

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

<b>BETWEEN:</b>	)	
	)	
EAZYFOODS INC., NOORUDHEEN	)	Adam Ship, for the Applicants
NEERMUNDA, NADIA GAFOOR, AND	)	
SAJID MUNEEER	)	
	)	
Applicants	)	
	)	
– and –	)	
	)	
615241 ONTARIO LTD., 619030	)	Self Represented, with Maria Struik also
ONTARIO LTD., DIXIE LEE ONTARIO	)	representing the interests of the corporate
LTD., MARIA J. R. STRUIK, SHAWN	)	Respondents
STRUIK	)	
	)	
Respondents	)	
	)	
	)	
	)	<b>HEARD:</b> January 16, 2026

**CHRISTIE J.**

**Overview**

- [1] This is an application for statutory rescission in the context of a franchise agreement. The Applicants are the franchisees made up of an Ontario corporation and its officers – officers who signed the franchise agreement in their personal capacity. The Respondents are 615241 Ontario Ltd, the franchisor, and others who are said to be “franchisor’s associates”. The Respondent, Maria Struik, is an officer and director of the corporate Respondents. The Respondent, Shawn Struik, Maria Struik’s son, is the vice president of the “Dixie Lee Corporate office”, who takes care of “operations and systems...problems that need to be addressed...within the framework of the operations at an individual franchise level...”
  
- [2] By way of brief overview, the franchisees argue that the franchisor and franchisor’s associates did not provide them with a single disclosure document containing all material facts, including the information prescribed by the *Arthur Wishart Act (Franchise Disclosure)*, 2000, S.O. 2000, c. 3 (“*Act*”) and Regulation O.Reg. 581/00 (“*Regulation*”) and, as a result of this material non-compliance, they have a two-year right to rescind the

franchise agreement and obtain damages based on the framework set out in the *Act*. The Respondents admit to some deficiencies in the disclosure but argue that the Applicants are not entitled to rescission due to their failure to comply with the duty of fair dealing. (s. 3 of the *Act*). The Respondents argue that, despite their repeated offers of assistance to the Applicants, the Applicants failed to adhere to the franchise agreement, causing their business to fail, strategically waited to rescind, and are now demanding \$400,000 in damages.

### **Background Facts**

- [3] After having received some information about the franchise on May 12, June 8, and June 9, 2023, on June 12, 2023, Maria Struik sent the Applicants an application, which they returned on June 14, 2023. On June 15, 2023, Ms. Struik informed the Applicants that they had been approved and delivered some of the Applicants a purported disclosure document dated June 1, 2023.
- [4] After receiving further information on June 16, 2023, on June 17, 2023, the Applicants submitted a letter of intent.
- [5] Further information was sent to the Applicants and a meeting was held in the month of July 2023.
- [6] On August 24, 2023, EazyFoods signed an Agreement of Purchase and Sale to acquire the assets from the former owner of the franchised location. The total purchase price on the Agreement of Purchase and Sale is \$599,000.00 (property - \$400,000; business - \$199,000) and the completion date was September 8, 2023.
- [7] Perhaps with some extensions, on September 29, 2023, the Agreement of Purchase and Sale closed and EazyFoods acquired the assets, including the real estate, the equipment, inventory, chattels, and goodwill of the Vendor. Also on September 29, 2023, the three individual Applicants entered into a franchise agreement with the Respondent, 615241 Ontario Ltd, granting them the right to operate the existing Dixie Lee Chicken franchise in Bancroft, Ontario.
- [8] Subsequently, the Applicants' financial position began to deteriorate. On August 30, 2024, their accountant prepared up to date financial statements for EazyFoods. On September 17, 2024, the Applicants delivered a notice of rescission on the Respondents, purporting to rescind the franchise agreement pursuant to s. 6(2) of the *Act*. The notice detailed various suggested "material deficiencies" in the disclosure document.
- [9] Despite the purported rescission, the Respondents refused to pay anything. Ms. Struik, initially, took the position that the franchise agreement was still in full force. In an email dated September 17, 2024, she stated in part:

Please take notice that until a court rules otherwise, the franchise agreement is in full force and effect.

If your clients as the franchisees fail to continue to be open for business, the franchise agreement will be terminated forthwith and all amounts under the franchise agreement will become due and payable immediately....

[10] Over the next few days, Ms. Struik delivered several notices of default and, on September 27, 2024, a notice of termination.

[11] This application was commenced / issued on October 10, 2024.

### Analysis

[12] The issues to be decided are as follows:

- a. Did the Applicants lawfully rescind the franchise agreement under section 6(2) of the *Act* due to fatal flaws or material deficiencies in the disclosure?
- b. Who are the franchisors / franchisor's associates?
- c. What is the quantum of damages that the Applicants are entitled to under section 6(6) of the *Arthur Wishart Act*?

### Purpose and Scope of the Act and Regulation

[13] The Court of Appeal has explained the purpose of the *Arthur Wishart Act* on various occasions. More than twenty years ago, in *Personal Service Coffee Corp. v. Beer*, 2005 CanLII 25180 (ON CA), the court stated:

[28] It is clear, therefore, that the focus of the Act is on protecting the interests of franchisees. The mechanism for doing so is the imposition of rigorous disclosure requirements and strict penalties for non-compliance. For that reason, any suggestion that these disclosure requirements or the penalties imposed for non-disclosure should be narrowly construed, must be met with scepticism.

[29] However, while the Act imposes fairly onerous disclosure requirements on franchisors, it is not entirely one-sided. In particular, s. 3 of the Act imposes a duty of fair dealing on "each party" to a franchise agreement with respect to performance and enforcement and gives the parties a right to damages for breaches of this duty of fair dealing. In this way, the Act obliges both the franchisor and the franchisee to deal fairly with one another.

