

STATE OF FLORIDA
DEPARTMENT OF LEGAL AFFAIRS
OFFICE OF THE ATTORNEY GENERAL

IN THE MATTER OF:

La Teresita, Incorporated
d/b/a La Teresita

Case No. L06-3-1159

Respondent.
_____ /

CORRECTED ASSURANCE OF VOLUNTARY COMPLIANCE

PURSUANT TO the provisions of Chapter 501, Part II, Florida Statutes, the Florida Deceptive and Unfair Trade Practices Act, the State of Florida, Department of Legal Affairs, Office of the Attorney General (hereinafter referred to as the “Department”) caused an investigation to be made into certain business practices of La Teresita, Incorporated, d/b/a La Teresita (hereinafter referred to as “Respondent”), doing business in the State of Florida, and whose principal place of business is located at 3246 West Columbus Drive, Tampa, FL 33607.

IT APPEARS THAT the Respondent is prepared to enter into this Assurance of Voluntary Compliance (hereinafter referred to as “AVC”) without an admission that Respondent violated the law and for the purpose of resolution of this matter with the Department, and the Department, by and through the undersigned, being agreeable, does in this matter accept this AVC in termination of this investigation, pursuant to Section 501.207(6), Florida Statutes, and by virtue of the authority vested in the Department by said statute.

_____ Initials

I. STIPULATED FACTS

1.1 **IT IS HEREBY AGREED** by the parties that on September 14, 2006, Respondent owned and operated La Teresita, Incorporated, d/b/a La Teresita, a restaurant holding a Permanent Food Service license issued by the Department of Business and Professional Regulation, at the location cited above.

1.2 **IT IS FURTHER AGREED THAT**

A. On September 14, 2006, Respondent offered for sale at the business cited above a menu item identified as “Minuta Empairzada (Breaded Grouper Filet).”

B. On September 14, 2006, a representative of the Department purchased a serving of the “Minuta Empairzada (Breaded Grouper Filet)” menu item at Respondent’s place of business.

C. A sample of the “Minuta Empairzada (Breaded Grouper Filet)” menu item purchased as described above was provided to the Whitney Laboratory for Marine Bioscience. The Whitney Laboratory for Marine Bioscience tested the sample and determined that the sample was not grouper.

1.3 **IT IS FURTHER AGREED** that the Department investigated the foregoing alleged violation of Chapter 501, Part II, Florida Statutes, and Section 501.142, Florida Statutes. Respondent and the Department desire to resolve the issues raised during the course of this investigation.

1.4 **IT IS HEREBY AGREED** by the parties that this AVC is based upon the stipulated facts set forth in Paragraphs 1.1 through 1.3, above. The Department shall not be estopped from taking further action in this matter should the facts described herein be shown to

be incorrect in any material way, or this AVC not be complied with, in full, no later than February 28, 2007.

II. PRACTICES ENJOINED AND PROHIBITED

2.1 **IT IS HEREBY AGREED** by the parties that the Respondent, whether acting directly or indirectly through agents, employees, representatives, successors, assigns, or any other person who acts under, by, through, or on behalf of Respondent, is permanently enjoined, restrained, and prohibited from engaging in any unconscionable, deceptive, or unfair practice relating to Respondent's restaurant business practices as prohibited by Florida Statutes.

Specifically, Respondent is enjoined, restrained, and prohibited from:

A. Portraying grouper and or grouper products on their restaurant menu unless sufficient authentic grouper and/or grouper products are available within Respondent's business to satisfy customer orders.

B. Substituting other fish and/or fish products for menu items identified as grouper.

III. COMPLIANCE

3.1 **IT IS HEREBY AGREED** by the parties that Respondent, whether acting directly or indirectly through agents, employees, representatives, successors, assigns, or any other person who acts under, by, through, or on behalf of Respondent, or through any corporate or other device, shall comply with and have actual knowledge of Chapter 501, Part II, Florida Statutes, the Florida Deceptive and Unfair Trade Practices Act.

3.2 **IT IS FURTHER AGREED** by the parties that the Respondent shall make the terms and conditions of this AVC known to all employees, representatives, agents, successors, assigns, or any other person who acts under, by, through, or on behalf of Respondent, engaged in Respondent's business.

3.3 **IT IS FURTHER AGREED** by the parties that Respondent shall not effect any change in any form of doing business or organizational identity as a method of avoiding the terms and conditions of this AVC.

IV. STIPULATED PAYMENT

4.1 **IT IS HEREBY AGREED** by the parties that Respondent will pay FOUR THOUSAND FIVE HUNDRED DOLLARS (\$4,500.00) as costs and fees to the Department of Legal Affairs Revolving Trust Fund. Payment will be made by certified funds payable to The Department of Legal Affairs Revolving Trust Fund at the time this AVC is executed. This payment amount shall be deposited in the Department of Legal Affairs' Revolving Trust Fund, in accordance with Section 501.2101(1), Florida Statutes.

4.2 **IT IS FURTHER AGREED** by the parties that Respondent will donate FIVE HUNDRED DOLLARS (\$500) to the Whitney Laboratory for Marine Bioscience for the costs incurred by the laboratory for fish sample testing and documentation. Payment will be made by certified funds payable to UF Foundation, Incorporated for Laboratory Fund # 003567 at the time this AVC is executed.

4.3 Payment of the above costs and fees and donation shall be by certified funds made payable as described above and will be delivered along with this executed AVC to: Office of The Attorney General, ATTN: Elton J. Gissendanner, Assistant Attorney General,

3507 East Frontage Road, Suite 325, Tampa, FL 33607.

V. FUTURE VIOLATIONS

IT IS HEREBY AGREED by the parties that any subsequent failure to comply with the terms and conditions of this AVC is by statute prima facie evidence of a violation of Chapter 501, Part II, Florida Statutes, and will subject Respondent to any and all civil penalties and sanctions authorized by law, including attorney's fees and costs.

VI. ACCEPTANCE

IT IS HEREBY AGREED by the parties that this AVC shall become effective upon its acceptance by the Department, who may refuse to accept it at its discretion. The receipt of or deposit by the Department of any monies pursuant to this AVC does not constitute acceptance by said Department, and monies received will be returned if this AVC is not accepted.

IN WITNESS WHEREOF, Respondent has caused this AVC to be executed by an authorized representative, as a true act and deed, in the County and State listed below, as of the date affixed thereon.

BY MY SIGNATURE I hereby affirm that I am acting in my capacity and within my authority as a corporate officer of Respondent's business, and that by my signature I am binding Respondent's business to the terms and conditions of this AVC.

**LA TERESITA, INCORPORATED
d/b/a LA TERESITA**

MAXIMINO CAPDEVILA, President

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, personally appeared Maximino Capdevila, who acknowledged before me that he executed the foregoing instrument for the purposes therein stated, on this ____ day of _____, 2007.

Sworn to and subscribed before me this ____ day of _____, 2007.

Notary Public
State of Florida

Type of identification produced: Florida driver license #

FOR THE OFFICE OF THE ATTORNEY GENERAL

ELTON J. GISSENDANNER
Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
3507 East Frontage Road, Suite 325
Tampa, FL 33607
(813) 287-7950

Accepted this ____ day of _____, 2007.

MARY LEONTAKIANAKOS
Director, Economic Crimes Division
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