

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

IN RE: FRANCHISE NO POACHING
PROVISIONS

(VILLA PIZZA, LLC.)

NO. 19-2-12914-0 SEA

VILLA PIZZA, LLC ASSURANCE
OF DISCONTINUANCE

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

I. PARTIES

1.1 In January 2019, the Attorney General initiated an investigation into Villa Pizza, LLC (“Villa Pizza”) relating to its hiring practices.

1.2 Villa Pizza, LLC is a Delaware Limited Liability Company with its principal office or place of business in Morristown, New Jersey. Villa Pizza is in the business of franchising restaurants featuring, among other things, pizza, pasta and various Italian specialties.

1.3 For the purposes of this AOD, Villa Pizza 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.

1 **II. INVESTIGATION**

2 2.1 Villa Pizza has two franchise locations in Washington. Each of these locations
3 are owned and operated by franchisees.

4 2.2 For at least the past 13 years, Villa Pizza has included within Section 14(b) of
5 its franchise agreements, the following language in substantially this form:

6 Confidants [franchisee] will not ... (ii) Employ or seek to employ any person who
7 was during the one (1) year prior thereto, employed by Franchisor or by any other
8 franchise of Franchisor, or otherwise induce, directly or indirectly, or seek to induce
such person to leave his or her employment.

9 2.3 The Attorney General asserts that the foregoing conduct constitutes a contract,
10 combination, or conspiracy in restraint of trade in violation of the Consumer Protection Act,
11 RCW 19.86.030.

12 2.4 Villa Pizza expressly denies the conduct described above constitutes a contract,
13 combination, or conspiracy in restraint of trade in violation of the Consumer Protection Act,
14 RCW 19.86.030, or any other law, and expressly denies it has engaged in conduct that
15 constitutes a contract, combination, or conspiracy in restraint of trade. Villa Pizza enters into
16 this AOD to avoid protracted and expensive litigation. Pursuant to RCW 19.86.100, neither
17 this AOD nor its terms shall be construed as an admission of law, fact, liability, misconduct, or
18 wrongdoing on the part of Villa Pizza.

19 **III. ASSURANCE OF DISCONTINUANCE**

20 3.1 Subject to paragraph 2.4 above, Villa Pizza agrees:

21 3.1.1. For franchise locations in the United States, it will no longer include the
22 above-quoted language from Section 14(b)(ii), or other substantively similar language, in any
23 of its future franchise agreements;

24 3.1.2. For franchise locations in the United States, it will no longer enforce the
25 above-quoted language from Section 14(b)(ii) in any of its existing franchise agreements, and
26 will not seek to intervene or defend in any way the legality of the above-quoted language from

1 Section 14(b)(ii) in any litigation in which a franchisee may claim third-party beneficiary
2 status rights to enforce an existing no-poach provision;

3 3.1.3. It will notify the Attorney General's Office if it learns of any effort by a
4 franchisee in Washington to enforce the above-quoted language from Section 14(b)(ii) of any
5 existing franchise agreements.

6 3.2 Villa Pizza will request that all franchisees in the state of Washington agree to
7 amend their existing franchise agreements to remove the above-quoted language from Section
8 14(b)(ii) and will seek to have such amendments executed within 60 days of entry of this
9 AOD. If any Washington franchise owner is unwilling to amend its franchise agreement prior
10 to the 60-day deadline, Villa Pizza shall provide the name and address of the resisting
11 franchisee and the name and address of the franchisee's registered agent to the Office of the
12 Attorney General.

13 3.3 Villa Pizza is under no obligation to offer its franchisees any consideration—
14 monetary or otherwise—in order to induce them to sign the proposed amendment or take any
15 adverse action against such franchisees if they refuse to do so. A decision by a franchisee not
16 to amend its franchise agreement shall not constitute a breach by Villa Pizza of its obligations
17 under this AOD or a failure by Villa Pizza to comply with this AOD.

18 3.4 As they come up for either renewal or renegotiation during the ordinary course
19 of business, Villa Pizza will amend all of its existing franchise agreements on a nationwide
20 basis to remove above-quoted language from Section 14(b)(ii).

21 3.5 Within 30 days of the conclusion of the time periods referenced in this section
22 III, Villa Pizza will submit a declaration to the Attorney General's Office signed under penalty
23 of perjury stating that all provisions of this agreement have been satisfied.

