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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

IN RE: FRANCHISE NO POACHING
PROVISIONS

(ANNEX BRANDS, INC.)

NO. 19-2-26209-5 SEA

ANNEX BRANDS, INC.
ASSURANCE OF
DISCONTINUANCE

The State of Washington, by and through its attorneys, Robert W. Ferguson, Attorney General, and Justin Wade, Assistant Attorney General, files this Assurance of Discontinuance (AOD) under RCW 19.86.100.

I. PARTIES

1.1. In August 2019, the Attorney General initiated an investigation into ANNEX BRANDS, INC. relating to its hiring practices.

1.2. ANNEX BRANDS, INC. is a California corporation with its principal office or place of business at 7580 Metropolitan Drive, Suite 200, San Diego, California 92108. ANNEX BRANDS, INC. is in the business of selling franchises and supporting franchisees, in relation to the operation of commercial and retail centers offering business support, mailbox, postal, printing, copying, packaging, shipping, office supply, passport photo, notary, and related products and services.

1.3. For the purposes of this AOD, ANNEX BRANDS, INC. includes its directors, officers, managers, agents acting within the scope of their agency, and employees, as well as its

1 successor and assigns, controlled subsidiaries, divisions, groups, affiliates, partnerships, and
2 joint ventures.

3 II. INVESTIGATION

4 2.1. The ANNEX BRANDS, INC. system has 11 stores in Washington. All of these
5 stores are owned and operated by franchisees, and none of these stores is owned or operated by
6 ANNEX BRANDS, INC.

7 2.2. In the past, ANNEX BRANDS, INC. included language in its franchise
8 agreements that restricted a franchisee's ability to solicit or hire workers from ANNEX
9 BRANDS, INC. or from another store in the ANNEX BRANDS, INC. system (no-poaching
10 provision). Specifically, until January 2019, the standard ANNEX BRANDS, INC. franchise
11 agreement stated that a franchisee agreed not to "employ or seek to employ any person employed
12 by Franchisor, or any other person who is at the same time operating or employed by or at any
13 other Center or Commercial Logistics Center; or otherwise induce or seek to induce such person,
14 directly or indirectly, to leave his or her employment thereat." The no-poaching provision
15 restricted franchisees from hiring both employees from ANNEX BRANDS, INC. and employees
16 from competing franchisees.

17 2.3. In January 2019, before the Attorney General's Office initiated its investigation,
18 ANNEX BRANDS, INC. voluntarily removed the no-poaching provision from its standard
19 franchise agreement.

20 2.4. ANNEX BRANDS, INC. asserts that, at no time within the last 5 years, has it or
21 any of its franchisees to its knowledge, enforced or sought to enforce the no-poaching provision
22 in any of its franchise agreements.

23 2.5. The Attorney General asserts that the conduct described in paragraphs 2.1 – 2.2
24 above constitutes a contract, combination, or conspiracy in restraint of trade in violation of the
25 Consumer Protection Act, RCW 19.86.030.

26

1 2.6. ANNEX BRANDS, INC. expressly denies that its conduct described above
2 constitutes a contract, combination, or conspiracy in restraint of trade in violation of the
3 Consumer Protection Act, RCW 19.86.030, or any other law, and expressly denies it has engaged
4 in conduct that constitutes a contract, combination, or conspiracy in restraint of trade. ANNEX
5 BRANDS, INC. enters into this AOD to avoid protracted and expensive litigation. Pursuant to
6 RCW 19.86.100, neither this AOD nor its terms shall be construed as an admission of law, fact,
7 liability, misconduct, or wrongdoing on the part of ANNEX BRANDS, INC.

8 2.7. This AOD is not a holding of liability in a civil action, and is not an injunctive or
9 restrictive order or decree resulting from an action brought by a public agency.

10 **III. ASSURANCE OF DISCONTINUANCE**

11 3.1. Subject to paragraph 2.4 above, ANNEX BRANDS, INC. agrees:

12 3.1.1 It will no longer include no-poaching provisions in any of its future
13 franchise agreements;

14 3.1.2 It will no longer enforce no-poaching provisions in any of its existing
15 franchise agreements, and will not seek to intervene or defend in any way the legality of any no-
16 poaching provision in any litigation in which a franchisee may claim third-party beneficiary
17 status rights to enforce an existing no-poaching provision;

18 3.1.3 It will notify all of its franchisees of the entry of this AOD with the State
19 of Washington, and provide them a copy of this AOD upon request; and

20 3.1.4 It will notify the Attorney General's Office if it learns of any effort by a
21 franchisee in Washington to enforce any existing no-poaching provision.

