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8 Attorneys for Complainant

9 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
10 OF THE STATE OF CALIFORNIA

11 In the Matter of:)
12 THE COMMISSIONER OF FINANCIAL)
13 PROTECTION AND INNOVATION,) CONSENT ORDER
14 Complainant,)
15 v.)
16 K&S CO., LTD, doing business as)
17 WARABIMOCCHI KAMAKURA,)
18 Respondent.)

19 This Consent Order is entered into between the Commissioner of Financial Protection and
20 Innovation (Commissioner) and K&S Co., Ltd, doing business as Warabimochi Kamakura (K&S)
21 (collectively the Parties) and is made with respect to the following facts:

22 **I.**

23 **Recitals**

24 A. The Commissioner is the head of the Department of Financial Protection and
25 Innovation (Department) and is responsible for administering and enforcing the Franchise
26 Investment Law (FIL) (Corp. Code, § 31000 et seq.),¹ and registering the offer and sale of franchises
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¹ All further statutory references are to the Corporations Code unless otherwise indicated.

1 in California. To register a franchise, a franchisor must file an application which includes a Uniform
2 Franchise Disclosure Document (FDD) with the Department for review and approval, in accordance
3 with sections 31111 and 31114. The FIL requires franchisors to disclose certain material
4 information which is intended to provide prospective franchisees with facts upon which to make an
5 informed decision to purchase a franchise, as stated in section 31001.

6 B. At all relevant times, K&S Co., Ltd, doing business as Warabimochi Kamakura is a
7 Japanese corporation B1 Higashi Ward Office, 1-4-1 Shimokido Higashi Ward, Niigata City, Japan.
8 At all relevant times, K&S offers franchises for shops featuring Japanese sweets and beverages to
9 California investors.

10 C. Pursuant to Corporations Code section 31150, every franchisor offering franchises for
11 sale in this state shall at all times keep and maintain a complete set of books, records, and accounts
12 of such sales.

13 1. For each franchise offered and sold in California, the following books, records
14 and accounts must be kept by the franchisor: (1) FDD; (2) FDD receipt with a signature and date of
15 the prospective and actual franchisee; (3) Franchise agreement executed (signed and dated) by both
16 the franchisor and franchisee; and (4) Proof of payment and receipt of the initial franchise fee.

17 2. On or about November 5, 2025, the Department issued a compliance inquiry
18 (Inquiry) to K&S that included a request for an executed FDD receipt relating to the offer and sale of
19 an unregistered K&S outlet. K&S stated to the Department that it did not have an FDD receipt for
20 the transaction. As such, the response was incomplete as the required record (the executed FDD
21 receipt) was not included in the response to the Department. Therefore, K&S violated section 31150
22 of the FIL for failing to maintain and submit books, accounting and records required.

23 D. Pursuant to section 31119, it is unlawful to sell any franchise without first providing
24 a prospective franchisee with the FDD at least fourteen (14) days prior to the execution of a
25 franchise agreement or receipt of consideration.

26 1. K&S offered and sold a K&S franchise on or about May 31, 2024. As
27 stated in paragraph A above, K&S failed to provide the Commissioner with the required executed
28 FDD receipt for the sale. Therefore, it is presumed that K&S failed to provide the franchisee buyer

of the K&S franchise with the FDD at least fourteen (14) days prior to the execution of a franchise agreement or receipt of consideration in violation of section 31119 of the FIL.

E. Pursuant to section 31110, it is unlawful for any person to offer or sell a franchise in this state unless the offer has been registered with the Commissioner or is exempted.

1. K&S entered into at least one (1) franchise agreement for the operation of a store, using a system prescribed by K&S on May 31, 2024. K&S was not registered to offer and sell franchises by the Commissioner pursuant to the FIL on May 31, 2024. Therefore, K&S violated section 31110 of the FIL.

