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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	FIL ORG ID.: 263725
THE COMMISSIONER OF BUSINESS OVERSIGHT,)	
Complainant,)	
v.)	
SCOTT JEWETT,)	SETTLEMENT AGREEMENT
Respondent.)	

This Settlement Agreement is entered into between the Commissioner of Business Oversight (Commissioner) and Scott Jewett (Jewett) (collectively, the Parties) and is made with respect to the following facts:

I.

Recitals

A. The Commissioner is the head of the Department of Business Oversight (Department) and is responsible for administering and enforcing the Franchise Investment Law (FIL) (Corp. Code, § 31000, et seq.), and registering the offer and sale of franchises in California.

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1 B. Jewett was the Chief Executive Officer and Director of Sweet Assets Franchise
2 Group, Inc., dba Donut Bar (Sweet Assets). Jewett, as an individual, and not on behalf of Sweet
3 Assets, is entering into this Settlement Agreement.

4 C. Sweet Assets was a Delaware corporation with a place of business located at 615 C
5 Street, Suite 245, San Diego, California 92101.

6 D. Jorge Quiroz, aka Jorge Quiroz Hernandez (Quiroz), was the Chief Operating Officer
7 of Sweet Assets.

8 E. On July 26, 2017, Sweet Assets filed an application with the Department to register
9 the offer and sale of the Donut Bar franchises. The registration application included a Franchise
10 Disclosure Document (FDD). On or around August 9, 2017, Sweet Assets submitted a revised FDD
11 to the Department.

12 F. The Department approved Sweet Assets’ franchise registration application, and Sweet
13 Assets registration was effective from August 23, 2017 through April 20, 2018.

14 G. On April 9, 2018, Sweet Assets filed a renewal application, which was never
15 approved by the Department. The renewal application was abandoned in May of 2019.

16 H. On July of 2017 and March of 2018, Jewett certified the initial and renewal
17 applications, and swore under penalty of law that all the material facts stated in the initial and
18 renewal applications and accompanying documents were accurate; and the applications and
19 documents did not contain any material omissions.

20 I. The FIL requires franchisors to disclose certain material information which is
21 intended to provide prospective franchisees with facts upon which to make an informed decision to
22 purchase a franchise, as stated in Corporations Code section 31001.

23 J. Under the California Guidelines for Franchise Registration, all officers, directors, and
24 any other individuals who will have management responsibility relating to the sale or operation of
25 franchises must be disclosed in the FDD. The FDD must also disclose any civil action and
26 bankruptcy to which its officers are a party.

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1 K. The initial application filed and certified by Sweet Assets and Jewett failed to
2 disclose that Quiroz had been the Chief Operating Officer of Sweet Assets since September of 2017,
3 and failed to disclose Quiroz’ lawsuit and bankruptcy actions.

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

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

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

18 O. The 2017 FDD provided to prospective franchisees was notably different than the
19 FDD received and approved by the Department.

20 P. The FDD provided to the franchisees contained significantly lower costs of goods
21 sold and payroll expenses than the disclosures provided to, and approved by the Department. The
22 initial investment costs and expenses disclosed to the prospective franchisees were understated.

23 Q. Both the FDD approved by the Department and the FDD provided to the franchisees,
24 in 2017, failed to disclose Quiroz as one of the officers. The litigation and bankruptcy sections of the
25 2017 FDDs were blank.

26 R. In December of 2017, Quiroz communicated with some of the prospective franchisees
27 about the Donut Bar franchise business before the franchisees signed the franchise agreement.

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1 S. Only the FDD filed with the Department on April 9, 2018, filed after the sale of
2 franchises, disclosed Quiroz as one of the officers.

