

BEFORE THE  
STATE OF WISCONSIN  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF SECURITIES

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In the Matter of

SUMMARY ORDER  
OF PROHIBITION

DINE IN 2NITE NORTH AMERICA, INC.,  
DINE IN 2NITE NORTH AMERICA, LLC,  
and  
LEO KATS,

File No. S-233571 (FX)

Respondents.

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The Acting Administrator of the State of Wisconsin, Department of Financial Institutions, Division of Securities (“the Division”), having authority to administer and provide for enforcement of the Wisconsin Franchise Investment Law, Chapter 553, Wis. Stats. (“WFIL”), and having determined that this action is necessary and appropriate in the public interest and for the protection of investors, hereby enters this Order prohibiting future violations of any provision of the WFIL hereafter.

The Staff of the Professional Registration & Compliance Bureau of the Division have presented evidence sufficient for the Acting Administrator to make the following findings of fact and conclusions of law:

**Respondents**

1. Dine In 2Nite North America, Inc. is a California Corporation organized on March 29, 2013, with a last known business address of 6494 Weathers Place #100, San Diego, CA 92121.
2. Dine In 2Nite North America, LLC is a California Limited Liability Company organized on June 16, 2010, with a last known business address of 110 West C Street, Suite 2101, San Diego, CA 92101. It is currently suspended by the California Franchise Tax Board.
3. Leo Kats (“Kats”) is a resident of California, who at all times material hereto was acting as the President and Chief Executive Officer of Dine In 2Nite North America, Inc. and Dine In 2Nite North America, LLC. Kats’ last known business address is 6494 Weathers Place #101, San Diego, CA 92121.
4. Dine In 2Nite North America, LLC and Dine In 2Nite North America, Inc. will be referred to collectively herein as “DI2N.”

### Findings of Fact

5. On December 31, 2012, a resident of Wisconsin executed an agreement to purchase a franchise from DI2N with Kats.
6. Per the agreement, DI2N granted the franchisee the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by DI2N, the operation of business was in association with the trademark, service mark, trade name, logotype, advertising or other commercial symbol (collectively "the mark"); and there was a required payment of a fee in connection with the use of the mark.
7. According to statements provided by the franchisee, the franchisee paid approximately \$29,950 on or around January 2013 to DI2N per the terms of the DI2N franchise sales agreement.
8. On May 1, 2014, the franchisee entered a second agreement to purchase a regional development franchise from DI2N through Kats.
9. Per the regional development agreement, DI2N granted the franchisee the right, for consideration given in whole or in part for such right, to sell or negotiate the sale of franchises in the name or on behalf of DI2N.
10. According to statements made by the franchisee, the franchisee paid \$69,255.00 to DI2N on May 1, 2014 pursuant to the agreement to purchase a DI2N regional development franchise.
11. According to statements provided by the franchisee, the DI2N offering circular with an effective date of January 1, 2012 was provided to the franchisee by Kats shortly before the franchisee purchased the DI2N franchise on December 31, 2012.
12. The offering circular included addenda for several states, including Wisconsin, with disclosures and terms specific to each jurisdiction. The Hawaii addenda stated that "Dine In 2Nite is currently registered in the following states: California, Hawaii, Virginia, Minnesota, Illinois, Michigan, Washington, New York and Wisconsin."
13. The offering circular stated in Item 2 that Kats had been the President and CEO of DI2N since June 2010, and described his previous business experience with franchises since 2001. Specially, Kats served as president of Instant Imprints Franchising, Inc. ("Instant Imprints") from 2001 to 2009, and as president and chief executive officer of FranVest International, Inc. since 2007. The offering circular described FranVest as a company providing brand and franchise development, consulting, and management services.

14. The offering circular stated in Item 2 that Eric Welch (“Welch”) had been the general counsel for DI2N since June 2010, and described his previous business experience with franchises as including his role as general counsel for Instant Imprints from November 2005 to March 2011.
15. During the time that Kats served as president of Instant Imprints, the company registered with the Division to sell franchises in Wisconsin as required under Wis. Stat. § 553.21 on December 8, 2003 and December 8, 2004.
16. During the time that Kats served as president of Instant Imprints and Welch served as general counsel of Instant Imprints, the company registered with the Division to sell franchises in Wisconsin as required under Wis. Stat. § 553.21 on December 12, 2005, and January 1, 2007.
17. Despite their prior compliance with the statutory requirement, neither Kats nor Welch ever registered DI2N with the Division to sell franchises in Wisconsin, per the requirements of Wis. Stats. §§ 553.21.

#### **Conclusions of Law**

18. DI2N and Kats sold a franchise, as that term is defined in Wis. Stat. § 553.03(4), to a resident of Wisconsin.
19. DI2N and Kats sold an area franchise, as that term is defined in Wis. Stat. § 553.03(2), to a resident of Wisconsin.
20. The sale of the franchise and the area franchise to the franchisee on December 31, 2012 and May 1, 2014 respectively, were not transactions excluded from registration under Wis. Stat. § 553.22, or exempted from registration under Wis. Stats. §§ 553.23, 553.235, or 553.25.
21. DI2N and Kats violated Wis. Stat. § 553.21 by selling a franchise in Wisconsin without registering under Wis. Stat. Ch. 553 or being exempted under Wis. Stats. §§ 553.23, 553.235 or 553.25.
22. DI2N and Kats were aware of the registration requirements for selling franchises in Wisconsin under Wis. Stat. 553, having complied with them in the past.
23. DI2N and Kats violated Wis. Stat. § 553.41(5) by willfully representing to a prospective franchisee in Wisconsin that the franchise was registered or exempted when it was not the case.

24. Pursuant to Wis. Stat. § 553.60, the Division may by order summarily prohibit offers or sales of a franchise that are being, or have been, made in this state in violation of Wis. Stat. Ch. 553.

**Therefore, pursuant to Wis. Stat. § 553.58:**

**IT IS ORDERED THAT**

- a. DINE IN 2NITE NORTH AMERICA, LLC, their agents, servants, employees and every entity and person directly or indirectly controlled or organized by or on their behalf, are prohibited from violating any provision of Chapter 553, Wis. Stats., or any successor statutes.
- b. DINE IN 2NITE NORTH AMERICA, INC., their agents, servants, employees and every entity and person directly or indirectly controlled or organized by or on their behalf, are prohibited from violating any provision of Chapter 553, Wis. Stats., or any successor statutes.
- c. LEO KATS, his agents, servants, employees and every entity and person directly or indirectly controlled or organized by or on his behalf, are prohibited from violating any provision of Chapter 553, Wis. Stats., or any successor statutes.

EXECUTED at Madison, Wisconsin, this 15<sup>th</sup> day of March 2016.

(SEAL)



Christopher N. Green

Acting Administrator