

1 PRESTON DUFAUCHARD
California Corporations Commissioner
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Supervising Attorney
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7
8 **BEFORE THE DEPARTMENT OF CORPORATIONS**
9 **OF THE STATE OF CALIFORNIA**

10 In the Matter of the Accusation of THE) OAH N2006050063
11 CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) File No.: 993-1560
13 Complainant,) SETTLEMENT AGREEMENT
14 vs.)
15 THE CURE SERVICE GROUP, INC.; LISA)
16 BONGI and RICK STONELL aka RICK)
17 STOWELL,)
18 Respondents.

19 This Settlement Agreement is entered into between The Cure Service Group, Inc. ("The
20 Cure"), Lisa Bonggi ("Bonggi") and Rick Stonell aka Rick Stowell ("Stonell") , on the one hand, and
21 the California Corporations Commissioner ("Commissioner"), on the other hand, and is made with
22 respect to the following facts:

23 **RECITALS**

24 A. The Cure is a corporation in good standing, duly formed and existing pursuant to the
25 laws of the State of Washington, and authorized to conduct business in the State of California.

26 B. The Cure is a franchise registered by the Commissioner pursuant to the Franchise
27 Investment Law of the State of California (California Corporation Code § 31100 et seq.). The Cure
28 has its principal place of business located at 1167 Mercer Street, Seattle, Washington, 98109.

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2 C. Bongi was the Director of Operations for The Cure from January, 1997 to May, 1998.
3 Bongi was the President of The Cure from January 2, 2002 to December 16, 2005. From December
4 16, 2005, to the present, Bongi is the President, Chief Executive Officer, Vice-President, Secretary,
5 and Treasurer of The Cure.

6 D. Stonell was the Chief Executive Officer of The Cure from the date of its incorporation to
7 December 16, 2005, and acted as one of its principal officers in fact, exercising management
8 responsibility and control with regard to all facets of its operations, including the franchises offered
9 by the company. In addition, at all times mentioned herein, Stonell was personally involved in the
10 sale of franchises during the time period when The Cure was not registered.

11 E. On May 13, 2006, The Cure, Bongi and Stonell were personally served by the
12 Commissioner with an Amended Order Denying Effectiveness of Current Franchise Registration
13 Application and Revoking Current Franchise Registration (Corporations Code 3115); Amended
14 Statement in Support of Order (Corporations Code section 31117); Notice of Hearing;
15 Complainant's Notice to Respondent Rick Stonell aka Rick Stowell To Attend Hearing;
16 Complainant's Notice to Respondent Lisa Bongi to Attend Hearing; and a Desist and Refrain Order.
17 The Cure, Bongi and Stonell have filed a Notice of Appeal with the Commissioner on the above-
18 referenced matters. A hearing has been scheduled for July 11, 2006.

19 F It is the intention and desire of the parties to resolve this matter without the necessity
20 of a hearing and/or other litigation.

21 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
22 forth herein, the parties agree as follows:

23 **TERMS AND CONDITIONS**

24 1. This Settlement Agreement is entered into for the purpose of judicial economy and
25 expediency, and to avoid the expense of a hearing, and possible further court proceedings.

26 2. The Cure, Bongi and Stonell admit the allegations contained in the Amended
27 Statement in Support of Order and the Desist and Refrain Order. The admissions of The Cure,
28 Bongi and Stonell are solely for the limited purposes of these proceedings and any future

1 proceeding(s) that may be initiated by or brought before the Commissioner against The Cure, Bongi
2 and Stonell. It is the intent and understanding between the parties that this Settlement Agreement,
3 and particularly the admissions of The Cure, Bongi and Stonell herein, shall not be binding or
4 admissible against The Cure, Bongi and Stonell in any action(s) brought against The Cure, Bongi or
5 Stonell by third parties.

6 3. The Cure, Bongi and Stonell hereby agree to the following terms and conditions in
7 the event these parties choose to apply for registration of the franchise in California. The Cure,
8 Bongi and Stonell must disclose the following:

9 a. The 1992 lawsuit, judgment and injunction in Contra Costa County, Docket number
10 C92-05523

11 b. The 1994 lawsuit and court judgment in Contra Costa County, Docket number C94-02536

12 c. Any and all bankruptcies involving the principles, past and present employees,
13 salespersons or independent contractors.

14 d. Lisa Bongi and Rick Stonell aka Rick Stowell are husband and wife.

15 e. Rick Stonell is no longer involved in the business in any manner as of December 16,
16 2005.

17 f. The previous offers and sales of unregistered franchises.

18 e. The issuance of a Desist and Refrain Order by the California Department of Corporations.

19 g. The 1981 felony conviction of Rick Stowell in Santa Clara County, Docket number
20 80069.

21 h. The Order denying and revoking the franchise registration.

22 i. The Settlement Agreement.

23 4. In the event The Cure, Bongi and Stonell wish to file an application for registration of the
24 franchise, this application cannot be filed on or before March 1, 2007. Any application filed by
25 Bongi and/or Stonell prior to March 1, 2007, will not be considered for approval.

26 5. In the event Bongi and/or Stonell sell The Cure, the new owner may apply for franchise
27 registration at the time of purchase of The Cure.

28

1 6. Any new purchaser must disclose all items set for in paragraph 3 above with the exception
2 of the item set forth in Paragraph 3(g) above.

