

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, FEBRUARY 27, 2013

CLERK'S OFFICE
STATE CONTROL CENTER
2013 FEB 27 P 3: 08

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. SEC-2012-00048

ATLANTIC SUN CONTROL, INC.

and

BRIEN LOONEY,

Defendants

SETTLEMENT ORDER

The State Corporation Commission's ("Commission") Division of Securities and Retail Franchising ("Division") conducted an investigation of Atlantic Sun Control, Inc. ("ASC"), and Brien Looney (collectively, "Defendants") pursuant to § 13.1-567 of the Virginia Retail Franchising Act ("Act"), § 13.1-557 *et seq.* of the Code of Virginia ("Code").

ASC is a Virginia corporation with its principal office in Manassas, Virginia. From its inception, Brien Looney served as president of ASC.

Between 2005 and 2009, the Defendants offered and sold three (3) window film and tinting retail locations in the Commonwealth of Virginia ("Commonwealth") by giving store managers contracts to operate the business.

The Division determined the "License and Distribution Agreement" ("Agreements") between the previous managers and ASC were franchise agreements under the Act. The Defendants did not register these franchises prior to offering and selling them in the Commonwealth.

According to the Act, prospective franchisees should receive a Franchise Disclosure Document ("FDD") prior to entering into a franchise agreement. Before the store managers

entered into the Agreements, however, they did not receive a FDD. The FDD allows the prospective franchisee to make an informed decision regarding the franchise by providing the prospective franchisee with material information about the franchise. Without the FDD, the prospective franchisees did not have access to certain financial and logistical information such as audited financial statements, other locations operated by the Defendants, litigation, or fees and other franchise charges.

Based on the investigation, the Division alleges the Defendants violated: (i) § 13.1-560 of the Act by selling or offering to sell franchises in the Commonwealth prior to registering under the provisions of the Act; and (ii) § 13.1-563 (4) (ii) of the Act by failing to, directly or indirectly, provide franchisees with an FDD as required.

If the provisions of the Act are violated, the Commission is authorized by § 13.1-562 of the Act to revoke a defendant's registration, by § 13.1-568 of the Act to issue temporary or permanent injunctions, by § 13.1-570 of the Act to impose certain monetary penalties and to request a defendant make rescission and restitution, and by § 12.1-15 of the Code to settle matters within its jurisdiction.

The Defendants neither admit nor deny these allegations but admit to the Commission's jurisdiction and authority to enter this Settlement Order ("Order").

As a proposal to settle all matters arising from these allegations, the Defendants have made an offer of settlement to the Commission wherein the Defendants will abide by and comply with the following terms and undertakings:

(1) The Defendants will pay to the Treasurer of the Commonwealth the amount of Fifteen Thousand Dollars (\$15,000) in monetary penalties.

(2) The Defendants will pay to the Treasurer of the Commonwealth the amount of Five Thousand Dollars (\$5,000) to defray the costs of investigation.

(3) The Defendants will provide a copy of this Order to all franchises located in the Commonwealth, past and present, within thirty (30) days of the date of entry of this Order.

(4) The Defendants will not violate the Act in the future.

The Division has recommended that the Commission accept the offer of settlement of the Defendants.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendants, and the recommendation of the Division, is of the opinion that the Defendants' offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of the Defendants in settlement of the matter set forth herein is hereby accepted.

(2) The Defendants shall fully comply with the aforesaid terms and undertakings of this settlement.

(3) This case is dismissed and the papers herein shall be placed in the file for ended causes.

Dismissal of this case does not relieve the Defendants from their reporting obligations to any regulatory authority.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

R. Scott Caulkins, Esquire, Caulkins & Bruce, 2300 Wilson Boulevard, Suite 240, Arlington, Virginia 22201; and a copy shall be delivered to the Commission's Office of General Counsel and Division of Securities and Retail Franchising.

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ADMISSION AND CONSENT

Atlantic Sun Control, Inc. and Brien Looney (collectively, "Defendants"), admit to the jurisdiction of the State Corporation Commission ("Commission") as to the party and subject matter hereof and, neither admitting nor denying the allegations made herein by the Division of Securities and Retail Franchising, hereby consent to the form, substance and entry of the foregoing Settlement Order ("Order").

The Defendants further state that no offer, tender, threat or promise of any kind whatsoever has been made by the Commission or any member, subordinate, employee, agent or representative thereof in consideration of the foregoing Order.

Atlantic Sun Control, Inc.

Date: 2/13/13

By: Brien Looney PRES
Brien Looney, President

Date: 2/13/13

By: Brien Looney
Brien Looney

Seen and Approved By:

R. Scott Caulkins
R. Scott Caulkins, Esquire