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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 the
State of Washington by:

FENCO USA, INC.;
UI SUP LEE,

Respondents.

Order Number S-07-008-07-SC01

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

9 THE STATE OF WASHINGTON TO:

Fenco USA, Inc.
Ui Sup Lee

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STATEMENT OF CHARGES

12 Please take notice that the Securities Administrator of the State of Washington has reason to believe that
13 Respondents, Fenco USA, Inc. and Ui Sup Lee, have each violated the Franchise Investment Protection
14 Act of Washington, RCW 19.100, and that their violations justify the entry of an order of the Securities
15 Administrator under RCW 19.100.248 against each to cease and desist from such violations. The
16 Securities Administrator finds as follows:

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TENTATIVE FINDINGS OF FACT

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Respondents

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1. Fenco USA, Inc. ("Fenco") is a Washington corporation with its principal place of business at
621 Pacific Avenue, Suite 14, Tacoma, Washington 98402. Fenco currently owns a cigar and wine store
doing business as Cigarland in Gig Harbor, Washington.

2. Ui Sup Lee ("Lee") is owner and President of Fenco, USA.

23 STATEMENT OF CHARGES AND NOTICE OF INTENT TO
24 ENTER AN ORDER TO CEASE AND DESIST, AND NOTICE
OF INTENT TO DENY FUTURE REGISTRATION, IMPOSE
FINES, AND RECOVER COSTS

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

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Nature of the Offering

3. Fenco is the seller of a franchise opportunity to operate a cigar and wine store called “Cigar Wine” in which cigars, cigarettes, wine, and sundries are sold.

4. In Fall 2005, Lee offered Purchaser, a Washington resident, a franchise opportunity to run a new cigar and wine store named “Cigar Wine.” Lee specifically represented the opportunity as a franchise, stated he was licensed to sell franchises, and agreed not to sell another franchise within a five mile radius. As part of the opportunity, Lee offered to provide Purchaser training in operations, advertising, marketing, accounting, inventory ordering, and customer service. The advertising and marketing support that Lee would provide included the store name, the design for the signs on the storefront, Lee’s expertise in designing a cigar and wine store layout, and Lee’s choice of a store location based on market research. Purchaser would pay a \$30,000 fee at 18% annual interest. In the course of their discussions, the parties variously called this fee a “royalty,” “usage,” or “franchise” fee. Purchaser would pay \$2,000 a month with payment of the full \$30,000 plus interest due within two years. At that time, Purchaser would have first rights to purchase the store’s fixtures from Fenco at a price that would be determined by depreciation.

5. Lee represented to Purchaser that after six months, the store would produce a sales volume of \$1,000 to \$1,100 a day and a monthly profit of \$10,000. These sales figures were based on sales figures and expenses of Cigarland in Gig Harbor.

6. In December 2005, Purchaser made a \$10,000 down payment to Lee.

7. Lee obtained a lease, business license and liquor license for Cigar Wine under the name Fenco and supervised the construction and design of the store. Purchaser received several days of training from Lee at Cigarland. The training included how to serve customers and order inventory, which was required to be done through Cigarland. Cigar Wine officially opened for business in March 2006. Lee provided onsite

1 management and training support to Purchaser for the first month of operation. Purchaser then managed the
2 store and was responsible for all expenses, including rent and the \$2,000 a month fee.

3 8. Purchaser's revenues did not meet Lee's projections. In July 2006, Purchaser paid an additional
4 \$28,500 to Lee with the understanding that this would satisfy the "royalty" fee and release Purchaser from
5 the two-year agreement. Despite receiving the down payment of \$10,000 and the additional payment of
6 \$28,500, Lee insisted that the two-year term was still in effect and Purchaser would need to continue
7 monthly payments.

8 Misrepresentations and Omissions

9 9. Respondents did not supply Purchaser with a Uniform Franchise Offering Circular.

10 10. Respondents failed to provide a reasonable basis upon which the projections of earnings for a
11 cigar and wine store located in DuPont were made.

12 Registration Status

13 11. Fenco and Lee are not currently registered to sell the Cigar Wine franchise in the State of
14 Washington and have not previously been registered.

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

17 **CONCLUSIONS OF LAW**

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

20 13. The offer or sale of said franchise is in violation of RCW 19.100.020 because no registration
21 for such offer or sale is on file with the Securities Administrator.

1 14. The offer or sale of said franchise was made in violation of RCW 19.100.170, the anti-fraud
2 provision of the Franchise Investment Protection Act, because Respondents represented that Fenco was
3 licensed to sell franchises in the State of Washington. Additionally, Respondents did not provide
4 reasonable basis upon which projections for earnings were based.

5 15. The offer and/or sale of the above-described franchise was made in violation of
6 RCW 19.100.080, the disclosure document requirement provision of the Franchise Investment Protection
7 Act, because Respondent did not provide the Washington purchasers with a UFOC that contained all
8 material information about the franchise including, but not necessarily limited to, a financial statement
9 for the seller.

10 **NOTICE OF INTENT TO ORDER RESPONDENTS TO CEASE AND DESIST**

11 Based on the above Tentative Findings of Fact and Conclusions of Law, the Securities
12 Administrator intends to order that Respondents, Fenco USA, Inc. and Ui Sup Lee, and their agents and
13 employees, each shall cease and desist from violations of RCW 19.100.020 and RCW 19.100.170.

14 **AUTHORITY AND PROCEDURE**

15 This Statement of Charges is entered pursuant to the provisions of RCW 19.100.248 and RCW
16 19.100.130 and is subject to the provisions of RCW 34.05. Respondents, Fenco USA, Inc. and Ui Sup
17 Lee, may each make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO
18 DEFEND AND OPPORTUNITY FOR HEARING accompanying this order.

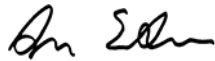
19 If a Respondent does not request a hearing, the Securities Administrator intends to adopt the above
20 Tentative Findings of Fact and Conclusions of Law as final and enter a permanent order to cease and
21 desist as to that Respondent.

1 DATED AND ENTERED this 11th day of April, 2007.

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4 MICHAEL E. STEVENSON
5 Securities Administrator

6 Approved by:

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9 Suzanne Sarason
10 Chief of Compliance and Exams

Presented by:

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12
13 Jill M. Vallely
14 Financial Legal Examiner