F. The Commissioner hereby finds as follows:

1. K&S, in at least one (1) instance, failed to maintain a complete set of books, records, and accounts, in violation of section 31150;

2. On at least one (1) occasion, K&S engaged in the sale of a K&S franchise without first providing the franchisee with the FDD at least fourteen (14) days prior to the execution of a franchise agreement or receipt of consideration, in violation of section 31119; and

3. K&S offered and sold at least one (1) K&S franchise without being registered with the Commissioner or exempt, in violation of section 31110.

NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set forth herein, the Parties agree as follows:

II.

Terms and Conditions

1. Purpose. This Consent Order resolves the issues set forth above before the Commissioner in a manner that avoids the expense of a hearing and other possible court proceedings, protects consumers, is in the public interest, and is consistent with the purposes and provisions of the applicable law.

2. Desist and Refrain Order. Pursuant to Corporations Code section 31406, K&S Co., Ltd, doing business as Warabimochi Kamakura is hereby ordered to desist and refrain from the violations of Corporations Code sections 31110, 31119, 31150 and any other provision of the FIL.

1 The issuance of this order is necessary, in the public interest, for the protection of investors and is
2 consistent with the purposes, policies, and provisions of the FIL.

3 3. Penalties. Pursuant to Corporations Code section 31406, K&S Co., Ltd, doing
4 business as Warabimochi Kamakura shall pay the Department administrative penalties in the amount
5 of \$2,500 for at least three (3) violations no later than fifteen (15) days after the Effective Date of
6 this Consent Order as defined in paragraph 21 (Effective Date). The administrative penalty amount
7 is reduced because K&S self-reported FIL violations to the Department. The Penalties must be made
8 payable in the form of a cashier's check or Automated Clearing House deposit to the Department
9 and transmitted to the attention of Accounting-Legal at the Department of Financial Protection and
10 Innovation, 651 Bannan Street, Suite 300, Sacramento, California 95811. Notice of the payment
11 must be concurrently sent via email to marisa.urteaga-watkins@dfpi.ca.gov. Failure to pay Penalties
12 in a timely manner shall be deemed to be a material breach of this Consent Order.

13 4. Waiver of Hearing Rights. K&S acknowledges that the Commissioner is ready,
14 willing, and able to proceed with the filing of an administrative enforcement action on the charges
15 contained in this Consent Order. K&S hereby waives the right to any hearings, and to any
16 reconsideration, appeal, or other right to review which may be afforded pursuant to the FIL, the
17 Administrative Procedure Act (APA), the Code of Civil Procedure (CCP), or any other provision of
18 law. K&S further expressly waives any requirement for the filing of any accusation pursuant to
19 Government Code section 11415.60, subdivision (b). By waiving such rights, K&S effectively
20 consents to this Consent Order and all of its terms becoming final.

21 5. Failure to Comply with Consent Order. K&S agrees that if it fails to comply with
22 the Desist and Refrain Order in this Consent Order, the Commissioner may, in addition to all other
23 available remedies it may invoke under the FIL, summarily suspend, revoke, or deny its FIL
24 registration (if applicable). K&S stipulates to the finality of any such FIL registration suspensions,
25 revocations, or denials that the Commissioner may order. K&S waives any notice and hearing
26 rights to contest such summary suspensions, revocations, or denials which may be afforded under
27 the FIL, the APA, the CCP, or any other provision of law in connection therewith.
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1 6. Information Willfully Withheld or Misrepresented. This Consent Order may be
2 revoked, and the Commissioner may pursue any and all remedies available under law against K&S,
3 if the Commissioner discovers that K&S knowingly or willfully withheld or misrepresented
4 information used for and relied upon in this Consent Order.

5 7. Future Actions by Commissioner. If K&S fails to comply with any terms of the
6 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise
7 resolved by this Consent Order. The Commissioner reserves the right to bring any future actions
8 against K&S, or any of its partners, owners, officers, shareholders, directors, employees, or
9 successors for any and all unknown violations of the FIL or any other law under the Commissioner's
10 jurisdiction.

11 8. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner's
12 ability to assist any other government agency (whether city, county, state, or federal) with any
13 administrative, civil, or criminal action brought by that agency against K&S, or any other person
14 based upon any of the activities alleged in this matter or otherwise.