In this case, the franchisee sought rescission mere days from the expiration of the two-year limitation and immediately set up a competing business. The issue for the court to decide was whether the franchisee's right to rescission in the face of inadequate disclosure was absolute and what remedy is available to the franchisor. The court concluded that the right

to rescission was absolute and not conditional on the conduct of the franchisee, but that the franchisor had a separate right to pursue an action against the franchisee. The court went on to state:

[31] However, PSCC argues that it should not be required to pay the money until the issues it raises against Mr. Beer and his new business are resolved.

[32] There is nothing in the language of s. 6(2) suggesting that a franchisee's right to rescind is in any way conditional. Where there is non-disclosure, the statutory right to rescind appears to be absolute. Equally, the payments detailed in s. 6(6) are required to be made by the franchisor within sixty days of the date of rescission. Again, there is nothing in the language of the section that suggests such payments are conditional in any way on the conduct of the franchisee and, therefore, the right to payment also appears to be absolute.

[33] In my view, s. 6 deals only with the statutory right of rescission remedy available to a franchisee where a franchisor has failed to comply with the mandatory disclosure required by s. 5. If the franchisor has a complaint about the conduct of the franchisee, it must look beyond s. 6 to assert any such claim.

[34] Put another way, a franchisor cannot avoid the remedy available to a franchisee under s. 6(2) or its obligations in relation thereto by raising issues about the conduct of the franchisee. Were it permissible to do so, it would in my view emasculate the stringent disclosure provisions of the Act and the consequences that follow from the failure to meet those obligations. It would run counter to the intention of the legislature and the express language of the Act to diminish the rights of a franchisee where there has been non-disclosure.

[35] In my view, where a franchisor has a complaint about the conduct of a franchisee, it is obliged to assert such a claim under ss. 3 or 9 of the Act.

...

[37] The language of s. 3 contemplates the existence of an agreement and speaks in terms of the "performance" and "enforcement" of such an agreement. It does not relate to a s. 6 situation where, because of non-disclosure, the agreement has been rescinded. In those circumstances there is no longer an agreement capable of either performance or enforcement. Section 3, in my

view, deals with the situation where disagreements arise between the parties when the agreement is in force and effect and provides remedies where it is alleged that the duty of fair dealing has been breached by one of the parties. It might apply on the facts of this case if the franchisor's complaints relate to a time period prior to September 27, 2004 when the franchise agreement was still in force and effect. The notice of application in this case seeks some relief in respect of time periods that pre-date the rescission date.

[38] Insofar as the franchisor's complaints relate to the conduct of the franchisee after rescission, the franchisor would, under s. 9 of the Act, have the right to bring an action at common law against the franchisee. PSCC's claims in relation to the alleged appropriation of business, unlawful use of customer lists and equipment, misappropriation of know-how and systems, and related complaints would fall to be determined under s. 9.

...

[42] In the result, I am of the view that the appellant has the right to assert a claim against the respondents by way of an action. An application is inappropriate where there are factual disputes as there are here. In dismissing the application, the application judge erred; he ought instead to have issued an order converting the application to an action.

Ultimately, the court found that the application judge erred in dismissing the franchisor's counter-application, and that the judge should have issued an order converting the application to an action given the factual disputes. See also *Mendoza v. Active Tire & Auto Inc.*, 2017 ONCA 471 at para 13 as to the protective nature of this legislation for franchisees.

- [14] In the case at bar, there is no counter-application by the franchisor for this court to consider. While the franchisor raises the duty of fair dealing (s. 3) in their response, they have not properly advanced or expanded upon this claim before this court. This court is aware of a separate application – CV-25-258 commenced by 615241 Ontario Ltd, against these Applicants. There was even an Order made by RSJ Edwards on October 8, 2025 directing that these applications be heard together and a timetable was established. However, application CV-25-258 was not perfected and did not proceed. As Ordered by RSJ Edwards, if CV-25-258 was not ready to proceed on the hearing date scheduled, the “Primary Application” – this application – CV-24-2227 – would be heard and adjudicated on its own. This is what has occurred.

#### Disclosure Obligations

- [15] Section 5 of the *Act* sets out the disclosure obligations of the franchisor. It states as follows:

5 (1) A franchisor shall provide a prospective franchisee with a disclosure document and the prospective franchisee shall receive the disclosure document not less than 14 days before the earlier of,

(a) the signing by the prospective franchisee of the franchise agreement or any other agreement relating to the franchise, other than an agreement described in subsection (1.1); and

(b) the payment of any consideration by or on behalf of the prospective franchisee to the franchisor or franchisor's associate relating to the franchise, excluding the payment of a deposit if it,

(i) does not exceed the prescribed amount,

(ii) is refundable without any deductions, and

(iii) is given under an agreement that in no way binds the prospective franchisee to enter into a franchise agreement.

...

(2) A disclosure document may be delivered personally, by registered mail or by any other prescribed method.

(3) A disclosure document must be one document, delivered as required under subsections (1) and (2) as one document at one time.

(4) The disclosure document shall contain,

(a) all material facts, including material facts as prescribed;

(b) financial statements as prescribed;

(c) copies of all proposed franchise agreements and other agreements relating to the franchise to be signed by the prospective franchisee;

(d) statements as prescribed for the purposes of assisting the prospective franchisee in making informed investment decisions; and

(e) other information and copies of documents as prescribed.

(5) The franchisor shall provide the prospective franchisee with a written statement of any material change, and the franchisee must receive such statement, as soon as practicable after the change has occurred and before the earlier of,

(a) the signing by the prospective franchisee of the franchise agreement or any other agreement relating to the franchise, other than an agreement described in subsection (1.1); and

(b) the payment of any consideration by or on behalf of the prospective franchisee to the franchisor or franchisor's associate relating to the franchise, excluding the payment of a deposit if it,

(i) does not exceed the prescribed amount,

(ii) is refundable without any deductions, and

(iii) is given under an agreement that in no way binds the prospective franchisee to enter into a franchise agreement.

(5.1) A statement of material change shall contain the information that is prescribed.

(6) All information in a disclosure document and a statement of a material change shall be accurately, clearly and concisely set out.

