

## **Testimony of Hugh McElroy**

February 20, 2024  
HB 701 FAVORABLE

Dear members of the Economic Matters committee,

My name is Hugh McElroy. I grew up in Bethesda, and am now a resident of Silver Spring. I play in an internationally touring band that started in 2001. After a long hiatus, my bandmates and I have begun actively touring again and have witnessed the transformational changes happening in in ticketing up close.

While there have always been unethical secondary market resellers charging huge mark-ups on the face value of tickets, the emergence of parasitic and predatory companies driving up prices for their own profit on an industrial scale is new, and it's not just impacting high profile artists like Taylor Swift.

The price of the ticket doesn't just pay my band for the work we put into the show. It also pays the the promoter, the sound engineers, the lighting engineers, stage crew, security, and others. The ticket price needs to ensure that every individual who works on a show is fairly compensated.

At the same time, our band works to operate in ways that align with our community values. We try to make our shows accessible to all people. Sometimes, that means working with promoters to set a ticket price below what we could charge if we simply wanted to maximize our revenue.

Here's a representative example of the challenges we now face:

On January 27 & 28, my band played at a club in Los Angeles, our first time playing there in over 20 years. We chose to perform at an independent venue called Lodge Room. As is the case with many of our favorite Maryland venues, Lodge Room does not use Ticketmaster.

We priced our show at \$20. The venue charged an additional \$5 fee. Here is what a fan attempting to buy a ticket would see:

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Subscribe

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## ✶ BLACK EYES

General Admission

− 1 + **\$20.00**

📅 Jan 27

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Subtotal:	\$20.00
Promotions:	-\$0.00
Ticket Fees:	\$5.00
Shipping Fees:	\$0.00
Tax:	\$0.00
<b>TOTAL:</b>	<b>\$25.00</b>

[Continue Shopping](#)

I have read & agree to the [Terms of Purchase](#)

