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**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Franchise Investment Protection Act of  
Washington by:

Conner and Associates, LLC d.b.a.  
Franchise Marketing Systems;  
Christopher James Conner a.k.a. Chris Conner;  
RedRhino Group, Inc. a.k.a. RedRhino, Inc.;  
and Michael Kenealy,

Respondents

Order No. S-16-2021-19-SC01

**STATEMENT OF CHARGES AND  
NOTICE OF INTENT TO  
ENTER ORDER TO CEASE AND DESIST**

**THE STATE OF WASHINGTON TO:**

**Conner and Associates, LLC d.b.a.  
Franchise Marketing Systems,  
Christopher James Conner a.k.a. Chris Conner,  
RedRhino Group, Inc., and Michael Kenealy**

Please take notice that the Securities Administrator for the state of Washington has reason to believe that Respondents Conner and Associates, LLC d.b.a. Franchise Marketing Systems, Christopher James Conner a.k.a. Chris Conner, RedRhino Group, Inc. a.k.a. RedRhino, Inc., and Michael Kenealy have violated the Franchise Investment Protection Act of Washington (“the Franchise Act”), RCW 19.100, and that their violations justify the entry of an order of the Securities Administrator under RCW 19.100.248 to cease and desist from such violations. The Securities Administrator finds as follows:

**TENTATIVE FINDINGS OF FACT**

**Respondents**

1. Conner and Associates, LLC d.b.a. Franchise Marketing Systems (“FMS”) is a Georgia limited liability company formed on May 28, 2009 with its principal place of business in Alpharetta, Georgia. FMS is a marketing and consulting firm that assists franchisors with marketing, advertising, and selling franchises.

1 2. Christopher James Conner a.k.a. Chris Conner (“Conner”), a Georgia resident, is the President  
2 and founder of FMS.

3 3. The RedRhino Group, Inc. a.k.a. Redrhino, Inc. (“RedRhino”) is a California corporation  
4 that was in the business of offering RedRhino franchises to persons wishing to sell epoxy installation and  
5 flooring products to commercial and retail customers. RedRhino’s principal place of business is in Los  
6 Angeles, California.

7 4. Michael Kenealy is the President and CEO of The RedRhino Group, Inc. and a California  
8 resident.

### 9 **Overview**

10 5. Respondents Conner and FMS, in their role as a franchise marketing and consulting firm,  
11 provided Respondents RedRhino and Kenealy assistance in offering the RedRhino franchises in Washington  
12 State and making a sale of a RedRhino franchise in Washington State. Respondents Conner and FMS, in  
13 providing this assistance, were aware of the Washington franchise and franchise broker registration  
14 requirements as they had either been involved with other franchise filings or had filed a franchise broker  
15 application with the Securities Administrator. Respondents Conner and FMS assisted RedRhino with making  
16 a sale of a RedRhino franchise in Washington after receiving notice from the state of California that Conner,  
17 FMS, RedRhino, and Kenealy were out of compliance with its state Franchise Act, which is substantially  
18 similar to that of Washington.

### 19 **Respondents Conner and Franchise Marketing Systems’ Regulatory Actions**

#### 20 California

21 6. On December 1, 2014, the California Department of Business Oversight (“DBO”) issued to  
22 Conner and FMS a “Notice and Acknowledgment of Receipt of Citation and Copies of California  
23 Corporations Code Sections 31402, 31406 and 31408 (“The Notice”).” The Notice apprised Conner and FMS  
of alleged violations of the California Franchise Investment Law in which the DBO alleged that FMS and

1 Conner offered and sold unregistered and non-exempt RedRhino, Inc. franchises. The DBO also charged FMS  
2 and Conner with misrepresenting or omitting material facts in the offer and sale of a RedRhino, Inc. franchise.  
3 Conner did not request a hearing regarding the allegations. Conner acknowledged the receipt of the Citation  
4 and paid \$10,000 in administrative fees and penalties. The Citation became a final order on March 2, 2015.

5 7. On June 17, 2015, the DBO issued a second Citation against Christopher Conner and Conner  
6 and Associates, LLC d.b.a. Franchise Marketing Systems in which the DBO alleged that Conner, FMS and  
7 others had had violated the California Franchise Investment law by willfully making an untrue statement of a  
8 material fact in a franchise application filed with the California DBO Commissioner, omitting to state a  
9 material fact which is required to be stated in an application with the Commissioner or failing to notify the  
10 Commissioner of any material change in an application. The DBO ordered Conner and FMS to desist and  
11 refrain from further violations of these prohibitions.