24 IV. ADDITIONAL PROVISIONS

25 4.1 This AOD is binding on, and applies to Villa Pizza, including each of its
26 respective directors, officers, managers, agents acting within the scope of their agency, and

1 employees, as well as their respective successors and assigns, controlled subsidiaries,
2 divisions, groups, affiliates, partnerships, and joint ventures, or other entities through which
3 Villa Pizza, LLC may now or hereafter act with respect to the conduct alleged in this AOD.

4 4.2 This is a voluntary agreement and it shall not be construed as an admission of
5 law, fact, liability, misconduct, or wrongdoing on the part of Villa Pizza. By entering into this
6 AOD, Villa Pizza neither agrees nor concedes that the claims, allegations and/or causes of
7 action, which have or could have been asserted by the Attorney General have merit and Villa
8 Pizza, LLC expressly denies any such claims, allegations, and/or causes of action. However,
9 proof of failure to comply with this AOD shall be *prima facie* evidence of a violation of RCW
10 19.86.030, thereby placing upon the violator the burden of defending against imposition by the
11 Court of injunctions, restitution, costs and reasonable attorney's fees, and appropriate civil
12 penalties under the Consumer Protection Act.

13 4.3 Villa Pizza will not, nor will it authorize any of its officers, employees,
14 representatives, or agents to state or otherwise contend that the state of Washington or the
15 Attorney General has approved of, or has otherwise sanctioned, the conduct described in
16 paragraph 2.2 with respect to above-quoted language from Section 14(b)(ii) in Villa Pizza's
17 franchise agreement.

18 4.4 This AOD resolves all issues raised by the state of Washington and the Antitrust
19 Division of the Attorney General's Office under the Consumer Protection Act and any other
20 related statutes pertaining to the acts set forth in paragraph 2.1 – 2.3 above that may have occurred
21 before the date of entry of this AOD and concludes the investigation thereof. Subject to paragraph
22 4.2, the state of Washington and the Antitrust Division of the Attorney General's Office shall not
23 file suit or take any further investigative or enforcement action with respect to the acts set forth
24 above that occurred before the date of entry of this AOD.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

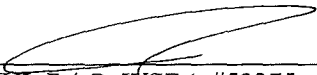
APPROVED ON this _____ day of _____, 2019.

JUDGE/COURT COMISSIONER

1 Presented by:

2 ROBERT W. FERGUSON
3 Attorney General

4

5 
RAHUL RAO, WSBA #53375
6 Assistant Attorney General
7 Antitrust Division
8 Office of the Attorney General
9 800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206.442.4499
rahulr@atg.wa.gov

10 *Attorneys for State of Washington*

11

12 Agreed to and approved for entry by:
13 Villa Pizza, LLC

Villa Pizza, LLC

14

15 

16 JOSEPH HAMELL, WSBA #29423
17 Montgomery Purdue
18 Blankenship & Austin PLLC
19 701 Fifth Avenue, Suite 5500
20 Seattle, WA 98104
21 jhamell@mpba.com

BIAGIO SCOTTO

22 *Attorney for Villa Pizza, LLC*

23

24

25

26

1 Presented by:

2 ROBERT W. FERGUSON
3 Attorney General

4

5 RAHUL RAO, WSBA #53375
6 Assistant Attorney General
7 Antitrust Division
8 Office of the Attorney General
9 800 Fifth Avenue, Suite 2000
10 Seattle, WA 98104
11 206.442.4499
12 rahul@atg.wa.gov

13 *Attorneys for State of Washington*

14

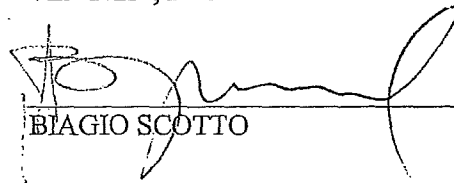
15 Agreed to and approved for entry by:
16 Villa Pizza, LLC

Villa Pizza, LLC

17

18

19 JOSEPH HAMELL, WSBA #29423
20 Montgomery Purdue
21 Blankenship & Austin PLLC
22 701 Fifth Avenue, Suite 5500
23 Seattle, WA 98104
24 jhamell@mpba.com



BIAGIO SCOTTO

25

26 *Attorney for Villa Pizza, LLC*