3 T. The April 2018 FDD also disclosed information about a 2014 civil lawsuit filed in
4 San Antonio, Texas to which Quiroz was a defendant; the FDD also disclosed Quiroz’ 2015
5 bankruptcy filing in the United States Bankruptcy Court, Western District of Texas:

- 6 a. On or about May 6, 2014, a civil lawsuit was filed against Quiroz and other
7 defendants in Civil District Court, in San Antonio, Texas. The civil complaint (Case
8 No. 2014C107273) alleged breach of contract, fraud, negligent misrepresentation,
9 theft, violation of the Texas Securities Act, unjust enrichment, conversion, in
10 connection with a loan and an investment offering in Texas. The complaint sought
11 damages in the amount of \$671,200.00 plus interest.
- 12 b. On or about January 16, 2015, Quiroz filed a Voluntary Petition for Relief under
13 Chapter 7, listing the plaintiff in the 2014 civil lawsuit as a creditor (plaintiff). The
14 petition was filed in the United States Bankruptcy Court, Western District of Texas
15 (Case No. 15-50173-rbk).
- 16 c. On or about March 2, 2015, the Bankruptcy Court issued an order in response to a
17 motion by the plaintiff creditor for relief from the bankruptcy stay to permit her to
18 proceed in the state court action. On April 20, 2015, the plaintiff filed an adversary
19 proceeding against Quiroz. On or about January 14, 2016, the parties filed an agreed
20 Notice of Removal of the state court action, initiating a second adversary proceeding.
21 The adversary proceedings were later consolidated (Adversary Case No. 15-5028-
22 rbk).
- 23 d. In January of 2017, the Bankruptcy Court entered an opinion and judgment on the
24 adversary proceedings. The Bankruptcy Court found, in part, that Quiroz violated his
25 fiduciary duties, and as a result, the \$271,270.00 plaintiff creditor contributed to the
26 business after this violation was nondischargeable debt. Quiroz’s remaining
27 \$400,000.00 liability, although constituting a liability for damages for breach of
28 contract, was discharged.

1 e. The plaintiff appealed the Bankruptcy Court’s decision on April 6, 2017. The appeal
2 (Case No. 5:17-CV-00286-DAE) was filed in the United States District Court for the
3 Western District of Texas, San Antonio.

4 f. In March of 2019, the Appellate Court rendered its decision and vacated a portion of
5 the Bankruptcy Court’s decision. Particularly, the portion concluding that Quiroz
6 committed defalcation while acting in a fiduciary capacity, and thus a portion of the
7 debt he owed plaintiff was not dischargeable. The case was remanded to the
8 Bankruptcy Court for further consideration.

9 g. In June of 2020, the Bankruptcy Court found for the plaintiff and rendered judgment
10 against Quiroz. Plaintiff shall recover \$271,270.00 of the allowed claim against
11 Quiroz and that such judgment is nondischargeable.

12 U. Based upon the foregoing, the Commissioner finds that Scott Jewett violated: (1)
13 Corporations Code sections 31200 and 31123 by failing to file a post-effective amendment updating
14 the 2017 FDD to add Quiroz as the Chief Operating Officer of Sweet Assets; (2) Corporations Code
15 sections 31200 and 31123 by failing to file a post-effective amendment updating the 2017 FDD to
16 add Quiroz’s civil lawsuits and bankruptcy; (3) Corporations Code section 31200 by filing FDDs in
17 July and August of 2017 that included much higher initial investment costs and expenses than the
18 FDD provided to prospective franchisees; (4) Corporations Code section 31201 by understating the
19 initial investment costs and expenses of the Donut Bar franchise to the prospective franchisees; (5)
20 Corporations Code section 31201 by providing prospective franchisees with FDDs that failed to
21 disclose Quiroz as an officer; (6) Corporations Code section 31201 by providing prospective
22 franchisees with FDDs that failed to disclose Quiroz’s lawsuit and bankruptcy; and (7) Corporations
23 Code section 31201 by providing a materially different FDD to the California franchisees than the
24 FDD approved by the Department, in 2017.

25 V. On June 29, 2020, the Commissioner issued a Citation including: (1) Desist and
26 Refrain Order; (2) Assessment of Administrative Penalties; and (3) Claim for Ancillary Relief,
27 pursuant to Corporations Code sections 31406 and 31408 (Citation). The Citation was served on
28 Jewett and Sweet Assets on July 7, 2020.

1 Commissioner. Within 65 days of the Effective Date of this Settlement Agreement, Jewett shall
2 submit proof of compliance to: Afsaneh Eghbaldari, Counsel, Enforcement Division, by email at:
3 affi.eghbaldari@dbo.ca.gov.