[16] Sections 2 to 7.1 of the *Regulation* sets out the specific required contents that the disclosure document must contain or include. For example, there must be an audited financial statement for the most recently completed fiscal year of the franchisor's operations, or a financial statement for the most recently completed year of the franchisor's operations, prepared in accordance with generally accepted accounting principles that are at least equivalent to the review and reporting standards applicable to review engagements set out in the Canadian Institute of Chartered Accountants Handbook (s. 3(1)(a)(b))

[17] Section 6 of the Act deals with rescission, including when it is permitted, what is required to be done, and the consequences. The section states:

6 (1) A franchisee may rescind the franchise agreement, without penalty or obligation, no later than 60 days after receiving the disclosure document, if the franchisor failed to provide the disclosure document or a statement of material change within the time required by section 5 or if the contents of the disclosure document did not meet the requirements of section 5.

Rescission for no disclosure

(2) A franchisee may rescind the franchise agreement, without penalty or obligation, no later than two years after entering into the franchise agreement if the franchisor never provided the disclosure document.

Notice of rescission

(3) Notice of rescission shall be in writing and shall be delivered to the franchisor, personally, by registered mail, by fax or by any other prescribed method, at the franchisor's address for service or to any other person designated for that purpose in the franchise agreement.

...

Franchisor's obligations on rescission

(6) The franchisor, or franchisor's associate, as the case may be, shall, within 60 days of the effective date of the rescission,

(a) refund to the franchisee any money received from or on behalf of the franchisee, other than money for inventory, supplies or equipment;

(b) purchase from the franchisee any inventory that the franchisee had purchased pursuant to the franchise agreement and remaining at the effective date of rescission, at a price equal to the purchase price paid by the franchisee;

(c) purchase from the franchisee any supplies and equipment that the franchisee had purchased pursuant to the franchise agreement, at a price equal to the purchase price paid by the franchisee; and

(d) compensate the franchisee for any losses that the franchisee incurred in acquiring, setting up and operating the franchise, less the amounts set out in clauses (a) to (c).

[18] In summary, there are two circumstances expressed in s. 6 that permit lawful rescission:

- a. Within 60 days after receiving the disclosure document if the franchisor failed to provide the disclosure document or a statement of material change within the time required by section 5 or if the contents of the disclosure document did not meet the requirements of section 5, or
- b. Within two years of entering into the franchise agreement if the franchisor never provided the disclosure document.

Given the timing of the notice of rescission in this case, it is the second circumstance that must be considered.

[19] The Courts have given a broad interpretation to s. 6(2) of the *Act*; specifically, a broad interpretation to what it means to have "never provided the disclosure document". The Courts have recognized two general ways in which a franchisee can show that a disclosure document is so deficient to amount to non-disclosure:

- a. If the disclosure document contains a “fatal flaw” such as unsigned disclosure certificates, the failure to include a head lease, non-compliant financial statements, or piecemeal disclosure: *2364562 Ontario Ltd. v. Yogurtworld Enterprises Inc.*, 2021 ONSC 5112, para 37. In such circumstances of a fatal flaw, given the policy objectives, the Court does not need to consider whether the deficiency inhibited the franchisees’ ability to make an “informed investment decision”: *2483038 Ontario Inc. v. 2082100 Ontario Inc.*, 2020 ONSC 475, para 33-37. Contrary to the Respondents’ argument, *Raibex Canada Ltd. v. ASWR Franchising Corp.*, 2018 ONCA 62, a leasing arrangement case, did not change that: *2483038 Ontario Inc. v. 2082100 Ontario Inc.*, 2022 ONCA 453, para 21.
- b. If the material deficiency in the disclosure document prevented the prospective franchisee from making an informed decision about whether or not to invest in the franchise, using an objective analysis: *611707 Ontario Inc. v. Freshly Squeezed Franchise*, 2022 ONCA 437 at para 10, 13.

[20] It is important to note that the franchisee cannot waive their rights under the *Act* as stated in s. 11.

[21] Both the content and the manner of providing the disclosure are important.

[22] In *2240802 Ontario Inc. v. Springdale Pizza Depot Ltd.*, 2015 ONCA 236, the Court of Appeal clarified that, where there is little to no conflict as to the content of the disclosure document, the summary judgment procedure was appropriate. The Court also explained how the disclosure provided “fell so far short of the clear statutory requirements”:

[38] The motion judge found that the financial statements appended to the Disclosure Document did not comply with the Act’s requirements. She noted that the form containing the financial statements is entitled “SPRING DALE (sic) PIZZA DEPOT LTD. Financial Statements March 31, 2009 (Unaudited).” The Notice to Reader on the front page contains cautionary language: “We have not audited, reviewed or otherwise attempted to verify the accuracy or completeness of such information. Accordingly, readers are cautioned that these statements may not be appropriate for their purposes.”

[39] The motion judge held that these notes meant that the preparer of the statements did not verify anything. She went on to identify an obvious error in the statements concerning the amount indicated for accumulated depreciation and concluded that the individual who prepared the statements did not carefully read either the statements or the regulations governing their preparation. The motion judge therefore held that the financial statements did not comply with either s. 3(1)(a) or 3(1)(b) of O. Reg. 581/00, reproduced above, and were deficient.

[40] The appellants submit that just because the financial statements are unaudited or fail to meet a review engagement standard, they are not necessarily deficient under the Act.

[41] I do not agree. Section 3(1) of O. Reg. 581/00 provides that “every disclosure document shall include ... an audited financial statement” or “a financial statement ... prepared in accordance with generally accepted accounting principles that are at least equivalent to the review and reporting standards applicable to review engagements set out in the Canadian Institute of Chartered Accountants Handbook”. The regulation is clearly worded and it is mandatory. The financial statements contained in the Disclosure Document did not meet either standard and were therefore deficient.

...

[56] The Act is designed to address the perceived imbalance of power in the franchisor/franchisee relationship. The Act’s purpose is to protect both prospective franchisees and those already parties to a franchise agreement. This goal is achieved, in part, through the obligation imposed on franchisors to provide disclosure, the right given to the franchisee to rescind the franchise agreement in the absence of proper disclosure, and the franchisee’s right of action for damages based on a franchisor’s failure to comply with the disclosure requirements.