3 7. In the event Bongi and/or Stonell wish to apply for registration of any other franchise or
4 licensing of any other business venture other than The Cure, with the California Department of
5 Corporations, the current Desist and Refrain Order may be considered as a factor in determining the
6 approval of such registration or licensing. In the event that Bongi and/or Stonell sell The Cure, and
7 the new owner wishes to apply for registration of The Cure franchise with the California Department
8 of Corporations, the current Desist and Refrain Order will not be considered as a factor in
9 determining the approval of such registration.

10 8. Bongi and Stonell acknowledge their right to an administrative hearing under
11 Corporation Code section 31211 in connection with the registration of the franchise and hereby
12 waive that right to a hearing, and to any reconsideration, appeal, or other rights which may be
13 afforded pursuant to the Franchise Investment Law, the California Administrative Procedure Act, the
14 California Code of Civil Procedure, or any other provision of law in connection with this matter
15 herein.

16 9 The Commissioner hereby consents to the Settlement Agreement, provided that all
17 the conditions of paragraph 3 above are met. Bongi and Stonell agree that if they fail to meet the
18 conditions set forth in paragraph 3, the Commissioner will not allow registration of the franchise and
19 any rights to a hearing regarding such registration and to any reconsideration, appeal, or other rights
20 which may be afforded pursuant to the Franchise Investment Law, the California Administrative
21 Procedure Act, the California Code of Civil Procedure, or any other provision of law in connection
22 therewith are hereby waived.

23 10. Except as otherwise provided herein, the parties agree that this Settlement Agreement
24 shall have the effect of dismissing the Order Denying Effectiveness of Current Franchise
25 Registration Application and Revoking Current Franchise Registration. This Settlement Agreement
26 will have the same effect as allowing The Cure, Bongi and Stonell to voluntarily withdraw their
27 application for franchise re-registration. . The dismissal shall become effective upon the signing by
28 all parties to this Settlement Agreement. This dismissal shall have no effect on the validity of The

1 Cure's, Bongi's or Stonell's admissions herein. The Order Denying and Revoking the franchise
2 registration is a public record and shall be posted on the Department of Corporation's website.

3 11. The Commissioner shall cause this Settlement Agreement to be filed with the Office
4 of Administrative Hearings within 5 business days of its execution by all parties hereto, but no later
5 than July 10, 2006. This Settlement Agreement is a public record and shall be posted on the
6 Department of Corporation's website.

7 12. The parties hereby acknowledge and agree that this Settlement Agreement is intended
8 to constitute a full, final and complete resolution of this matter. The parties further acknowledge and
9 agree that nothing contained in this Settlement Agreement shall operate to limit the Commissioner's
10 ability to assist any other agency, (county, state or federal) with any prosecution, administrative,
11 civil or criminal, brought by any such agency against Bongi and/or Stonell or any other person based
12 upon any of the activities alleged in this matter or otherwise.

13 13. Each of the parties represents, warrants, and agrees that it has received independent
14 advice from its attorney(s) and/or representatives with respect to the advisability of executing this
15 Settlement Agreement.

16 14. Each of the parties represents, warrants, and agrees that in executing this Settlement
17 Agreement it has relied solely on the statements set forth herein and the advice of its own counsel
18 and/or representative. Each of the parties further represents, warrants, and agrees that in executing
19 this Settlement Agreement it has placed no reliance on any statement, representation, or promise of
20 any other party, or any other person or entity not expressly set forth herein, or upon the failure of any
21 party or any other person or entity to make any statement, representation or disclosure of anything
22 whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in
23 any way fraudulently induced to execute this Settlement Agreement; and (2) to preclude the
24 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
25 Settlement Agreement.

26 15. This Settlement Agreement is the final written expression and the complete and
27 exclusive statement of all the agreements, conditions, promises, representations, and covenants
28 between the parties with respect to the subject matter hereof, and supercedes all prior or

1 contemporaneous agreements, negotiations, representations, understandings, and discussions
2 between and among the parties, their respective representatives, and any other person or entity, with
3 respect to the subject matter covered hereby.

4 16. In that the parties have had the opportunity to draft, review and edit the language of
5 this Settlement Agreement, no presumption for or against any party arising out of drafting all or any
6 part of this Settlement Agreement will be applied in any action relating to, connected, to, or
7 involving this Settlement Agreement. Accordingly, the parties waive the benefit of California Civil
8 Code section 1654 and any successor or amended statute, providing that in cases of uncertainty,
9 language of a contract should be interpreted most strongly against the party who caused the
10 uncertainty to exist.

11 17. This Settlement Agreement may be executed in one or more counterparts, each of
12 which shall be an original but all of which, together, shall be deemed to constitute a single
13 document.

14 18. Each signator hereto covenants that he/she possesses all necessary capacity and
15 authority to sign and enter into this Settlement Agreement.

16
17 Dated: 7/19/06

PRESTON DuFAUCHARD
California Corporations Commissioner

18
19 By ALAN S. WEINGER
Supervising Attorney

20
21 Dated: 7-13-06

SERVILE GROUP,
THE CURE ~~WATER DAMAGE~~, INC.

22
23 By LISA BONGI, President

24 Dated: 7-13-06

25 By LISA BONGI, An individual

26
27 Dated: 7-13-06

28 By: RICK STONELL aka RICK STOWELL,
An individual

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APPROVED AS TO FORM:

LAW OFFICES OF BARRY KURTZ

By _____ 7/13/06
BARRY KURTZ Attorneys for THE CURE
SERVICE GROUP, INC. and LISA BONGI

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____ 1/17/2006
SHARON A. LUERAS
Senior Corporations Counsel