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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-FO01

ENTRY OF FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND FINAL ORDER TO
CEASE AND DESIST AS TO RESPONDENTS
RED RHINO GROUP, INC.
AND
MICHAEL KENEALY

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On May 10, 2019, the Securities Administrator of the state of Washington issued Statement of Charges and Notice Of Intent To Enter Order To Cease And Desist, S-16-2021-19-SC01, hereinafter referred to as the “Statement of Charges.” The Statement of Charges, together with a Notice of Opportunity to Defend and Opportunity for Hearing, hereinafter referred to as “Notice of Opportunity for Hearing” and an Application for Adjudicative Hearing, hereinafter referred to as “Application for Hearing,” were served on Respondents RedRhino, Inc. and Michael Drew Kenealy, on August 6, 2019. The Notice of Opportunity for Hearing advised RedRhino, Inc. and Michael Drew Kenealy that a written application for an administrative hearing on the Statement of Charges must be received within twenty days from the date of receipt of the notice. Respondents RedRhino, Inc. and Michael Drew Kenealy failed to request an administrative hearing within twenty days of receipt of the Statement of Charges and Notice of Opportunity for Hearing, either on the Application for Hearing provided, or otherwise.

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The Securities Administrator therefore will adopt as final the following Findings of Fact and Conclusions of Law as set forth in the Statement of Charges and enter a final order against the Respondents to cease and desist from violations of the Franchise Investment Protection Act.

ENTRY OF FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND FINAL
ORDER TO CEASE AND DESIST

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

1 The Securities Administrator makes the following Findings of Fact and Conclusions of Law:

2 **FINDINGS OF FACT**

3 **Parties**

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

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

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

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

15 **Overview**

16 5. Conner and FMS, in their role as a franchise marketing and consulting firm, provided
17 Respondents RedRhino and Kenealy assistance in offering the RedRhino franchises in Washington State and
18 making a sale of a RedRhino franchise in Washington State. Conner and FMS assisted RedRhino with making
19 a sale of a RedRhino franchise in Washington after receiving notice from the state of California that Conner,
20 FMS, RedRhino, and Kenealy were out of compliance with its state Franchise Act, which is substantially
21 similar to that of Washington.

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1 **Regulatory Actions**

2 California

3 6. On December 1, 2014, the California Department of Business Oversight (“DBO”) issued to
4 Conner and FMS a “Notice and Acknowledgment of Receipt of Citation and Copies of California
5 Corporations Code Sections 31402, 31406 and 31408 (“The Notice”).” The Notice apprised Conner and FMS
6 of alleged violations of the California Franchise Investment Law in which the DBO alleged that FMS and
7 Conner offered and sold unregistered and non-exempt RedRhino, Inc. franchises. The DBO also charged FMS
8 and Conner with misrepresenting or omitting material facts in the offer and sale of a RedRhino, Inc. franchise.
9 Conner did not request a hearing regarding the allegations. Conner acknowledged the receipt of the Citation
10 and paid \$10,000 in administrative fees and penalties. The Citation became a final order on March 2, 2015.

11 Maryland

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

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

19 9. In the Show Cause, Conner was alleged to have solicited individuals, including at least one
20 Maryland resident, to enter into Red Rhino Management Agreements and that he had sent one franchise
21 prospect a document called “Franchise Assumptions” that included a representation that franchisees could
22 expect a return on their investment of between 137% in the first year, to 983% in the fifth year. It was alleged
23

1 that the Respondents had made such earnings claims that had not been included in the Franchise Disclosure
2 Document.

3 **Franchise Registration Status**

4 10. RedRhino Group, Inc. is not currently registered to sell franchises in the state of Washington
5 and has not previously been so registered.

6 **Nature of the Conduct**

7 Offer and Sale of Red Rhino Franchise

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

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

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

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

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

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

8 **CONCLUSIONS OF LAW**

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

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

15 3. Respondents Kenealy and RedRhino each offered franchises in violation of RCW 19.100.170
16 because each failed to fully disclose all material facts in the offer and sale of the RedRhino franchise
17 opportunity.

18 **FINAL ORDER**

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

20 IT IS HEREBY ORDERED that Respondents RedRhino, Inc. and Michael Drew Kenealy, their agents
21 and employees each shall cease and desist from offering or selling franchises in violation of RCW 19.100.020,
22 the registration section of the Franchise Investment Protection Act of the state of Washington.

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1 IT IS HEREBY ORDERED that Respondents RedRhino, Inc. and Michael Drew Kenealy, their agents
2 and employees each shall cease and desist from violating RCW 19.100.170, the anti-fraud section of the
3 Franchise Investment Protection Act of the state of Washington.


4 This ORDER is entered pursuant to RCW 19.100.248 and is subject to the provisions of Chapter 34.05
5 RCW.

6 WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.


7 SIGNED and ENTERED this 16th day of September, 2019

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10 _____
11 William M. Beatty
12 Securities Administrator

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14 Approved by:
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16 _____
17 Suzanne Sarason
18 Chief of Enforcement

19 Presented by:
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21 _____
22 Martin Cordell
23 Financial Legal Examiner

24 Reviewed by:
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26 _____
27 Jack McClellan
28 Financial Legal Examiner Supervisor

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**ENTRY OF FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND FINAL
ORDER TO CEASE AND DESIST**

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