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8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA

10 In the Matter of:

) FIL ORG ID.: 92090

11 THE COMMISSIONER OF BUSINESS
12 OVERSIGHT,

) STIPULATION AND AGREEMENT OF
) AMADA FRANCHISE, INC. AND JARED
) GLENN TURNER TO:

13 Complainant,

) (1) DESIST AND REFRAIN FROM
) VIOLATION OF THE CALIFORNIA
) FRANCHISE INVESTMENT LAW;

14 v.

) (2) WAIVE HEARING ON STOP ORDER
) DENYING EFFECTIVENESS OF
) FRANCHISE RENEWAL
) REGISTRATION APPLICATION;

16 AMADA FRANCHISE, INC. (a Wyoming
17 Corporation); JARED GLENN TURNER (an
individual),

) (3) PAY ADMINISTRATIVE PENALTIES
) TO THE COMMISSIONER;

18 Respondents.

) (4) FILE A NOTICE OF VIOLATION AND
) REFUND \$6,000.00 TO CERTAIN
) FRANCHISEES; AND

) (5) OTHER ANCILLARY RELIEF AS
) SPECIFIED HEREIN

1 This Settlement Agreement (“Agreement”) is entered into between Amada Franchise, Inc.
2 (“Amada”) and Jared Glenn Turner, as Executive Chairman of Amada (“Turner”), on the one hand,
3 and the Commissioner of Business Oversight (“Commissioner”), on the other hand. Unless
4 otherwise indicated, Amada, Turner and the Commissioner may be collectively referred to herein as
5 the “Parties”. This Agreement is made with respect to the following facts:

6 **I.**

7 **RECITALS**

8 A. Amada is a Wyoming Corporation formed on January 27, 2012 and is authorized to
9 conduct business in California. Amada’s principal business address is 901 Calle Amanecer, Suite
10 350, San Clemente, California, 92673. Amada formerly conducted business from 2463 El Toro Rd.,
11 Suite 205, Laguna Woods, California 92637. Amada does business under the name “Amada Senior
12 Care”. According to documents filed with the Commissioner, the Amada Senior Care business
13 “provides and markets non-medical homemaker, companionship, personal care services, personal
14 technology services, and equipment to the elderly and others who need assistance in daily living”.

15 B. Turner was Amada’s Chief Operating Officer from January 2012 – March 2014, and
16 has been Amada’s Executive Chairman from April 2014 to the present. Turner has been on Amada’s
17 Board of Directors since January 2012.

18 C. The Commissioner is the head of the Department of Business Oversight
19 (“Department”) and is responsible for administering and enforcing the California Franchise
20 Investment Law (“FIL”) (Corp. Code § 31000, et seq.),¹ and registering the offer and sale of
21 franchises in California. To register a franchise, a franchisor must file a Uniform Franchise
22 Disclosure Document (“Franchise Disclosure Document”) with the Department for review and
23 approval, in accordance with sections 31111 and 31114. The FIL requires franchisors to disclose
24 certain material information which is intended to provide prospective franchisees with facts upon
25 which to make an informed decision to purchase a franchise, as stated in section 31001.

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27 _____
28 ¹ All further statutory references are to the Corporations Code unless otherwise indicated.

1 D. On June 21, 2016 the Commissioner issued a Stop Order Denying Effectiveness of
2 Franchise Renewal Registration Application and Statement In Support of Stop Order Denying
3 Effectiveness of Franchise Renewal Registration Application filed by Amada on April 20, 2015, and
4 Citations Including: (1) Desist and Refrain Order; (2) Assessment of Administrative Penalties; and
5 (3) Claim for Ancillary Relief and Costs (collectively, “Stop Order, Citations, and Desist and Refrain
6 Order”), captioned *In the Matter of The Commissioner of Business Oversight v. Amada Franchise,
7 Inc. (a Wyoming Corporation) and Jared Glenn Turner (an individual)*, FIL Org Id.: 92090, before
8 the Department of Business Oversight (the “Action”). A true and correct copy of the Stop Order and
9 Statement of Facts in Support of Stop Order are attached hereto and incorporated herein by reference
10 as **Exhibit 1**, and a true and correct copy of the Citation and Desist and Refrain Order is attached
11 hereto and incorporated herein by reference as **Exhibit 2**.

