

BEFORE THE
DEPARTMENT OF BUSINESS OVERSIGHT
STATE OF CALIFORNIA

In the Matter of:
THE COMMISSIONER OF BUSINESS
OVERSIGHT

OAH No. 2017080686

Complainant,

v.

GLACÉ FRANCHISING, LLC, and
GLACÉ CRYOTHERAPY, LLC,

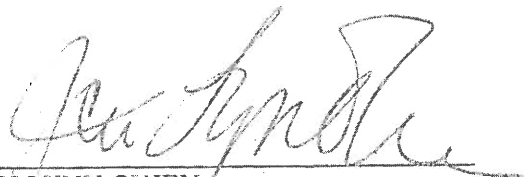
Respondents.

DECISION

The attached Proposed Decision of the Administrative Law Judge of the Office of Administrative Hearings, dated October 24, 2017, is hereby adopted with technical changes by the Department of Business Oversight as its Decision in the above-entitled matter.

This Decision shall become effective on Dec. 20, 2017.

IT IS SO ORDERED this 20 day of November 2017.



JAN LYNN OWEN
Commissioner of Business Oversight

ERRATA SHEET

Changes to Proposed Decision – Glace Franchising, LLC, Glace Cryotherapy, LLC

- 1) On page 5 of the Proposed Decision, Paragraph Number 17 of the Factual Findings, lines 1 and 2, delete “senior examiner” and insert instead “senior attorney”.
- 2) On page 9 of the Proposed Decision, Paragraph Number 3 of the Legal Conclusions, line 13, delete “Genies” and insert instead “Gentis”.
- 3) On page 10 of the Proposed Decision, Paragraph Number 5 of the Legal Conclusions, line 4, delete “Law Vegas” and insert instead “Las Vegas”.

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v.

GLACÉ FRANCHISING, LLC, and
GLACÉ CRYOTHERAPY, LLC,

Respondents.

Case No. 5033

OAH No. 2017080686

PROPOSED DECISION

Administrative Law Judge Jill Schlichtmann, Office of Administrative Hearings, State of California, heard this matter on September 6, 2017, in Oakland, California.

Kirk Wallace, Senior Counsel, represented complainant Jan Lynn Owen, Commissioner of Business Oversight.

Respondents Glacé Franchising, LLC, and Glacé Cryotherapy, LLC, were represented by Brittney Scarlett-Torres and Skyler Scarlett.

The record was left open to receive written closing argument from both parties in accordance with a briefing schedule. Complainant's closing brief was timely received and marked for identification as Exhibit N. Respondent's closing brief was timely received and marked for identification as Exhibit HH.

The record closed and the matter was deemed submitted for decision on September 29, 2017.

FACTUAL FINDINGS

Introduction

1. The Department of Business Oversight (department) is the agency responsible for administering and enforcing the Franchise Investment Law and registering the offer and sale of franchises in California, pursuant to Corporations Code section 31000 et seq. The Franchise Investment Law is designed to protect the public. Before offering or selling franchises, a franchisor must be registered with the department. The department reviews the terms before a franchisor is registered to sell franchises in order to confirm that the terms and material facts are properly disclosed.

2. Glacé Cryotherapy, LLC, is a California limited liability company which owns a spa in Carmel, California. Glacé Cryotherapy, LLC, offers spa services that involve immersing the body in cold gasses. Glacé Cryotherapy, LLC, first registered with the Secretary of State on April 13, 2015, with a principal place of business located at 3777 The Barnyard, Carmel, California.

3. Glacé Franchising, LLC, is a California limited liability company that was first registered on February 22, 2016, with the same principal place of business. Glacé Franchising, LLC, was formed for the purpose of offering and selling franchises for spas that offer cryotherapy under the name and brand "Glacé Cryotherapy."

4. On March 3, 2016, Glacé Franchising, LLC, applied to the department for registration to offer and sell franchises in California, pursuant to Corporations Code section 31111.

5. Brittney Scarlett-Torres is the Chief Operating Officer and a control person of Glacé Cryotherapy, LLC, and Glacé Franchising, LLC.

6. Skyler Scarlett is the Chief Executive Officer and a control person of Glacé Cryotherapy, LLC, and Glacé Franchising, LLC.

