

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, JANUARY 24, 2022

SEC-CLERK'S OFFICE
INVESTMENT CONTROL CENTER
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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. SEC-2021-00026

YORCMO FRANCHISING, LLC,
Defendant

SETTLEMENT ORDER

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

CMO Franchising is a Nebraska limited liability company. CMO Franchising is a fractional marketing service that offers and sells franchises that provide small businesses with the opportunity to engage a shared chief marketing officer to develop and implement marketing strategies for their businesses. CMO Franchising applied for registration with the Division on March 17, 2021.

The Division alleges that on February 28, 2018, July 27, 2020, and October 13, 2020, CMO Franchising offered and sold to three Commonwealth of Virginia residents ("Virginia Franchisees") three unregistered franchises to be operated in Virginia. Further, the Division alleges that CMO Franchising failed to provide the Virginia Franchisees with a franchise disclosure document ("FDD") as required under the Act.

Based on the investigation, the Division alleges that the Defendant violated § 13.1-560 of the Act by offering to sell and selling franchises in Virginia without the franchises being

registered under the provisions of the Act. The Division further alleges that the Defendant violated § 13.1-563 (4) (ii) of the Act by failing to provide the Virginia Franchisees with an FDD approved by the Division in conjunction with the offer and sale of the franchises 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 Defendant neither admits nor denies the allegations made herein 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 Division wherein the Defendant will abide by and comply with the following terms:

1. The Defendant will make an offer of rescission ("Rescission Offer") within thirty (30) days of the entry of this Order to the Virginia Franchisees as follows:
 - a. The Defendant will send the Rescission Offer, by certified mail, to each of the three Virginia Franchisees. The Rescission Offer will include an offer to return the franchise fees paid by each of the Virginia Franchisees to date. The Rescission Offer will allow each of the Virginia Franchisees thirty (30) days from the date of receipt to provide the Defendant with written notification of the individual Virginia Franchisee's decision to accept or reject the offer.
 - b. The Defendant will provide the Division with a copy of the Rescission Offer, for review and comment, at least ten (10) days prior to sending it to the Virginia Franchisees.
 - c. The Defendant, within ten (10) days of the entry of this Order, will send a copy of this Order to each of the Virginia Franchisees.

- d. If any of the three Virginia Franchisees accepts the Rescission Offer, the Defendant will make payment of the franchise fee(s) paid to date to the Virginia Franchisee(s) within fifteen (15) days of receipt of the written acceptance.
 - e. Within ninety (90) days from the date of entry of this Order, the Defendant will submit to the Division an affidavit, executed by the Defendant, containing the date each Virginia Franchisee received the Rescission Offer, each of the Virginia Franchisees' responses, and, if applicable, the franchise fee amount paid and the date that payment was sent to each of the Virginia Franchisees.
2. The Defendant will pay to the Treasurer of Virginia, contemporaneously with the entry of this Order, the amount of Six Thousand Dollars (\$6,000) in monetary penalties.
 3. The Defendant will pay to the Treasurer of Virginia, contemporaneously with the entry of this Order, the amount of Seven Hundred Fifty Dollars (\$750) to defray the costs of investigation.
 4. The Defendant will not violate the Act in the future.

The Division has accepted the Defendant's offer of settlement and recommended that the Commission accept the settlement.

NOW THE COMMISSION, having considered this matter, is of the opinion that the settlement should be, and is hereby, accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The settlement is accepted.
- (2) The Defendant shall fully comply with the terms 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 of the settlement.

A COPY hereof shall be sent by the Clerk of the Commission by electronic mail to:
Charles N. Internicola, Esquire, The Internicola Law Firm, P.C., at
ag@BusinessAndFranchiseLaw.com, 115 Maple Avenue, Red Bank, New Jersey 07701; 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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STATE CORPORATION COMMISSION

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YORCMO FRANCHISING, LLC,
Defendant

ADMISSION AND CONSENT

yorCMO Franchising, LLC ("Defendant") admits to the jurisdiction of the State Corporation Commission ("Commission") as to the party and subject matter hereof and, without admitting nor denying the allegations made herein by the Division of Securities and Retail Franchising, hereby consents 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.

yorCMO Franchising, LLC

Date: 11/15/2021

By: [Signature]

Its: managing member

Seen by:

[Signature]
Charles N. Internicola, Esquire