

1 **STATE OF WASHINGTON**
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
3 **SECURITIES DIVISION**

4 IN THE MATTER OF DETERMINING)
5 whether there has been a violation of the)
6 Franchise Investment Protection Act of)
Washington by:)
ZAGG, Inc., ZAGG Retail, Inc.,)
Respondents.)

Order No. S-12-1111-12-CO01

CONSENT ORDER

7 **INTRODUCTION**

8 Pursuant to the Franchise Investment Protection Act of Washington, RCW 19.100, the Securities Division
9 and Respondents, ZAGG, Inc. and ZAGG Retail, Inc., do hereby enter into this CONSENT ORDER in settlement
10 of the matters alleged herein. Respondents, ZAGG, Inc. and ZAGG Retail, Inc., neither admit nor deny the Findings
11 of Fact or Conclusions of Law as stated below.

12 **FINDINGS OF FACT**

13 Respondents

- 14 1. ZAGG, Inc. ("ZAGG") is a Nevada corporation with its principal business address in Salt Lake City, Utah. It
15 manufactures and sells protective skins for cell phones and other electronic devices.
16 2. ZAGG Retail, Inc. is a Nevada corporation and a wholly owned subsidiary of ZAGG. It was created in
December 2010 to administer the franchise activities of ZAGG.

17 Background

- 18 3. On April 24, 2012, the Securities Division of the Department of Financial Institutions received an application
19 for franchise registration from ZAGG Retail, Inc. In item 20 of the Franchise Disclosure Document, ZAGG Retail,
20 Inc. stated that it had no company operated outlets and had sold no franchises in the state of Washington at the time of
21 the application. It projected four new franchises in the next fiscal year, which included conversions of existing
licensing arrangements. A review of ZAGG's website, www.zagg.com, revealed at least four ZAGG resellers
operating under the name InvisibleSHIELD in Washington State at the time of the application.

22 Nature of Offering

- 23 4. Between 2007 and 2012, ZAGG entered into five licensing agreements, each granting the licensee the right to
24 open an InvisibleSHIELD retail outlet in the state of Washington. InvisibleSHIELD is one of many registered and
unregistered trademarks that ZAGG uses to market and sell its products. The five licenses resulted in four retail

1 outlets, which are located in the Tacoma Mall in Tacoma, Washington; the Kitsap Mall in Silverdale, Washington; the
2 Everett Mall in Everett, Washington; and the Alderwood Mall in Lynnwood, Washington.

3 5. In the licensing agreements, ZAGG requires that the licensee display and sell only ZAGG products in the
4 retail outlet, and that the licensee not sell ZAGG products anywhere outside the retail outlet. Inventory must be
5 purchased from ZAGG. All ZAGG retail outlets must have a uniform look and feel, and the licensee is required to
6 strictly comply with ZAGG's "Standards, Inventory, and Look and Feel of Retail Outlets." All artwork using
7 ZAGG's trademarks must be obtained from ZAGG. Signage for the retail outlet must be obtained from ZAGG unless
8 the licensee asks for and ZAGG grants written approval to obtain it elsewhere.

9 6. ZAGG requires that licensees operating a mall retail outlet participate in ZAGG's mall marketing program.
10 Participation includes purchasing promotional discount cards to hand out to potential referring stores, providing
11 employees with promotional products, and participating in the mall's marketing programs. If the licensee wishes to
12 enter into any mall marketing contracts related to ZAGG's products, ZAGG must pre-approve the contract.

13 7. ZAGG requires that the licensee meet specific customer service guidelines at the retail outlet, and that a
14 certain level of customer service be maintained. ZAGG also requires the licensee to appoint an employee to focus on
15 marketing efforts within the retail outlet, and to coordinate with ZAGG's Regional Promotions Manager on outlet
16 marketing efforts.

17 8. In 2007, ZAGG entered into a licensing agreement with Licensee A, which allowed Licensee A to open a
18 retail outlet in the Tacoma Mall. ZAGG is unable to locate this licensing agreement. In 2010, after approval by
19 ZAGG, Licensee A sold the retail outlet directly to Licensee B. At the time, Licensee B owned three ZAGG retail
20 outlets in Portland, Oregon. Licensee B paid Licensee A \$21,000 for the retail outlet, which included between \$7,000
21 and \$8,000 of inventory. Once the purchase was finalized, ZAGG and Licensee B entered into one of the licensing
22 agreements described above for no additional fee. Licensee B was not required to attend ZAGG training before he
23 began operating the Tacoma Mall retail outlet, but he did attend mandatory ZAGG training in 2008 before he began
24 operating the Portland retail outlets.