[57] The Act must be interpreted in a manner that advances this purpose. Prospective franchisees, often lacking in business experience (such as Patel, Sheth and Amin), must be able to rely on the information they are given – particularly information relating to the franchisor’s financial circumstances. Providing a prospective franchisee with financial information about the franchisor that has been independently verified is more than a technicality. It is a foundational part of disclosure.

[58] In my view, the failure to provide financial statements in accordance with s. 3(1) of the regulations – in other words, statements that have been independently verified to an audit engagement or review engagement level – by itself constitutes a material deficiency.

The Court of Appeal agreed with the decision of the motion judge to grant summary judgment in these circumstances with no discussion of whether the prospective franchisee was prevented from making an informed decision about whether or not to invest in the franchise.

[23] In *Mendoza v. Active Tire & Auto Inc.*, 2017 ONCA 471, the franchisee sought to rescind the agreement under s. 6(2) of the Act, after three months of operating at a loss, on the basis that the disclosure did not amount to the disclosure document required by the Act. The Court stated:

[26] The Act imposes significant disclosure obligations on franchisors for the benefit of franchisees. It does not make the rescission remedy conditional on the approach taken by a particular franchisee to the disclosed material. This is consonant with the intent of the Act, which is to ensure that franchisors who wish to enter into franchise agreements with franchisees must consistently provide the required documentation to every proposed franchisee. Their obligations do not change depending on the actions or reactions of a particular franchisee. Nor are those obligations diminished when a franchisee does not study the contents of the disclosure document. Franchisees are entitled to rely on its contents and the ability to later verify what they believed and understood when they decided to proceed with the franchise.

...

[28] The second deficiency that was recognized but discounted by the motion judge was the respondent's failure to provide the most recent financial information of the franchisor in the form and within the time prescribed by the Act and the Regulation.

...

[30] The respondent's financial year-end is in August. When the parties were negotiating in early 2015, the respondent had not completed its 2014 financial statement. It therefore could not comply with the requirements of s. 3(1). The respondent then delivered its previous year's statement from August, 2013 on March 17, 2015, i.e. over two weeks beyond the 180 day grace period allowed by s. 3(2).

[31] As a result, the appellants had to make the decision whether to buy the franchise based on financial statements of the franchisor for the year ending August, 2013, a period over 18 months earlier. The respondent never produced its financial statements for its 2014 year.

[32] I cannot agree with the motion judge that this non-compliance with the Act and Regulation was insignificant. To the contrary, the Regulation requires that a franchisor provide the prospective franchisee with audited financial statements from its most recently completed fiscal year, or if there are no audited statements for that

period, then statements that are equivalent to the standard of a review engagement as described in the CICA Handbook. It then allows a 180 day grace period for franchisors who do not yet have the financial statement for their most recent fiscal year prepared. During that period, they may produce the financial statement for the previous year.

[33] In this case, the respondent did not produce its 2014 financial statement as required. It only produced its 2013 statement, beyond the 180 day grace period. Financial statements are clearly an extremely significant component of the information a prospective franchisee requires in order to assess the viability of the franchisor's franchise operations and the safety and security of becoming a franchisee in that franchisor's system.

[34] The Act and Regulation prescribe what financial statements must be produced and a time parameter for doing so. The effect of these requirements is that anyone who wants to be a franchisor must be in a position to provide the required information to prospective franchisees within the prescribed time. If a franchisor cannot do that, that is, it cannot comply with the Act because it does not have current financial statements, then it cannot proceed to engage with prospective franchisees or operate a franchise system as defined in the Act.

[35] To accept the position of the respondent, that the deficiency was not material because the former year's financial statements were only delivered two weeks after the statutory grace period, would mean that franchisors would be free to ignore the statutory requirements regarding the obligation to produce current financial statements, and franchisees would be unable to rely on the protections contained in the Act.

[36] The respondent also failed to comply with other provisions of the Act and Regulation in connection with the disclosure document, including providing information piecemeal over a period of months instead of in one document at one time as required by s. 5(3) of the Act.

...

[38] The respondent submits that the appellants should not be entitled to a remedy under the Act, because they initially did not seek rescission based on deficiencies in the disclosure document, but rather, because the franchise did not do well and the individual appellant regretted his decision. There are two responses to this

submission. First, one cannot know whether the failure of the franchise location to thrive financially was connected to deficiencies in the disclosure. In any event, the remedy in s. 6(2) turns only on the failure of the franchisor to deliver a disclosure document. It is not dependent on later conduct of the franchisee.

The Court of Appeal granted summary judgment to the appellants rescinding the franchise agreement.

- [24] As for the manner of providing disclosure, in *1490664 Ontario Ltd. v. Dig this Garden Retailers Ltd.*, 2005 CanLII 25181 (ON CA), the court was required to interpret and apply the *Act* to a dispute over a retail gardening franchise. The franchisors disclosed much, but not all, of the information required under the *Act*, but they did so in a piecemeal fashion, over the course of several meetings and in several different documents. They argued that this method of disclosure substantively met the requirements of the *Act*, and that rescission was therefore inappropriate. The Court stated in part as follows:

[18] In my view, the facts as described by the appellants do not fulfill the requirements of the Act. There is no issue of “substantive” versus “procedural” compliance. The requirement that disclosure occur in the form of a single document is not an empty formal requirement. The legislature clearly envisioned that the purpose of the legislation – i.e., ensuring that a decision to enter into a franchise agreement is an informed one – would best be fulfilled by giving prospective franchisees the opportunity to review a single document or documents, so that all the information is before them at the same time. It is simple commonsense that people have more difficulty processing and assessing information given at different times, some of it orally, than they do information provided in a single, written document.

