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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 by:

Mitchell Shook, dba The Spotted Cow,
Respondent.

SDO – 77 - 99

SUMMARY ORDER TO CEASE AND DESIST

Case No. 99-11-0350

9 THE STATE OF WASHINGTON TO: Mitchell Shook
10 dba, The Spotted Cow

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STATEMENT OF CHARGES

14 Please take notice that the Securities Administrator of the State of Washington has reason to believe that
15 Respondent has violated the Franchise Investment Protection Act and that their violations justify the entry of an order
16 of the Securities Administrator under RCW 19.100.248 to cease and desist from such violations. The Securities
17 Administrator finds that delay in ordering the Respondents to cease and desist from such violations would be
18 hazardous to the investors and to the public and that a Summary Order to Cease and Desist should be entered
19 immediately. The Securities Administrator finds as follows:

20

TENTATIVE FINDINGS OF FACT

21

I.

22 Mitchell Shook, doing business as (dba) The Spotted Cow resides at *[address redacted for privacy*
23 *protection]*, Orting, Washington.

24
25 SUMMARY ORDER TO CEASE AND DESIST
26 The Spotted Cow

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
360-902-8760

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II.

From April 1998 through November 1999, Mitchell Shook, offered and sold to Washington residents (the franchisees) a “food service store” franchise involving a restaurant named The Spotted Cow. Under the terms of the franchise agreement, the franchisees were given the right to engage in the business of selling goods in an exclusive territory, under a marketing plan prescribed by Mitchell Shook (the franchisor). The agreement reserved the franchisor’s right, among other things, to establish specifications and standards for quality, methods of service, cleanliness, maintenance, production, merchandising and advertising for the restaurant. In addition, the franchisees agreed to be trained by the franchisor, be guided by the franchisor’s operating manuals, and to consult with the franchisor periodically during the operation of the business. The franchisor granted the franchisees a license to use the name “Spotted Cow” in connection with the operation of the franchise restaurant. Upon execution of the agreement, the franchisees also agreed to pay the franchisor a nonrefundable franchise fee of \$995, 5% in gross sales per week for royalties, and 1% in gross sales per week for advertising to be done by the franchisor. In connection with the sale of The Spotted Cow franchise, Mitchell Shook failed to provide the franchisees with material information regarding the franchise, including a Uniform Franchise Offering Circular (UFOC) and financial statements of the franchisor. The offer and sale of the franchise was directed by Mitchell Shook in the state of Washington, and received and accepted by the franchisees in the state of Washington.

III.

Mitchell Shook, dba The Spotted Cow, is not currently registered to sell its franchises in the state of Washington and has not previously been so registered.

The Securities Administrator finds that the continued offering of franchises in the manner as described in Tentative Findings of Fact I through IV presents a threat to the investing public.

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

CONCLUSIONS OF LAW

I.

The offer and/or sale of the program described above constitutes the offer and/or sale of a franchise as defined in RCW 19.100.010(16) and RCW 19.100.010(4).

II.

The offer and/or sale of said franchises is in violation of RCW 19.100.020 because no registration or notification of claim of exemption for such offer and/or sale is on file with the Securities Administrator of the State of Washington.

III.

The offer and/or sale of said franchises were in violation of RCW 19.100.170 because Mitchell Shook failed to provide franchisees with a UFOC and financial statements of the franchisor.

V.

The Securities Administrator finds that an emergency exists, that the continued violations of RCW 19.100.020 and RCW 19.100.170 constitute a threat to the investing public, and that summary orders to cease and desist from those violations in the public interest and necessary for the protection of the investing public.

SUMMARY ORDER

Based on the foregoing, NOW, THEREFORE, IT IS HEREBY SUMMARILY ORDERED that Respondent Mitchell Shook, dba The Spotted Cow, his agents and employees, each cease and desist from offering and/or selling franchises in any manner in violation of RCW 19.100.020, the section of the Franchise Investment Protection Act requiring registration.

1 It is further SUMMARILY ORDERED that Respondent Mitchell Shook, dba The Spotted Cow, and his
2 agents and employees each cease and desist from violation of RCW 19.100.170, the anti-fraud section of the
3 Franchise Protection Act.

4 **AUTHORITY AND PROCEDURE**

5 This Order is entered pursuant to the provisions of RCW 19.100.120 and RCW 19.100.130, and is subject
6 to the provisions of Chapter 34.05 RCW. The Respondent may make a written request for a hearing as set
7 forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
8 accompanying this order.

9 If a respondent does not request a hearing, the Securities Administrator intends to adopt the above
10 Tentative Findings of Fact and Conclusions of Law as final and make the summary order to cease and desist
11 permanent as to that respondent.

12 WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

13 DATED this _____ day of December, 1999.

14
15
16 _____
17 DEBORAH R. BORTNER
18 Securities Administrator

19
20 Approved By:

Presented by:

21 _____
22 Michael E. Stevenson
23 Chief of Compliance

Chad Standifer
Securities Examiner

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

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

Mitchell Shook, dba The Spotted Cow,
Respondent.

SDO – 77B – 99

NOTICE OF OPPORTUNITY TO DEFEND AND
OPPORTUNITY FOR HEARING

Case No. 99-11-0350

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THE STATE OF WASHINGTON TO: Mitchell Shook
dba, The Spotted Cow

YOU ARE HEREBY NOTIFIED that a SUMMARY ORDER TO CEASE AND DESIST (“the Order”), a true and correct copy of which is attached and made part hereof, has been entered against you by the Washington State Department of Financial Institutions, Securities Division.

