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

In the matter of,

JOSEPH N. WHEELER, SR. and
INDOOR WAR, LLC

Respondents.

SUMMARY ORDER TO
CEASE AND DESIST

DFI Case No. S-236432 (FX)

I.

The Administrator of the State of Wisconsin, Department of Financial Institutions, Division of Securities ("Division"), having legal authority and jurisdiction to administer and enforce the Wisconsin Franchise Investment Law, Wis. Stats. Ch. 553 ("Ch. 553") and rules and orders promulgated thereunder, and having determined that this action is necessary and appropriate in the public interest and for the protection of investors, hereby enters this Order as follows:

II.

Division staff have presented evidence sufficient for the Administrator to make the following findings of fact and conclusions of law:

A. Findings of Fact

Respondents

1. Joseph N. Wheeler, Sr. ("Wheeler") is an adult male resident of Florida born in November of 1968. At all times material, Joseph Wheeler was a controlling member of Indoor Wars, LLC.

2. Indoor War, LLC ("Indoor War") is a limited liability company organized in Florida on or about October 7, 2011. At all times material, Indoor War was controlled by Wheeler and his wife, Dena Wheeler.

Conduct

3. Indoor War is affiliated with Hard Knocks, LLC, a limited liability company organized in Florida on or about September 26, 2005. At all times material, Hard Knocks was controlled by Wheeler's son. Hard Knocks granted Indoor War the rights to license its

software to franchisees for "interactive entertainment centers" offering shooter-scenario games as a part of the Indoor War franchise package.

4. At no time has Indoor War, Hard Knocks, or any of their affiliates filed a franchise registration with the Division.

5. In or about 2015, Wheeler approached an adult male resident of Wisconsin about purchasing an Indoor War franchise, which would allow the Wisconsin resident to open an "interactive entertainment center" near the Milwaukee area, using Indoor War's and Hard Knocks' names, trademarks, and proprietary software.

6. Around the same time, Wheeler provided the Wisconsin resident with several documents which represented the potential profitability of purchasing and running an Indoor War franchise.

7. On or about April 13, 2016 Indoor War and the Wisconsin resident entered into an agreement for the Wisconsin resident to purchase an Indoor War franchise. Under the terms of the agreement, the Wisconsin resident was granted the right to establish and operate an Indoor War location in the Milwaukee area.

8. Under the terms of the agreement, the Wisconsin resident was required operate the franchise pursuant to a plan and training system substantially prescribed by the franchisor, including but not limited to mandatory trainings by Indoor War for the Wisconsin resident's employees and requiring the Wisconsin resident to purchase supplies for the Indoor Wars interactive entertainment center from Indoor War and its affiliates or approved suppliers.

9. Pursuant to the terms of the purchase agreement, the Wisconsin resident paid Indoor War an initial, non-refundable fee of $70,000 on or about April 13, 2016. The Wisconsin resident was also responsible for paying monthly royalty fees and advertising fees to Indoor War.

10. At no time did Indoor War or Wheeler provide the Wisconsin resident with a copy of the franchise disclosure document for Indoor War.

B. Conclusions of Law

<u>Legal Authority and Jurisdiction</u>

11. The Administrator has legal authority and jurisdiction over the conduct described above, pursuant to Ch. 553 and the rules and orders promulgated thereunder.

12. Indoor War is a franchisor pursuant to Wis. Stat. § 553.03(6).

13. The agreement between Indoor War and the Wisconsin resident is a franchise pursuant to Wis. Stat. § 553.03(4)(a).

14. Pursuant to Wis. Stat. § 553.21, no person may sell any franchise in Wisconsin unless the franchise has been registered under Ch. 553 or is exempted under Wis. Stats. §§ 553.23, 553.235 or 553.25.

