

From Marriott to the Attorney General:

New York State Office of the Attorney General
Anielka Sanchez Godinez, Assistant Attorney General
Labor Bureau
28 Liberty Street, 15th Floor
New York, New York 10005
Or
Anielka.SanchezGodinez@ag.ny.gov

From the Attorney General to Marriott:

Martha B. Stolley
Morgan, Lewis & Bockius LLP
101 Park Avenue | New York, NY 10178-0060
Or
martha.stolley@morganlewis.com

Any changes in the person to whom communications should be specifically directed shall be communicated in writing in advance of the change.

45. This AOD may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, this AOD is executed by the parties hereto on the dates set forth below.

LETITIA JAMES

Attorney General of the State of New York

By: _____

Anielka Sanchez Godinez

Assistant Attorney General

Labor Bureau

28 Liberty Street, 15th Floor

New York, New York 10005

Phone: (212) 416-6280

Dated: April __, 2022

MARRIOTT INTERNATIONAL, INC.

By: _____

Name: Greg Talbot

Title: Senior Vice President and
Associate General Counsel

Dated: April 12, 2022

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IN WITNESS WHEREOF, this AOD is executed by the parties hereto on the dates set forth below.

LETITIA JAMES

Attorney General of the State of New York

By: _____


Anielka Sanchez Godinez

Assistant Attorney General

Labor Bureau

28 Liberty Street, 15th Floor

New York, New York 10005

Phone: (212) 416-6280

Dated: April 28, 2022

MARRIOTT INTERNATIONAL, INC.

By: _____

Name: Greg Talbot

Title: Senior Vice President and
Associate General Counsel

Dated: April __, 2022