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California Corporations Commissioner
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Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Order of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, v. BATH JUNKIE FRANCHISE, INC., JUDY ZIMMER, STEVEN KAY, JON ZIMMER, Respondents.	)	File No.: XXXX SETTLEMENT AGREEMENT

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This Settlement Agreement ("Agreement") is entered into between Bath Junkie Franchise, Inc. ("Bath Junkie"), Judy Zimmer ("Zimmer"), Steven Kay ("Kay") and Jon Zimmer ("J. Zimmer") (collectively, "Respondents"), on the one hand, and the California Corporations Commissioner ("Commissioner"), on the other hand, with respect to the following facts:

RECITALS

A. At all times relevant hereto, Bath Junkie was an Arkansas corporation with its principal place of business at 104 N.E. Avenue, Suite D, Fayetteville, Arkansas 72701.

B. At all times relevant hereto, Zimmer was the Chief Executive Officer, president and a "control" person of Bath Junkie. "Control" is defined by California Corporations Code section 160.

C. At all times relevant hereto, Kay was the Vice President and General Counsel of Bath Junkie.

D. At all times relevant hereto, J. Zimmer was the Vice President, Secretary, Treasurer and a control person of Bath Junkie.

E. Since at least in or about August 2006, Bath Junkie has sold franchises in California pursuant to franchise agreements. The agreements grant the right to engage in the business of offering, selling, and distributing products and services under Bath Junkie Inc.'s exclusive trademarks, including service marks and trade names. Bath Junkie's offering circular states that the company "offers franchises for the operation of retail stores selling high-quality, custom-blended bath and body products, and related items."

F. On July 19, 2007, Bath Junkie filed an application for registration with the Commissioner to offer and sell franchises in California on a Uniform Franchise Registration Application pursuant to Corporations Code Section 31111 and California Code of Regulations, Rule 310.111(b). [1]

G. On October 12, 2007, the Commissioner issued an Order Designating Registration Period providing that Bath Junkie's registration to offer and sell franchises commenced July 19, 2007 and would terminate on April 20, 2008.

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[1] All references to "Section(s)" are to the California Corporations Code; all references to "Rule(s)" are to Title10, California Code of Regulations, Chapter 3, Subchapter 2.6 (Franchises).

H. Bath Junkie failed to file an application for renewal pursuant to Section 31121 and as a result, Bath Junkie's registration terminated April 20, 2008.

I. Bath Junkie filed a new application for registration on July 14, 2008.

J. On August 4, 2008, the Commissioner sent Respondents a letter stating that material changes to the application were required in order to complete the application. This information was never submitted by Respondents.

K. On July 21, 2009, the Commissioner issued an Order Declaring Application Abandoned. As such, Respondents have not been registered to offer and sell franchises in California since April 20, 2008.

L. The Commissioner, acting to protect the public from unlawful practices in the offer and sale of franchises, commenced an investigation into Respondents' offer and sale of Bath Junkie franchises.

M. On February 25, 2011, the Commissioner issued a Citation and Desist and Refrain Order ("Order"), finding that Respondents have engaged in the offer and sale of franchises in this state that are subject to registration under the Franchise Investment Law without the offers first having been registered, in violation of Section 31110; failed to provide prospective franchisees with a proper offering circular and financial statements, in violation of Section 31119 and Rules 310.111.2 and 310.114.1; made untrue statements of a material fact, or omitted to state material facts required to be stated, in the 2007 and 2008 franchise applications, in violation of Section 31200; and engaged in the offer and sale of franchises in this state by means of written or oral communications which include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of Corporations Code section 31201. Respondents were ordered to desist and refrain from these violations. The Commissioner also imposed an administrative penalty in the amount of twenty thousand dollars ($20,000), for two violations each of Sections 31110, 31119, 31200 and 31201.

N. It is the intention and desire of the parties to resolve this matter without the necessity of a hearing and/or other litigation.

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NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set forth herein, the parties agree as follows:

TERMS AND CONDITIONS

1. This Agreement is entered into for the purpose of judicial economy and expediency, and to avoid the time and expense of a hearing and possible further court proceedings.

2. Without admitting or denying the allegations contained in the Order, Respondents hereby stipulate to issuance of the Order, a true and correct copy of which is attached hereto as Exhibit A. In the event that any future proceeding(s) are initiated by or brought before the Commissioner against Respondents, Respondents shall not dispute the allegations contained in the Order or this Agreement, including the Recitals.

3. Respondents hereby waive their right to a hearing on the allegations set forth in the Order. Respondents acknowledge their right to an administrative hearing under sections 31402 and 31406 in connection with the Order, and hereby waive that right to a hearing, and to any reconsideration, appeal, or other right which may be afforded pursuant to the Franchise Investment Law, the California Administrative Procedure Act, the California Code of Civil Procedure or any other provision of law in connection with this matter.

4. Respondents shall pay a citation in the amount of $5,000 to the Commissioner immediately upon execution of the Agreement. All Respondents are jointly and severally liable for the payment due. If Respondents fail to timely make this payment, the entire $20,000 citation shall become immediately due and payable.

5. If Respondents fail to comply with any of the terms of this Order, the Commissioner may institute proceedings for any and all violations otherwise resolved pursuant to this Agreement and the Order.

6. The parties hereby acknowledge and agree that this Agreement is intended to and shall constitute a final and complete resolution of the Order, and constitutes the entire Agreement between the parties with respect thereto. This Agreement supercedes any and all prior or contemporaneous agreements between the parties hereto.

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7. Notwithstanding any other provision contained herein, nothing in this Agreement shall operate to limit the Commissioner's ability to investigate and prosecute violations of the Franchise Investment Law not addressed herein, or to assist any other agency (county, state or federal) with any prosecution, administrative, civil or criminal, brought by such agency against Respondents concerning violations alleged herein or otherwise.

8. Each party hereto represents and warrants that it has received independent advice from its attorney(s) and/or other representatives prior to entering into this Agreement, and in executing this Agreement relied solely on this statements set forth herein and the advice of its own counsel and/or representative.

9. In that the parties have had the opportunity to draft, review and edit the language of this Agreement, no presumption for or against any party arising out of drafting all or any part of this Agreement will be applied in any action relating to or arising out of this Agreement. Accordingly, the parties hereby waive the benefit of California Civil Code section 1654 and any successor statute.

10. The waiver of any provision of this Agreement shall not operate to waive any other provision set forth herein, and any waiver, amendment and/or change to the terms of this Agreement must be in writing signed by the parties hereto.

11. Each signatory hereto represents and warrants that he/she possesses the necessary capacity and authority to execute this Agreement and bind the parties hereto.

12. This Agreement may be executed in one or more counterparts, each of which shall be an original but all of which, together, shall be deemed to constitute a single document. A fax signature shall be deemed the same as an original signature.

Dated: __7/21/11___

PRESTON DuFAUCHARD
California Corporations Commissioner

By_____
Alan S. Weinger
Deputy Commissioner

Dated:____7-18-11__ BATH JUNKIE FRANCHISE, INC.

By_____
Judy Zimmer, President and CEO

Dated:___7-18-11___ JUDY ZIMMER

By_____
Judy Zimmer

Dated: ___7-18-11___ JON ZIMMER

By_____
Jon Zimmer

Dated:____7-18-11__ STEVEN KAY

By_____
Steven Kay

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