15 9. Headings. The headings to the paragraphs of this Consent Order are inserted for
16 convenience only and will not be deemed a part hereof or affect the construction or interpretation of
17 the provisions hereof.

18 10. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in
19 interest.

20 11. Reliance. Each of the Parties represents, warrants, and agrees that in executing this
21 Consent Order, it has relied solely on the statements set forth herein and the advice of its own
22 counsel. Each of the Parties further represents, warrants, and agrees that in executing this Consent
23 Order, it has placed no reliance on any statement, representation, or promise of any other Party, or
24 any other person or entity not expressly set forth herein, or upon the failure of any Party or any
25 other person or entity to make any statement, representation, or disclosure of anything whatsoever.
26 The Parties have included this clause: (1) to preclude any claim that any Party was in any way
27 fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of parol
28 evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

1 12. Waiver, Amendments, and Modifications. No waiver, amendment, or modification
2 of this Consent Order will be valid or binding unless it is in writing and signed by each of the
3 Parties. The waiver of any provision of this Consent Order will not be deemed a waiver of any
4 other provision. No waiver by either Party of any breach of, or of compliance with, any condition
5 or provision of this Consent Order by the other Party will be considered a waiver of any other
6 condition or provision or of the same condition or provision at another time.

7 13. Full Integration. This Consent Order is the final written expression and the complete
8 and exclusive statement of all the agreements, conditions, promises, representations, and covenant
9 between the Parties with respect to the subject matter hereof, and supersedes all prior or
10 contemporaneous agreements, negotiations, representations, understandings, and discussions
11 between and among the Parties, their respective representatives, and any other person or entity with
12 respect to the subject matter covered hereby.

13 14. Governing Law. This Consent Order will be governed by and construed in
14 accordance with California law. Each of the Parties hereto consents to the jurisdiction of such
15 court, and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an
16 inconvenient forum to the maintenance of such action or proceeding in such court.

17 15. Counterparts. This Consent Order may be executed in one or more separate
18 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
19 together constitute a single document.

20 16. Effect Upon Future Proceedings. If K&S applies for any license, registration,
21 permit, or qualification under the Commissioner's current or future jurisdiction, or is the subject of
22 any future action by the Commissioner to enforce this Consent Order, then the subject matter hereof
23 shall be admitted for the purpose of such application(s) or enforcement proceeding(s).

24 17. Voluntary Agreement. K&S enters into this Consent Order voluntarily and without
25 coercion and acknowledges that no promises, threats, or assurances have been made by the
26 Commissioner or any officer, or agent thereof, about this Consent Order. The Parties each
27 represent and acknowledge that he, she, or it is executing this Consent Order completely voluntarily
28 and without any duress or undue influence of any kind from any source.

18. Notice. Any notice required under this Consent Order shall be provided to each Party at the following addresses:

To K&S Co., Ltd: Ms. Dawn Newton, Esq.
Donahue Fitzgerald
1999 Harrison Street, 26th Floor
Oakland, CA 94612-3520
dnewton@donahue.com

To the Commissioner: Marisa I. Urteaga-Watkins, Esq.
Department of Financial Protection and Innovation
651 Bannon Street, Suite 300
Sacramento, California 95811
marisa.urteaga-watkins@dfpi.ca.gov

19. Signatures. A fax, scanned, or electronic signature shall be deemed the same as an original signature.

20. Public Record. K&S hereby acknowledges that this Consent Order is and will be a matter of public record.

21. Effective Date. This Consent Order shall become final and effective when signed by all Parties and delivered by the Commissioner’s agent via e-mail to K&S’s agent, Ms. Dawn Newton, Esq., at dnewton@donahue.com.

22. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Consent Order and undertake the obligations set forth herein.

Dated: 12/17/2025

KHALIL MOHSENI
Commissioner of Financial Protection
and Innovation

By: _____
COLLEEN MONAHAN
Deputy Commissioner

Dated: 12/12/2025

K&S CO., LTD, DOING BUSINESS AS
WARABIMUCHI KAMAKURA

By: _____
SHINJI TANAKA
President