

**STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL**



**NEW YORK STATE FRANCHISE
REGULATIONS**

**Title 13
New York Codes Rules and Regulations
Part 200**

Title 13 New York Codes Rules and Regulations Part 200

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PART 200. FRANCHISE OFFERINGS

200.1 Definitions:

(a) A “franchise fee” includes but is not limited to, payments that are made before, upon, or after execution of an agreement to purchase, process, resell, or otherwise distribute a manufacturer’s, a distributor’s or a licensor’s goods, services, equipment, inventory or real estate. The word “payment”, includes those made in the form of a lump sum, installments, periodic royalties, profits, cash flow, or those reflected in the price of goods, services, equipment, inventory or real estate sold or leased by the manufacturer or licensor to the distributor or licensee respectively.

(b) A “marketing plan” is advice or training, provided to the franchisee by the franchisor or a person recommended by the franchisor, pertaining to the sale of any product, equipment, supplies or services and the advice or training includes, but is not limited to, preparing or providing:

- (1) Promotional literature, brochures, pamphlets, or advertising materials;
- (2) Training regarding the promotion, operation or management of the franchise; or
- (3) Operational, managerial, technical or financial guidelines or assistance.

(c) A “predecessor” of a franchisor is a person from whom the franchisor has acquired directly or indirectly the major portion of his assets.

(d) A “principal” shall mean and include every person directly or indirectly controlling any franchisor or franchise sales agent.

200.2 Contents of Franchise Offering Prospectus

Present information in the required order. Except for risk factors or when instructed by the examiner, do not capitalize or underline.

(a) COVER PAGE: The cover page of the offering prospectus *must* state:

- (1) The title in boldface type: **FRANCHISE OFFERING CIRCULAR**.
- (2) The franchisor's name, type of business organization, principal business address and telephone number.
- (3) A sample of the primary business trademark, logotype, trade name, or commercial

label or symbol under which the franchisee will conduct its business. (Place in upper left-hand corner of the cover page).

(4) A brief description of the franchised business.

(5) The total amounts in Items 5 and 7 of the offering circular: Franchisee's Initial Franchisee Fee or Other Payment and Franchisee's Initial Investment.

(6) Unless directed by the Department to place a risk factor description elsewhere in the prospectus, a description of risk factors, in bold-face type, preceded by the heading "SPECIAL RISK FACTOR."

(7) The following statement:

Information comparing franchisors is available. Call the state administrators listed in exhibit ___ or your public library for sources of information. Registration of this franchise by a State does not mean that the State recommends it or has verified the information in this offering circular. If you learn that anything in the offering circular is untrue, contact the Federal Trade Commission and the appropriate State or provincial authority.

(b) TABLE OF CONTENTS: Include a table of contents based on the requirements of this prospectus.

(c) BODY OF OFFERING PROSPECTUS: The offering prospectus shall contain the following information clearly and concisely stated in narrative form and in plain English.

Item I: THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES

Disclose in summary form:

- A. The name of the franchisor, its predecessors and affiliates.
- B. The name under which the franchisor does or intends to do business.
- C. The principal business address of the franchisor, its predecessors and affiliates, and the franchisor's agent for service of process.
- D. The business form of the franchisor.
- E. The nature of the franchisor's business and that of the franchises to be offered in this state. Additionally, disclose the following:
 - i. The general market for the product or service to be offered by the franchisee.

ii. In general terms any regulations specific to the industry in which the franchise business operates. It is not necessary to include laws or regulations that apply to businesses generally.

iii. A general description of the competition.

F. The prior business experience of the franchisor, its predecessors and affiliates, including:

i. The length of time for which the franchisor has conducted a business of the type to be operated by the franchisee.

ii. The length of time for which each predecessor and affiliate has conducted a business of the type to be operated by the franchisee.

iii. The length of time for which the franchisor has offered franchises for the same type of business as that to be operated by the franchisee.

iv. The length of time for which each predecessor and affiliate has offered franchises for the same type of business as that to be operated by the franchisee.

v. Whether the franchisor has offered franchises in other lines of business, including:

a. Description of each line of business;

b. The number of franchises sold in each other line of business; and

c. The length of time for which the franchisor has offered each other franchise.

vi. Whether each predecessor and affiliate has offered franchises in other lines of business, including:

a. A description of each other line of business;

b. The number of franchises sold in each other line of business; and

c. The length of time for which each predecessor and affiliate has offered each other franchise.

Item 2: BUSINESS EXPERIENCE

List by name and position the directors, trustees and/or general partners, the principal

officers and other executives or subfranchisors who will have management responsibility relating to the franchises offered by this offering circular. List all franchise brokers. State each person's principal occupations and employers during the past five years.

Item 3: LITIGATION

Disclose whether the franchisor, its predecessor, a person identified in item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. Has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices or comparable civil or misdemeanor allegations. In addition, include pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations. If so, disclose the names of the parties, the forum, nature, and current status of the pending action. Franchisor may include a summary opinion of counsel concerning the action if the attorney's consent to the use of the summary opinion is included as part of this offering circular.

B. Has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the ten-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud or securities law, fraud, embezzlement, fraudulent conversion or misappropriation of property, or unfair or deceptive practices or comparable allegations. If so, disclose the names of the parties, the forum and date of conviction or date judgment was entered; penalty or damages assessed and/or terms of settlement.

C. Is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State or Canadian franchise, securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency, or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent. If so, disclose the name of the person; the public agency, association, or exchange; the court or other forum; a summary of the allegations or facts found by the agency, association, exchange or court; and the date, nature, terms and conditions of the order or decree.

Item 4: BANKRUPTCY

State whether the franchisor, its affiliate, its predecessor, officers, or general partner during the 10-year period immediately before the date of the offering circular; (a) filed as debtor { or

had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after the officer or general partner of the franchisor held this position in the company or partnership. If so, disclose the name of the person and/or company that was the debtor under the Bankruptcy Code, the date of the action and the material facts.

Item 5: INITIAL FRANCHISE FEE

Disclose the initial franchise fee and state the conditions under which this fee is refundable.

A. State whether the initial fee or payment is payable in a lump sum or in installments. Describe the purpose for which the fee or payment will be used.