7. The Commissioner alleges that Glacé Cryotherapy, LLC, has sold franchises in California prior to being registered with the department. The Commissioner has taken the following actions, which the Commissioner requests be affirmed:

- a) The issuance of a citation including: 1) a Desist and Refrain Order prohibiting the further offer or sale of franchises in California; 2) the assessment of administrative penalties in the amount of \$2,500 per violation; and 3) the assessment of ancillary relief; and
- b) The issuance of a Stop Order Denying the Franchise Registration Application filed by Glacé Franchising, LLC.

8. Scarlett and Scarlett-Torres deny that respondents have sold franchises in California; they contend that they have entered into licensing agreements which do not constitute franchise sales.

The Contract between Glacé Cryotherapy, LLC, and A Cold One, LLC

9. On March 1, 2015, Ryan and Lindsay Weeks were visiting Carmel, California. Ryan Weeks had read about cryotherapy spas in the Wall Street Journal. When the couple saw the Glacé Cryotherapy spa in Carmel, they decided to try it. The couple enjoyed the experience and asked Scarlett if they could discuss a contract allowing the Weeks' to open a spa near their home to offer these services under the Glacé Cryotherapy name and brand. The parties later discussed the terms over dinner.

10. The Weeks formed a limited liability company, A Cold One, LLC. They purchased a cryosauna from a third-party supplier and received training on the use of the device and certification from the cryosauna manufacturer. The Weeks found a location for the spa in the Willow Glen neighborhood of San Jose.

11. On June 15, 2015, the Weeks entered into a contract with Glacé Cryotherapy, LLC, under the name A Cold One, LLC. The contract states:

This contract is between Brittney Scarlett-Torres and Skyler Scarlett, owners/operators of GLACÉ CRYOTHERAPY, LLC in Carmel, California and Ryan and Lindsay Weeks A COLD ONE, LLC, owner/operators of GLACÉ CRYOTHERAPY San Jose, in San Jose, California. This contract is made as of the 15th day of June, 2015 by and between A COLD ONE, LLC and GLACÉ CRYOTHERAPY, LLC.

GLACÉ CRYOTHERAPY, LLC shall provide the following:

- The GLACÉ CRYOTHERAPY Name and Brand
- Gas Account Contact & Implementation
- Booking Account Contact & Introduction
- Insurance Contact & Introduction
- All Existing Marketing & Advertising Files
- Ongoing Support
- Installation of Cryosauna and Training
- Discount on Cryosauna & Training Fees
- Sharing of Existing Website
- Sharing of Existing of Social Media (Instagram, Youtube, etc.)
- Various Confidential Manuals & Documents

In consideration, A COLD ONE, LLC shall pay an 8 percent monthly share of their gross monthly revenue to GLACÉ CRYOTHERAPY, LLC in Carmel, California effective after second month in business. A COLD ONE, [LLC] shall provide monthly accountings of GLACÉ CRYOTHERAPY San Jose to GLACÉ CRYOTHERAPY, LLC Carmel. A COLD ONE, LLC shall allow access to data pertaining to usage of Cryosauna per month.

A COLD ONE, LLC will sign a nondisclosure and confidentiality agreement before receipt of the IMPACT Cryosauna. A COLD ONE, LLC will ensure that their insurance company has a provision that any negligence of GLACÉ CRYOTHERAPY San Jose cannot be attributed to GLACÉ CRYOTHERAPY Carmel.

In the event that A COLD ONE, LLC decides to open more Cryotherapy offices they must be of the GLACÉ CRYOTHERAPY brand and percentage to move to 4 percent monthly share of gross monthly revenue to GLACÉ CRYOTHERAPY, LLC.

In the event it is sold out to a third party, GLACÉ CRYOTHERAPY, LLC to remain percentage holders.

This contract does not expire and is set forth from time of signing.

12. After opening their spa, the Weeks became disappointed with the support provided by Glacé Cryotherapy, LLC. However, after Scarlett and Scarlett-Torres were featured on the television show *Shark Tank*, and received a promise of funding, the Weeks became more confident in the viability of the business and opened a second location. The *Shark Tank* deal did not go through, their businesses were suffering and the Weeks grew unhappy with the terms of the contract. They had not received the promised marketing assistance and were required to pay for their own website and traffic to the website. They spent money trying to grow the business and received no guidance or insight into the marketing plan. Although they shared a website, no business came to A Cold One, LLC, from the website.

13. A Cold One, LLC, spent \$16,026.97 between May 13, 2015 and September 31, 2016, marketing the Glacé Cryotherapy name and brand. A Cold One, LLC, paid Glacé Cryotherapy, LLC, \$15,984.77 in revenue sharing payments between September 2015 and July 2016. They felt that Scarlett and Scarlett-Torres had not lived up to their part of the agreement. The parties stopped doing business together in July 2016.

