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:

Order No.: S-13-1271-13-CO01

CONSENT ORDER

INTRODUCTION


FINDINGS OF FACT

Respondents


Related Entities

Nature of the Offering

4. From 2008 to 2013, Capital Business Consultants and Capital Business Brokers operated a franchise system under the name Capital Business Solutions, in which they offered individuals the opportunity to own and operate a business brokerage firm. A business broker serves as an intermediary between business owners who seek to sell their existing businesses and individuals or entities looking to purchase businesses. A business broker earns a commission based on a percentage of the price that a business is sold for.


6. For a one-time $24,995 fee and an annual $7,500 fee, Capital Business Consultants and Capital Business Brokers offered Purchaser A the opportunity to operate a business brokerage firm in an exclusive territory, using the Capital Business Solutions trademark, a trademark that Capital Business Brokers owned. As part of the fee, Capital Business Consultants and Capital Business Brokers would also provide Purchaser A with access to its training program, training manual, lead distribution system, business listing software, customer agreements, letterhead templates, continuing education and training sessions, marketing services, electronic contact management system, and to its website www.capitalbbw.com. Furthermore, Capital Business Consultants and Capital Business Brokers stated that a Capital Business Solutions representative would provide Purchaser A with on-site training for one week in Deerfield Beach, Florida.

7. For an extra $350 a month, Capital Business Consultants stated that it would provide Purchaser A with assistance to develop leads, help to improve telemarketing services, business evaluation consulting services, mentoring support services, general accounting advice, an email address, and a profile on the Capital Business Solutions website.


9. Capital Business Consultants and Capital Business Brokers represented to Purchaser A that as a business broker, Purchaser A could earn a six-figure income, and as much as $150,000 to $200,000 per-year. Capital Business Consultants and Capital Business Brokers further represented to Purchaser A that approximately 5,400,000 businesses are available for sale each year, that the average sales price for a small business is between $200,000 to $300,000, that the average commission is between 10 to 12 percent of the sales price of the business, and that there are only 3,500 business brokers in the United States.

11. Additionally, on November 8, 2012, Purchaser A signed an addendum to the License Agreement. The addendum disclosed Capital Business Solutions intention to convert the licensing program into a franchise agreement at the earliest possible time, and it provided some of the terms and conditions of a forthcoming franchise agreement, including a higher franchise fee, a five day training program at the Florida corporate office, and a one week mentoring program at the franchisee’s place of business.


**Misrepresentations and Omissions**

13. Respondents Capital Business Consultants and Capital Business Brokers failed to disclose the bases and assumptions underlying the financial projections that they provided to Purchaser A.

14. Respondents Capital Business Consultants and Capital Business Brokers failed to disclose the bases and assumptions underlying their claims about the size of the brokerage market, the average sales prices for businesses, the average brokerage commissions, and the number of business brokers in the United States.

15. Respondents Capital Business Consultants and Capital Business Brokers failed to disclose that business brokers that offer or sell a franchise in this state must register as franchise brokers.

**Registration Status**

16. Respondents Capital Business Consultants and Capital Business Brokers are not currently registered to sell franchises in the state of Washington and have not previously been so registered. There is no notification of exemption for either company on file with the state of Washington. Capital Business Solutions recently filed a franchise registration application with the Securities Division and is currently under review.

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

**CONCLUSIONS OF LAW**

1. The offer and sale of a license agreement and an addendum to the license agreement described above constitutes the offer and 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 and sale of a franchise by Capital Business Consultants and Capital Business Brokers violated RCW 19.100.020 because no registration for such offer and sale was on file with the state of Washington Securities Administrator at the time of the sale to Purchaser A.

3. The offer and sale of a franchise by Capital Business Consultants and Capital Business Brokers violated RCW 19.100.080 because Capital Business Consultants and Capital Business Brokers failed to provide Purchaser A with a franchise disclosure document that contained the information about the franchise required by RCW 19.100.040.

4. The offer and sale of a franchise by Capital Business Consultants and Capital Business Brokers violated RCW 19.100.170 because Respondents made untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading.

CONSENT ORDER

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

IT IS AGREED AND ORDERED that Respondents Capital Business Consultants and Capital Business Brokers and their 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 Respondents Capital Business Consultants and Capital Business Brokers and their agents and employees shall each cease and desist from violating RCW 19.100.080, the disclosure document section of the Franchise Investment Protection Act of the state of Washington.

IT IS FURTHER AGREED AND ORDERED that Respondents Capital Business Consultants and Capital Business Brokers and their agents and employees shall each cease and desist from violating RCW 19.100.170, the anti-fraud section of the Franchise Investment Protection Act of the state of Washington.

IT IS FURTHER AGREED that prior to the entry of this Consent Order, Respondents Capital Business Consultants and Capital Business Brokers shall be jointly and severally liable for and shall pay the Securities Division the costs and other expenses incurred in the investigation of this matter in the amount of $2,000.

IT IS FURTHER AGREED that the Securities Division has jurisdiction to enter this Consent Order.

IT IS FURTHER AGREED that Respondents Capital Business Consultants and Capital Business Brokers enter into this Consent Order freely and voluntarily and with full understanding of its terms and significance.

IT IS FURTHER AGREED that in consideration of the foregoing, Capital Business Consultants and Capital Business Brokers waive their right to a hearing and to judicial review of this matter.
Signed this __4th____ day of __________November______ 2013.

Signed by:
Capital Business Consultants

By ___________________/s/_________________
Roberta Caputo
President

Signed by:
Capital Business Brokers

By ___________________/s/_________________
Roberta Caputo
President

SIGNED and ENTERED this __14th___ day of __________November______ 2013.

Approved by:

Suzanne Sarason
CONSENT ORDER

Presented by:

Eric Palosaari
Reviewed by:

Jack McClellan
Financial Legal Examiner Supervisor