B. If the initial fee or payment is not uniform, disclose the formula by which the amount of the fee is determined.

Item 6: OTHER FEES

Disclose other recurring or isolated fees or payments that the franchisee must pay to the franchisor or its affiliates or that the franchisor or its affiliates impose or collect in whole or in part on behalf of a third party. Include the formula used to compute these other fees and payments. If any fee is refundable, state the conditions under which each fee or payment is refundable.

Item 7: INITIAL INVESTMENT

Disclose the following expenditures, stating to whom the payments are made, when payments are due, whether each payment is refundable, the conditions under which each payment is refundable, and, if part of the franchisee's initial investment in the franchise may be financed, an estimate of the loan repayments, including interest:

A. Real property, whether purchased or leased. If neither can be estimated or described by a low-high range, describe requirements such as property type, location and building size.

B. Equipment, fixtures, other fixed assets, construction, remodeling, leasehold improvements and decorating costs, whether purchased or leased.

C. Inventory required to begin operation.

D. Security deposits, utility deposits, business licenses, other prepaid expenses.

E. Additional funds required to be expended by the franchisee before operations begin and during the initial phase of the franchise.

F. Other payments that the franchisee must make to begin operations.

Item 8: RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

Disclose franchisee obligations to purchase or lease from the franchisor its designee or from suppliers approved by the franchisor or under the franchisor's specifications. For each obligation disclose:

A. The goods, services, supplies, fixtures, equipment, inventory, computer hardware and software, and real estate relating to establishing or operating the franchised business.

B. The manner in which the franchisor issues and modifies specifications or grants and revokes approval to suppliers.

C. Whether, and for what categories of goods and services, the franchisor or its affiliates are approved suppliers or the only approved suppliers.

D. Whether, and if so, the precise basis by which the franchisor or its affiliates will or may derive revenue or other material consideration as a result of required purchases or leases.

E. The estimated proportion of these required purchases and leases to all purchases and leases by the franchisee of goods and services in establishing and operating the franchised business.

F. The existence of purchasing or distribution cooperatives.

Item 9: FRANCHISEE'S OBLIGATIONS

Disclose the principal obligations of the franchisee under the franchise and other agreements after the signing of its agreements.

A. Disclose the obligations in tabular form. Refer to the section of the agreement that contains the obligation and any item of the prospectus that further describes the obligation.

B. The table should contain a response to each category listed below. If the response to any category is that no obligation is imposed, the table should so state. Do not change the names of the categories. Fit all obligations within the listed categories. If other material obligations fall outside the scope of all of the prescribed categories, add additional categories as needed. The categories of franchisee obligations are:

- i. Site selection and acquisition/lease**
- ii. Pre-opening purchases/leases**
- iii. Site development and other pre-opening requirements**
- iv. Initial and ongoing training**
- v. Opening**
- vi. Fees**
- vii. Compliance with standards and policies/Operating Manual**
- viii. Trademarks and proprietary information**
- ix. Restrictions on products/services offered**
- x. Warranty and customer service requirements**
- xi. Territorial development and sales quotas**
- xii. Ongoing product/service purchases**
- xiii. Maintenance, appearance and remodeling requirements**
- xiv. Insurance**
- xv. Advertising**
- xvi. Indemnification**
- xvii. Owner's participation/management/staffing**
- xviii. Records and reports**
- xix. Inspections and audits**
- xx. Transfer**
- xxi. Renewal**
- xxii. Post-termination obligations**

xxiii. Non-competition covenants

xxiv. Dispute resolution

xxv. Other (describe)

C. Before the table, state the following:

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

***Item 10:* FINANCING**

Disclose the terms and conditions of each financing arrangement that the franchisor, its agents or affiliates offers directly or indirectly to the franchisee, including:

- A. A waiver of defenses or similar provisions in a document.
- B. The franchisor's practice or its intent to sell, assign, or discount to a third party all or part of the financing arrangement.
- C. Payments to the franchisor or affiliate(s) for the placement of financing with the lender.

***Item 11:* FRANCHISOR'S OBLIGATIONS**

Disclose the following:

- A. The obligations that the franchisor will perform before the franchise business opens. Cite by section the provisions of the agreement requiring performance.
- B. The obligations to be met by the franchisor during the operation of the franchised business.
- C. The methods used by the franchisor to select the location of the franchisor's business.
- D. The typical length of time between the signing of the franchise agreement or the first payment of consideration for the franchise and the opening of the franchisee's business.

- E. The training program of the franchisor including:**
- i. The location, duration and general outline of the training program;**
 - ii. How often the training program will be conducted;**
 - iii. The experience that the instructors have with the franchisor.**
 - iv. Charges to be made to the franchisee and who must pay travel and living expenses of the enrollees in the training program;**
 - v. If the training program is not mandatory, the percentage of new franchisees that enrolled in the training program during the preceding 12 months; and**
 - vi. Whether any additional training programs and/or refresher courses are required.**

Item 12: TERRITORY

Describe any exclusive territory granted the franchisee. Concerning the franchisee's location (with or without exclusive territory), disclose whether:

- A. The franchisor has established or may establish another franchisee who may also use the franchisor's trademark;**
- B. The franchisor has established or may establish a company-owned outlet or other channel of distribution using the franchisor's trademark;**
- C. The franchisor or its affiliate has established or may establish other franchises or company-owned outlets or another channel of distribution, selling or leasing similar products or services under a different trademark;**
- D. Continuation of the franchisee's territorial exclusivity depends on achievement of a certain sales volume, market penetration or other contingency and under what circumstances the franchisee's territory may be altered.**

Item 13: TRADEMARKS

Disclose the principal trademarks to be licensed to the franchisee including:

- A. Whether the principal trademarks are registered with the United States Patent and Trademark office. For each registrant state the registration date and number and whether the registration is on the principal or supplemental register.**

B. Currently effective material determinations of the patent and trademark office, trademark trial and appeal board, or any court; pending infringement, opposition or cancellation proceedings; and pending material litigation involving the principal trademarks.

C. Agreements currently in effect which significantly limit the rights of the franchisor to use or license the use of the listed trademarks in a manner material to the franchise.