Franchise Registration Application and Complaint Investigation

14. Glacé Cryotherapy, LLC, and Glacé Franchising, LLC, have never been registered to offer franchises in the State of California.

15. The franchise registration application and franchise disclosure documents (FDD) filed with the department on March 3, 2016, by Glacé Franchising, LLC, stated that neither Glacé Franchising, LLC, nor Glacé Cryotherapy, LLC, had previously offered franchises. The FDD also stated that as of December 31, 2015, there were no existing franchised outlets and no outlets for which a franchise agreement had been signed but had not yet opened. Glacé Franchising, LLC, stated that it had first begun offering franchises in February 2016, and that Glacé Cryotherapy, LLC, had not previously offered franchises. Glacé Franchising, LLC, also represented that Glacé Cryotherapy, LLC, had only one business location.

16. In August 2016, the department received a complaint against Glacé Cryotherapy, LLC, from Ryan and Lindsay Weeks. They provided a copy of a contract between A Cold One, LLC, and Glacé Cryotherapy, LLC.

17. Stevenson Kiang has worked for the department for 27 years; he is a senior examiner in the securities registration division. Kiang regularly reviews franchise registration applications and is familiar with California's franchise laws. Kiang reviewed Glacé Franchising, LLC's application for franchise registration, and the disclosure forms submitted by Scarlett and Scarlett-Torres in support of the application. Kiang also carefully reviewed the contract between Glacé Cryotherapy, LLC, and A Cold One, LLC.

18. In reviewing the contract, Kiang considered the "Commissioner's Release 3-F: When Does an Agreement Constitute a 'Franchise'" issued by the Commissioner in 1994. The Release provides guidance based on interpretive opinions to assist in determining whether an agreement constitutes a franchise under the Franchise Investment Law. The release identifies four elements that are essential for an agreement to constitute a franchise within the definition of Corporations Code section 31005. The four elements are:

- a) a right must be granted to the franchisee to engage in the business of offering, selling or distributing goods or services;
- b) the right must be granted to engage in the business under a marketing plan or system prescribed in substantial part by the franchisor;
- c) the operation of the franchisee's business must be substantially associated with an advertising or other commercial symbol designating the franchisor or an affiliate of the franchisor, such as a trademark, service mark, trade name or logotype; and

- d) the franchisee must be required to pay, directly or indirectly, a fee or charge, known as a "franchise fee," for the right to enter into the business.

19. Kiang found that the first element was met because the contract granted A Cold One, LLC, the right to provide cryotherapy services.

20. Kiang then analyzed the second element. Providing training sessions, the use of a manual and providing confidential information indicate the presence of a marketing plan or system prescribed in substantial part by a franchisor. The contract provided that Glacé Cryotherapy, LLC, would provide training, use of existing social media advertising, access to confidential manuals and documents and other ongoing support as to how to operate and market Glacé Cryotherapy spa locations. Whether the training and manuals were actually provided is immaterial. Kiang found that this criterion was met.

21. The third element requires that the operation of the franchisee's business be substantially associated with the franchisor's commercial symbol, such as a trademark, service mark, trade name, or logotype. The agreement provided that A Cold One, LLC, would operate under the name/brand of Glacé Cryotherapy. Therefore, he concluded that this element was met.

22. The fourth element requires the payment of a franchise fee. Corporations Code section 31011 contains a broad definition of the term franchise fee. The definition includes any fee that a franchisee is required to pay or agrees to pay for the right to enter into a business under a franchise agreement. A franchise fee may be payable in installments. The amount of the installment payments may be made to depend on gross receipts or net profits in the form of a royalty, or it may be charged based on the units of merchandise ordered or sold. Kiang noted that the contract required A Cold One, LLC, to pay a percentage of the gross monthly revenue, which qualifies as a franchise fee under the law. Kiang determined that the fourth element was met. Kiang therefore concluded that the contract constituted a franchise agreement as defined in the Franchise Investment Law.

23. Kiang noted that in their franchise registration application, respondents stated that Glacé Cryotherapy, LLC, was started in October 2014 and that neither Glacé Cryotherapy, LLC, nor Glacé Franchising, LLC, had previously offered franchises. Kiang concluded that the statement was a material misstatement because the contract with A Cold One, LLC, constituted a franchise sale.

24. In addition, the application indicated that there was only one business location from 2013 to 2015 and no franchises had been sold. Kiang considered these to be material misstatements as well.