4 5. Full Cooperation: Scott Jewett hereby agrees to cooperate fully, truthfully, and
5 completely with the Department regarding the Sweet Assets matter and Sweet Assets’ current and
6 former officers and directors. This cooperation requires Jewett to:

- 7 a. Respond fully, truthfully, and completely to all questions that may be put to Jewett,
8 whether in interviews, or at any trial or hearing or other court proceeding.
- 9 b. Attend and testify at all trials, hearings, or other proceedings at which Jewett’s
10 presence is requested by the Department or compelled by subpoena or court order.
- 11 c. Produce voluntarily all documents, records, or other tangible evidence relating to
12 matters regarding Sweet Assets and any of its current or former officers and directors
13 about which the Department, or its designee, inquires.

14 6. Waiver of Hearing Rights. Jewett acknowledges that the Commissioner is ready,
15 willing and able to proceed with the administrative enforcement action described above in paragraph
16 V, and Jewett hereby waives the right to any hearing, and to any reconsideration, appeal, or other
17 right to review which may be afforded pursuant to the FIL; the California Administrative Procedure
18 Act, the California Code of Civil Procedure, any judicial review of this matter pursuant to Code of
19 Civil Procedure section 1094.5 with respect to the issuance of this Settlement Agreement and the
20 desist and refrain; or any other provision of law; and by waiving such rights, Jewett effectively
21 consents to this Settlement Agreement becoming final.

22 7. Full and Final Settlement. The Parties hereby acknowledge and agree that this
23 Settlement Agreement is intended to constitute a full, final, and complete resolution of the violations
24 and Desist and Refrain Order as identified herein. No further proceedings or actions will be brought
25 by the Commissioner in connection with these matters under the FIL, or any other provision of law,
26 excepting therefrom any proceeding to enforce compliance with the terms of this Settlement
27 Agreement.

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1 8. Failure to Comply with Settlement Agreement. Jewett agrees that if he fails to
2 comply with any terms of this Settlement Agreement or the Desist and Refrain Order, the
3 Commissioner may, summarily suspend/revoke any of Jewett’s registration and/or deny any
4 pending registration application of Jewett, in addition to all other available remedies it may invoke
5 under the FIL. Jewett waives any notice and hearing rights to contest such summary suspensions,
6 revocation or denial which may be afforded under the FIL, the California Administrative Procedure
7 Act, the California Code of Civil Procedure, or any other provision of law in connection therewith.

8 9. Third Party Actions. This Settlement Agreement does not create any private rights or
9 remedies against Jewett, create any liability for Jewett, or limit defenses of Jewett for any person or
10 entity not a party to this Settlement Agreement.

11 10. Information Willfully Withheld. The Settlement Agreement may be revoked, and the
12 Commissioner may pursue any and all remedies available under law against Jewett if the
13 Commissioner discovers that Jewett knowingly or willfully withheld or misrepresented information
14 used for and relied upon in this Settlement Agreement.

15 11. Future Actions by Commissioner. If Jewett fails to comply with any terms of the
16 Settlement Agreement or violates the Desist and Refrain Order, Jewett agrees that the facts in the
17 Settlement Agreement and Desist and Refrain Order are admitted for the purpose of proving a
18 violation of this Settlement Agreement and Desist and Refrain Order. Jewett further agrees that the
19 Commissioner may institute proceedings for any and all violations otherwise unresolved under this
20 Settlement Agreement. The Commissioner reserves the right to bring any future actions against
21 Jewett for any and all unknown violations of the FIL.

22 12. Assisting Other Agencies. Nothing in this Settlement Agreement limits the
23 Commissioner’s ability to assist a government agency (whether city, county, state, or federal) with
24 any administrative, civil or criminal action brought by that agency against Jewett or any other person
25 based upon any of the activities alleged in this matter or otherwise.

26 13. Independent Legal Advice. Each of the Parties represents, warrants, and agrees that
27 he, she, or it has received independent advice from its attorney(s) or representative(s) with respect to
28 the advisability of executing the Settlement Agreement.

1 14. Headings. The headings to the paragraphs of this Settlement Agreement are inserted
2 for convenience only and will not be deemed a part hereof or affect the construction or interpretation
3 of the provisions hereof.