D. Whether the franchisor must protect the franchisee's right to use the listed trademarks, or must protect the franchisee against claims of infringement or unfair competition arising out of the franchisee's use of them.

E. Whether the franchisor knows of either superior prior rights or infringing uses which could materially affect the franchisee's use of the principal trademarks in this State or the State in which the franchised business is to be located.

Item 14: PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

If the franchisor owns rights in patents or copyrights that are material to the franchise, describe these patents and copyrights and their relationship to the franchise. Include their duration and whether the franchisor can and intends to renew the copyrights. To the extent relevant, disclose the information required by item 13 concerning these patents and copyrights. If the franchisor claims proprietary rights in confidential information or trade secrets, disclose their general subject matter and terms and conditions for use by the franchisee.

Item 15: OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

Disclose the franchisee's obligation to participate personally in the direct operation of the franchised business and, if not required, whether the franchisor recommends participation.

Item 16: RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

Disclose restrictions or conditions imposed by the franchisor on the goods or services that the franchisee may sell or that limit the customers to whom the franchisee may sell goods or services.

Item 17: RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION

Summarize the provisions of the franchise and other agreements dealing with termination, renewal, transfer, dispute resolution and other important aspects of the franchise relationship.

A. Begin Item 17 disclosure with the following statement:

This Table Lists Certain Important Provisions of the Franchise and Related Agreements. You Should Read These Provisions in the Agreements Attached to this Offering Circular.

B. Provide information in tabular form. Refer to the section of the agreement that covers each subject.

C. The table should contain a "summary" column to summarize *briefly* the disclosed provision. The summary is intended to provide a concise overview of the provision in no more than a few words or a sentence. Do not specify in detail all matters covered by a provision.

D. The table should contain a response to each category listed below. Do not change the names of the categories. List all contractual provisions relevant to each category. If the response to any category is that the agreement does not contain the relevant provision, the table should so state. If the agreement is silent concerning a category but the franchisor unilaterally offers to provide certain benefits or protections to franchisees as a matter of policy, a footnote should describe this policy and state whether the policy is subject to change. The categories are:

- i. Length of the term of the franchise**
- ii. Renewal or extension of the term**
- iii. Requirements for franchisee to renew or extend**
- iv. Termination by franchisee**
- v. Termination by franchisor without cause**
- vi. Termination by franchisor with cause**
- vii. "Cause" defined--curable defaults**
- viii. "Cause" defined--defaults which cannot be cured**
- ix. Franchisee's obligations on termination/nonrenewal**

- x. Assignment of contract by franchisor
- xi. "Transfer" by franchisee--defined
- xii. Franchisor approval of transfer by franchisee
- xiii. Conditions for franchisor approval of transfer
- xiv. Franchisor's right of first refusal to acquire franchisee's business
- xv. Franchisor's option to purchase franchisee's business
- xvi. Death or disability of franchisee
- xvii. Non-competition covenants during the term of the franchise
- xviii. Non-competition covenants after the franchise is terminated or expires
- xix. Modification of the agreement
- xx. Integration/merger clause
- xxi. Dispute resolution by arbitration or mediation
- xxii. Choice of forum
- xxiii. Choice of law

Item 18: PUBLIC FIGURES

Disclose the following:

A. Compensation or other benefit given or promised to a public figure arising from:

- i. The use of the public figure in the franchise name or symbol, or**
- ii. The endorsement or recommendation of the franchise to prospective franchisees.**

B. The extent to which the public figure is involved in the actual management or control of the franchisor.

C. The total investment of the public figure in the franchisor.

Item 19: EARNING CLAIMS

A. An earnings claim made in connection with an offer of a franchise must be included in full in the offering circular and must have a reasonable basis at the time it is made. If no earnings claim is made, item 19 of the offering circular must contain the negative disclosure prescribed below, with the heading "REPRESENTATIONS REGARDING EARNINGS CAPABILITY."

i. Definition: "Earnings claim" means information given to a prospective franchisee by, on behalf of, or at the direction of the franchisor or its agent, from which a specific level or range of actual or potential sales, costs, income or profit from franchised or non-franchised units may be easily ascertained. A chart, table or mathematical calculation presented to demonstrate possible results based upon a combination of variables (such as multiples of price and quantity to reflect gross sales) is an earnings claim subject to this item. An earnings claim limited solely to the actual operating results of a specific unit being offered for sale need not comply with this Item if it is given only to potential purchasers of that unit and is accompanied by the name and last known address of each owner of the unit during the prior three years.

ii. Supplemental earnings claim: If a franchisor has made an earnings claim in accordance with this Item, the franchisor may deliver to a prospective franchisee a supplemental earnings claim directed to a particular location or circumstance, apart from the offering circular. The supplemental earnings claim must be in writing, explain the departure from the earnings claim in the offering circular, be prepared in accordance with this Item, and be left with the prospective franchisee.

iii. Scope of requirement: An earnings claim is not required in connection with the offer of franchises; if made, however, its presentation must conform to this Item.

**[NEGATIVE DISCLOSURE 19]
REPRESENTATIONS REGARDING EARNINGS CAPABILITY**

[FRANCHISOR] DOES NOT FURNISH OR AUTHORIZE ITS SALESPERSONS TO FURNISH ANY ORAL OR WRITTEN INFORMATION CONCERNING THE ACTUAL OR POTENTIAL SALES, COSTS, INCOME OR PROFITS OF A [FRANCHISE]. ACTUAL RESULTS VARY FROM UNIT TO UNIT AND [FRANCHISOR] CANNOT ESTIMATE THE EARNINGS OF ANY PARTICULAR FRANCHISE.