25. Because of the misrepresentations in the application, and because the business was selling franchises before being registered with the department, Kiang recommended denial of the application. On August 7, 2017, the Commissioner issued a Stop Order Denying Glacé Franchising, LLC's Franchise Registration Application.

26. Based on the complaint and investigation into the agreement between A Cold One, LLC, and Glacé Cryotherapy, LLC, the Commissioner issued a citation including a Desist and Refrain Order, the assessment of administrative penalties and a claim for ancillary relief.

Respondents' Evidence

27. Skyler Scarlett does not have a background in business or law. He and his sister, Brittney Scarlett-Torres, consider themselves young entrepreneurs who are operating in good faith. They never considered the contract that they entered into with A Cold One, LLC, to be a franchise agreement. They note that the Weeks approached them regarding going into business together. Scarlett's mother is a family law attorney; she drafted the contract and Scarlett operates the website.

28. After being featured on *Shark Tank*, they did not suggest that the Weeks open a second location. Scarlett suggests that the Weeks grew jealous after they appeared on *Shark Tank*. Until July 2016, Scarlett and Scarlett-Torres were unaware that the Weeks were unhappy with the contract. Scarlett asserts that if he had known that the Weeks were struggling financially, he would have waived the monthly payments.

29. After appearing on *Shark Tank*, Scarlett and Scarlett-Torres decided to create a franchise program on the Glacé Cryotherapy, LLC, business model. The program would require uniform robes and consistent logos; they note that the Weeks used a different logo, signage and robes at their locations.

Scarlett-Torres contacted Brandon Garrett, an attorney specializing in franchises, for advice and guidance. He assisted them in completing the application and disclosure documents that were submitted to the department. They did not disclose additional business locations because they did not consider the businesses owned by A Cold One, LLC, to be their businesses and or franchises.

30. A childhood friend of Scarlett's who resides in Oregon wanted to open a Glacé Cryotherapy business in Oregon. Glacé Cryotherapy, LLC, entered into a contract very similar to the contract with A Cold One, LLC. They signed the contract in Carmel and he opened the business in Oregon. The business has not done well but is still a going concern. Scarlett drove to Oregon to help his friend set up the business. They have waived all but \$200 in fees owed under the contract because the business has not been financially successful. Scarlett did not list this business on the application for franchise registration because he did not consider it to be a franchise.

31. There is also a Glacé Cryotherapy spa in Las Vegas, Nevada. Glacé Cryotherapy, LLC, entered into the same contract as the one with A Cold One, LLC, with that business owner. The owner of the Las Vegas spa visited the Glacé Cryotherapy spa in Carmel and Scarlett signed the contract in Carmel. The owner of that spa has paid Scarlett and Scarlett-Torres approximately \$1,000 in fees. The business is up and running. The

owner has changed the name by adding the word "diamond" to the name; it is referred to as Glacé Diamond spa.

32. Glacé Cryotherapy, LLC, also entered into an agreement for a spa located in Tennessee. That contract contained different language, similar to the contract language proposed in the disclosure documents supporting the franchise registration application. Prior to entering into the agreement, Glacé Cryotherapy, LLC, obtained a license to offer franchises in Tennessee and in other states.

33. Scarlett and Scarlett-Torres have opened Glacé Cryotherapy locations in select California locations within LA Fitness clubs. They pay LA Fitness to operate in those locations.

34. Scarlett-Torres believes that the Weeks became angry when they learned of their plans to open a Glacé Cryotherapy spa in Mountain View, which is located 35 to 40 miles from his spa. The relationship deteriorated further after they placed spas in various LA Fitness locations.

35. Scarlett-Torres does not believe that the contract with A Cold One, LLC, constitutes a franchise agreement. A Cold One, LLC, uses different looking robes, their signs look different, and the pricing charts are different. She attributes any misunderstanding to her inexperience and bad advice from a business attorney.

Additional Violations

36. After hearing the testimony of Scarlett and Scarlett-Torres, Kiang concluded that the contracts with the Oregon and Las Vegas Glacé Cryotherapy business owners also constituted franchise agreements. The contracts contained the same terms as the Weeks contract and were executed in California. Therefore, the contracts constitute additional violations of the Franchise Investment Law.

LEGAL CONCLUSIONS

The Sale of Franchises in California

1. The offer and sale of franchises in California is regulated by the Department of Business Oversight pursuant to the Franchise Investment Law. (Corp. Code, § 31000 et seq.) It is unlawful for any person to offer or sell any franchise in this state unless the offer of the franchise has been registered with the department or exempted. (Corp. Code, § 31110.) The burden of establishing an exemption is on the person claiming the exemption. (Corp. Code, § 31153.)