4 15. Binding. This Settlement Agreement is binding on all heirs, assigns, and/or
5 successors in interest.

6 16. Reliance. Each of the Parties represents, warrants, and agrees that in executing this
7 Settlement Agreement it has relied solely on the statements set forth herein and the advice of its own
8 counsel. Each of the Parties further represents, warrants, and agrees that in executing this Settlement
9 Agreement it has placed no reliance on any statement, representation, or promise of any other party,
10 or any other person or entity not expressly set forth herein, or upon the failure of any party or any
11 other person or entity to make any statement, representation or disclosure of anything whatsoever.
12 The Parties have included this clause: (1) to preclude any claim that any party was in any way
13 fraudulently induced to execute this Settlement Agreement; and (2) to preclude the introduction of
14 parol evidence to vary, interpret, supplement, or contradict the terms of this Settlement Agreement.

15 17. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
16 this Settlement Agreement will be valid or binding unless it is in writing and signed by each of the
17 Parties. The waiver of any provision of this Settlement Agreement will not be deemed a waiver of
18 any other provision. No waiver by either party of any breach of, or of compliance with, any
19 condition or provision of this Settlement Agreement by the other party will be considered a waiver
20 of any other condition or provision or of the same condition or provision at another time.

21 18. Full Integration. This Settlement Agreement is the final written expression and the
22 complete and exclusive statement of all the agreements, conditions, promises, representations, and
23 covenant between the Parties with respect to the subject matter hereof, and supersedes all prior or
24 contemporaneous agreements, negotiations, representations, understandings, and discussions
25 between and among the parties, their respective representatives, and any other person or entity, with
26 respect to the subject matter covered hereby.

27 19. Governing Law. This Settlement Agreement will be governed by and construed in
28 accordance with California law. Each of the Parties hereto consents to the jurisdiction of such court,

1 and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient
2 forum to the maintenance of such action or proceeding in such court.

3 20. Counterparts. This Settlement Agreement may be executed in one or more separate
4 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
5 together constitute a single document.

6 21. Effect Upon Future Proceedings. If Jewett applies for any license, permit or
7 qualification under the Commissioner's current or future jurisdiction, or is the subject of any future
8 action by the Commissioner to enforce this Settlement Agreement, then the subject matter hereof
9 shall be admitted for the purpose of such application(s) or enforcement proceeding(s).

10 22. Voluntary Agreement. Jewett enters into this Settlement Agreement voluntarily and
11 without coercion and acknowledges that no promises, threats, or assurances have been made by the
12 Commissioner or any officer, or agent thereof, about this Settlement Agreement. The Parties each
13 represent and acknowledge that he, she, or it is executing this Settlement Agreement completely
14 voluntarily and without any duress or undue influence of any kind from any source.

15 23. Notice. Any notices required under the Settlement Agreement shall be provided to
16 each party at the following addresses:

17 If to Respondent: Scott Jewett
18 761 18th Street, Southwest
19 Boca Raton, Florida 33486

20 If to the Commissioner: Afsaneh Eghbaldari, Counsel
21 Department of Business Oversight
22 1350 Front Street, Room 2034
23 San Diego, California 92101

24 24. Signatures. A fax or electronic mail signature shall be deemed the same as an original
25 signature.

26 25. Public Record. Jewett hereby acknowledges that this Settlement Agreement is and
27 will be a matter of public record.

28 26. Effective Date. This Settlement Agreement shall become final and effective when
signed by all parties and delivered by the Commissioner's counsel via e-mail to Jewett's counsel,

1 Emerson Kim, at ekim@grsm.com.

2 27. Authority to Sign. Each signatory hereto covenants that he or she possesses all
3 necessary capacity and authority to sign and enter into this Settlement Agreement and undertake the
4 obligations set forth herein.

5 Dated: September 21, 2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

7 By: _____
8 MARY ANN SMITH
9 Deputy Commissioner

10 Dated: September 21, 2020

SCOTT JEWETT

12 By: _____
13 SCOTT JEWETT

14 APPROVED AS TO FORM AND CONTENT:

15 _____
16 Emerson Kim, Esq.
17 GORDON, REES, SCULLY, MANSUKHANI
18 Counsel for Scott Jewett