

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT (“Agreement”) is entered into as of August 20, 2009 (“Effective Date”) by and between the California Corporations Commissioner (“Commissioner”) on the one hand, and Universal Interactive LLC (“UI”), Universal Interactive Licensing LLC (“UIL”), Shamitoff Industries, Inc. (“SI”), Joel Barry Shamitoff (“Shamitoff”) and John Dennis Lucero (“Lucero”) (collectively “Respondents”). (The Commissioner and the Respondents are collectively referred to herein as the “Parties”).

RECITALS

This Agreement is made with reference to the following facts:

- A. UI is a limited liability company, duly formed and existing pursuant to the laws of the State of Delaware, and authorized to conduct business in California. UI has its principal place of business located at 4924 Hollycrest Way, Fair Oaks, California 95628.
- B. UIL is a limited liability company in good standing, duly formed and existing pursuant to the laws of the State of Delaware, and authorized to conduct business in California. UIL has its principal place of business located at 4924 Hollycrest Way, Fair Oaks, California 95628.
- C. SI is a corporation in good standing, duly formed and existing pursuant to the laws of the State of Nevada, and authorized to conduct business in California. SI has its principal place of business located at 29 Tall Hedge, Irvine, California 92603.
- D. At all relevant times, Shamitoff and Lucero were residents of the State of California. Shamitoff is the registered agent for SI; Lucero is the registered agent for UI and UIL.
- E. On February 17, 2009, the Commissioner issued a Desist and Refrain Order (the “Order”) alleging that Respondents had engaged in unlicensed activity in 2005 through 2007 in violation of the California Franchise Investment Law, and specifically California Corporations Code section 31110 (prohibiting, the offer and sale of franchises in California that are subject to registration under the Franchise Investment Law without the offers first being registered); and California Corporations Code section 31201(prohibiting the offer or sale of franchises by means of written or oral communications that includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statement made, in the light the circumstances under which they were made, not misleading.)
- F. Respondents timely filed a notice challenging the Order and its contents and requesting a hearing pursuant to Govt. Code section 11500 et. seq.
- G. It is the intention and desire of the Parties to resolve this matter without the necessity of a hearing and/or other litigation, whereupon the following terms and conditions are set forth below.

NOW, THEREFORE, for good and valuable consideration, and the terms and conditions set forth herein, the Parties agree as follows:

TERMS AND CONDITIONS

1. Purpose. The purpose of this Agreement is to settle and resolve the matters between the Parties hereto, for judicial economy and expediency, and to avoid the expense of a hearing, and possible further court and administrative proceedings.

2. Waiver of Hearing Rights. Respondents acknowledge their right to a hearing under the CFIL in connection with the Order and, without being deemed to have admitted or conceded to the allegations in the Order, hereby waive that right to a hearing, and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the CFIL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law.

3. Terms of Settlement.

(a) The Respondents agree, from the date of execution of this Stipulation, pursuant to California Corporations Code section 31110, not to offer and/or sell franchises in the State of California without registration, unless such franchise is exempt or not subject to registration under Chapter 2, (commencing with section 31100 of the California Corporations Code). The Respondents further agree, from the date of execution of this Stipulation pursuant to Corporations Code section 31201 not to offer and/or sell franchises in the State of California by means of written or oral communications that include an untrue statement of a material fact or omits to state a material fact necessary in order to make the statement made, in the light of circumstances under which they were made, not misleading.

(b) The Respondents further agree, from the date of the execution of this Stipulation, to comply with all exemption provisions of the CFIL as and where applicable and stipulate that they shall bear the burden of proving any exemption or exception from a definition set out in the CFIL, as required by California Corporations Code section 31153.

(c) The Parties hereto further stipulate that if evidence of the continuing offer or sale of unregistered, non-exempt franchises by Respondents is discovered after the execution of this Stipulation, the Commissioner may seek additional remedies against Respondents. These remedies include, but are not limited to, civil injunctive and ancillary relief and /or criminal prosecution as set out in the relevant parts of the CFIL, California Corporations Code Sections 31000 et.seq.

(d) The Parties agree that they shall each bear their own costs and attorneys fees.

(e) In final settlement of the entire matter raised by the Order, Respondents shall remit to the Commissioner within 15 days of the execution of this Agreement the total sum of \$7500.