12 E. The Stop Order, Citations, and Desist and Refrain Order allege that Amada and
13 Turner: (1) violated FIL section 31200 by willfully making untrue statements of material fact in
14 applications filed with the Commissioner or omitting to state material facts which were required to be
15 stated in the applications filed with the Commissioner; and (2) violated FIL section 31123 by failing
16 to promptly amend Amada’s franchise registration to disclose material facts to the Commissioner.
17 The Stop Order denies effectiveness of Amada’s franchise renewal application filed on April 20,
18 2015, based on its alleged failure to comply with FIL sections 31123 and 31200.

19 F. Amada and Turner maintain that they relied on the advice of their franchise disclosure
20 counsel, who was aware of certain facts relevant to the Commissioner’s allegations in the Action. The
21 purpose of this Agreement is to settle and resolve the Action, for judicial economy and expediency,
22 and to avoid the expense of a hearing, and possible further court proceedings.

23 G. Now, therefore, in consideration of the terms and conditions contained herein, the
24 Parties agree as follows:
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II.

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 proceedings.

2. **Administrative Penalties.** Amada and Turner agree to pay aggregate penalties in the amount of Five Thousand Dollars (\$5,000.00) to the Commissioner (“Penalties”). Such Penalties shall be paid by Amada and/or Turner and received by the Commissioner within ten (10) days of the mutual execution and delivery of this Agreement. The check shall be made payable to “The Department of Business Oversight,” and shall be sent to the following address:

Danielle A. Stoumbos, Esq.
Senior Counsel
Department of Business Oversight
320 W. 4th Street, Suite 750
Los Angeles, CA 90013

In the event the payment due date falls on a weekend or holiday, the payment shall be due the next business day. Amada and Turner acknowledge that failure to timely pay the Penalties in this Agreement shall be a breach of this Agreement and shall be cause for the Commissioner to immediately revoke any licenses held by, and/or deny any pending application(s) of Amada, its successors and assigns, by whatever names they might be known or any other franchisor listing Turner in its franchise application. Amada and Turner hereby waive any notice and hearing rights to contest such revocations and/or denial(s) which may be afforded under the FIL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law in connection therewith.

3. **Amada’s Waiver of Hearing Rights.** Amada acknowledges its right to a hearing under the FIL in connection with the Stop Order, Citations, and Desist and Refrain Order. By entering into this Agreement, Amada hereby agrees to waive its right to a hearing, and to any reconsideration, appeal, or other right to review the Stop Order, Citations, and Desist and Refrain Order, which may be afforded pursuant to the FIL, the California Administrative Procedure Act,

1 the Code of Civil Procedure, or any other provision of law, and understands that by waiving its
2 hearing right, the Stop Order and Desist and Refrain Order become final.

3 4. **Jared Glenn Turner's Waiver of Hearing Rights.** Turner acknowledges his right
4 to a hearing under the FIL in connection with the Desist and Refrain Order. By entering into this
5 Agreement, Turner hereby agrees to waive his right to a hearing, and to any reconsideration,
6 appeal, or other right to review Desist and Refrain Order, which may be afforded pursuant to the
7 FIL, the California Administrative Procedure Act, the Code of Civil Procedure, or any other
8 provision of law, and understands that by waiving his hearing right, the Desist and Refrain Order
9 becomes final.

10 5. **Desist and Refrain Order.** Amada and Turner stipulate to undertake all
11 appropriate steps to assure full compliance with California law in the conduct of Amada's
12 business. Amada and Turner shall desist and refrain from: (1) willfully making untrue statements
13 of material fact in applications filed with the Commissioner or omitting to state material facts
14 which were required to be stated in the applications filed with the Commissioner; and (2) failing to
15 promptly amend Amada's franchise registration to disclose material facts to the Commissioner.