[19] The language of the Act is unambiguous, and it is mandatory. It prescribes in clear and precise terms what is required. To give effect to the clear language used in this case does not produce an absurd result, and it fulfils the purpose of the legislation. Therefore, I agree with the trial judge’s conclusion that the appellants did not provide disclosure as required by s. 5 of the Act. Accordingly, I would reject the first ground of appeal.

...

[21] The appellants argue that this case falls to be considered under s. 6(1) and not under s. 6(2). They argue that the information package provided in April 2001 to Ms. Bellinger and the draft franchise agreement provided on June 5, 2001 constituted inadequate disclosure documents, but the fact is that they were

“disclosure documents”. Therefore this case involves disclosure documents that did not meet the s. 5 requirements. Since the franchisees’ notice was delivered some fourteen months after the execution of the franchise agreement, they missed their statutory sixty-day deadline under s. 6(1).

[22] I disagree. Section 6(1) presupposes the existence of a single “disclosure document”. None was provided on the facts of this case. Accordingly, s. 6(1) is inapplicable. In this respect, I agree with the trial judge that disclosure cannot be satisfied by several documents or orally. As she stated in her reasons: “If the drafters of this legislation intended to provide a franchisor with an alternative method of satisfying the disclosure obligation then the Act would have stated so. It does not.”

This foundational case establishes that disclosure cannot be provided in several documents – in a piecemeal fashion.

Did the Applicants lawfully rescind the Franchise Agreement under section 6(2) of the Act due to fatal flaws or material deficiencies in the disclosure?

[25] The Applicants claim that there were three fatal flaws in the disclosure which each on their own entitled the Applicants to rescind:

- a. The disclosure failed to contain financial statements as prescribed by s. 5(4)(b) of the *Act* and s. 3 of the *Regulation*.
- b. There was piecemeal disclosure
- c. The earnings and costs projections were non-compliant with the *Regulation*.

[26] This court will deal with each in turn.

[27] As for the financial statement provided, there are a number of problems.

[28] Contrary to ss. 3(1)(a) and 3(1)(b) of the *Regulation*, this is a financial statement for 619030 Ontario Limited – not the franchisor. While Ms. Struik claims that 619 operated the franchise business through 615, that she reports revenue under 619, and it is only this company that prepares financial statements, this is not what is required. The financial statement must be that of the franchisor. The franchisor, as defined in the Franchise Agreement, was 615241 Ontario Ltd. No financial documents of the franchisor were disclosed, and the disclosure did not explain the relationship between 615 and 619, other than to suggest that 615 was a "division" of 619. These are separate corporate entities, and the Regulation expressly requires the franchisor's financial statements to be disclosed - not those of affiliates.

- [29] Contrary to ss. 3(1)(a) and 3(1)(b) of the *Regulation*, the financial statements were not audited nor subject to an accountant's review engagement as required. Instead, they were prepared on a "compilation engagement report" standard. This is clear from the covering letter. Ms. Struik readily acknowledges this deficiency. This is exactly what the Court of Appeal was concerned about in *Springdale*.
- [30] Finally, the deficient financial statement provided was for year ending December 31, 2021. There are several problems with this. First, at the time the disclosure was delivered to the third applicant (July 10, 2023), 191 days had passed since the fiscal year end, meaning the grace period under the *Regulation* (180 days) no longer applied. Second, a 2022 compilation engagement – not audited or at a review engagement standard – was not provided until long after the Franchise Agreement was signed. It is worth noting that the franchisee still does not have a compliant financial statement. Third, the 2022 compilation engagement statement would have been available on September 12, 2023 (as dated), which is before the agreement was signed on September 29, 2022. This financial statement shows a deterioration in the statement of earnings. The net earnings were down nearly 50%. This was a material change. In these circumstances, the Respondents were required to redisclose to the Applicants or provide them with a "material change" statement in accordance with s. 5(5) of the *Act* containing the updated statements: See *2337310 Ontario Inc. v. 2264145 Ontario Inc.*, 2014 ONSC 4370 at paras 38-39. Ms. Struik only states that they "never turned [their] mind to the point". Clearly, there was a failure to provide the most recent financial information of the franchisor in the form and within the time prescribed by the *Act* and the *Regulation*. Certainly, this deprives the franchisee of a significant component of disclosure.
- [31] This court is satisfied that these flaws, on their own, are sufficient to justify rescission in this case under s. 6(2). Given the importance of a compliant financial statement, and the obvious failures in this case, these flaws are considered fatal. This Court does not need to consider whether the deficiency inhibited the franchisees' ability to make an informed investment decision. However, certainly the lack of a complete and accurate financial picture would have prevented any prospective franchisee from making an informed decision about whether or not to invest in the franchise, using an objective analysis.
- [32] As for the argument concerning the piecemeal nature of the disclosure, this court is not as convinced by the Applicants' submissions. Unquestionably, information was provided to the Applicants at various times, however, it is not clear to this court that this would amount to disclosure:
- a. May 12, 2023 – Mr. Muneer received an email from the franchisor containing a brochure advertising the opportunity to buy the existing location in Bancroft. The brochure represented that the location was a "proven success", would "quickly pay off your nest egg", would "earn a fantastic income", and had sales that "increased in higher numbers than Pre-Covid". The Respondents state that this was nothing more than marketing information from Google used to promote the business and was not disclosure.