2. Corporations Code section 31402 provides that if in the opinion of the Commissioner, the offer of any franchise is subject to registration and it has been offered for sale without the offer first being registered, the Commissioner may order the franchisor or

offeror of that franchise to desist and refrain from further offer or sale unless and until the offer has been duly registered under the law. The evidence established that Glacé Cryotherapy was not registered in California to offer or sell franchises and no evidence of the existence of an exemption was established. (Factual Finding 14.) Respondents contend, however, that their contract with A Cold One, LLC, does not constitute a franchise agreement and that they have not offered or sold franchises in California.

3. Corporations Code section 31005 defines a franchise as including a contract by which:

- a) a franchisee is granted the right to engage in the business of offering, selling or distributing services under a marketing plan or system prescribed in substantial part by the franchisor;
- b) the operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the franchisor or its affiliate; and
- c) the franchisee is required to pay a franchise fee.

The Franchise Investment Law is a remedial statute; each element is construed liberally to broaden the group of investors protected by the law and to carry out the legislative intent of the statute. (*Genies v. Safeguard Business Systems, Inc.* (1998) 60 Cal.App.4th 1292, 1298 - 1299.)

4. The Commissioner issued guidelines in the Commissioner's Release No. 3-F (revised) for determining whether an agreement constitutes a franchise. (Factual Finding 18.) Courts look to these guidelines for insight in interpreting the Franchise Investment Law. (*Kim v. Servosnax, Inc.* (1992) 10 Cal.App.4th 1346, 1353; *Thueson v. U-Haul International, Inc.* (2006) 144 Cal.App.4th 664, 671.) The interpretation by officials charged with its administration is entitled to great weight, even though the ultimate responsibility for statutory interpretation rests with the court. (*Ibid.*) Regulations, releases, guidelines and interpretive opinions of the Commissioner under the Franchise Investment Law concerning the definition of a franchise are prima facie evidence of the scope and extent of the coverage of the definition. (*Id.*, at p. 672, fn. 7.)

The Glacé Cryotherapy, LLC, contract grants the right to A Cold One, LLC, to own and operate a Glacé Cryotherapy spa offering cryotherapy services to customers. (Factual Findings 11, 18 and 19.) The first element set forth in the Commissioner's Release No. 3-F (revised) is therefore met.

The second element requires that the franchised business be operated under a marketing plan or system prescribed in substantial part by the franchisor. Pursuant to the guidelines in the Commissioner's Release, a marketing plan may be prescribed if the

franchisor claims to have available a successful marketing plan. This element is presumably met, even if there is no obligation to implement the plan. Where the sales program is supported by training material, the marketing plan is presumed to be prescribed. The Glacé Cryotherapy, LLC contract offered marketing and advertising files, sharing of social media, ongoing support, confidential manuals and training. (Factual Findings 11 and 20.) The second element is therefore met.

The third element requires that the business is substantially associated with the trade name, trademark or logotype. The evidence established that the contract permitted A Cold One, LLC, to use the Glacé Cryotherapy name and brand. (Factual Findings 11 and 21.) Thus, the third element is met.

The fourth element requires that the franchisee pay for the right to enter into the business under a franchise agreement. A Cold One, LLC, agreed to and paid monthly fees to Glacé Cryotherapy. (Factual Findings 11, 13 and 22.) The fourth element is met.

5. Pursuant to the statute and the guidelines set forth in the Commissioner's Release, the contract between Glacé Cryotherapy, LLC, and A Cold One, LLC, meets the four elements of a franchise agreement. As set forth in Factual Findings 30, 31 and 36, the Oregon and Law Vegas contracts contained the same terms. If an offer to sell a franchise is made in California or the offer originates in California, the franchise sale qualifies as being made in this state. (Corp. Code, § 31013, subds. (a) and (b).) The evidence therefore established that respondent Glacé Cryotherapy, LLC, sold four franchises in California without being registered with the department.

Does cause exist to issue a Desist and Refrain Order?

6. Pursuant to Corporations Code sections 31402 and 31406, if an offer of any franchise is subject to registration and has been offered for sale without first being registered, the Commissioner may order the franchisor to desist and refrain from further offer or sale of that franchise unless and until the offer has been duly registered. Cause exists for the Commissioner to issue a citation containing a Desist and Refrain Order.

