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STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

IN RE: FRANCHISE NO POACHING
PROVISIONS

(AARON'S, INC.)

NO. **19-2-20768-0 SEA**
AARON'S, INC. ASSURANCE OF
DISCONTINUANCE

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

I. PARTIES

1.1 In 2018, the Attorney General initiated an investigation into Aaron's, Inc.
("Aaron's") relating to a particular internal hiring practice.

1.2 Aaron's is a Georgia corporation with its principal office or place of business in
Atlanta, Georgia. Aaron's is a leading omnichannel provider of lease-purchase solutions
primarily to an underserved, credit-challenged segment of the population. Through multiple
business segments, Aaron's primarily provides lease options for consumers for the products
they need and want including furniture, appliances, electronics, jewelry and a variety of other
products.

1.3 Aaron's includes its directors, officers, managers, agents acting within the scope
of their agency, and employees as well as its successor and assigns, controlled subsidiaries,
divisions, groups, affiliates, partnerships, and joint ventures.

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2 **II. INVESTIGATION**

3 2.1 Aaron's has 26 stores in Washington, one of which is owned and operated by a
4 franchisee and 25 of which are owned and operated by Aaron's.

5 2.2 Aaron's has included language in its franchise agreements that restricted a
6 franchisee's ability to solicit or hire workers from Aaron's locations owned and operated by
7 the company itself ("no-poaching provision"). Specifically, Section 7.21 of Aaron's franchise
8 agreements typically stated as follows:

9 (a) During the term of this Agreement, except as otherwise approved in writing
10 by Franchisor, Franchisee shall not, directly or indirectly, for itself, or through,
11 on behalf of, or in conjunction with any person or entity . . . (ii) [e]mploy or
12 seek to employ any person who is at that time or was at any time within the
13 immediate past twelve (12) months employed by Franchisor or any of
Franchisor's Franchisees or otherwise directly or indirectly induce or seek to
induce such person to leave his or her employment with Franchisor or any of
such other franchisees.

14 (b) Except as otherwise approved in writing by Franchisor, Franchisee shall not,
15 for a continuous uninterrupted period commencing upon the expiration and non-
16 renewal or any earlier termination of this Agreement, regardless of the cause,
and continuing for two (2) years thereafter (which two (2) years shall be
17 extended by the length of time duping which this Section 7.21(b) is being
18 violated), either directly or indirectly, for itself, or through, on behalf of, or in
19 conjunction with any person or entity . . . (ii) [e]mploy or seek to employ any
20 person who is at that time employed by Aaron's, Franchisee, any other
franchisee, master franchisee, developer, or development agent, or otherwise
directly or indirectly induce such person to leave his or her employment.

No similar restriction applied to Aaron's.

21 2.3 The Attorney General asserts that the foregoing conduct constitutes a contract,
22 combination, or conspiracy in restraint of trade in violation of the Consumer Protection Act,
23 RCW 19.86.030.

24 2.4 Aaron's expressly denies the conduct described above constitutes a contract,
25 combination, or conspiracy in restraint of trade in violation of the Consumer Protection Act,
26 RCW 19.86.030, or any other law, and expressly denies that it has engaged in conduct that

1 constitutes a contract, combination, or conspiracy in restraint of trade. Aaron's asserts that the
2 no-poaching provisions serve multiple legitimate purposes and, in any event, based on
3 reasonable investigation it has not taken any steps to enforce such provisions in the state of
4 Washington in the past five years. Nevertheless, Aaron's enters into this AOD to avoid
5 protracted and expensive litigation. Pursuant to RCW 19.86.100, neither this AOD nor its
6 terms shall be construed as an admission of law, fact, liability, misconduct, or wrongdoing on
7 the part of Aaron's.

8 III. ASSURANCE OF DISCONTINUANCE

9 3.1 Subject to paragraph 2.4 above, Aaron's agrees:

10 3.1.1. It will no longer include no-poaching provisions in any of its future
11 franchise agreements;

12 3.1.2. It will not enforce no-poaching provisions in any of its existing franchise
13 agreements, and will not seek to intervene or defend in any way the legality of any no-
14 poaching provision in any litigation in which a franchisee may claim third-party beneficiary
15 status rights to enforce an existing no-poaching provision;

16 3.1.3. It will notify all of its franchisees of the entry of this AOD and provide
17 them a copy;

18 3.1.4. It will notify the Attorney General's Office if it learns of any effort by a
19 franchisee to enforce any existing no-poaching provision.