12 8. On March 8, 2016, Conner and FMS settled the second Citation and entered into a Stipulation  
13 of Citation with the DBO in which Conner and FMS admitted to violations of the California Franchise  
14 Investment Law; agreed to not offer or sell franchises, or assist in the offer or sell of franchises, in the state  
15 of California until January 1, 2021; agreed to have their employees attend franchise law training courses;  
16 agreed to pay investigation and attorney costs of \$10,000; and pay an administrative fine of \$15,000.

17 Maryland

18 9. On November 4, 2015, Securities Division of the Office of the Attorney General of Maryland  
19 issued an Order to Show Cause (“Show Cause”) against RedRhino, Kenealy and Conner to show cause why  
20 a final order should not be entered ordering them to permanently cease and desist from violating the anti-  
21 fraud, registration, and disclosure provisions of the Maryland Franchise Law.

22 10. The Show Cause identified Conner as the president of Franchise Marketing Systems, a  
23 franchise consulting firm or franchise broker that, for a commission, offers and sells franchises. Connor is  
identified as “Franchise Director” of Red Rhino.

1 11. In the Show Cause, Conner was alleged to have solicited individuals, including at least one  
2 Maryland resident, to enter into Red Rhino Management Agreements and that he had sent one franchise  
3 prospect a document called "Franchise Assumptions" that included a representation that franchisees could  
4 expect a return on their investment of between 137% in the first year, to 983% in the fifth year. It was alleged  
5 that the Respondents had made such earnings claims that had not been included in the Franchise Disclosure  
6 Document.

7 12. On April 5, 2016, Conner entered into a consent order with the Maryland Office of the Attorney  
8 General in which Conner was ordered and consented to: immediately and permanently cease and desist from  
9 the offer and sale of franchises in violation of the Maryland Franchise Law; attend a remedial education  
10 program acceptable to the Maryland Commissioner consisting of at least 8 hours of instruction regarding the  
11 legal requirements for offering and selling franchises; and jointly and severally, pay the "Office of the  
12 Attorney General of Maryland" a civil monetary penalty of Seven Thousand Five Hundred Dollars  
13 (\$7,500.00).

#### 14 **Franchise Registration Status**

15 13. RedRhino Group, Inc. is not currently registered to sell franchises in the state of Washington  
16 and has not previously been so registered.

#### 17 **Nature of the Conduct**

18 14. From at least 2014 to present, Respondents FMS and Conner have offered to provide  
19 franchisors with marketing and sales services through its websites at [www.fmsfranchise.com](http://www.fmsfranchise.com) and  
20 [www.franchisemarketingsolutions.com](http://www.franchisemarketingsolutions.com). On its website, Respondents FMS and Conner have made the  
21 following claims: "Franchise Marketing Systems offers a full service franchise development model including  
22 the marketing and sales of your franchise."..."Franchise Marketing Systems will sell your franchise for  
23 you."..."FMS has spent years in the franchise and license industry, and we understand how to market  
franchises. We have developed and defined a specific marketing model for recruiting qualified franchisees

1 for both new and existing franchisors.” ... “Franchise Marketing Systems will deliver results through cost-  
2 effective and focused sales and franchise qualification processes and proven third party franchise sales  
3 resources. Franchise Marketing Systems has unique and specialized sales and marketing models used for  
4 selling and marketing franchise opportunities.” FMS further states that “The FMS sales team will manage  
5 your franchise sales at a fraction of the cost of an in-house sales organization.”

6 Offer and Sale of Red Rhino Franchise

7 15. From 2014 to 2015, Respondents Conner, FMS, Kenealy and RedRhino communicated with  
8 a Washington resident and his business partners (hereinafter referred to as the “Franchisees”) regarding the  
9 offer and sale of a RedRhino franchise. Respondents Conner and FMS communicated with the Franchisees  
10 primarily by email and/or telephone. Conner led prospective franchisees to believe he was employed by  
11 RedRhino through the use of a RedRhino email address, [connerc@redrhinoinc.com](mailto:connerc@redrhinoinc.com). Conner was not a  
12 RedRhino employee. Conner used the RedRhino email address to communicate with the Washington  
13 Franchisees. Conner identified himself as the Franchise Director of RedRhino in emails with Franchisees.