B. An earnings claim shall include a description of its factual basis and the material assumptions underlying its preparation and presentation. These shall include, but

not be limited to, the data, methods and computations on which any estimated or projected earnings claim is based.

i. **Factual Basis:** The factual basis of an earnings claim includes significant matters upon which a franchisee's future results are expected to depend. This includes, for example, economic or market conditions which are basic to a franchisee's operation, and encompasses matters affecting or likely to affect, among other things, a franchisee's sales, the cost of goods or services sold and operating expenses. In the absence of an adequate operating experience of its own, a franchisor may base an earnings claim upon the results of operations of a substantially similar business of a person affiliated with the franchisor, or franchisees of that person, provided that disclosure is made of any material differences in the economic or market conditions known to, or reasonably ascertainable by, the franchisor.

ii. **Basic Disclosure:** The earnings claim must set forth:

a. Material assumptions, other than matters of common knowledge, underlying the claims;

b. Whether or not it is based on the actual experience of franchised units. If it is based on actual experience, the claim shall disclose the percentage of franchised outlets in operation for the period covered by the earnings claim that have actually attained or surpassed the stated results;

c. As to claims regarding future performance, the conspicuous admonition that a new franchisee's individual financial results are likely to differ from the results stated in the earnings claim; and

d. A statement that the data used in preparing the earnings claim will be made available to the prospective franchisee on request.

Item 20: **LIST OF OUTLETS**

Disclose the following:

A. The number of franchises, franchised by the franchisor, of a type substantially similar to those offered and the number of franchisor-owned or operated outlets as of the close of each of the franchisor's last 3 fiscal years. Segregate franchises that are operational from franchises not yet operational. Segregate disclosure by state. Total each category.

B. The names of all franchisees and the addresses and telephone numbers of all of their outlets. The franchisor may limit its disclosure to all franchisee outlets in the state, but if these franchisee outlets total fewer than 100, disclose franchisee outlets from all

contiguous states and then the next closest state(s) until at least 100 franchisee outlets are listed.

C. The estimated number of franchises expected to be sold during the 1-year period after the close of the franchisor's most recent fiscal year.

D. The number of franchisee outlets in the following categories that, for the 3-year period immediately before the close of franchisor's most recent fiscal year, have:

i. Transferred controlling ownership;

ii. Been cancelled or terminated by the franchisor;

iii. Not been renewed by the franchisor;

iv. Been reacquired by the franchisor; or

v. Been reasonably known by the franchisor to have otherwise ceased to do business in the system.

E. The name and last known home address and telephone number of every franchisee who has had an outlet terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under the franchise agreement during the most recently completed fiscal year or who has not communicated with the franchisor within 10 weeks of the application date.

Item 21: FINANCIAL STATEMENTS

Prepare financial statements in accordance with generally accepted accounting principles. These financial statements must be audited by an independent certified public accountant. Unaudited statements may be used for interim periods. Include the following financial statements:

A. The franchisor's balance sheets for the last two full fiscal years before the application date. In addition, include statements of operations (profit and loss statements), of stockholders' equity and of cash flows for each of the franchisor's last three fiscal years. If the most recent balance sheet and statement of operations are as of a date more than 90 days before the application date, also submit an unaudited balance sheet and statement of operations as of a date within 90 days of the application date.

B. Affiliated company statements. Instead of the disclosure required by item 21A, the franchisor may include financial statements of its affiliated company if the affiliated company's financial statements satisfy item 21A, and the affiliated company absolutely and unconditionally guarantees to assume the duties and obligations of the

franchisor under the franchise agreement. Additionally, the affiliated company must file with the Secretary of State a consent to service of process in New York State.

C. Consolidated and separate statements:

i. A franchisor's financial statements shall be integrated with that of its subsidiaries to reflect the companies' consolidated financial condition.

ii. When the applicant is a subfranchisor, it shall include its financial statements as well as those of its franchisor.

Item 22: CONTRACTS

Attach a copy of all agreements proposed for use by the franchisor or in use in this State regarding the offering of a franchise, including but not limited to the franchise agreement, leases, options and purchase agreements.

Item 23: RECEIPT

The last page of the offering circular is a detachable document acknowledging receipt of the offering circular by the prospective franchisee. It must contain the following statement in boldface type:

THIS OFFERING CIRCULAR SUMMARIZES CERTAIN PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY. IF WE OFFER YOU A FRANCHISE, WE MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:

- (1) THE FIRST PERSONAL MEETING TO DISCUSS OUR FRANCHISE; OR**
- (2) TEN BUSINESS DAYS BEFORE THE SIGNING OF A BINDING AGREEMENT; OR**
- (3) TEN BUSINESS DAYS BEFORE A PAYMENT TO (FRANCHISOR OR ITS AGENT).**

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN A FRANCHISE AGREEMENT. IF WE DO NOT DELIVER THIS OFFERING CIRCULAR ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE

FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580, AND TO THE NEW YORK STATE DEPARTMENT OF LAW, 120 BROADWAY, 23RD FLOOR, NEW YORK, N.Y. 10271.

A. Make two copies of the receipt; one for retention by the franchisee and one by the franchisor.

B. Disclose the names, principal business addresses and, telephone numbers of the subfranchisors or franchise brokers offering the franchises in this state.

C. List the titles of all attached exhibits.

D. Effective Date: (Leave blank until notified of effectiveness by the New York State Department of Law.)

200.3 Franchise Prospectus Registration Application

(a) COMPLETION OF APPLICATION: An application for registration of the prospectus shall include the following:

- 1. Facing Page, employing form (UFRA-A).**
- 2. Supplemental information page(s) which shall contain a statement as to each franchise salesman employed by the franchisor containing the information as to his identity and litigation history called for by section 200.2 (c) Items (2) and (3) of this Part.**
- 3. Certification of application (UFRA-C).**
- 4. Sales Agent Disclosure Form (UFRA-E).**
- 5. Two copies of the proposed offering prospectus or offering circular.**
- 6. Two copies of any advertising to be used in connection with the offer or sale of franchises.**
- 7. Consent to Service of Process. (UFRA-D).**
- 8. Guarantee of Performance Form, if applicable. (UFRA-F)**

(b) DISCLOSURE: Each disclosure item should be commented upon by use of a statement which fully incorporates the information required by the item, or which states why such information is not or cannot be furnished.

(c) SUBFRANCHISORS: When the person filing the application for registration is a subfranchisor, the application shall also include the same information concerning the subfranchisor as is required from the franchisor; the franchisor, as well as the subfranchisor, shall execute the signature page.