20 3.2 Within 60 days of entry of this AOD, Aaron's will have made commercially
21 reasonable attempts to amend all existing franchise agreements with entities in Washington to
22 remove any no-poaching provisions in its existing franchise agreements. If any franchise
23 owner is unwilling to consent to the change to its franchise agreement, prior to the 60-day
24 deadline, Aaron's shall provide the name and address of the resisting franchisee and the name
25 and address of the franchisee's registered agent to the Office of the Attorney General. Aaron's
26 is under no obligation to offer its franchisees any consideration—monetary or otherwise—in

1 order to induce them to sign the proposed amendment or take any adverse action against any
2 franchisee that refuses to do so.

3 3.3 As they come up for either renewal or renegotiation during the ordinary course
4 of business, Aaron's will amend all of its existing franchise agreements on a nationwide basis
5 to remove any no-poaching provision.

6 3.4 Within 30 days of the conclusion of the time periods referenced in this section
7 III, Aaron's will submit a declaration to the Attorney General's Office signed under penalty of
8 perjury stating that all provisions of this agreement have been satisfied.

9 IV. ADDITIONAL PROVISIONS

10 4.1 This AOD is binding on, and applies to Aaron's, including each of its respective
11 directors, officers, managers, agents acting within the scope of their agency, and employees, as
12 well as their respective successors and assigns, controlled subsidiaries, divisions, groups,
13 affiliates, partnerships, and joint ventures, or other entities through which Aaron's may now or
14 hereafter act with respect to the conduct alleged in this AOD.

15 4.2 This is a voluntary agreement and it shall not be construed as an admission of
16 law, fact, liability, misconduct, or wrongdoing on the part of Aaron's. By entering into this
17 AOD, Aaron's neither agrees nor concedes that the claims, allegations and/or causes of action
18 which have or could have been asserted by the Attorney General have merit and Aaron's
19 expressly denies any such claims, allegations, and/or causes of action. However, proof of
20 failure to comply with this AOD shall be *prima facie* evidence of a violation of RCW
21 19.86.030, thereby placing upon the violator the burden of defending against imposition by the
22 Court of injunctions, restitution, costs and reasonable attorney's fees, and appropriate civil
23 penalties under the Consumer Protection Act.

24 4.3 Aaron's will not, nor will it authorize any of its officers, employees,
25 representatives, or agents to state or otherwise contend that the State of Washington or the
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1 Attorney General has approved of, or has otherwise sanctioned, the conduct described in
2 Paragraph 2.2 with respect to the no-poaching provision in Aaron's franchise agreement.

3 4.4 This AOD resolves all issues raised by the State of Washington and the Antitrust
4 Division of the Attorney General's Office under the Consumer Protection Act and any other
5 related statutes pertaining to the acts set forth in paragraph 2.1 – 2.3 above that may have occurred
6 before the date of entry of this AOD and concludes the investigation thereof. Subject to
7 paragraph 4.2, the State of Washington and the Antitrust Division of the Attorney General's
8 Office shall not file suit or take any further investigative or enforcement action with respect to the
9 acts set forth above that occurred before the date of entry of this AOD.

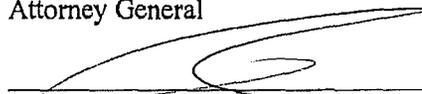
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APPROVED ON this ____ day of _____, 2019.

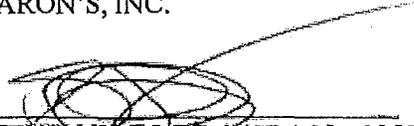
JUDGE/COURT COMMISSIONER

1 Presented by:

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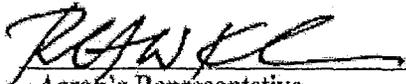
11 Agreed to and approved for entry by:
12 AARON'S, INC.

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