25 9. In August 2011, ZAGG entered into two of the licensing agreements described above with Licensee C, a
ZAGG corporate employee. With the agreements, ZAGG granted Licensee C licenses to open retail outlets in the
Everett Mall and the Kitsap Mall. The two parties entered into a third licensing agreement in February 2012, which
allowed Licensee C to open a retail outlet in the Alderwood Mall. Licensee C paid ZAGG approximately \$20,000 for
each of the retail outlets, which paid for the \$4,000 license fee and a start-up package. The start-up package included
mandatory training, business cards, signage, approximately \$10,000 of inventory, and everything else the owner
needed to start the retail outlet. In August 2011, two of Licensee C's partners attended the mandatory training at
ZAGG corporate in Salt Lake City, Utah.

Franchise Disclosure Document

1 10. ZAGG failed to provide Licensee B, Licensee C, or Licensee C’s partners with a Franchise Disclosure
2 Document as required under RCW 19.100.080.

Registration Status

3
4 11. Respondents, ZAGG, Inc. and ZAGG Retail, Inc., are currently not registered to sell franchises in the state
5 of Washington and have not previously been so registered. There is no notification of exemption on file with the
6 state of Washington.

7 Based upon the above Findings of Fact, the following Conclusions of Law are made:

CONCLUSIONS OF LAW

I.

8
9
10 The agreements as described above constitute franchises as defined by RCW 19.100.010(6).

II.

11
12 The offer or sale of each franchise described above constitutes the offer or sale of a franchise as defined by
13 RCW 19.100.010(12) and RCW 19.100.010(17).

III.

14
15 The offer or sale by Respondent, ZAGG, Inc., of each franchise described above was in violation of RCW
16 19.100.020 because no registration for such offer or sale is on file with the Securities Administrator.

IV.

17
18 The offer or sale of each franchise described above was made in violation of RCW 19.100.080 because
19 Respondent, ZAGG, Inc., did not provide franchisees or prospective franchisees with a disclosure document as
20 required under RCW 19.100.040 and WAC 460-80-315.

V.

21 Respondent, ZAGG Retail, Inc., acted in violation of RCW 19.100.170(1) because, as described in paragraph
22 2, it made an untrue statement of material fact in the Franchise Disclosure Document included in its application for
23 franchise registration.

CONSENT ORDER

Based upon the foregoing and finding it in the public interest:

IT IS AGREED AND ORDERED that Respondent, ZAGG, Inc., its agents, and its employees shall each cease and desist from offering or selling franchises in violation of RCW 19.100.020, the registration section of the Franchise Investment Protection Act of the state of Washington.

IT IS FURTHER AGREED AND ORDERED that Respondent, ZAGG, Inc., its agents, and its employees shall each cease and desist from violating RCW 19.100.080, the franchise disclosure document section of the Franchise Investment Protection Act of the state of Washington.

IT IS FURTHER AGREED AND ORDERED that Respondent, ZAGG Retail, Inc., its agents, and its employees shall each cease and desist from violating RCW 19.100.170.

IT IS FURTHER AGREED AND ORDERED that Respondents, ZAGG, Inc. and ZAGG Retail, Inc., shall be liable for and shall pay investigative costs of \$2,650 prior to the entry of this Consent Order.

IT IS FURTHER AGREED that the Securities Division has jurisdiction to enter this Consent Order.

IT IS FURTHER AGREED that Respondents, ZAGG, Inc. and ZAGG Retail, Inc., enter into this Consent Order freely and voluntarily and with full understanding of its terms and significance.

IT IS FURTHER AGREED that in consideration of the foregoing, Respondents, ZAGG, Inc. and ZAGG Retail, Inc., waive their right to a hearing and to judicial review of this matter.

Signed this 5th day of February, 2013.

ZAGG, Inc. and ZAGG Retail, Inc. by:

_____/s/_____
Randall Hales, President and CEO

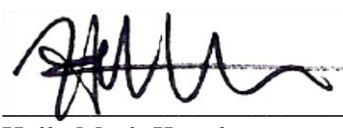
SIGNED and ENTERED this 22nd day of February, 2013.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25



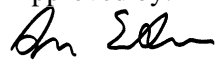
William M. Beatty
Securities Administrator

Presented by:



Holly Mack-Kretzler
Financial Legal Examiner

Approved by:



Suzanne Sarason
Chief of Enforcement

Reviewed by:



Jack McClellan
Financial Legal Examiner Supervisor