(d) SIGNING OF APPLICATION: The application shall be signed by the chief executive officer or a general partner of the applicant; however, it may be signed by another person holding a power of attorney for such purposes so long as the agent has personal knowledge of the information contained in the application and prospectus. If signed on behalf of the applicant pursuant to a power of attorney, the application shall include as an exhibit a copy of an authorizing corporate or partnership resolution. The applicant or agent shall attest that: the information contained in the application and the prospectus or offering circular is true; that there are no material omissions or misrepresentations contained therein; and that material information which shall thereafter emerge shall be promptly disclosed by amendment, pursuant to section 200.5 of this Part.

(e) MANUALLY SIGNED CONSENT OF ACCOUNTANT: All applications shall be accompanied by a manually signed consent, or a photocopy of the consent, of the independent public accountant to the use of his audited financial statements as such statements appear in the offering prospectus.

(f) APPLICATION TO AMEND THE REGISTRATION: An amendment to an application filed after the effective date of registration shall consist of the following:

- (1) Facing page employing form (UFRA-A) and containing the number of the amendment.**
- (2) Certification of application (UFRA-C).**
- (3) Two copies of the prospectus as amended, one copy red-lined to show the amendment being made.**

(h) Applications and forms shall be filed with, and documents, correspondence and other materials shall be mailed or delivered to the Bureau of Investor Protection and Securities New York State Department of Law, New York, N. Y.

(i) DEPARTMENT ACTION:

(1) The Department shall, not later than 30 days after the submission for filing of a franchise prospectus or not later than 15 days after the submission for filing of an amendment to the prospectus, issue a letter stating that the prospectus or amendment has been accepted for filing, or in the alternative indicating the respect in which the application for registration, the proposed offering prospectus or the amendment, is deficient or otherwise fails to make adequate disclosure. In the event that the franchisor

resubmits its application, prospectus or amendment following the issuance of a deficiency letter, the Department shall, not later than 30 days following the resubmission of the amendment, issue a letter accepting the prospectus for filing or issue a further deficiency letter. This procedure shall be followed until the prospectus or amendment has been accepted for filing or the franchisor has withdrawn or abandoned its application for registration or amendment.

(2) A franchisor may offer or sell interests in franchises or advertise the same notwithstanding the occurrence of an event which would require an amendment to its prospectus, so long as an application to amend is made as required by law and the regulations and may continue to offer, sell or advertise during the time that the Department is acting upon its application unless otherwise advised by the Department.

(3) A franchisor making an offer, selling or advertising following the occurrence of an event requiring an amendment shall advise its offeree, in writing, at the time it supplies the offeree with its registered prospectus, that an event requiring amendment application has been submitted, or will be submitted to the Department within ten business days of such event, and shall supply its offeree with a copy of its amended prospectus when it has been accepted for filing and registered by the Department. Any funds paid by the offeree to the franchisor shall, upon their receipt, be held in trust in a separate bank account and shall remain in trust from that time until ten business days following the date on which the offeree is supplied a copy of the registered amended prospectus. Prior to receipt by the offeree of the registered amended prospectus or within ten business days following its receipt of the registered amended prospectus, the offeree may rescind the sale and if it does, the franchisor shall pay the trust funds to the offeree forthwith. If the offeree does not rescind either prior receipt of the registered amended prospectus, or during the ten day period following receipt of registered amended prospectus, then its acceptance shall remain in force and the funds shall be released from trust and their disposition shall be subject to the agreement made between the franchisor and offeree. If the Department refuses to register the amended prospectus then the franchisor shall, upon such refusal, immediately pay the trust funds to the offeree.

200.4 Rules Concerning the Denial, Suspension or Revocation of Franchise Sales Agent Registrations

(a) The Department may deny, suspend or revoke a franchise sales agent's registration upon a finding by the Department that the agent has:

(1) made an untrue statement of a material fact in any application, notice, prospectus or report or statement filed with the Department under Article 33 of the General Business Law.

(2) wilfully omitted to state in any such application, notice, statement, prospectus or report, any material fact which is required to be stated herein or failed to notify the Department of any material change required by Article 33 of the General Business Law.

(3) employed any device, scheme or artifice to defraud in the offer or sale of franchises.

(4) made any untrue statement of a material fact or omitted to state a material fact necessary in order to have made the statements made, in the light of the circumstances under which they were made, not misleading in the offer or sale of franchises.

(5) engaged in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person in the offer or sale of franchises.

(6) violated any provision of Article 33 of the General Business Law or any condition of the effectiveness of the registration of an offering prospectus or of any exemption from the registration provisions of Article 33 of the General Business Law.

(7) required a franchisee to assent to a release, assignment, vacation, waiver or estoppel which would relieve a person from any duty or liability imposed by this Article.

(b) The Department may deny, suspend or revoke a franchise sales agent's registration if any court or regulatory body has made a final decision or judgment that the registrant has been guilty of fraudulent conduct.

(c) No findings shall be made hereunder except after a hearing pursuant to the procedures set forth in state administrative procedure act, article 3.[¶ 5320.05]

200.5 Amendments To Franchise Offering Prospectus

(a) In compliance with section 683.9 of the General Business Law, a franchisor shall promptly notify the Department of Law, by application to amend its offering, of any material changes in the information contained in the prospectus as originally submitted or amended.

(b) "Material change," as used in section 683.9 of the General Business Law, includes, but is not limited to:

(1) The termination, closing, or failure to renew; during a 3-month period, of the lesser of 10 or 10% of the franchises of a franchisor, regardless of location.

(2) A purchase by the franchisor in excess of 5% of its existing franchises during 6 consecutive months.

(3) A change in the franchise fees charged by the franchisor.

(4) Any significant adverse change in the business condition of the franchisor or in any of the following:

(i) The obligations of the franchisee to purchase items from the franchisor or its designated sources.

(ii) Limitations or restrictions on the goods or services which the franchisee may offer to its customers.

(iii) The obligations to be performed by the franchisor.

(iv) The franchise contract or agreements, including amendments thereto.

(v) The franchisor's accounting system resulting in a 5% or greater change in its net profit or loss in any 6 month period.

(vi) The service, product, or model line.

(5) Audited financial statements of the preceding fiscal year.