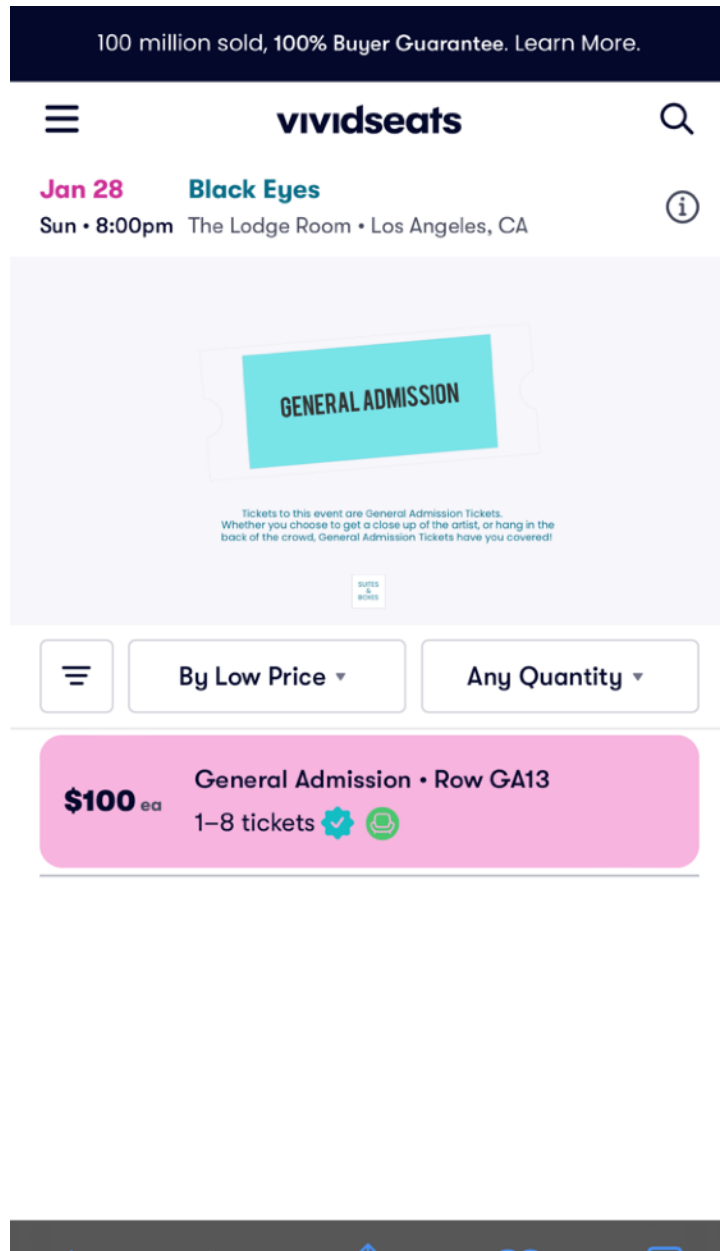
Proceed to Checkout

04:55  
MIN : SEC

This is good and transparent, and what musicians like me hope for: clear and honest communication, reasonable prices and a simple experience for fans.

A bill like SB539/HB701 would improve this slightly by showing the \$25 total price at the outset but keeping the itemization, including the face price. That's important because the face price is the only part of the total ticket price my band can control or negotiate for.

Unfortunately, Vivid Seats chose to offer resale tickets to our show, using a range of deceptive and unfair tactics that trick consumers into paying more. Here's what that listing looked like.



As you can see, the \$20 ticket is being sold for \$100. That's a 400% markup. The show wasn't even sold out.

That little green chair icon indicates that this ticket is being sold as part of Vivid's "Seat Saver program." Vivid calls this a "concierge service", but it's really just a speculative ticket, a ticket that Vivid doesn't even possess but is selling anyway. It gets worse! Vivid was charging an extra \$42.42 in fees on top of that \$100. We wanted our fans to pay \$25; Vivid wanted them to pay 469% more.

None of that extra money on top goes to us, the promoter, the venue, their staff, or anyone who had anything to do with putting on a successful event. It's all going to a ticket broker, and to Vivid Seats and its predatory private equity investors.

6:19 📶 🔋  
vividseats.com

**vividseats**

Delivery Billing Place Order

**Payment**

🔒 Your order information is secured  
This site uses SSL encryption to securely transmit your order information for processing.

**Total Charge** **\$142.42**

⊕ Pricing details

Apply a Gift Card or Promo Code ▼

Mobile delivery by: **01/27/2024**

**Black Eyes**  
The Lodge Room - Los Angeles, CA  
Sunday January 28, 2024 8:00pm

**Ticket Details**  
Section: **General Admission**  
Row: **GA13**  
Notes: Please note that you will need a smartphone to gain entry to your event. This is a Seat Saver<sup>SM</sup> listing. Seat Saver<sup>SM</sup> is a service for tickets that the seller does

Vivid Seats hides these fees until after customers have already entered their payment and billing information—this is what the FTC calls a “dark pattern.”—intentionally hiding information until so late in the process that customers are less likely to back out. They also hide itemization behind that drop down menu. (Did you even notice it?)

It’s only with extra clicks that you can see just how much you’re getting ripped off with ridiculous fees. And those fees help pay for online ads on search engines and social media sites, which most artists and independent venues can’t afford—ensuring that more and more consumers get funneled through Vivid and duped into paying more.

Vivid Seats wants the speculative ticket ban in SB 539 to be weakened to make an exception for “concierge services” like “Seat Saver” to continue to exist.

I disagree. I don’t want to see fans of my music get ripped off like this. I want a complete ban on speculative tickets, and I want ticket resale capped at the original purchase price. That way, no one gets stuck with a ticket they can’t use, and predatory corporations that I would never voluntarily choose to work with aren’t exploiting my community with deceptive practices.

Vivid Seats claims that their “concierge service” offers an alternative to Ticketmaster’s domination. My band has avoided ever dealing with Ticketmaster, and chosen *real* alternatives because we find that company’s practices appalling. But we find Vivid and other largely unregulated resale sites and brokers to be even worse. Vivid is attempting to use legitimate public frustration with Ticketmaster to try and excuse a nakedly dishonest and unethical business model.

I challenge anyone from Vivid Seats, or any of the seemingly endless parade of organizations funded by Vivid, Stubhub, Seatgeek, or brokers to explain how the opportunity to pay 469% markup on my band’s \$25 ticket benefits consumers.

I ask the committee for a favorable report.