

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, MARCH 3, 2021

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. SEC-2020-00055

360 PAINTING, LLC,
Defendant

SETTLEMENT ORDER

The State Corporation Commission's ("Commission") Division of Securities and Retail Franchising ("Division") conducted an investigation of 360 Painting, LLC ("360 Painting" 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").

On August 21, 2006, the Franchisor, 360 Painting, was originally organized in Virginia as a corporation called 360 Painting, Inc. On October 4, 2010, the company became a Virginia limited liability company and has periodically maintained its registration with the Commission as a limited liability company since that date. Premium Service Brands, LLC ("PSB") has been the sole member of 360 Painting since PSB's formation on January 20, 2015. Before that time, Paul Flick ("Flick") was the sole member/shareholder of 360 Painting. 360 Painting's principal office is located at 630 Peter Jefferson Parkway, Suite 200, Charlottesville, Virginia 22911. 360 Painting offers and sells franchises that provide a full range of painting and wall finishing services for both exterior and interior portions of residences and "light commercial" buildings. Since December 29, 2016, 360 Painting has been registered with the Division to sell franchises in Virginia.

Based on its investigation, the Division alleges that the Defendant violated Rule 21 VAC 5-110-95 of the Retail Franchising Act Rules of the Virginia Administrative Code, 21 VAC 5-110-10 *et seq.* ("Rules") by failing to include in Item 3 of its 2017 Franchise Disclosure Document ("FDD") the necessary litigation, administrative or material civil action matters involving 360 Painting and Flick.

The Division further alleges that from 2018-2020, the Defendants violated Rule 21 VAC 5-110-50 by failing to provide the Division with an updated FDD with each renewal application submitted to the Division. The FDDs submitted by the Defendants during this time period failed to disclose the necessary litigation matters and thus violated Rule 21 VAC 5-110-50.

If the provisions of the Act and the Rules 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 the allegations herein but admits to the Commission's jurisdiction and authority to enter this 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 Virginia, contemporaneously with the entry of this Order, the amount of Ten Thousand Dollars (\$10,000) in monetary penalties.

(2) 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 in this matter.

(3) 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.

A COPY hereof shall be sent electronically by the Clerk of the Commission to: Russell Kruse, Esquire, 360 Painting, LLC, at rkruse@premiumservicebrands.com; and a copy shall be delivered to the Commission's Office of General Counsel and the Division of Securities and Retail Franchising.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

20200210

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Defendant


ADMISSION AND CONSENT

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

Date: 2/10/21

360 Painting, LLC

By: 

Its: Manager