

1 MARY ANN SMITH  
Deputy Commissioner  
2 SEAN M. ROONEY  
Assistant Chief Counsel  
3 AFSANEH EGHBALDARI (State Bar No. 250107)  
Counsel  
4 Department of Business Oversight  
1350 Front Street, Room 2034  
5 San Diego, California 92101  
Telephone: (619) 645-3166  
6 Facsimile: (619) 525-4045

7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
9 OF THE STATE OF CALIFORNIA

11 In the Matter of:	)	FIL ORG ID: 263725
	)	
12 THE COMMISSIONER OF BUSINESS	)	CITATION INCLUDING:
13 OVERSIGHT,	)	(1) DESIST AND REFRAIN ORDER;
	)	
14 Complainant,	)	(2) ASSESSMENT OF PENALTIES;
	)	
15 v.	)	(3) CLAIM FOR ANCILLARY RELIEF
	)	
16 SWEET ASSETS FRANCHISE GROUP, INC.,	)	(Corp. Code §§ 31406 and 31408)
17 dba DONUT BAR AND SCOTT JEWETT,	)	
	)	
18 Respondents.	)	
	)	

20 The Complainant, the Commissioner of Business Oversight (Commissioner) of the  
21 Department of Business Oversight (Department), finds the following:

22 **I.**

23 **Introduction**

- 24 1. At all relevant times, Sweet Assets Franchise Group, Inc., dba Donut Bar (Sweet  
25 Assets) was a Delaware corporation with a place of business located at 615 C Street, Suite 245, San  
26 Diego, California 92101.
- 27 2. At all relevant times, Scott Jewett (Jewett) was the Chief Executive Officer and  
28 Director of Sweet Assets.



1           12. Sweet Assets and Jewett were required to promptly amend the FDD filed with the  
2 Commissioner or file a Post-Effective Amendment in September of 2017, to disclose Quiroz as one  
3 of the officers; and disclose a 2014 civil lawsuit and 2015 bankruptcy filing related to Quiroz. Sweet  
4 Assets and Jewett failed to amend Sweet Assets’ registration until April of 2018, in violation of  
5 Corporations Code sections 31123 and 31200.

6           13. Sweet Assets and Jewett also filed an FDD that contained materially different  
7 information about the initial investment costs and expenses than the FDD provided to prospective  
8 franchisees in violation of Corporations Code section 31200.

9           14. In 2017 and 2018, Sweet Assets and Jewett offered and sold franchises in California.  
10 In connection with the offers and sales of the Donut Bar franchises, Sweet Assets and Jewett made  
11 untrue statements of material facts and omitted to state material facts, in violation of Corporations  
12 Code section 31201. The material misrepresentations and omissions include, but are not limited to,  
13 understating the initial investment costs and expenses; and failing to disclose Quiroz’ 2014 civil  
14 lawsuit and 2015 bankruptcy filing in the FDD.

15           15. The 2017 FDD provided to prospective franchisees was notably different than the  
16 FDD received and approved by the Department.

17           16. The FDD provided to the franchisees contained significantly lower costs of goods  
18 sold and payroll expenses than the disclosures provided to the Department. The initial investment  
19 costs and expenses disclosed to the prospective franchisees were understated.

20           17. Both the FDD approved by the Department and the FDD provided to the franchisees,  
21 in 2017, failed to disclose Quiroz as one of the officers. The litigation and bankruptcy sections of the  
22 2017 FDDs were blank.

23           18. In December of 2017, Quiroz communicated with some of the prospective franchisees  
24 about the Donut Bar franchise business before the franchisees signed the franchise agreement.

25           19. Only the FDD filed with the Department on April 9, 2018, filed after the sale of  
26 franchises, disclosed Quiroz as one of the officers.

27           20. The April 2018 FDD also disclosed information about a 2014 civil lawsuit filed in  
28 San Antonio, Texas to which Quiroz was a defendant; the FDD also disclosed Quiroz’ 2015

1 bankruptcy filing in the United States Bankruptcy Court, Western District of Texas.

2 21. On or about May 6, 2014, a civil lawsuit was filed against Quiroz and other  
3 defendants in Civil District Court, in San Antonio, Texas. The civil complaint (Case No.  
4 2014C107273) alleged breach of contract, fraud, negligent misrepresentation, theft, violation of the  
5 Texas Securities Act, unjust enrichment, conversion, in connection with a loan and an investment  
6 offering in Texas. The complaint sought damages in the amount of \$671,200.00 plus interest.