(f) Except as to those third parties who are presently in litigation with Respondents, or those third parties who in the future initiate litigation against Respondents, the Respondents agree that they hereby waive any allegation that the cooperation by such third party with the Commissioner in this

matter is a violation of the confidentiality provision contained in any previously executed agreement between Respondents and said third party.

4. No Admissions. This agreement is entered into solely as a matter of compromise of a disputed claim. Respondents do not admit to any of the findings or conduct averred in the Order and specifically deny that any wrongdoing was committed by them or their officers, directors, shareholder, employees or agents. Nothing in this Agreement, including the waiver of rights to appeal or seek reconsideration of the Order, shall be considered as either an express or implied admission of any kind. This agreement is to be construed and treated as settlement and offer of compromise pursuant California Evidence Code section 1152 and the California Administrative Procedure Act, California Government Code section 11415.60.

5. Effective Date. This Agreement shall not become effective until signed and delivered by all parties whereupon the Effective Date will be deemed to be as set forth above.

6. Scope of Settlement Agreement Coverage. The parties hereby acknowledge and agree that this Agreement is intended to constitute a full, final and complete resolution of this matter and Respondents are hereby released and forever discharged, as to the Department, from further orders, liability, charges, or payment of fees in connection with the subject matter of this Agreement, whether known or unknown. Specifically, to the extent any complaint against Respondents has been brought or in the future is brought to the Department for unregistered or otherwise allegedly improper activity arising under the CFIL that occurred prior to the Effective Date of this Agreement, this settlement will be a bar to further proceedings by the Department and the fact of this Agreement and any findings in the Order are not deemed binding, preclusive or admissible against Respondents in any action brought by third parties. The Parties further acknowledge and agree that nothing contained in this Agreement shall operate to limit the Commissioner's ability to assist any other agency, (county, state or federal) with any prosecution, administrative, civil or criminal, brought by any such agency against Respondents based upon any of the activities alleged in this matter or otherwise.

7. Independent Legal Advice. Each of the Parties represents, warrants, and agrees that it has received independent legal advice from its attorneys with respect to the advisability of executing this Agreement.

8. No Other Representation. Each of the Parties represents, warrants, and agrees that in executing this Agreement it has relied solely on the statements set forth herein and the advice of its own counsel. Each of the Parties further represents, warrants, and agrees that in executing this Agreement he/she/it has placed no reliance on any statement, representation, or promise of any other Party, or any other person or entity not expressly set forth herein, or upon the failure of any Party or any other person or entity to make any statement, representation or disclosure of anything whatsoever. The Parties have included this clause: (1) to preclude any claim that any Party was in any way fraudulently induced to execute this Agreement; and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this Agreement.

9. Effect on Others: The terms of this Agreement shall bind and inure to the benefit of the Parties and their heirs, executors, administrators, legal representatives, attorneys, subrogees, successors, assigns, predecessors in interest, insurance companies, adjusters, insurance agents and brokers, investigators,

appraisers, directors, officers, owners, stockholders, employees, agents, representatives and all parent, subsidiary, allied or affiliated corporations or survivors by merger.

10. **Modifications and Qualified Integration.** No amendment, change or modification of this Agreement shall be valid or binding to any extent unless it is in writing and signed by all of the Parties affected by it.

11. **Full Integration.** This Agreement, is the final written expression and the complete and exclusive statement of all the agreements, conditions, promises, representations, and covenants between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements, negotiations, representations, understandings, and discussions between and among the parties, their respective representatives, and any other person or entity, with respect to the subject matter covered hereby.

12. **No Presumption from Drafting:** In that the Parties have had the opportunity to draft, review and edit the language of this Agreement, no presumption for or against any Party arising out of drafting all or any part of this Agreement will be applied in any action relating to, connected to, or involving this Agreement. Accordingly, the Parties waive the benefit of California Civil Code section 1654 and any successor or amended statute, providing that in cases of uncertainty, language of a contract should be interpreted most strongly against the Party who caused the uncertainty to exist.

13. **Counterparts.** This Agreement may be executed in any number of counter-parts by the Parties, and when each Party has signed and delivered at least one such counterpart to the other Party, each counterpart shall be deemed an original and taken together shall constitute one and the same Agreement.

14. **Headings and Governing Law.** The headings to the paragraphs of this Agreement are inserted for convenience only and will not be deemed a part hereof or affect the construction or interpretation of the provisions hereof. This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of California.