- b. June 8, 2023 – Ms. Struik sent the franchisees a further brochure that represented that the franchisor “strives to keep Prime costs (Food, Paper & Labor) at 60%”, and “strives for up to 15% PROFIT (before Taxes, Debt Service).” The Respondents point out that the brochure says “strives” and does not promise any return.
- c. June 9, 2023 – Ms. Struik sent the Applicants another brochure along with a list of upgrades that were required for the Bancroft location. Together with their covering e-mail, these documents represented that “the business is solid”, that the building was the “[b]est commercial property in town”, that the business was “fantastic” with [e]ver Increasing Sales”, that it was “[s]uitable for Absentee Ownership”, and which listed 13 “[n]ecessary upgrades” to the premises that would provide “overall improvements”. In the covering email, Ms. Struik stated, “I am attaching Dixie Lee’s list of items to ensure the relevancy and life of the brand and the business in years to come...At this time the current franchisee owner is not taking this in consideration, as he has refused multiple offers that were reflective of the suggested condition of the property.” The Applicants argue that Ms. Struik was telling the franchisees that they needed to do upgrades if they buy and attached a list of capital improvements that would be necessary for the purchase, however, there was no estimate of the costs provided, contrary to section 6 of the Regulation. The Respondents state that this is not disclosure for the franchise but rather related to needed building upgrades; in other words, this was all related to the building not the business. The Respondents also acknowledged that it would be nice if an estimate could be given but this was not necessary for this portion of the negotiation. The Respondents suggest that they were advising the Applicants of these things as a favour as the Applicants wanted to own the property for years to come and the Respondents felt it was their duty to make the Applicants aware of things of concern that could impact their investment.
- d. June 15, 2023 – Ms. Struik informed the Applicants that they had been approved and delivered some of the Applicants a purported disclosure document under the Act.
- e. June 16, 2023 - Ms. Struik sent a further document, which contained additional representations and conditions, including that the individual Applicants “operate under a limited company”, enter into an “asset purchase agreement” [for the assets of the selling franchisee], requiring equipment leases, including an offer from the Franchisor “to lease [capital] equipment to franchisee”, including a “Fry-station” and “Signage,” and a reminder that there were 13 upgrades to the premises that were “necessary”.
- f. July 10, 2023 – Ms. Struik sent the Applicants an additional copy of the same disclosure along with a projection called “Sales/Income forecast for a Dixie Lee unit (1000 sq ft) in Ontario” (the “Earnings Forecast”), which forecast sales of a typical Dixie Lee location at \$500,000-800,000. This was the first time that Mr. Muneer was provided the disclosure document. According to the Respondents, this Forecast was provided because Mr. Muneer had asked them to provide what

was available at the time to support their request for funding at the bank and was not meant to be disclosure. The Forecast provides an operation cost estimate. The Forecast does mention labour costs, food costs, utilities, bank service, professional fees, repair and maintenance. As will be discussed below, it provides gross profit estimates which do not make their way into the disclosure document. It provides an estimate of net income to franchises which is not in the disclosure document.

- g. July 19, 2023 – there was a meeting between the Applicants, Maria Struik and Shawn Struik at which the following representations were made:
  - i. Shawn Struik said the value of the Bancroft business alone was over \$400,000 and that the Applicants were getting a “good deal” for only \$200,000.
  - ii. Shawn Struik, in speaking to the Applicant, Mr. Neermunda, confirmed that running the franchise would be simpler than running an Indian restaurant (which Mr. Neermunda has experience running), since fried chicken restaurants were simpler.

According to the Respondents, this was not a disclosure meeting. It was simply an introductory meeting where questions were asked, ideas were shared, and there were no false statements.

- h. July 28 and August 1, 2023 – Ms. Struik sent e-mails to the Applicants making various representations as to the number and location of various Dixie Lee restaurants, and typical sales of Dixie Lee locations. She also enclosed, again, the Earnings Forecast.

[33] In summary, the Applicants argue that the Franchisor disclosed many material facts outside the four corners of the disclosure through emails, brochures and supplementary standalone documents, contrary to the holding of the Court of Appeal in *Dig this Garden Retailers Ltd.* This court is willing to accept, as the Respondents argue, that some of the information provided in emails, brochures, and at an introductory meeting did not form part of the disclosure so as to amount to piecemeal disclosure. However, if this information did not form any part of the disclosure, then certainly the official disclosure document is lacking in several respects:

- a. Contrary to s. 6(12) of the Regulation, the disclosure document did not include a description of any exclusive territory granted to the franchisee, but rather simply stated that “the territory granted is agreed upon prior to signing the Franchise Agreement”. Ms. Struik has admitted in her affidavit that the description of the territory was only provided to the Applicants through email dated July 7, 2023. Therefore, either this is improper piecemeal disclosure or no disclosure at all if one looks only at the disclosure document.
- b. Pursuant to s. 6(4) of the Regulation, the disclosure document must include the terms and conditions of the financing arrangements that the franchisor offers. The

disclosure document states that “Dixie Lee does not provide any form of financing...” However, in an email dated June 16, 2023, Ms. Struik enclosed several proposed terms related to equipment leases held by the franchisor as lessor that would provide for financing of certain capital equipment. Therefore, the disclosure document would seem inconsistent and inaccurate.

- c. Pursuant to s. 6(1) of the Regulation, disclosure documents must include an estimate of costs for inventory, leasehold improvements, equipment, leases, rentals, and all other tangible and intangible property necessary to establish the franchise and an explanation of any assumptions underlying the estimate. The disclosure document only provided a partial list as compared to the list of capital expenditures specific to the Bancroft location provided in an email on June 16, 2023. None of the items in this email are contained in the disclosure’s list of required expenses.
- d. Pursuant to s. 6(3) of the *Regulation*, if an earnings projection is provided, a statement specifying the reasonable basis for the projection, the assumptions underlying the projection and a location where the information is available for inspection must be provided. Section 6(2) provides the same for operating cost projections. The disclosure document states that “Dixie Lee is not providing earning projections in this document”. However, in emails dated July 28 and August 1, the franchisor enclosed documents containing both earnings and cost projections, including, stating that typical store sales were between \$400,000 and \$1.25 million, and providing an Excel worksheet detailing projections of earnings and operating expenses. This court is satisfied that this information does amount to disclosure – piecemeal disclosure, outside of the disclosure document. Contrary to the *Regulation*, there is no reasonable basis for the projection, the assumptions underlying the projection, and no location where the information is available for inspection.

[34] Even if these issues do not rise to the level of fatal flaws, certainly these issues leave this court with the view that the franchisee was objectively unable to make an informed investment decision and was justified in rescinding.