200.6 Impoundment of Funds

(a) If the Department of Law finds that the franchisor has failed to make adequate financial arrangements to fulfill its obligation to provide real estate, improvements, equipment, inventory, training, or other items included in its offering, the Department may impose an escrow of up to the full amount of the franchise fees and other funds paid by the franchisee or subfranchisor until the franchisor's obligations are fulfilled.

(b) When an escrow is imposed, the franchisor shall be the holder of the escrow funds. It shall place these funds in an escrow account established in a national bank located in New York or a New York bank or trust company. This account shall contain only escrow funds and shall be separate and apart from the franchisor's other accounts.

(c) All proceeds so deposited shall remain the property of the franchisee and shall not be subject to any liens or charges by the franchisor, or judgments, garnishments, or creditor's claims.

(d) The franchisor and the bank or trust company shall, in establishing the franchisor's escrow account, make an agreement which shall authorize the Department to inspect the records of the bank or trust company relating to the escrow account and permitting the bank to furnish to the Department, at the Department's request, a statement of the condition of the escrow account.

(e) When an escrow is imposed, the franchisor shall deliver to each franchisee or subfranchisor a purchase receipt evidencing the receipt of funds from the franchisee on account of the payment of franchise fees, as that term is defined in sec. 681 of the General Business Law, and stating that the funds are to be held in escrow by the franchisor and deposited in an escrow account, setting forth the name of the bank or trust company in which the account is established, the address of the bank or trust company, the name of the account and the account number. Purchase receipts shall be consecutively numbered and prepared in quadruplicate, the original given to the franchisee or subfranchisor, the first copy to the bank or trust company, together with the payment received, the second copy retained by the franchisor, and the third copy sent to the Department.

(f) The Department shall authorize the franchisor to release those amounts of the escrowed funds applicable to a specified franchisee or subfranchisor upon a showing satisfactory to the Department that the franchisor has fulfilled its obligations under the franchise agreement to establish the franchise.

(g) An application for an order of the Department authorizing the release of escrowed funds to the franchisor shall be verified and shall contain:

(1) A statement of the franchisor that required proceeds from the sale of franchises have been placed with the bank or trust company in accordance with the terms and conditions of the escrow agreement.

(2) A franchisee's verified statement of completion of franchisor's obligations for release of funds from escrow.

(3) A statement of the bank or trust company signed by an appropriate officer setting forth the aggregate amount of escrowed funds placed with the depository, when required by the administrator.

(4) The name of each franchisee or subfranchisor and the amount held in escrow for the account of the franchisee or subfranchisor.

(5) A showing that the franchisor, with respect to a franchise, the funds for which are sought to be released, has completely performed its obligations, cited by reference to the franchise agreement and its provisions, to provide real estate, improvements, equipment, inventory, training, or other items.

(6) Other information the Department may reasonably require.

(h) If the Department finds that any conditions of this agreement have not been satisfied or that any provisions of the New York franchise law or regulations have not been complied with, or the registration of the franchises has been revoked, then the Department may withhold such authorization for release of funds by the franchisor and may direct the full return of funds by the franchisor to the franchisees.

(i) Surety bond in lieu of escrow.

(1) In lieu of the imposition of an escrow, a franchisor at this option may post a surety bond of a surety company in the amount required by the Department as protection of the franchisees requires.

(2) The surety company must be authorized to transact business in New York.

(3) The Department shall take into consideration the amount of the franchise fees and other fees to be charged as well as the number of franchises to be offered, granted or sold in determining the initial amount of the surety bond and will amend the amount as public interest requires, using the same factors.

(4) Should the Department so determine that the franchisor failed to complete its obligations under the franchise contract to provide real estate, improvements, equipment, inventory, training or other items including in the offering, the surety company shall pay the amount of the bond to the Department, as obligee, for the benefit of all franchisees in accordance with their contribution of franchise fees.

200.7 Rules Concerning Exemptions

In compliance with section 684.2(c)(4) of the General Business Law, an applicant for an exemption shall supply such information concerning the identity and business experience of persons affiliated with the franchisor as is required to be set forth in an offering prospectus under section 200.2(c) Items(2)-(4) of this Part.

200.8 Annual Report Requirements

The franchisor shall, within one hundred twenty days of the close of its fiscal year, submit a report to the Department of Law of its activities during the said fiscal year containing the following items:

- (a) The name and address of each franchise sold, the date of the sale and the name, address and telephone number of the person purchasing the franchise;
- (b) The price paid and credit terms upon the sale of each franchise listed in subdivision (a) of this section; and
- (c) A copy of the annual audited financial statements of the franchisor as prepared by an independent public accountant.

200.9 The Filing of Sales Literature

- (a) No pamphlet, circular, form letter, advertisement, sales literature or advertising communication (hereafter sales literature) addressed to or intended for distribution or communication to prospective franchisees, shall be distributed or communicated unless it has been filed with the Department prior to distribution.
- (b) Sales literature shall be submitted to the Department not less than seven days prior to its intended use, and shall be submitted in the form and containing the language and subject matter which will appear in the sales literature addressed or intended for distribution to prospective franchisees.
- (c) No sales literature shall include any representation or statement inconsistent with the prospectus on file with the Department and the franchisor shall verify in a writing, submitted with the sales literature, that it is not inconsistent with the filed prospectus.
- (d) All sales literature in connection with franchise offerings shall contain the following statement in easily readable print, except as provided herein:

This advertisement is not an offering. An offering can only be made by a prospectus filed first with the Department of Law of the State of New York. Such filing does not constitute approval by the Department of Law.

- (e) The statement required under the foregoing subdivision shall similarly be contained on the cover page of all circulars, flyers, cards, letters and other literature employed in connection with soliciting interests in the franchise offering.
- (f) Irrespective of subdivision (d) of this section, in all classified type advertisements not more than five inches long and not more than one column of print wide,

and in all broadcast advertising thirty seconds or less in duration, the following statement may be used, in lieu of the statement required in subdivision (d) of this paragraph:

This offering is made by prospectus only.

(g) Sales literature, as to franchisors registered in this State, but making offers of their franchises from places other than this State, shall not include such literature contained in a bona fide newspaper or other publication of general, regular and paid circulation whose circulation area does not include this State.