15. Pursuant to Wis. Stat. 553.27(4), no franchise subject to registration under Ch. 553 may be sold in Wisconsin unless a copy of an offering circular is provided to the prospective franchisee at least 14 days prior to the execution by the prospective franchisee of any binding franchise or other agreement with the franchisor or any affiliate of the franchisor, whichever first occurs.

Violations

16. As described above in ¶¶ 3-10, Indoor War, LLC and Wheeler violated Wis. Stat. § 553.21 when they sold a franchise in Wisconsin without being registered with the Division.

17. As described above in ¶¶ 3-10, Indoor War, LLC and Wheeler violated Wis. Stat. § 553.27(4) when they sold a franchise in Wisconsin without providing a copy of the offering circular for Indoor Wars to the Wisconsin resident at least 14 days prior to the execution of the franchise agreement.

III.

In view of the above findings of fact and conclusions of law, the Administrator deems it necessary and appropriate in the public interest and for the protection of investors, and pursuant to its legal authority and jurisdiction under Ch. 553, to issue the following orders and notices:

A. Summary Orders issued pursuant to Wis. Stat. § 553.60

(a) IT IS ORDERED summarily that RESPONDENTS, their agents, servants, officers, employees, successors, affiliates, and every entity and person directly or indirectly controlled or organized by or on behalf of any RESPONDENT, shall cease and desist from making or causing to be made to any person or entity in Wisconsin any further offers or sales of franchises unless and until such franchises are registered or are exempted from registration under Ch. 553 or successor statute.

(b) PLEASE TAKE NOTICE that this order is effective upon the date it is made and filed, pursuant to Wis. Stat. § 553.58(5). This order and made and filed on the date of its issuance.

B. Service of Order

(c) IT IS FURTHER ORDERED that this order shall be sent promptly by certified mail to each party named in the order at his or her last known address or to the party's attorney of record, or shall be personally served upon the party or the party's attorney of record, pursuant to Wis. Stat. § 553.58(5), Wis. Admin. Code §§ DFI-Sec. 36.01 and DFI-Sec. 8.06. This order shall also be served upon the office of the Division pursuant to Wis. Stat. § 553.73.

(d) PLEASE TAKE NOTICE that the date of the service of this order is the date it is placed in the mail. You are advised that any willful violation of an Order issued by the Division under Ch. 553 is a criminal offense punishable under the provisions of Wis. Stat. § 553.52.

C. Notice of Hearing Rights

(e) PLEASE TAKE NOTICE that you have the right to request a hearing. Within 30 days after the division has issued an order summarily, an interested party may apply to the division for a hearing in respect to any matters determined by the order, pursuant to Wis. Stat. 553.56(2). Every request for a hearing shall be in the form of a petition with the Division, pursuant to Wis. Admin. Code §§ DFI-Sec 36.01 and DFI-Sec. 8.01. A petition for a hearing to review the order shall:

(1) Plainly admit or deny each specific allegation, finding or conclusion in the order and incorporated papers. However, if the petitioner lacks sufficient knowledge or information to permit an admission or denial, the petition shall so state, and that statement shall have the effect of a denial; and
(2) State all affirmative defenses. Affirmative defenses not raised in the request for hearing may be deemed waived.

(f) PLEASE TAKE FURTHER NOTICE that, within 10 days after an interested party files a written request with the division for a hearing, the matter shall be noticed for a hearing, and a hearing shall be held within 60 days after notice unless extended by the division for good cause, pursuant to Wis. Stat. § 553.56(2).

(g) PLEASE TAKE FURTHER NOTICE that, during the pendency of any hearing requested under this subsection, the order issued summarily shall remain in effect unless vacated or modified by the division, pursuant to Wis. Stat. § 553.56(2).

(h) PLEASE TAKE FURTHER NOTICE that if you do not request a hearing and none is ordered by the Administrator within 30 days after the order is issued, the findings of fact, conclusions of law, and summary orders become final as by operation of law, pursuant to Wis. Stat. § 553.56(3).

