

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 20, 2018

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COMMONWEALTH OF VIRGINIA, *ex rel.*

2018 APR 20 P 2:50

STATE CORPORATION COMMISSION

v.

CASE NO. SEC-2017-00065

DAVI NAILS SALON AND SPA, LLC,
Defendant

SETTLEMENT ORDER

The State Corporation Commission's ("Commission") Division of Securities and Retail Franchising ("Division") conducted an investigation of DaVi Nails Salon and Spa, LLC ("DaVi Nails") pursuant to § 13.1-567 of the Virginia Retail Franchising Act ("Act"), § 13.1-557 *et seq.* of the Code of Virginia ("Code").

DaVi Nails is a Utah limited liability company with a last known address of 1559 West 3860 South, West Valley City, UT 84119 and David Truong ("Truong") is the business manager of DaVi Nails. DaVi Nails offers and sells franchises providing nail services to the public and generally operates in Walmart stores and other shopping centers.

The Division alleges that DaVi Nails intermittently has registered its franchise under the Act since April 13, 2011, but on April 4, 2017, DaVi Nails sold one franchise to be operated in Virginia during a period of time when DaVi Nails franchise was not registered with the Division, in violation of § 13.1-560 of the Act.

Further, the Division alleges that DaVi Nails also violated § 13.1-563.4 of the Act when it failed to provide the Virginia franchisee a Franchise Disclosure Document ("FDD") reviewed and cleared for use by the Division when it offered and sold one franchise to be operated in Virginia. This violation occurred while Truong was the business manager for DaVi Nails.

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Based on the investigation, the Division alleges the Defendant violated § 13.1-560 of the Act by selling or offering to sell a franchise in Virginia without being registered under the provisions of the Act. The Division further alleges that the Defendant violated § 13.1-563.4 of the Act by failing to provide the franchisee with properly cleared FDDs in conjunction with the offer and sale of the franchise.

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 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 offer rescission to the Virginia franchisee as follows:

a. Within thirty (30) days of the date of entry of this Order, DaVi Nails will make a written offer of rescission sent by certified mail to the Virginia franchisee, which will include an offer to return the initial franchise fees. The rescission offer will contain a provision that gives the franchisee thirty (30) days from the date of receipt to provide DaVi Nails with written notification of its decision to accept or reject the offer.

b. The Defendant will provide to the Division a copy of the rescission offer for its review at least ten (10) days prior to sending it to the franchisee.

c. The Defendant will include with the written offer of rescission a copy of the Order.

d. If the rescission offer is accepted, the Defendant will forward payment to the franchisee within fifteen (15) days of receipt of the acceptance.

e. Within ninety (90) days from the date of entry of the Order, DaVi Nails will submit to the Division an affidavit, executed by Truong, containing the date on which the franchisee received the offer of rescission, the franchisee's response, and, if applicable, the payment amount and the date that payment was sent to the franchisee.

(2) Truong will attend and complete the International Franchise Association's Franchise Compliance Training Program. Truong will provide a certificate of completion to the Division after completion of the course no later than 12 months from the entry of the Order;

(3) The Defendant will pay to the Treasurer of Virginia, contemporaneously with the entry of this Order, the amount of Twenty Thousand Dollars (\$20,000) in monetary penalties;

(4) The Defendant will pay to the Treasurer of Virginia, contemporaneously with the entry of this Order, the amount of One Thousand Dollars (\$1,000) to defray the costs of investigation; and

(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.

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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.

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

DaVi Nails Salon and Spa, LLC, 1559 West 3860 South, West Valley City, Utah 84119; and David Truong, Business Manager, 818 North Sandhurst Drive, Salt Lake City, Utah 84103-2284; with a copy to James E. Cannon, 1368 Wilson Avenue, Salt Lake City, Utah 84105; and a copy shall be delivered to the Commission's Office of General Counsel and Division of Securities and Retail Franchising.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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STATE CORPORATION COMMISSION

v.

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DAVI NAILS SALON AND SPA, LLC,
Defendant

ADMISSION AND CONSENT

DaVi Nails Salon and Spa, LLC ("DaVi Nails" or "Defendant") admits to the jurisdiction of the State Corporation Commission ("Commission") as to the party and subject matter hereof and, without admitting 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").

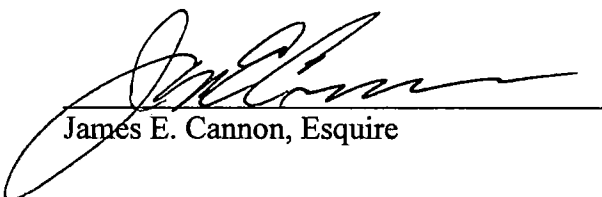
The Defendant further states that no offer, tender, threat or promise of any kind whatsoever has been made by the Commission or any member, subordinate, employee, agent or representative thereof in consideration of the foregoing Order.

DaVi Nails Salon and Spa, LLC

Date: 4/9/2018

By: 
David Truong, Business Manager

Seen and Approved By:


James E. Cannon, Esquire