Does cause exist to order administrative penalties?

7. Pursuant to Corporations Code section 31406, if following an investigation, the Commissioner determines that the Franchise Investment Law has been violated, an administrative penalty in an amount not to exceed \$2,500 per violation may be assessed. The Commissioner requests administrative penalties in the amount of \$2,500 for each violation, including the two franchises sold to A Cold One, LLC, the Oregon franchise and the Las Vegas franchise. Cause for the assessment of administrative penalties in the total amount of \$10,000 exists.

Does cause exist to order ancillary relief?

8. Corporations Code section 31408, subdivision (a), authorizes the Commissioner to claim ancillary relief, including, but not limited to, a claim for disgorgement of fees or damages, on behalf of the persons injured by the act or practice constituting the subject matter of the action. The Commissioner seeks disgorgement of franchise fees and damages suffered by A Cold One, LLC. The ancillary relief sought includes the \$15,984.77 in franchise fees paid by A Cold One, LLC, to Glacé Cryotherapy, LLC, and \$16,026.97 spent by A Cold One, LLC, to advertise and market under the Glacé Cryotherapy name and brand. (Factual Finding 13.) The Commissioner is authorized to order ancillary relief in these amounts pursuant to Corporations Code section 31408, subdivision (a).

Does cause exist to issue a Stop Order denying the franchise registration application?

9. The evidence established that Glacé Franchising, LLC, made several incorrect statements on its application for franchise registration, including that it had not previously offered or sold a franchise, that it had only one business location. (Factual Findings 23 through 25.) Corporations Code section 31200 makes it unlawful to make any untrue statement of a material fact on any application filed with the Commissioner.

Pursuant to Corporations Code section 31115, subdivision (a), the Commissioner may summarily issue a stop order denying the effectiveness of any registration if the Commissioner finds that there has been a failure to comply with any of the provisions of the Franchise Investment Law. Respondents have made material misstatements on their application for franchise registration and have sold franchises without being registered. Respondents have therefore violated Corporations Code sections 31110 and 31200. Cause for the issuance of a stop order has been established.

Conclusions

10. Cause exists to affirm the Commissioner's Desist and Refrain Order of August 7, 2017, against respondents. (Legal Conclusions 2 through 6.)

11. Cause exists to levy administrative penalties in the amount of \$10,000 against respondent Glacé Cryotherapy, LLC, pursuant to Corporations Code section 31406. (Legal Conclusion 7.)

12. Cause exists to order ancillary relief in the form of disgorgement of fees and damages in the amount of \$32,011.74. (Legal Conclusion 8.)

13. Cause exists to affirm the Commissioner's Stop Order Denying Franchise Registration Application of August 7, 2017. (Legal Conclusion 9.)

ORDER

1. The Order to Desist and Refrain, issued against respondents Glacé Cryotherapy, LLC, and Glacé Franchising, LLC, by the Commissioner of Business Oversight on August 7, 2017, is affirmed.

2. The Order Levying Administrative Penalties is affirmed in the amount of \$10,000. The payment of the administrative penalties shall be made within 90 days of the issuance of this Order. The payment shall be made in the form of a cashier's check or automated Clearing House deposit to the "Department of Business Oversight" and transmitted to the attention of Accounting at the Department of Business Oversight, located at 1515 K Street, Suite 200, Sacramento, California, 95814. Notice of all payments shall be sent concurrently to Kirk Wallace, Senior Counsel, Enforcement Division, Department of Business Oversight, One Sansome Street, Suite 600, San Francisco, CA 94104.

3. The Claim for Ancillary Relief issued against respondents is affirmed in the amount of \$32,011.74. Respondents shall pay and deliver ancillary relief in the amount of \$32,011.74 to franchisee A Cold One, LLC, not later than 90 days from the date of this Order. Notice of all payments shall be sent concurrently to Kirk Wallace, Senior Counsel, Enforcement Division, Department of Business Oversight, One Sansome Street, Suite 600, San Francisco, CA 94104. Respondents shall not require the franchisees to waive any provision under California Franchise Investment Law in accordance with Corporations Code section 31512.

4. The Stop Order Denying Franchise Registration Application issued against Glacé Cryotherapy, LLC, and Glacé Franchising, LLC, by the Commissioner of Business Oversight on August 7, 2017, is affirmed.

DATED: October 24, 2017

DocuSigned by:

Jill Schlichtmann

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JILL SCHLICHTMANN

Administrative Law Judge

Office of Administrative Hearings