7 22. On or about January 16, 2015, Quiroz filed a Voluntary Petition for Relief under  
8 Chapter 7, listing the plaintiff in the 2014 civil lawsuit as a creditor (plaintiff). The petition was filed  
9 in the United States Bankruptcy Court, Western District of Texas (Case No. 15-50173-rbk).

10 23. On or about March 2, 2015, the Bankruptcy Court issued an order in response to a  
11 motion by the plaintiff creditor for relief from the bankruptcy stay to permit her to proceed in the  
12 state court action. On April 20, 2015, the plaintiff filed an adversary proceeding against Quiroz. On  
13 or about January 14, 2016, the parties filed an agreed Notice of Removal of the state court action,  
14 initiating a second adversary proceeding. The adversary proceedings were later consolidated  
15 (Adversary Case No. 15-5028-rbk).

16 24. In January of 2017, the Bankruptcy Court entered an opinion and judgment on the  
17 adversary proceedings. The Bankruptcy Court found, in part, that Quiroz violated his fiduciary  
18 duties, and as a result, the \$271,270.00 plaintiff creditor contributed to the business after this  
19 violation was nondischargeable debt. Quiroz's remaining \$400,000.00 liability, although  
20 constituting a liability for damages for breach of contract, was discharged.

21 25. The plaintiff appealed the Bankruptcy Court's decision on April 6, 2017. The appeal  
22 (Case No. 5:17-CV-00286-DAE) was filed in the United States District Court for the Western  
23 District of Texas, San Antonio.

24 26. In March of 2019, the Appellate Court rendered its decision and vacated a portion of  
25 the Bankruptcy Court's decision. Particularly, the portion concluding that Quiroz committed  
26 defalcation while acting in a fiduciary capacity, and thus a portion of the debt he owed plaintiff was  
27 not dischargeable. The case was remanded to the Bankruptcy Court for further consideration.

28 27. In June of 2020, the Bankruptcy Court found for the plaintiff and rendered judgment

1 against Quiroz. The judgment awarded the plaintiff \$271,270.00 of the allowed claim against  
2 Quiroz which is nondischargeable.

3 **III.**  
4 **Citations Including Desist and Refrain Orders**

5 28. Corporations Code section 31201 states:

6 It is unlawful for any person to offer or sell a franchise in this state by  
7 means of any written or oral communication not enumerated in Section  
8 31200 which includes an untrue statement of a material fact or omits to  
9 state a material fact necessary in order to make the statements made, in  
the light of the circumstances under which they were made, not  
misleading.

10 29. Corporations Code section 31200 states:

11 It is unlawful for any person willfully to make any untrue statement of  
12 a material fact in any application, notice or report filed with the  
13 commissioner under this law, or willfully to omit to state in any such  
14 application, notice, or report any material fact which is required to be  
stated therein, or fail to notify the commissioner of any material  
change as required by Section 31123.

15 30. Corporations Code section 31123 states:

16 A franchisor shall promptly notify the commissioner in writing, by an  
17 application to amend the registration, of any material change in the  
18 information contained in the application as originally submitted,  
19 amended or renewed. The commissioner may by rule further define  
20 what shall be considered a material change for such purposes, and the  
circumstances under which a revised offering prospectus must  
accompany such application.

21 31. Corporations Code section 31406 states:

22 (a) If, upon inspection or investigation, based upon a complaint or  
23 otherwise, the commissioner has cause to believe that a person is  
24 violating any provision of this division or any rule or order  
25 promulgated pursuant to this division, the commissioner may issue a  
26 citation to that person in writing describing with particularity the basis  
27 of the citation. Each citation may contain an order to desist and refrain  
28 and an assessment of an administrative penalty not to exceed two  
thousand five hundred dollars (\$2,500) per violation and shall contain  
reference to this section, including the provisions of subdivision (c).  
All penalties collected under this section shall be deposited in the State  
Corporations Fund (Emphasis applied).

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(b) The sanctions authorized under this section shall be separate from, and in addition to, all other administrative, civil, or criminal remedies.

(c) If within 60 days from the receipt of the citation, the person cited fails to notify the commissioner that the person intends to request a hearing as described in subdivision (d), the citation shall be deemed final.

(d) Any hearing under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) After the exhaustion of the review procedures provided for in this section, the commissioner may apply to the appropriate superior court for a judgment in the amount of the administrative penalty and order compelling the cited person to comply with the order of the commissioner. The application shall include a certified copy of the final order of the commissioner and shall constitute a sufficient showing to warrant the issuance of the judgment and order.