YOU ARE HEREBY NOTIFIED that you may file an application for an adjudicative hearing before an administrative law judge as Presiding Officer, upon the allegations supporting and ground for the agency action as set forth in the Order. YOUR APPLICATION MUST BE RECEIVED BY THE SECURITIES DIVISION WITHIN TWENTY (20) DAYS FROM THE DATE THAT YOU RECEIVE THIS NOTICE. If you demand a hearing, you will be notified of the date, time, and hearing location at least seven (7) days in advance of the hearing date.

At the hearing, you may appear personally, and by counsel, if you desire. The hearing will be recorded and will be conducted according to the Administrative Procedure Act, Ch. 34.05 RCW. The primary concern of the

Administrative Law Judge, and, ultimately, the Director of the Department of Financial Institutions, will be to

NOTICE OF OPPORTUNITY TO DEFEND AND
OPPORUTNITY FOR HEARING

DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
360-902-8760

The Spotted Cow

1 determine the truth of the matters asserted in the Order. Technical rules of evidence will not be binding at the
2 hearing except for the rules of privilege recognized by law. You have the right to present evidence and witnesses
3 in your own behalf who will be subject to cross examination, to cross examine those witnesses presented in
4 support of the Order, to examine such documentary evidence as may be produced against you, and to conduct
5 discovery as is authorized in such proceedings. You may require the attendance of witnesses by subpoena,
6 pursuant to RCW 34.05.446. If you are limited English-speaking or hearing impaired, you have the right to have
7 an interpreter appointed at no cost to you, as discussed below.

8 INTERPRETER AVAILABILITY. If you or a witness for you is a person who, because of non-English-
9 speaking cultural background, cannot readily speak or understand the English language, or if you or a witness for
10 you is a person who, because of a hearing impairment or speech defect, cannot readily understand or communicate
11 in spoken language, including persons who are deaf, deaf and blind, or hard of hearing, AND YOU NEED AN
12 INTERPRETER, then a qualified interpreter will be appointed at not cost to you or to the witness. You may
13 request the appointment of a qualified interpreter by indicating your request on the attached Application for
14 Adjudicative Hearing form.

15 YOU ARE FURTHER NOTIFIED that if the Department of Financial Institutions does not RECEIVE the
16 Application for Adjudicative Hearing form within twenty (20) days from the date you receive this notice, this will
17 constitute a waiver of your right to a hearing in accordance with Ch. 34.05 RCW, and the director will find that
18 you do not contest the allegations of the Summary Order. Upon such a finding by the director, a final order will be
19 immediately entered disposing of this matter and ordering you to cease and desist as described in the Summary
20 Order. If you desire a hearing in this matter, please return the attached Application for Adjudicative Hearing to:

21 Washington State Department of Financial Institutions
22 Securities Division
23 Attn: Chad Standifer
24 P.O. Box 9033
25 Olympia, WA 98507-9033

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DATED this _____ day of _____ 1999.

DEBORAH R. BORTNER
Securities Administrator

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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 by:

Mitchell Shook, dba The Spotted Cow,

Respondent.

SDO - 77C - 99

APPLICATION FOR ADJUDICATIVE HEARING

Case No. 99-11-0350

THE STATE OF WASHINGTON TO: Mitchell Shook
dba, The Spotted Cow

If you wish to contest the Summary Order to Cease and Desist and have an adjudicative hearing, you must sign, date, and return this form within twenty (20) days of the date you received it, to:

Washington State Department of Financial Institutions
Securities Division
Attn: Chad Standifer
P.O. Box 9033
Olympia, WA 98507-9033

FAILURE TO RETURN THIS FORM SO THAT IT IS RECEIVED BY THE DEPARTMENT OF FINANCIAL INSTITUTIONS WITHIN TWENTY (20) DAYS OF THE DATE YOU RECEIVED IT WILL CONSTITUTE A DEFAULT AND WILL RESULT IN THE LOSS OF YOUR RIGHT TO AN ADJUDICATIVE HEARING. In that case, the Director of the Department of Financial Institutions will immediately enter an appropriate order in disposition of the Summary Order.

INSTRUCTIONS: Check the box beside your desired response. Mail this document as set forth above.

I.

I request a hearing in this matter.

I do not request a hearing in this matter.

II.

I [WILL] [WILL NOT] be represented by an attorney. His/her name, address, and telephone number are:

III.

I [REQUEST] [DO NOT REQUEST] that a qualified interpreter be appointed at no cost to me to interpret for (myself) or (my witness(es)). My, or my witness's(es'), primary language is _____ (identify language). My, or my witness's(es'), hearing impaired status is _____ (identify hearing impaired status). I understand that a qualified interpreter will be appointed at no cost to me or to my witness(es).

IV.

You have the right: To demand an adjudicative hearing, to be represented by an attorney at your own expense; and to subpoena witnesses to the hearing or subpoena the production of books or documents, and to otherwise defend against the Summary Order.

WARNING: FAILURE TO COMPLETE AND MAIL THIS DOCUMENT SO THAT IT IS RECEIVED BY THE SECURITIES DIVISION WITHIN 20 DAYS AFTER YOUR RECEIPT OF THE SUMMARY ORDER WILL RESULT IN THE DISPOSITION OF THIS CASE AS AUTHORIZED BY RCW 34.05.440.

Dated this _____ day of _____, 1999.

**** Sign ****

Address:

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