22 3.2. Within 60 days of entry of this AOD, ANNEX BRANDS, INC. will exercise all
23 reasonable commercial efforts to amend all existing franchise agreements with entities in
24 Washington to remove any no-poaching provisions in its existing franchise agreements. ANNEX
25 BRANDS, INC. is under no obligation to offer any franchisee any monetary or non-monetary
26 consideration to induce any franchisee to accept the proposed amendment of its franchise

1 agreement, and is under no obligation to take any coercive action against any franchisee that
2 may refuse or decline to agree to any amendment of its franchise agreement. If any franchisee is
3 unwilling to consent to the change to its franchise agreement, prior to the 60-day deadline,
4 ANNEX BRANDS, INC. shall provide the name and address of the resisting franchisee, and the
5 name and address of the franchisee's registered agent, to the Attorney General's Office.

6 3.3. As they come up for either renewal or renegotiation during the ordinary course
7 of business, ANNEX BRANDS, INC. will amend all of its existing franchise agreements on a
8 nationwide basis to remove any no-poaching provision.

9 3.4. Within 30 days of the conclusion of the time periods referenced in this section
10 III, ANNEX BRANDS, INC. will submit a declaration to the Attorney General's Office signed
11 under penalty of perjury stating that all provisions of this AOD have been satisfied.

12 IV. ADDITIONAL PROVISIONS

13 4.1. This AOD is binding on, and applies to ANNEX BRANDS, INC., including each
14 of its respective directors, officers, managers, agents acting within the scope of their agency, and
15 employees, as well as their respective successors and assigns, controlled subsidiaries, divisions,
16 groups, affiliates, partnerships, and joint ventures, or other entities through which ANNEX
17 BRANDS, INC. may now or hereafter act with respect to the conduct described in this AOD.

18 4.2. This is a voluntary assurance, and it shall not be construed as an admission of
19 law, fact, liability, misconduct, or wrongdoing on the part of ANNEX BRANDS, INC. By
20 entering into this AOD, ANNEX BRANDS, INC. neither agrees nor concedes that the claims,
21 allegations and/or causes of action which have or could have been asserted by the Attorney
22 General have merit, and ANNEX BRANDS, INC. expressly denies any such claims, allegations,
23 and/or causes of action. However, proof of failure to comply with this AOD shall be *prima facie*
24 evidence of a violation of RCW 19.86.030, thereby placing upon the violator the burden of
25 defending against imposition by the Court of injunctions, restitution, costs and reasonable
26 attorney's fees, and appropriate civil penalties under the Consumer Protection Act. The Attorney

1 General acknowledges that proof of failure to comply with this AOD shall not be *prima facie*
2 evidence of a violation of any other law, including a violation of any law of any other state.

3 4.3. ANNEX BRANDS, INC. will not state or otherwise contend, nor will it authorize
4 any of its officers, employees, representatives, or agents to state or otherwise contend, that the
5 State of Washington or the Attorney General has approved of, or has otherwise sanctioned, the
6 conduct described in paragraph 2.2 above with respect to the no-poaching provision in ANNEX
7 BRAND, INC.'s franchise agreement.

8 4.4. This AOD resolves all issues raised by the State of Washington and the Antitrust
9 Division of the Attorney General's Office under the Consumer Protection Act and any other
10 related statutes pertaining to the acts set forth in paragraphs 2.1 – 2.2 above that may have
11 occurred before the date of entry of this AOD, and concludes the investigation thereof. Subject
12 to paragraph 4.2 above, the State of Washington and the Antitrust Division of the Attorney
13 General's Office shall not file suit or take any further investigative or enforcement action with
14 respect to the acts set forth above that occurred before the date of entry of this AOD.


15 APPROVED ON this ____ day of _____, 2019.

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JUDGE/COURT COMMISSIONER

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Presented by:

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Agreed to and approved for entry by:
ANNEX BRANDS, INC.


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