

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JULY 9, 2013

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. SEC-2013-00007

CHANELLO'S PIZZA INTERNATIONAL, INC.,
Defendant

SETTLEMENT ORDER

The State Corporation Commission's ("Commission") Division of Securities and Retail Franchising ("Division") conducted an investigation of Chanello's Pizza International, Inc. ("Chanello's" or "Defendant"), pursuant to § 13.1-567 of the Virginia Retail Franchising Act ("Act"), § 13.1-557 *et seq.* of the Code of Virginia ("Code"). Based on its investigation, the Division alleges:

(1) The Defendant, on more than one occasion, violated § 13.1-560 of the Act by selling unregistered franchises in the Commonwealth of Virginia ("Commonwealth"). The Defendant further violated § 13.1-563 (4) of the Act by failing to provide Virginia franchisees with a Franchise Disclosure Document ("FDD") cleared by the Division.

(2) Chanello's is a Virginia corporation formed on July 15, 2002. Chanello's was formerly incorporated under its predecessors, Chanello's Pizza International, Inc., also a Virginia corporation formed on May 7, 1999, and Chanello's Pizza, Inc., a Virginia corporation formed on March 26, 1998. At all times relevant to the allegations herein, Chanello's operated under the title of one of these corporations and continues to operate as a successor-in-interest to these prior incorporated entities. Chanello's operates and sells pizza delivery stores within the Commonwealth under the Chanello's trademark.

(3) Since at least 2000, Chanello's has been aware of the registration requirements of the Act and the requirement to provide approved FDDs to potential franchisees. An FDD is a standard franchise industry document that must be provided by a franchisor to any potential franchisee prior to the franchisee entering into a franchise agreement. An FDD contains material disclosures pertaining to the franchisor and the offered franchise opportunity such as the franchisor's general financial condition, operating history, and the details of any fees or royalties that will be owed to a franchisor over the course of a franchise agreement.

(4) From 1998 through 2004, Chanello's entered into five Asset Purchase Agreements ("Agreements") with the store managers of five different Chanello's pizza locations for the purchase of these stores. The Agreements granted the purchaser an exclusive right to own and operate a pizza store at a designated location under the Chanello's trademark for a fee. Pursuant to the Agreements, the stores were to be operated by the purchaser under operating guidelines prescribed by Chanello's which included food specifications and preparation methods, uniform requirements, and special training.

(5) The Agreements satisfied the definition of "franchise" under § 13.1-559 of the Act. However, Chanello's never registered the Agreements as franchises with the Division prior to offering and selling them. Additionally, none of the individuals purchasing a Chanello's franchise received an FDD cleared by the Division.

(6) The Division alleges that the Defendant violated § 13.1-560 of the Act by selling or offering to sell franchises in Virginia in the form of Chanello's Agreements prior to registering under the provisions of the Act. Additionally, the Division alleges that the Defendant violated § 13.1-563 (4) of the Act by failing to provide franchisees entering into Chanello's Agreements with an FDD cleared by the Division.

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 Defendant neither admits nor denies these allegations but admits 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 Defendant has made an offer of settlement to the Commission wherein the Defendant will abide by and comply with the following terms and undertakings:

(1) The Defendant will pay to the Treasurer of the Commonwealth, within six months of the date of entry of this Order, the amount of Seven Thousand Five Hundred Dollars (\$7,500) in monetary penalties.

(2) The Defendant will pay to the Treasurer of the Commonwealth the amount of Five Thousand Dollars (\$5,000) to defray the cost of investigation. The Defendant will pay Two Thousand Five Hundred Dollars (\$2,500) of the investigative costs contemporaneously with the entry of this Order. Within 30 days of the date of entry of this Order, the Defendant will pay the remaining Two Thousand Five Hundred Dollars (\$2,500) of the investigative costs.

(3) Within 120 days of the date of entry of this Order, the Defendant will submit a Franchise Registration application to the Division in accordance with Rule 21 VAC 5-110-30 of the Commission's Retail Franchising Act Rules, 21 VAC 5-110-10 *et seq.* The Defendant further agrees not to offer or sell, directly or indirectly, any Chanello's franchises or subfranchises in the Commonwealth until such time as it has been cleared for registration by the Division.

(4) Within 30 days of the entry of this Order, the Defendant will provide a copy of this Order via certified U.S. mail to all existing franchisees. Within 45 days of the date of entry of this Order, the Defendant shall provide proof of such certified mailing to the Division.

(5) The Defendant will not violate the Act in the future.

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

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

Accordingly, IT IS ORDERED THAT:

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

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

(3) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding, or taking such other action it deems appropriate, on account of the Defendant's failure to comply with the terms and undertakings of the settlement.

(4) This Order concludes the investigation by the Commission and any other action that the Commission could commence against the Defendants under applicable law on behalf of the Commonwealth as it relates to the violations described in this Order, up to and including activity occurring through the date of this Order.

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

Juliet Chanell, President, Chanello's Pizza International, Inc., 905 West 21st Street, Norfolk,

Virginia 23517; Jeffrey S. Anderson, Esquire, Harry Jernigan CPA Attorney, P.C., 6800 Paragon Place, #234, Richmond, Virginia 23230; 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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