200.10 Exemptions from Registration

(1) A sale to an existing franchisee form shall be filed with the Department of Law along with appropriate fee as fixed by 200.10 (3) pursuant to, General Business section 684.3 (d).

(2) Any offer or sale of a franchise, if the franchise involves the adding of a new product or service line to the existing business of a prospective franchisee, is exempt from registration provided all of the following are met:

(a) For at least twenty-four months prior to the date of sale of the franchise, the prospective franchisee, or if the prospective franchisee is not a natural person, an existing officer, director, or managing agent of the prospective franchisee who has held that position with the prospective franchisee for at least the last twenty-four months, has been engaged in a business offering products or services substantially similar or related to those to be offered by the franchised business.

(b) The new product or service is substantially similar or related to the product or service being offered by the prospective franchisee's existing business.

(c) The franchise business is to be operated from the same business location as the prospective franchisee's existing business.

(d) The parties anticipated, in good faith, at the time the agreement establishing the franchise relationship was reached, that sales resulting from the franchise business will not represent more than twenty percent of the total sales in dollar volume of the franchisee on an annual basis.

(e) The prospective franchisee is not controlled by the franchisor.

(f) The franchisor notifies in writing the New York State Department of Law of specific circumstances surrounding the fractional franchise exemption and pays the statutory fee for an amendment as prescribed in section 694.1 (b) of the General Business Law.

(3) The Department of Law shall charge and collect a fee equivalent to that of filing an amendment under General Business Law section 694.1 (b) for any exemption granted pursuant to General Business Law section 684.1 and 2.

200.11 Registration of Franchise Sales Agents

(a) In compliance with section 683.13 of the General Business Law, all persons acting as franchise sales agents as defined in General Business Law section 681.8 in the offer for sale or sale of a franchise shall file a Sales Agent Disclosure Form (UFRA-E) with the New York State Department of Law. The Department shall issue an order of registration upon the receipt of a properly executed application and no offer for sale or sale of a franchise shall be made by a franchise sales agent until said registration order has been issued.

(b) In compliance with section 683.13 of the General Business Law, every person acting as a franchise sales agent who shall have filed a franchise Sales Agent Disclosure Form (UFRA-E) with the Department of Law shall file an updated Sales Agent Disclosure Form (UFRA-E) whenever any of the following changes have taken place, to indicate the change of information originally filed:

(1) Name. The change in name of the registrant (in the event the registrant incorporates, an entirely new registration statement must be filed.)

(2) Address. Change of business address and address of new branch offices in New York.

(3) Management. Changes in the officers, directors, general partners or other principals of the registrant, giving the new names and addresses involved in such changes.

(4) Litigation. Upon each occasion when the registrant becomes the subject of any criminal action, or is convicted of any misdemeanor or felony, is the subject of any injunction or cease and desist order relating to the offer or sale of securities or franchises or is the subject of a money judgment or injunction in a civil action involving fraud, embezzlement, fraudulent conversion of misappropriation or property.

200.12 Exemption From Filing Requirements of Franchise Advertising on the Internet

(a) Any communication about a franchise offering posted on a website on the Internet is exempt from the registration requirements for filing advertising with the New York State Department of Law and paying a fee, if:

(1) The franchisor discloses to the New York State Department of Law the Uniform Resource Locator (“URL”) address or similar address or device identifying the location of

the Internet Advertising: (1) on the cover page of a franchise offering circular included with an application for registration that is effective in New York State; (2) on the cover page of a franchise offering circular included with an application for exemption from registration that is on file with the New York State Department of Law; or (3) on a notice filed with the New York State Department of Law; and

(2) The Internet Advertising is not directed to any person in the State of New York by or on behalf of the franchisor or anyone acting with the franchisor's knowledge.

(b) Nothing in this regulation shall be construed to affect the Department of Law's ability to bring an action against any person for violating any antifraud provision of the State of New York's Franchise Law.

200.13 Unregistered Franchise Offers Over The Internet

Any communication made through the Internet, the World Wide Web, or any other similar proprietary or common carrier electronic delivery system, of an offer to sell a franchise that is not registered in New York, ("Internet Offer") is exempt from registration provisions, if:

1. The Internet Offer indicates, directly or indirectly, that the franchise is not being offered to residents of this state;

2. The Internet Offer is not otherwise directed to any person in this State by or on behalf of the franchisor or anyone acting with the franchisor's knowledge; and

3. No franchise is sold in this State by or on behalf of the franchisor until the offering has been registered and declared effective and the Uniform Franchise Offering Circular has been delivered to the offeree before the sale in compliance with Article 33 of the General Business Law, the New York Franchise Act.

PART 201.--Procedural Regulations Governing Hearings Held Under the New York Franchise Sales Act.

[¶ 5320.51] Scope of Part

201.1. This part shall govern the conduct of hearings held by the Bureau of Investor Protection and Securities of the Department of Law pursuant to Chapter 730, Laws of 1980, the New York Franchise Sales Act, and as amended from time to time.

[¶ 5320.52] Opportunity to Be Heard

201.2.(a) The Attorney General shall not refuse to register an offering prospectus pursuant to G.B.L. section 683.(7) without giving the applicant an opportunity to be heard in any case required by law.

(b) In any case in which the Bureau of Investor Protection and Securities determines that an offering prospectus should be denied registration and in which the applicant would be entitled to a hearing as required by law, it shall notify the applicant that the registration is denied. The notice shall include the statutory authority for the denial and a statement that the applicant, is entitled to a hearing. The applicant, within five days of such notice, may then demand a hearing and the Bureau shall thereafter commence an adjudicatory proceeding pursuant to the provisions of the State Administrative Procedure Act within the time limited for the issuing of a registration or deficiency letter pursuant to General Business Law section 683.7. The commencement of such a proceeding tolls the time within which an application and prospectus is required to be accepted for filing and registered, or refused registration and filing.

[5320.53] Notice of Hearing

201.3. The notice of hearing shall be in writing and shall state:

- (a) the date, time, place and nature of the hearing.**
- (b) the particular law or laws and rule or rules involved.**
- (c) a statement of the legal authority and jurisdiction under which the hearing is to be held.**
- (d) a short and plain statement of the matter asserted.**

[¶ 5320.54] Service of Notice of Hearing. Orders and Other Communications

201.4.

