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STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: Herbert C. Davis, President and CEO
Caboto's Franchise Development Corporation, dba Caboto's and
Caboto's Associated Food Services, Inc.
389 North Industrial Road, Suite #8
St. George, Utah 84770

DESIST AND REFRAIN ORDER
(For violation of section 31110 of the Corporations Code)

The California Corporations Commissioner finds that:

1. Caboto's Franchise Development Corporation ("Caboto's") was incorporated in Utah on March 18, 2002. It does business under the names Caboto's and Caboto's Associated Food Services, Inc., and maintains a website at www.cabotos.com. Caboto's Franchise Development Corporation sells franchises for the operation of mobile food kiosks, gazebos and specialty trailers. Its address is 389 North Industrial Road, Suite #8, St. George, Utah 84770.

2. Herbert C. Davis is the president and chief executive officer (CEO) of Caboto's.

3. On or about March 3, 2003 Caboto's Franchise Development Corporation filed an application pursuant to Corporations Code section 31111 for registration of an offer to sell franchises in California under the name Caboto's. The company proposed to charge each franchisee an initial franchise fee of \$15,000 plus equipment charges ranging from \$20,000

1 to \$50,000 for a food kiosk, trailer or gazebo. Because of the high initial franchise and start-
2 up fees the company proposed to charge, the potential risk of the investment it was offering,
3 its lack of operating history and its incomplete financial records, the Department imposed an
4 impound condition pursuant to Corporations Code section 31113 and Title 10, Section
5 310.113 of the California Code of Regulations as a prerequisite to the franchise registration.
6 The impound condition required the company to deposit the initial franchise fees paid by
7 California franchisees into an escrow account at Wells Fargo Bank until the company
8 performed its obligations to provide equipment, inventory, training and other items.
9 Caboto's Franchise Development Corporation was notified of the condition by letter dated
10 March 14, 2003.

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12 4. The franchise registration of Caboto's Franchise Development Company became
13 effective on April 3, 2003 and expired on July 20, 2003. The company was informed of the
14 expiration date by letter dated April 3, 2003 which also stated:

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16 Please note that pursuant to section 31121, a registration renewal application must
17 be filed no later than 15 business days prior to the expiration of the registration.

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19 No registration renewal application was filed.

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21 5. In or about August of 2003 a resident of Tujunga, California, learned of the
22 franchises offered by Caboto's Franchise Development Corporation from an Internet site.
23 She contacted the company and initiated discussions with Herbert C. Davis. Following
24 those discussions Herbert C. Davis came to California on or about October 8, 2003 to meet
25 with the resident concerning a possible franchise purchase. On October 8, 2003, Herbert C.
26 Davis and the Tujunga resident executed a written "Standard Franchise Agreement"
27 whereby Caboto's Franchise Development Corporation sold the woman the rights to
28 establish, conduct and operate a Caboto's franchise. Pursuant to that agreement, the

1 woman was required to pay and did pay an initial franchise fee of \$15,000 plus a kiosk
2 deposit of \$2,000 by check dated and delivered to Herbert C. Davis on October 8, 2003. On
3 or about December 2, 2003, the woman made an additional payment of \$32,850.00 to
4 Caboto's Franchise Development Corporation for product and other items which Herbert C.
5 Davis told her she needed to obtain in advance of training that she was supposed to be
6 receiving from the company. The checks were deposited by the company into an account in
7 Utah, not into an escrow account at Wells Fargo Bank.

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9 6. Thereafter, the woman learned that Caboto's Franchise Development Corporation
10 was not registered with the California Secretary of State to do business in California, and
11 was not registered with the Department of Corporations to offer or sell franchises in
12 California. She then checked with authorities in Utah and learned that neither Caboto's
13 Associated Food Service, Inc. nor Caboto's Franchise Development Corporation was a
14 corporation in good standing with the Utah Department of Commerce and that neither
15 Herbert C. Davis, Caboto's Franchise Development Corporation nor Caboto's Associated
16 Food Service, Inc. was registered to sell franchises in Utah. None of this information had
17 been disclosed to her prior to her franchise purchase.

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19 Based upon the foregoing findings, the California Corporations Commissioner is of
20 the opinion that Herbert C. Davis and Caboto's Franchise Development Corporation, doing
21 business as Caboto's and Caboto's Associated Food Services, Inc., offered and sold a
22 franchise in California, that was subject to registration under the Franchise Investment Law,
23 without the offer first being registered, in violation of Corporations Code section 31110.
24 Pursuant to section 31402 of the Corporations Code, Herbert C. Davis and Caboto's
25 Franchise Development Corporation, doing business as Caboto's and Caboto's Associated
26 Food Services, Inc., are hereby ordered to desist and refrain from the further offer or sale of
27 Caboto's franchises unless and until the offers have been duly registered under the
28 Franchise Investment Law. This Order is necessary, in the public interest, for the protection

1 of investors and consistent with the purposes, policies and provisions of the Franchise
2 Investment Law.

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4 Dated: May 19, 2004
5 Los Angeles, California

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WILLIAM P. WOOD
California Corporations Commissioner

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By _____
ALAN S. WEINGER
Supervising Counsel

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