32. Based upon the foregoing findings, the Commissioner is of the opinion that in 2017, Sweet Assets Franchise Group, Inc., dba Donut Bar and Scott Jewett offered and sold franchises in this state by means of written or oral communications which included untrue statements of material facts and omitted to state material facts, including, but not limited to understating the initial investment costs and expenses; and failing to disclose Quiroz and his 2014 civil lawsuit and 2015 bankruptcy, in violation of Corporations Code section 31201. Pursuant to Corporations Code section 31406, Sweet Assets Franchise Group, Inc., dba Donut Bar and Scott Jewett are hereby cited and ordered to desist and refrain from offering and selling franchises 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.

33. Further, the Commissioner is of the opinion that Sweet Assets Franchise Group, Inc., dba Donut Bar and Scott Jewett violated Corporations Code section 31200 by willfully making untrue statements and omitting material facts in the franchise registration applications, and violated Corporations Code section 31123 by failing to file a Post-Effective Amendment notifying the

1 Commissioner of the material changes. Sweet Assets Franchise Group, Inc., dba Donut Bar and  
2 Scott Jewett filed a materially different FDD with the Department than the FDD provided to the  
3 franchisees; understated the initial investment costs and expenses; and failed to file a post-effective  
4 amendment disclosing Quiroz and his lawsuit and bankruptcy in 2017. Pursuant to Corporations  
5 Code section 31406, Sweet Assets Franchise Group, Inc., dba Donut Bar and Scott Jewett are hereby  
6 ordered to desist and refrain from further violations of Corporations Code sections 31200 and 31123.

7 34. These orders are necessary, in the public interest, for the protection of investors and  
8 franchisees and consistent with the purposes, policies, and provisions of the FIL.

9 **IV.**

10 **Administrative Penalties**

11 35. Pursuant to Corporations Code section 31406, Sweet Assets Franchise Group, Inc.,  
12 dba Donut Bar and Scott Jewett are hereby assessed and ordered to pay, jointly and severally, an  
13 administrative penalty of \$2,500.00 for each of the seven citations, Citations A through G, totaling  
14 \$17,500.00, as follows:

15 36. **CITATION A:** Sweet Assets and Jewett failed to file a post-effective amendment in  
16 2017, updating the FDD to add Quiroz as the Chief Operating Officer of Sweet Assets, in violation  
17 of Corporations Code sections 31200 and 31123.

18 37. **CITATION B:** Sweet Assets and Jewett failed to file a post-effective amendment in  
19 2017, updating the FDD to add Quiroz' civil lawsuit, in violation of Corporations Code sections  
20 31200 and 31123.

21 38. **CITATION C:** Sweet Assets and Jewett failed to file a post-effective amendment in  
22 2017, updating the FDD to add Quiroz' bankruptcy, in violation of Corporations Code sections  
23 31200 and 31123.

24 39. **CITATION D:** The initial and revised FDDs filed by Sweet Assets with the  
25 Department in July and August of 2017, included much higher initial investment costs and expenses  
26 than the FDD provided to prospective franchisees, in violation of Corporations Code section 31200.

27 40. **CITATION E:** Sweet Assets understated the initial investment costs and expenses of  
28 the Donut Bar franchise, in violation of Corporations Code section 31201.





1 Sweet Assets Franchise Group, Inc., dba Donut Bar who assist in preparing franchise registrations,  
2 and who assist in offering and selling franchises, are hereby ordered to attend an eight-hour, in-  
3 person franchise training in the area of the FIL compliance, including but not limited to the offering  
4 and selling of franchises, and preparing the Franchise Disclosure Document (Training), offered by  
5 franchise law specialist instructor(s). The instructor(s) and general format of this Training must be  
6 approved by the Commissioner. Proof of compliance with the educational requirement must be  
7 submitted to Afsaneh Eghbaldari, Counsel, Enforcement Division, by email at:  
8 [affi.eghbaldari@dbo.ca.gov](mailto:affi.eghbaldari@dbo.ca.gov).

9 47. This ancillary relief is necessary, in the public interest, for the protection of investors  
10 and franchisees and consistent with the purposes, policies, and provisions of the Franchise  
11 Investment Law.

12 Dated: June 29, 2020  
13 Sacramento, California

MANUEL P. ALVAREZ  
Commissioner of Business Oversight

14 By \_\_\_\_\_  
15 MARY ANN SMITH  
16 Deputy Commissioner  
17 Enforcement Division  
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