15. **Authority for Settlement.** Each Party warrants and represents that such Party is fully entitled and duly authorized to enter into and deliver this Agreement. In particular, and without limiting the generality of the foregoing, each Party warrants and represents that it is fully entitled to enter into the covenants, and undertake the obligations set forth herein.

16. **Public Record.** Respondents hereby acknowledges that this Agreement will be a matter of public record, and should enforcement require appropriate judicial action or review the Agreement will be admissible and subject to disclosure in any court of competent jurisdiction solely for enforcement purposes.

17. **Voluntary Agreement.** The Parties each represent and acknowledge that he, she or it is executing this Agreement completely voluntarily and without any duress or undue influence of any kind from any source.

IN WITNESS WHEREOF, the Parties hereto have approved and executed this Agreement on the dates set forth opposite their respective signatures.

Dated: August 20, 2009

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
ALAN S. WEINGER
Deputy Commissioner

Dated: August 20, 2009

UNIVERSAL INTERACTIVE LLC

By: _____
John D. Lucero, President

Dated: August 20, 2009

UNIVERSAL INTERACTIVE LICENSING LLC

By: _____
John D. Lucero, President

Dated: August 20, 2009

SHAMITOFF INDUSTRIES, INC.

By: _____
Joel B. Shamitoff, President

Dated: August 20, 2009

By: _____
John Dennis Lucero, Individually

Dated: August 20, 2009

By: _____
Joel Barry Shamitoff, Individually

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STATE OF CALIFORNIA
BUSINESS TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: Joel Barry Shamitoff
Shamitoff Industries Inc.
29 Tall Hedge
Irvine, CA 92603

John Dennis Lucero
Universal Interactive LLC
Universal Interactive Licensing LLC
4924 Hollycrest Way
Fair Oaks, CA 95628

CITATIONS
And
DESIST AND REFRAIN ORDERS

(For violation of sections 31110 and 31201 of the Corporations Code)

The California Corporations Commissioner finds that:

1. At all relevant times Joel Barry Shamitoff (“Shamitoff”) was a resident of California. Shamitoff is the registered agent for a Nevada corporation, Shamitoff Industries Inc., (Shamitoff Industries) formed in 1990, and located at 29 Tall Hedge, Irvine, CA 92603.

2. At all relevant times John Dennis Lucero (“Lucero”) was a resident of California. John D. Lucero is a registered agent of Universal Interactive LLC, (Universal) and Universal Interactive Licensing LLC, (Universal Licensing), both Delaware corporations that filed in California on January 30, 2007, with a business address of 4924 Hollycrest Way, Fair Oaks, CA 95628. Shamitoff Industries, Universal, and Universal Licensing are hereinafter collectively referred to as the Franchisors.

3. Commencing in 2005, and continuing until at least 2007, Shamitoff and Lucero and the Franchisors offered for sale and sold franchises in California creating the right to sell soft toys under the trademark “Snapables”. The sale of the rights to sell Snapables were franchises as defined in the California Franchise Investment Law at Corporations Code sections 31000 et seq. Specifically

1 Shamitoff and Lucero and the Franchisors solicited the participation and investment by franchisees,
2 and the agreements with the franchisees constituted franchise agreements under Corporations Code
3 section 31005. These franchises were offered and sold in this state without being registered, or being
4 exempt, in violation of Corporations Code section 31110. These toys were to be sold under a
5 marketing plan developed and closely supervised by Shamitoff, Lucero and the Franchisors.

6 4. The primary distinguishing characteristic of Snapable toys was that the appendages (arms,
7 legs, heads) could be removed and interchanged with other toys made by the same manufacturer, and
8 when the appendages were removed the toy would make a snapping sound. The second
9 distinguishing characteristic of the franchise is that all inventory and product of the franchisees was
10 to be sold out of kiosks by means of a distinct marketing plan that was prescribed in substantial part
11 by Shamitoff, Lucero and the Franchisors. The kiosks would be located in major shopping malls
12 throughout the state of California and around the country. All negotiations for kiosk space were
13 controlled by Shamitoff, Lucero and the Franchisors. Franchisees were specifically instructed not to
14 contact any mall owners, as all communications were by and through the Franchisors. The design of
15 the kiosks was controlled by the Franchisors.