14 16. Respondents Conner, FMS, Kenealy and RedRhino provided the Franchisees with a  
15 RedRhino Franchise Disclosure Document dated July 4, 2014.

16 17. In the spring of 2015, RedRhino offered and granted the Franchisees the right to operate a  
17 RedRhino commercial and residential epoxy sales and installation business. RedRhino granted the  
18 Franchisees the right to use the RedRhino name and marks. RedRhino agreed to provide the Franchisees  
19 with the use of the RedRhino operations manual and trade secrets. RedRhino agreed to provide the  
20 Franchisees with an initial training program; onsite guidance and assistance; advertising assistance; and  
21 guidance on the purchase of hardware and software programs. RedRhino required the Franchisees to pay an  
22 initial franchise fee of \$17,500 and an 8% monthly royalty fee on gross revenues.  
23

1 18. The Franchisees purchased a RedRhino franchise based in part on representations and  
2 information provided by the Respondents Conner and FMS, who expected to receive a commission from the  
3 sale.

4 RCW 19.100.170 Violations

5 19. Respondent RedRhino was required by the Franchise Act to provide the Franchisees a  
6 franchise disclosure document. Respondent RedRhino was also required by the Franchise rule, WAC 460-  
7 80, (“the Rule”), and specifically WAC 460-80-315, to provide material information about the franchise in  
8 the form of mandatory enumerated disclosures in the franchise disclosure document. Respondents FMS,  
9 Conner, RedRhino, and Kenealy provided the Franchisees with a franchise disclosure document that failed to  
10 disclose all of the material information required by the Rule. Examples of Respondents FMS, Conner,  
11 RedRhino, and Kenealy’s failure to disclose material information in the franchise disclosure document are as  
12 follows:

13 20. Respondents FMS, Conner, RedRhino, and Kenealy failed to disclose, in the franchise  
14 disclosure document, material facts to the Franchisees about the offer of the RedRhino franchise including  
15 information regarding Kenealy’s personal bankruptcy. While the Respondents disclosed the fact that Kenealy  
16 filed for bankruptcy in 2004, they failed to provide the Franchisees with other additional required information  
17 that would enable the Franchise to locate, review and evaluate the nature and extent of the bankruptcy.

18 21. Respondents FMS, Conner, RedRhino, and Kenealy failed to disclose, in the franchise  
19 disclosure document, material information to the Franchisees such as required litigation information like the  
20 Maryland Attorney General’s action. This failure inhibited the Franchisees’ ability to do additional due  
21 diligence on litigation filed against the Respondents.

22 22. Respondents FMS, Conner, RedRhino, and Kenealy failed to disclose, in the franchise  
23 disclosure document, material information to the Franchisees such as the prior business experience for

1 Conner, who as the RedRhino Franchise Director, had responsibilities relating to the sale of franchises. This  
2 failure inhibited the Franchisees' ability to do additional due diligence on the business experience of Conner.

3 23. Respondents FMS, Conner, RedRhino, and Kenealy failed to disclose, in the franchise  
4 disclosure document, material information to the Franchisees such as the principal business addresses and  
5 telephone numbers of FMS and Conner, who acted as franchise sellers on behalf of RedRhino. This failure  
6 inhibited the Franchisees' ability to do additional due diligence on FMS and Conner.

7 Other FMS Franchise Selling Arrangements

8 24. In or about 2015, Respondents Conner and FMS provided a Washington resident ("Franchisor  
9 A") a business plan in which FMS stated that it would prepare a marketing plan for Franchisor A to attract  
10 franchisees to the system, that it would develop the franchise brochure and collateral materials, and oversee  
11 Franchisor A's marketing and sales program. FMS stated that it "will be responsible for the qualification,  
12 follow-up, and sale of franchises."

13 25. FMS listed Franchisor A's franchise on its website and Conner represented to Franchisor A  
14 that he included her franchise on a list of franchises for sale that he handed out at trade shows.

15 26. FMS was to charge a commission on the sale of each franchise it sold for Franchisor A.

16 27. FMS charged Franchisor A approximately \$20,000 over about an eight month period for  
17 marketing and other services that included assistance with the preparation of a Franchise Disclosure Document  
18 that would enable Franchisor A to franchise its business.

