

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

Atlantic Station / 201 17th Street, NW / Suite 1700 / Atlanta, GA 30363

Tel: 404.322.6000 Fax: 404.322.6398

www.nelsonmullins.com

Mark S. VanderBroek

Tel: 404.322.6675

Fax: 404.322.6050

mark.vanderbroek@nelsonmullins.com

June 8, 2016

Via Email and Fedex

Edward Bay
2550 Oakridge Drive
Bedford, IN 47421

Re: *Shoney's North America, LLC v. Edward Ray Bay*, United States Bankruptcy Court for the Southern District of Indiana, Adv. Proc. No. 15-59014
Your Failure to Comply With Injunctive Relief Granted in May 20, 2016
Judgment and Findings of Fact and Conclusions of Law

Dear Mr. Bay:

As you know, on May 20, 2016, the Court entered its Judgment and its Findings of Fact and Conclusions of Law ("Order") in this case, which among other things found and ruled that: (1) you have published various false and defamatory statements about Shoney's and its CEO David Davoudpour on the unhappyfranchisee.com website, on your YouTube channels, and elsewhere on the Internet; (2) Shoney's is entitled to recover damages from your defamation per se; and (3) you acted willfully and maliciously in defaming Shoney's, such that the debt from your defamation is excepted from discharge in bankruptcy. As partial relief to Shoney's, the Judgment and the Order mandated that: "Bay shall remove any defamatory statements and content from his Ed R. Bay YouTube channel, UF.com, or elsewhere; and ... Bay shall be permanently enjoined from reposting or republishing those statements or their equivalent."

It has been more than two and a half weeks since the Court entered its Judgment and Order, and you have failed to comply with the Court's order that you remove your defamatory statements from the unhappyfranchisee.com website and your YouTube channel. So far you have not removed any of the statements that the Court found to be false and defamatory, and which continue to damage Shoney's reputation and business. This puts you in contempt of the Judgment and Order, and subjects you to sanctions which could include monetary fines, awards of attorneys' fees, and, ultimately, imprisonment.

You filed a notice of appeal from the Judgment and Order on June 6, 2016. This notice of appeal was filed late, beyond the June 3rd deadline for filing such a notice of appeal. As a result, Shoney's intends to move to dismiss the appeal at an appropriate time. However, even if your notice of appeal had been timely filed, an appeal does not stay or otherwise preclude your obligation to comply with the relief ordered by the Court in the Judgment and Order.

Accordingly, Shoney's hereby demands that you immediately comply with the Court's Judgment and Order by removing the following false and defamatory statements and content from unhappyfranchisee.com and your YouTube channel, and from any other location where the equivalent statements may be published:

- (1) Your statement posted on unhappyfranchisee.com on June 4, 2014 that "I wouldn't deal with David Davoudpour again if franchises were free. Shoney's is a dead brand. He is a crook and a liar. Run from this guy as fast as you can."
- (2) The sentence from your June 8, 2014 posting on unhappyfranchisee.com stating "Those 15 states offer some degree of PROTECTION to franchisees, why would anyone but a 'snake oil' salesman not want to sell franchises everywhere."
- (3) The sentence from your June 17, 2014 posting on unhappyfranchisee.com stating that "There was no one in a VP of Operations role for the restaurants, no VP of Training, no VP of Human Resources, no VP or Director of Purchasing, all critical to franchise support, all jobs that existed at Shoney's BEFORE David Davoudpour took over in 2007."
- (4) The bullet point on the last slide of the "Franchise Shoney's" video on your YouTube channel that says: "Shoney's Corporate has opened two new restaurants in 7 years and one of those had to be closed and reopened." (See Order at pp. 3 and 7-8, finding among other things that Shoney's has opened 6 new company restaurants since 2011).
- (5) The statement from the last slide of the "Franchise Shoney's" video that "Shoney's Senior VP of Franchising has no background in franchising," and the similar sentence from the seventh slide of your "Shoney's Management Team" video, featuring Steve Sanders, that states "Like his peers at Shoney's Mr. Sanders has no background in franchising nor does he have a business degree." (See Order at pp. 7-8)

Edward Ray Bay
June 8, 2016
Page 3

If you fail to remove these statements from unhappyfranchisee.com and your YouTube channel by close of business on Friday, June 10, 2016, then Shoney's will file a motion for contempt against you, seeking sanctions as well as an award of all attorneys' fees incurred in having to pursue a contempt motion to obtain your compliance with the Court's Judgment and Order.

Please be governed accordingly.

Yours truly,



Mark S. VanderBroek

cc: Catherine Hite, Esq.
Andrew Stosberg, Esq.