[35] The Respondents argue that it is bad faith and a failure to comply with the duty of fair dealing for the Applicants to have sat on their rights and waited to rescind. The Respondents point out that the Applicants had a lawyer assisting for the purpose of the real estate and business as early as July 6, 2023, and that the lawyer was involved throughout the process, including the negotiating and disclosure process. The Respondents also point out that the Applicants commissioned and received an independent business appraisal and an independent business plan to inform their decision making well before they proceeded with the transaction. The Respondents argue that the Applicants never suggested that there were any deficiencies that they now allege and that the root cause for all the issues that arose was simply a lack of funding. This, the Respondent’s argue, is bad faith.

[36] The Respondents rely on *C.M. Callow Inc. v. Zollinger*, 2020 SCC 45. In this decision, the Supreme Court recognized that the duty of good faith in contractual performance

requires one party to a contract to correct a reasonable misapprehension due to its deceptive representations induced in the other. The Respondents suggest that by the Applicants being represented and saying nothing about any concerns of deficiency in the disclosure at the time, they deceived the Respondents into thinking everything was fine.

[37] This argument must fail for several reasons:

- a. There is no evidence that the Applicants acted in bad faith or sat on their rights. In his affidavit sworn on January 30, 2025, Sajid Muneer stated that they first learned of their right to rescind the Agreement upon retaining Mr. Ship around August 2024. There appears to be nothing to contradict this.
- b. However, even if they did, the franchisee cannot waive their rights under the Act as stated in s. 11. The disclosure requirements are specific and were not adequate in several respects.
- c. The Respondents have not brought a cross-application for breach of duty of good faith and fair dealing. The Respondents have a separate claim for repudiation of contract against the Applicants (CV-25-258) which has not been perfected or argued, and is not before this court at this time.

[38] The Respondents also argue that the restaurant had been a successful business since 1978, a nearby restaurant has since been a successful business, and the lack of success for the Applicants is as a result of their own lack of experience and mismanagement, including that the Applicants never attended any meaningful training or courses provided by Dixie Lee, did not go ahead with the objectives that were discussed before the purchase, and did not attend regularly to the business. This argument is completely irrelevant to whether disclosure was made in accordance with the *Act* and *Regulation*.

[39] For all of the foregoing reasons, this court is satisfied that the Applicants lawfully rescinded the Franchise Agreement under section 6(2) of the *Act* due to fatal flaws and material deficiencies in the disclosure.

Who are the franchisors / franchisor's associates?

[40] Given that there are a number of named Respondents in this matter, this court must consider whether each meet the definition of franchisor or franchisor's associates. The *Act* provides a definition of who is included:

“franchisor's associate” means a person,

(a) who, directly or indirectly,

(i) controls or is controlled by the franchisor, or

(ii) is controlled by another person who also controls, directly or indirectly, the franchisor, and

(b) who,

(i) is directly involved in the grant of the franchise,

(A) by being involved in reviewing or approving the grant of the franchise, or

(B) by making representations to the prospective franchisee on behalf of the franchisor for the purpose of granting the franchise, marketing the franchise or otherwise offering to grant the franchise, or

(ii) exercises significant operational control over the franchisee and to whom the franchisee has a continuing financial obligation in respect of the franchise; (“personne qui a un lien”)

See also: *2619506 Ontario Inc., v. 2082100 Ontario Inc.*, 2021 ONCA 702, paras 11-16

[41] 615241 Ontario Ltd. / Dixie Lee are the explicit franchisors on the franchise agreement. Therefore, there is no dispute that the corporate respondent, 615, is the franchisor.

[42] The disclosure document makes it clear that representations are being made on behalf of all companies with Maria Struik as the principle and directing mind of all corporate Respondents. The disclosure document states in part on page 7:

Dixie Lee North is a wholly owned subsidiary of 615241 Ontario Limited, a division of 619030 Ontario Limited; both companies incorporated under the laws of Ontario.

Dixie Lee Ontario Ltd. is 50% shareholding in 1462103 Ontario Inc. and the owner of all the franchises outside the Northern Ontario Area, which are operated in Dixie Lee North, with the exception of the Canadian Maritime Provinces.

Maria Struik is the Court appointed receiver for Dixie Lee Ontario; a company which has outlets outside of Ontario.

[43] 619030 Ontario Ltd. provided its financial statement in a purported attempt to comply with the disclosure requirements for this franchise arrangement. The principal of this company, Maria Struik, provided the financials for this company stating that she has continued to operate the Dixie Lee North franchisor business through 619030 Ontario Ltd., using 615241 Ontario Ltd. only to hold the franchisor business rights for 619.

[44] Dixie Lee Ontario Ltd. is said to be the owner of all the franchises outside the Northern Ontario Area and “Dixie Lee (Franchisor) does business under the name Dixie Lee but consists of 2 parts: Dixie Lee North and Dixie Lee Ontario (Maria Struik, Receiver)”. Dixie Lee Ontario Ltd. made representations to the franchisee in the disclosure document.

- [45] Maria Struik is an officer of the franchisor, 619030 Ontario Ltd., and Dixie Lee Ontario Ltd. Maria Struik signed the franchisor's certificate. She admits that she has been directly involved on a day-to-day basis as the franchisor of the Dixie Lee chain since 1989. There is no dispute that Ms. Struik was directly involved in the grant of the franchise to the Applicants.
- [46] As for Shawn Struik, as the vice president of the Respondent companies, he was controlled by the president Maria Sruik. Shawn Struik made representations to the franchisees on behalf of the franchisor for the purpose of granting the franchise, marketing the franchise, and offering to grant the franchise. He made a number of admissions during his examination on May 7, 2025 that support him being a franchisor's associate, including:
- a. He confirmed that he prepared the list of equipment and upgrades for the Bancroft location.
  - b. He attended a meeting with the purpose to listen in and be able to explain the list of upgrades.
  - c. He confirmed that he became aware that the Applicants had made an offer and that he thought they were getting a very good deal for the business at \$200,000 as he thought it was worth \$400,000.
  - d. He confirmed that during the meeting he expressed that it was a good deal at \$200,000 and he discussed the equipment list.
  - e. As for the capital equipment items, he confirmed that there was a mutual agreement between himself "as Dixie Lee, with Maria and Eazyfoods, represented by your clients, on the idea that there was value to completing certain items sooner than later. And we were flexible to say that certain items could be postponed due to...practical finances."
- [47] There is no doubt that the franchisor is 615241 Ontario Ltd. and that the other Respondents all meet the definition of "franchisor's associate".