19 28. In 2016, Respondents Conner and FMS entered into an agreement with a Washington resident  
20 and business ("Franchisor B") in which they agreed to help the franchisor to market its business. They  
21 promised Franchisor B that: FMS will place ads on its behalf on franchise lead generation sites; be responsible  
22 for brand presentation to franchise buyers; complete franchise contractual work with buyers; report weekly to  
23 franchisor on sales activity and buyer progress; work with its partners to generate referral business and broker

1 franchise sales; and send leads to the client for follow up. FMS charged Franchisor B \$1,000 a month for these  
2 services.

3 29. The Respondents Conner and FMS prepared a Franchise Disclosure Document for the  
4 Franchisor B and negotiated a commission payment of twenty (20) per cent of the initial franchise fee for any  
5 sales made.

### 6 **Franchise Broker Registration Status**

7 30. On May 10, 2013, Christopher J. Conner, as an individual, filed a franchise broker registration  
8 application, file number 10005446, with the Securities Division. On May 21, 2013, the Securities Division  
9 issued Christopher J. Conner a franchise broker registration permit that expired on December 31, 2013.  
10 Conner did not file for renewal of his franchise broker application.

11 31. On August 28, 2015, Conner and Associates, LLC d.b.a. Franchise Marketing Systems filed a  
12 franchise broker registration application, file number 10005583, with the Securities Division. Chris Conner  
13 was named as a broker and principal of FMS on the application. On November 6, 2015, the Securities Division  
14 issued Conner and Associates, LLC a franchise broker registration permit that expired on December 31, 2015.  
15 Conner and Associates did not file for renewal of its franchise broker application.

16 32. Respondent Conner has not been registered with the Securities Division as a franchise broker  
17 since December 31, 2013 and is not currently registered as franchise broker in the state of Washington.

18 33. Respondent FMS has not been registered with the Securities Division as a franchise broker  
19 since December 31, 2015 and is not currently registered as franchise broker in the state of Washington.

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

### 21 **CONCLUSIONS OF LAW**

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



1           2.       Respondents FMS, Conner, Kenealy, and RedRhino each offered franchises in violation of  
2 RCW 19.100.020 because no registration for an offer of a RedRhino, Inc. franchise was on file with the  
3 Washington Securities Administrator.

4           3.       Respondents FMS, Conner, Kenealy, and RedRhino each offered franchises in violation of  
5 RCW 19.100.170 because each failed to fully disclose all material facts in the offer and sale of the  
6 RedRhino franchise opportunity.

7           4.       The conduct of Respondents FMS and Conner, as described in Paragraph 5 and Paragraphs  
8 14 through 18 of the Tentative Findings of Fact above constitutes the engagement, directly or indirectly, as a  
9 franchise broker in the business of the offer or sale of franchises as defined in RCW 19.100.010(7).

10          5.       Respondent FMS offered franchises in violation of RCW 19.100.140 because it was not  
11 registered as a franchise broker with the state of Washington at the time of the offer and/or sale of a  
12 franchise to a Washington resident.

13          6.       Respondent Conner offered franchises in violation of RCW 19.100.140 because he was not  
14 registered as a franchise broker with the state of Washington at the time of the offer and/or sale of a  
15 franchise to a Washington resident.

16                   **NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST**

17           Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities  
18 Administrator intends to order that Respondents Conner, FMS, RedRhino, Kenealy, and their agents and  
19 employees, each shall cease and desist from violations of RCW 19.100.020.

20           Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities  
21 Administrator intends to order that Respondents Conner, FMS, RedRhino, Kenealy, and their agents and  
22 employees, each shall cease and desist from violations of RCW 19.100.170.

23

1 Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities  
2 Administrator intends to order that Respondents Conner, FMS, and their agents and employees, each shall  
3 cease and desist from violations of RCW 19.100.140.

4 **AUTHORITY AND PROCEDURE**

5 This Order is entered pursuant to the provisions of RCW 19.100.248 and is subject to the provisions  
6 of Chapter 34.05 RCW. Each Respondent may make a written request for a hearing as set forth in the  
7 NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this  
8 order. If a Respondent does not request a hearing within the allowed time, the Securities Administrator  
9 intends to adopt the above Tentative Findings of Fact and Conclusions of Law as final and enter an order to  
10 cease and desist permanent as to that Respondent.

11 SIGNED and ENTERED this 10th day of May, 2019.

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15 WILLIAM M. BEATTY  
16 Securities Administrator

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19 SUZANNE SARASON  
20 Chief of Enforcement

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20 MARTIN CORDELL  
21 Financial Legal Examiner

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23 JACK MCCLELLAN  
Financial Legal Examiner Supervisor