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**STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT**

IN RE: FRANCHISE NO-POACHING  
PROVISIONS

(CARRABA ITALIAN GRILL, LLC)

**19-2-01104-1 SEA**

CARRABA ITALIAN GRILL, LLC  
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 November 2018, the Attorney General contacted Carrabba's Italian Grill, LLC inquiring about the terms of its franchise agreement.

1.2 Carrabba's Italian Grill, LLC is a Florida Limited Liability Company with its principal office or place of business in Florida. Carrabba's Italian Grill, LLC operates a nationwide chain of casual restaurants offering Authentic Italian Cooking.

1.3 For the purposes of this AOD, Carrabba's Italian Grill, LLC includes its successor and assigns, controlled subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures.

**II. INVESTIGATION**

2.1 Carrabba's Italian Grill, LLC does not currently have any restaurants in Washington but has a franchisee headquartered in Redmond, Washington.

1           2.2    For years, Carrabba's Italian Grill, LLC has included language in its franchise  
2 agreements that restricted a franchisee's ability to solicit or hire workers from other franchisees  
3 of Carrabba's Italian Grill, LLC and from Carrabba's Italian Grill, LLC's corporate-owned  
4 stores. Specifically, the standard Carrabba's Italian Grill, LLC franchise agreement stated that a  
5 franchisee shall not,

6           employ or seek to employ any person who is at that time, or within six (6) months  
7 of such employment or solicitation was, employed by Franchisor, any Affiliate of  
8 Franchisor, or any other franchisee or developer of Franchisor; or otherwise  
9 directly or indirectly induce such person to leave his or her employment.

(The "No-Poaching Provision.")

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

13           2.4    Carrabba's Italian Grill, LLC expressly denies the conduct described above  
14 constitutes a contract, combination, or conspiracy in restraint of trade in violation of the  
15 Consumer Protection Act, RCW 19.86.030, or any other law, and expressly denies it has  
16 engaged in conduct that constitutes a contract, combination, or conspiracy in restraint of trade.  
17 In fact, Carrabba's Italian Grill, LLC denies that it has ever enforced the No-Poaching Provision  
18 and further denies that any franchisee, none of which have ever had overlapping geographic  
19 territories or have competed with each other, has ever refrained from recruiting or hiring  
20 employees from another franchisee of Carrabba's Italian Grill, LLC or from recruiting or hiring  
21 employees from Carrabba's Italian Grill, LLC's corporate-owned restaurants. Carrabba's Italian  
22 Grill, LLC enters into this AOD to avoid protracted and expensive litigation. Pursuant to  
23 RCW 19.86.100, neither this AOD nor its terms shall be construed as an admission of law, fact,  
24 liability, misconduct, or wrongdoing on the part of Carrabba's Italian Grill, LLC.

### 25           III.    ASSURANCE OF DISCONTINUANCE

26           3.1    Subject to Paragraph 2.4 above, Carrabba's Italian Grill, LLC agrees:

1           3.1.1. It will no longer include the No-Poaching Provision in any of its future  
2 franchise agreements;

3           3.1.2. It will continue to refrain from enforcing the No-Poaching Provision in  
4 any of its existing franchise agreements, and will not seek to intervene or defend in any way the  
5 legality of the No-Poaching Provision in any litigation in which a franchisee may claim third-  
6 party beneficiary status rights to enforce it;

7           3.1.3. It will notify all of its franchisees of the entry of this AOD and provide  
8 them a copy;

9           3.1.4. It will notify the Attorney General's Office if it learns of any effort by a  
10 franchisee to enforce the existing No-Poaching Provision.

11          3.2     As they come up for either renewal or renegotiation during the ordinary course  
12 of business, Carrabba's Italian Grill, LLC will amend all of its existing franchise agreements on  
13 a nationwide basis to remove the No-Poaching Provision.

14          3.3     Within 30 days of the conclusion of the time periods referenced in this section  
15 III, Carrabba's Italian Grill, LLC will submit a declaration to the Attorney General's Office  
16 signed under penalty of perjury stating that all provisions of this agreement have been satisfied.

#### 17   IV.     ADDITIONAL PROVISIONS

18          4.1     This AOD is binding on, and applies to Carrabba's Italian Grill, LLC, including  
19 each of its respective successors and assigns, controlled subsidiaries, divisions, groups,  
20 affiliates, partnerships, and joint ventures, or other entities through which Carrabba's Italian  
21 Grill, LLC may now or hereafter act with respect to the conduct alleged in this AOD.

22          4.2     This is a voluntary agreement and it shall not be construed as an admission of  
23 law, fact, liability, misconduct, or wrongdoing on the part of Carrabba's Italian Grill, LLC. By  
24 entering into this AOD, Carrabba's Italian Grill, LLC neither agrees nor concedes that the  
25 claims, allegations and/or causes of action which have or could have been asserted by the  
26 Attorney General have merit and Carrabba's Italian Grill, LLC expressly deny any such claims,

1 allegations, and/or causes of action. However, proof of failure to comply with this AOD shall be  
2 *prima facie* evidence of a violation of RCW 19.86.030, thereby placing upon the violator the  
3 burden of defending against imposition by the Court of injunctions, restitution, costs and  
4 reasonable attorney's fees, and civil penalties of up to \$2,000.00 per violation.

5 4.3 Carrabba's Italian Grill, LLC will not, nor will it authorize any of its officers,  
6 employees, representatives, or agents to state or otherwise contend that the State of Washington or  
7 the Attorney General has approved of, or has otherwise sanctioned, the conduct described in  
8 Paragraph 2.2 with respect to the No-Poach Provision in Carrabba's Italian Grill, LLC's franchise  
9 agreement.

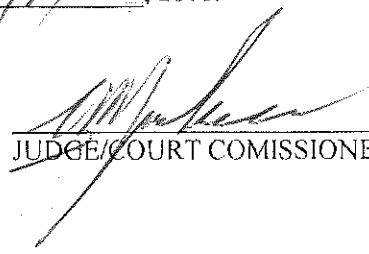
10 4.4 This AOD resolves all issues raised by the State of Washington and the Antitrust  
11 Division of the Attorney General's Office under the Consumer Protection Act and any other  
12 related statutes pertaining to the acts set forth in Paragraphs 2.1 – 2.3 above that may have occurred  
13 before the date of entry of this AOD and concludes the investigation thereof. Subject to Paragraph  
14 4.2, the State of Washington and the Antitrust Division of the Attorney General's Office shall not  
15 file suit or take any further investigative or enforcement action with respect to the acts set forth  
16 above that occurred before the date of entry of this AOD.

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18 APPROVED ON this \_\_\_\_\_ day of 1/14, 2018.

19  
20 **HENRY H. JUDSON**

21 **JAN 14 2019**

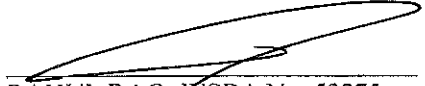
22 **COURT COMMISSIONER**

  
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JUDGE/COURT COMMISSIONER

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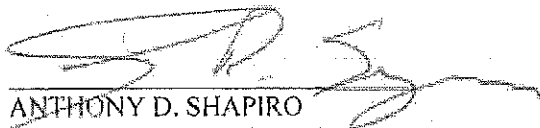
ROBERT W. FERGUSON  
Attorney General



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Agreed to and approved for entry by:  
Carrabba's Italian Grill, LLC



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Legal Officer  
Carrabba's Italian Grill, LLC