16 5. Each person recruited to purchase a Snapable Toy franchise was required to pay Shamitoff,
17 Lucero and the Franchisors significant sums of money ranging from \$200,000 to \$400,000 to obtain
18 the right to enter into the business. This fee was termed an "Annual Development Expense" but in
19 fact it was a franchise fee. Under Corporations Code section 31011 a "Franchise Fee" means "any fee
20 or charge that a franchisee...is required to pay or agrees to pay for the right to enter into a business
21 under a franchise agreement."

22 6. Shamitoff and Lucero individually and the Franchisors together, made representations to
23 prospective franchisees regarding the existence of contracts with toy manufacturers in China.
24 Prospective franchisees were told that a contract existed with a factory or factories in China to
25 produce required amounts of inventory that would be shipped to the United States in time for the
26 Christmas season of 2005. In fact Shamitoff and Lucero have never presented any proof whatsoever
27 to prospective franchisees that there was in fact a factory in China or a contract with that factory to
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1 manufacture Snapable toys. Shamitoff, Lucero and the Franchisors at all times herein controlled
2 communications with the purported manufacturers.

3 7. Shamitoff and Lucero and the Franchisors sold a franchise to a franchisee in 2007. At the
4 time, Shamitoff and Lucero and the Franchisors failed to disclose to the franchisee the following
5 information:

6 a) That they had sold a similar franchise to another franchisee in 2005.

7 b) That they had made similar representations to the previous franchisee that a certain
8 quantity of inventory would be provided to the franchisee.

9 c) That after more than two years the promised inventory had never been delivered to the first
10 franchisee.

11 8. Based on the foregoing, the California Corporations Commissioner is of the opinion that
12 the franchises offered by Shamitoff, Lucero and the Franchisors were offered or sold in this state by
13 means of written or oral communications which included an untrue statement of a material fact or
14 omitted to state a material fact necessary in order to make the statements made, in the light of the
15 circumstances under which they were made, not misleading, in violation of Corporations Code
16 Section 31201.

17 9. Pursuant to California Corporations Code section 31406, Joel B. Shamitoff, and
18 Shamitoff Industries Inc., John Dennis Lucero, Universal Interactive LLC and Universal
19 Interactive Licensing are hereby ordered to desist and refrain from the further offer or sale of
20 Snapable Toy franchises by means of written or oral communications that include an untrue
21 statement of a material fact or omits to state a material fact necessary in order to make the
22 statement made, in the light of the circumstances under which they were made, not
23 misleading.

24 10. Based upon the foregoing findings, the California Corporations Commissioner is of the
25 opinion that Joel B. Shamitoff, Shamitoff Industries Inc., John Dennis Lucero, Universal Interactive
26 LLC and Universal Interactive Licensing LLC have engaged in the offer and sale of Snapable Toy
27 franchises in California that are subject to registration under the Franchise Investment Law without
28 the offers first being registered, in violation of Corporations Code section 31110. Pursuant to section

1 31406 of the Corporations Code Joel B. Shamitoff, Shamitoff Industries Inc., John Dennis Lucero,
2 Universal Interactive LLC and Universal Licensing LLC are hereby ordered to desist and refrain
3 from the further offer or sale of Snapable Toy franchises unless and until the offers have been duly
4 registered under the Franchise Investment Law, or exempt.

5 11. Further, pursuant to California Corporations Code section 31406, Joel B. Shamitoff, and
6 Shamitoff Industries Inc., are hereby ordered to pay an administrative penalty to the California
7 Corporations Commissioner of \$2500 for the violation of Corporations Code section 31110, and
8 \$2500 for the violation of Corporations Code section 31201. John Dennis Lucero, Universal
9 Interactive LLC and Universal Interactive Licensing LLC are hereby ordered to pay to the California
10 Corporations Commissioner an administrative penalty of \$2500 for the violation of Corporations
11 Code section 31110, and \$2500 for the violation of Corporations Code section 31201.

12 12. These Citations and Orders herein are necessary, in the public interest, for the protection
13 of investors and consistent with the purposes, policies and provision of the Corporate Securities Law
14 of 1968.

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17 Dated: February 17, 2009

PRESTON DuFAUCHARD
California Corporations Commissioner

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21 By: _____
ALAN S. WEINGER
22 Lead Corporations Counsel
23 Enforcement Division
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