What is the quantum of damages that the Applicants are entitled to under section 6(6) of the *Arthur Wishart Act*?

- [48] When the right of rescission is exercised, the franchisor and its associates are jointly and severally liable to compensate the franchisee as prescribed by s. 6(6) of the *Act* within 60 days of the effective date of rescission. There are four heads of damages:
- a. Refund to the Franchisee any money received from or on behalf of the franchisee, other than money for inventory, supplies or equipment;
  - b. Purchase from the Franchisee any inventory that the franchisee had purchased pursuant to the franchise agreement and remaining at the effective date of rescission, at a price equal to the purchase price paid by the franchisee:

- c. Purchase from the Franchisee any supplies and equipment that the franchisee had purchased pursuant to the franchise agreement, at a price equal to the purchase price paid by the franchisee; and,
- d. Compensate the Franchisee for any losses that the franchisee incurred in acquiring, setting up and operating the franchise, less the amounts already included in clauses (a) to (c).

[49] The Applicants have delivered an expert report that supports their damages quantification, with reference to evidence in the form of source documents. The heads of damages have been calculated as follows:

- a. Money received from or on behalf of the franchisee, other than money for inventory, supplies or equipment – This consists of a \$36,000 initial franchise fee, \$26,602 in royalties, and \$46,529 in other payments, for a total of \$109,131. The Respondents have not contested this amount.
- b. Inventory – This amount has been calculated at \$12,545. As for the inventory, as set out in paragraph 22 of the report, at the time of rescission, the Franchisee performed a manual inventory count. The value was determined by using the latest unit prices from the suppliers' invoices. All perishables were discarded a month after the Notice of Rescission, but must still be compensated for; all other items remain in storage and are available for pick up. The Respondents have not contested this amount.
- c. Supplies and equipment – the Applicants purchased much of the supplies and equipment mandated by the Franchise Agreement from the Vendor, which were itemized and valued at the time by a CPA based on fair market value. The items were valued at \$77,724 but the expert reduced this to \$64,196 to take into account the discounted price the Applicants paid for the business. The Respondents have not contested this amount.
- d. Other losses that the franchisee incurred in acquiring, setting up and operating the franchise – The expert report calculates this at \$206,826. The expert used the General Ledger of the franchisee to calculate the revenues and costs of the business from September 2023 to September 2024, considering total sales, costs of sales, operating expenses, bank charges, and loan interest. The operating loss was adjusted to remove amounts already accounted for. While the Respondents had previously raised, prior to the delivery of the expert report, some challenges to this amount, the expert report is thorough and properly sourced to demonstrate this amount. The Respondents have been provided with all source information and not provided any contrary analysis of their own.

[50] The expert report is robust and uncontested. There is detailed information provided as to how the total is reached. The report quantifies the damages at \$407,000 and shows all of the work to reach that number.

## Conclusion

- [51] In summary, there are flaws in the disclosure document that are clearly material and entitled the Applicants to rescind the Franchise Agreement. Frankly, the factual narrative of the disclosure is undisputable. The paper record speaks for itself. There are numerous deficiencies which have been identified by the Court of Appeal as serious and fatal. The problems with the financial statements alone would provide a right of rescission. Liability under the *Act* is not fault based. The franchisor and the franchisor's associates are strictly liable for failure to comply with the *Act*.
- [52] The Respondents have raised many issues – operational issues – which have nothing to do with the disclosure issue.
- [53] The Applicants have proffered an uncontested expert report quantifying their damages.
- [54] This application is granted:
- a. THIS COURT DECLARES that the Respondent, 615241 Ontario Ltd. is a Franchisor as defined in section 1(1) of the *Arthur Wishart Act (Franchise Disclosure)*;
  - b. THIS COURT DECLARES that the Respondents, Maria Struik, Shawn Struik, 619030 Ontario Ltd. (also known as 619030 Ontario Limited), and Dixie Lee Ontario Ltd., are Franchisor's Associates as defined in section 1(1) of the *Arthur Wishart Act (Franchise Disclosure)*;
  - c. THIS COURT DECLARES AND ADJUDGES that the Franchise Agreement, including any and all related and ancillary agreements, was lawfully rescinded by the Applicants on September 17, 2024 by delivery of the Notice of Rescission dated September 14, 2024, pursuant to section 6(2) of the *Arthur Wishart Act (Franchise Disclosure)*;
  - d. THIS COURT ORDERS AND ADJUDGES that the Respondents are jointly and severally liable to pay the Applicants \$392,698 in damages pursuant to section 6(6) of the *Arthur Wishart Act (Franchise Disclosure)* (the pre-judgment interest has been removed from the total in the expert report);
  - e. THIS COURT ORDERS AND ADJUDGES that the Respondents are jointly and severally liable to pay the Applicants pre-judgment interest, for interest owing from October 10, 2024 (the date the application was issued) to January 26, 2026 (the date of this judgment), at 4.8% in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.
  - f. THIS JUDGMENT BEARS INTEREST at a rate of 4.0% per year commencing on January 26, 2026.

[55] As for costs of this application, the court strongly encourages the parties to consult with each other and attempt to reach a reasonable agreement. If the parties are unable to agree as to costs, the court will accept written submissions on costs, which shall be no more than two pages in length, excluding supporting documentation. All costs submissions are to be filed through the civil JSO portal as well as directly with my assistant to my attention by email to [BarrieSCJJudAssistants@ontario.ca](mailto:BarrieSCJJudAssistants@ontario.ca) and which shall be provided no later than 4:30 p.m. on February 2, 2026.

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Justice V. Christie

**Released:** January 26, 2026