EXECUTED at Madison, Wisconsin, this 27th day of August, 2018.

Leslie M. Van Buskirk

Leslie M. Van Buskirk
Administrator

Division of Securities
State of Wisconsin
Department of Financial Institutions
4822 Madison Yards Way
Madison, Wisconsin 53705

State of Wisconsin

Department of Financial Institutions

Scott Walker, **Governor** | Jay Risch, **Secretary**

AFFIDAVIT OF SERVICE

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

I, KATHERINE CLEMENTI, first being duly sworn, depose and state:

1. I am employed with the State of Wisconsin, Department of Financial Institutions, Division of Securities.

2. On the date of this Affidavit and in the course of regularly conducted activity, I have caused to be served by certified mail upon the Respondent Joseph N. Wheeler, Sr. at his last known address of 300 N. New York Ave., Unit 278, Winter Park, FL 32790-7513.

   i. Summary Order to Cease and Desist, DFI File No. S-236432 (EX); and

   ii. A copy of this Affidavit of Service.

3. I have also caused to be served copies of those same documents upon the Administrator for the Division of Securities, pursuant to Wis. Stat. §§ 227.48, 551.611, and 891.46; and Wis. Admin. Code. §§ DFI-Sec 8.06 and 8.07.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Katherine Clementi

KATHERINE CLEMENTI

State of Wisconsin
Department of Financial Institutions
Division of Securities

Subscribed and sworn to before me

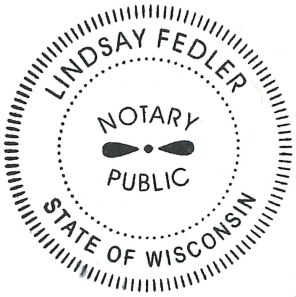
This 27th day of August, 2018.

Lindsey Fedler

Notary Public, State of Wisconsin

My commission is permanent.

(Notary Seal)



Division of Securities
Mail: PO Box 1768 Madison, WI 53701-1768
Courier: 4822 Madison Yards Way, Madison, WI 53705
Voice: (608) 261-9555 Fax: (608) 264-7979 Web: www.wdfi.org

State of Wisconsin

Department of Financial Institutions

Scott Walker, **Governor** | Jay Risch, **Secretary**

AFFIDAVIT OF SERVICE

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

I, KATHERINE CLEMENTI, first being duly sworn, depose and state:

1. I am employed with the State of Wisconsin, Department of Financial Institutions, Division of Securities.

2. On the date of this Affidavit and in the course of regularly conducted activity, I have caused to be served by certified mail upon the Respondent Indoor War, LLC at its last known address of 300 N. New York Ave., Unit 278, Winter Park, FL 32790-7513.

   i. Summary Order to Cease and Desist, DFI File No. S-236432 (EX); and

   ii. A copy of this Affidavit of Service.

3. I have also caused to be served copies of those same documents upon the Administrator for the Division of Securities, pursuant to Wis. Stat. §§ 227.48, 551.611, and 891.46; and Wis. Admin. Code. §§ DFI-Sec 8.06 and 8.07.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Katherine Clementi

KATHERINE CLEMENTI

State of Wisconsin
Department of Financial Institutions
Division of Securities

Subscribed and sworn to before me

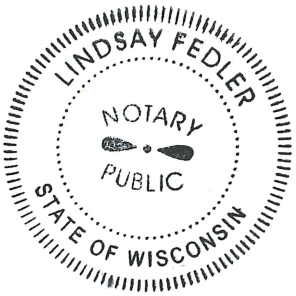
This 27th day of August, 2018.

Lindsay Fedler

Notary Public, State of Wisconsin

My commission is permanent.

(Notary Seal)



Division of Securities
Mail: PO Box 1768 Madison, WI 53701-1768
Courier: 4822 Madison Yards Way, Madison, WI 53705
Voice: (608) 261-9555 Fax: (608) 264-7979 Web: www.wdfi.org