

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

IN THE MATTER OF DETERMINING) Order No.: S-15-1776-15-CO01
whether there has been a violation of the)
Franchise Investment Protection Act of) CONSENT ORDER
Washington by:)
)
Bonefish Grill, LLC,)
)
Respondent)

Pursuant to the Franchise Investment Protection Act of Washington, RCW 19.100, the Securities Division and Respondent Bonefish Grill, LLC do hereby enter into this Consent Order in settlement of the matters alleged herein. Respondent Bonefish Grill, LLC neither admits nor denies the Findings of Fact or Conclusions of Law as stated below.

FINDINGS OF FACT

Respondent

1. Bonefish Grill, LLC (“Bonefish”) is a Florida limited liability company that was formed on June 14, 2007, with a principal place of business in Tampa, Florida. Prior to its formation and conversion to an LLC, Bonefish did business as Bonefish Grill, Inc., a Florida corporation that was incorporated on August 20, 2001. Bonefish is an American casual, dine-in seafood restaurant chain that operates in over 100 locations.

Nature of Offering

2. In August 2015, Bonefish Grill, LLC sent a letter to the Securities Division. The letter indicated that the company had previously offered and sold two Bonefish restaurant franchises in the state of Washington. In March 2004, Bonefish Grill, LLC offered and sold a franchise for a Bonefish restaurant located in Bothell, Washington. Initially, the Washington limited liability company franchisee entered into

1 a joint venture agreement with the franchisor, and later the franchisee became the sole operator of the
2 restaurant. In April 2006, Bonefish offered and sold a franchise for a Bonefish restaurant located in
3 Richland, Washington to another Washington limited liability company franchisee.

4 3. According to Bonefish Grill, LLC, the controlling members of the companies that purchased
5 each of the Washington franchises were experienced businessmen, a father and son team that since 1995 has
6 operated franchised steakhouse restaurants that were offered and sold by Bonefish Grill, LLC's affiliated
7 companies. The purchasers and their companies operate more than 30 franchise restaurant locations.

8 4. When completing the two sales, Bonefish and the respective franchisees signed a written
9 franchise agreement. The agreement required the franchisees to develop and operate "Bonefish" restaurants
10 using special recipes and menu items; maintaining distinctive interior furnishings; following uniform
11 product and operations specifications; and using certain trade names, trademarks, service marks, and logos
12 that are owned and licensed by Bonefish. The agreement mandated the franchisees' participation in a
13 marketing plan prescribed or approved by Bonefish and required the franchisees to pay certain marketing
14 expenses. The agreement also required the franchisees to pay an initial franchise fee of \$50,000, plus
15 significant additional expenses totaling anywhere from an estimated \$1,093,875 to \$2,631,625, and to pay
16 4% royalties on monthly gross sales.
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18 **Failure to Provide Franchise Disclosure Document**

19 5. When offering and selling the two Washington franchises, Bonefish failed to provide a
20 franchise disclosure document, as required by RCW 19.100.080, to the purchaser of each franchise.
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22 **Registration Status**

23 6. On September 26, 2013, Bonefish Grill, LLC filed an initial franchise registration application
24 with the Securities Administrator. The initial registration application was abandoned and never became
25 effective.

7. On August 11, 2015, Bonefish Grill, LLC filed a second franchise registration application with the Securities Administrator. On August 25, 2015, the second registration application was withdrawn.

8. On August 20, 2015, Bonefish Grill, LLC filed an Annual Notice of Claim of Exemption pursuant to RCW 190.100.030(4)(a), (b)(i), and (c) with the Securities Administrator. The exemption requires the delivery of a franchise disclosure document at least fourteen calendar days prior to the receipt of any consideration or the signing of a binding franchise agreement. The exemption also generally requires the franchisor to have a net worth of at least five million dollars and to have at least twenty-five franchisees continuously conducting business during the five years preceding the offer or sale of a franchise. Finally, the exemption requires the franchisee to make an initial investment of more than \$100,000.

9. Bonefish Grill, LLC is not currently registered to sell its franchises in the state of Washington and has never previously been so registered.

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

CONCLUSIONS OF LAW

1. The offer or sale of franchises as described above constitutes the offer or sale of a franchise as defined in RCW 19.100.010(6), RCW 19.100.010(12), and RCW 19.100.010(17).

2. The offer or sale of said franchises was in violation of RCW 19.100.020 because no registration for such offer or sale is on file with the Washington Securities Administrator.

3. The offer or sale of said franchises was in violation of RCW 19.100.080 because Bonefish Grill, LLC failed to provide the franchisees with a franchise disclosure document prior to the sale of the franchises.

CONSENT ORDER

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

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IT IS AGREED AND ORDERED that Respondent Bonefish Grill, LLC, and its agents and 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 Bonefish Grill, LLC, and its agents and employees shall each cease and desist from any violation of 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 Bonefish Grill, LLC, shall be liable for and shall pay investigative costs of \$2,000 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 Respondent Bonefish Grill, LLC, enters into this Consent Order freely and voluntarily and with a full understanding of its terms and significance.

IT IS FURTHER AGREED that in consideration of the foregoing, Respondent Bonefish Grill, LLC, waives its right to a hearing and to judicial review of this matter.

Signed this __23rd__ day of _____September_____, 2015

Signed by:
Bonefish Grill, LLC

Approved as to form by:

By /s/ _____
Gregg Scarlett
President

/s/ _____
Robert A. Lauer, Attorney for Respondent
State Bar of Texas #24002453

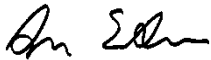
1 SIGNED and ENTERED this 1st day of October, 2015

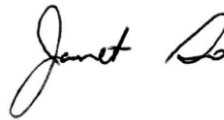
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6 _____
7 William M. Beatty
8 Securities Administrator

9 Approved by:

10 Presented by:

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13 _____
14 Suzanne Sarason
15 Chief of Enforcement

16 _____
17 Janet So
18 Financial Legal Examiner

19 Reviewed by:

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21 _____
22 Robert Kondrat
23 Financial Legal Examiner Supervisor