(a) The notice of hearing from the Attorney General shall be duly served if enclosed in a properly postpaid wrapper addressed to the applicant at the address last given in the franchise prospectus registration application facing page filed by him with the Attorney General as ordinary mail or if such notice addressed to such person is delivered to such address by an employee or agent of the Attorney General. An affidavit by an employee or agent of the Department of Law that such notice has in the regular course of business of the Department of Law been duly dispatched or delivered, in a manner authorized by this section, shall be presumptive evidence of proper service. For the purpose of calculating time of notice, service shall be deemed effective upon the date of delivery to such address. The notice of hearing shall be served upon the registrant at least 10 days prior to the date of the hearing.

(b) Notices, orders and communications from the Attorney General other than the notice of hearing shall be duly served if enclosed in a properly postpaid wrapper addressed to the applicant to be notified or communicated with at the address last given in the franchise prospectus registration application facing page filed with the Attorney General and deposited, as ordinary mail, in a post office, post office box or mail chute maintained by the United States Government or if delivered as provided in subdivision (a) of this section. An affidavit by an employee or agent of the Department of Law that such notice, order or communication has in the regular course of the business of the Department of Law been duly dispatched or delivered, in a manner authorized by this section, shall be presumptive evidence of proper service. For the purpose of calculating the time of notice, service shall be considered effected upon the date of delivery to such address; provided that, where service is by ordinary mail, service shall be considered effective three days after mailing.

[¶ 5320.55] Personal Appearance; Representation by Attorney

201.5 (a) Any applicant who intends to avail himself of the opportunity to be heard shall personally appear on the date set forth in the notice of hearing or any adjourned date and shall be prepared to proceed. Any applicant may be represented at the hearing by an attorney. Such attorney shall notify the Attorney General in writing of his appearance on behalf of the applicant. Thereafter, all further notices, orders and communications from the Department of Law may be served upon such attorney and such service shall be deemed to be service upon the applicant.

(b) Should the applicant fail to appear at the hearing or, having appeared, fail to make his defense, the hearing officer shall hear the evidence given by the Attorney General and shall make his findings and recommendations on the basis of the aforesaid evidence

[¶ 5320.56] Hearing Officers, Assignment of Hearing

201.6 The hearing shall be conducted by a hearing officer appointed by the Attorney General or his designee. Hearings shall be assigned to a particular hearing

officer by the Attorney General or his designee. The hearing officer shall be an attorney who has not worked on or otherwise become familiar with the facts of the matter in issue, and shall exercise his or her judgment independently and impartially.

[¶ 5320.57] Hearings to Be Public; Stenographic Record of Hearings

201.7. Unless otherwise ordered by the Attorney General, in the public interest, hearings held by the Attorney General to refuse registration shall be open to the public. Stenographic records of hearings shall be made and transcripts thereof may be furnished to any party upon payment to the stenographer of the reasonable cost thereof, as established by the Department of Law.

[¶ 5320.58] Application for Adjournment

201.8. An application for an adjournment shall be made to the hearing officer and shall set forth in detail the grounds therefor. Adjournments may be granted in the discretion of the hearing officer where good cause exists.

[¶ 5320.59] Amendment of Notice of Hearing

201.9. The notice of hearing may be amended upon application by the trial examiner to the hearing officer at any time prior to the conclusion of the hearing. If such application is granted, the hearing officer may, in his discretion, grant additional time to the applicant for further preparation.

[¶ 5320.60] Conduct of Hearing Powers of Hearing Officer

201.10. The hearing officer shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure in the conduct of hearings. He shall have authority to administer oaths, issue subpoenas, rule upon offers of evidence and otherwise so regulate the course of the hearings as to preserve fundamental concepts of fairness and to effectuate the purposes and provisions of the Act.

[¶ 5320.61] Opportunity to Testify and Cross-Examine; Issuance of Subpoenas

201.11. An applicant shall be afforded reasonable opportunity to present testimony under oath or other evidence relevant and material to the subject matter of the hearing and to cross-examine any witnesses who testify at such hearing. At reasonable request of an applicant, the hearing officer shall issue subpoenas to compel the attendance of witnesses and the giving of testimony or production of other evidence. The applicant shall effect his own service.

[¶ 5320.62] Interrogatories

201.12.(a) Where it has been determined that a witness who is outside the State of New York will voluntarily answer interrogatories, the trial examiner may prepare interrogatories to be answered by such witness and the applicant shall have the opportunity to prepare cross-interrogatories as prescribed in this section.

(b) The interrogatories and cross-interrogatories shall be settled and forwarded by the hearing officer to be answered in writing and subscribed to under oath by such witness. Upon application to the Attorney General, the Attorney General may make an order providing for the taking of such witness's oral testimony pursuant to the settled interrogatories by a person designated by the Attorney General. The expenses of taking such testimony shall be borne by the applicant therefor unless the Attorney General provides otherwise.

[¶5320.63] Oral Argument; Briefs

201.13. Oral argument shall be made only before the hearing officer and shall be included in the record of the hearing. Such oral argument may, in the discretion of the hearing officer, be curtailed provided that a party shall be given an opportunity to submit his argument in writing. Briefs as to fact or law shall be received and may be requested to be submitted. The hearing officer may fix the time within which briefs shall be filed. Briefs received subsequent to such time need not be considered.

[¶ 5320.64] Hearing Officer's Report; Exceptions to Report

201.14. Upon the conclusion of a hearing the hearing officer shall, by written memorandum set forth his findings and orders.

[¶ 5320.65] Petition to Reopen Hearing

201.15. After the conclusion of a hearing but prior to the making of an order a hearing may, upon petition and in the discretion of the hearing officer, be reopened for the presentation of new evidence. Such petition to reopen the hearing shall state in detail the nature of the new evidence, together with the reasons for the failure to submit such evidence prior to the conclusion of the hearing. The hearing officer may upon his or her own motion and upon reasonable notice to the parties reopen a hearing for the presentation of additional evidence.

[¶ 5320.66] Orders of the Attorney General

201.16. All orders of the hearing officer shall be in writing and shall be filed with the Department of Law, which shall cause certified copies thereof to be served upon the applicant.