16 6. **Remedial Education.** The following class of persons is required to attend remedial
17 California franchise law compliance education: (1) all persons who assist in preparing Amada
18 franchise materials including but not limited to registrations, renewals, or amendments; (2) any
19 person selling an Amada franchise; and (3) the person who certifies the accuracy of Amada's
20 Franchise Disclosure Document filed with the Commissioner. Each of these persons shall attend
21 eight (8) hours of remedial education each year, for two (2) years, in the form of franchise law
22 training courses offered by a franchise law specialist certified with the State Bar of California or
23 courses offered by the International Franchise Association. Amada shall file proof of compliance,
24 in the form of a sworn statement of each person required to take remedial education, under penalty
25 of perjury, concurrent with the filing of Amada's application for registration or renewal. Amada
26 agrees that the Commissioner may deny Amada's application if proof of compliance is not
27 submitted therewith.

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1 7. **Initial Franchise Registration Application.** Within sixty (60) days of execution of
2 this Agreement, Amada will file an Initial Franchise Registration Application pursuant to section
3 31111, and shall be in full compliance with the FIL (the “New Application”). Amada will disclose
4 this Agreement, the Commissioner’s Stop Order, Citations, and Desist and Refrain Order in the
5 New Application. The Commissioner agrees that any franchise application filed in the future by
6 Amada, or by any other franchisor which discloses Turner or any other person currently disclosed
7 in Item 2 of Amada’s Franchise Disclosure Document, shall not be denied registration solely based
8 on the allegations set forth in the Stop Order, or Citations and Desist and Refrain Order, or any
9 fact, circumstance, act or omission of which the Commissioner had notice in the course of its
10 investigation of the Action.

11 8. **Notice of Violation.**

12 a) Approval. Amada shall comply with section 31303 of the FIL and Title 10 of
13 California Code of Regulations, Rule 310.303 within sixty (60) days of execution of this
14 Agreement by filing an application for approval as to form of a written notice of violation with a
15 Six Thousand Dollar (\$6,000.00) refund to each purchaser of an Amada franchise from Amada
16 from July 19, 2012 through April 22, 2013 and September 1, 2013 through April 20, 2015 (the
17 “Franchise Class”). Amada will submit the Initial Franchise Registration Application and Notice
18 of Violation for approval to the Commissioner, care of:

19 **Shohreh Aram, Esq.**
20 **Senior Counsel**
21 **Department of Business Oversight**
22 **320 West Fourth Street, Suite 750**
23 **Los Angeles, CA 90013**

24 Upon approval from the Commissioner, Amada will deliver the approved Notice of
25 Violation, Initial Franchise Registration, and a Six Thousand Dollar (\$6,000.00) refund to each
26 franchisee in the Franchise Class in accordance with this Agreement and the FIL.

27 b) Preservation of Franchisees Ability to Maintain a Private Action. Nothing in this
28 Agreement prohibits franchisees in the Franchise Class from alleging a private action in accordance
with FIL section 31303, or any other provision of law.

1 c) Offer To Extend Franchise Agreement Term For Two (2) Years. Amada will offer to
2 extend the term of the franchise agreement of each franchisee in the Franchise Class for two (2)
3 additional years without charge or condition.

4 d) Report to Commissioner. Amada will provide the Commissioner with proof of
5 mailing and proof of payment of the refund (the "Report"), within one hundred and twenty (120)
6 days of the Commissioner's Order Approving Amada's Notice of Violation. Amada shall submit
7 the Report to Danielle A. Stoumbos, Senior Counsel, 320 West 4th Street, Suite 750, Los Angeles,
8 CA 90013.

9 9. In House Compliance Officer and Compliance Manual. Amada will appoint an in-
10 house compliance officer and develop a franchise law compliance manual for the company.

11 10. California Franchise Counsel. Amada will engage California-based franchise
12 counsel to advise and represent it with regard to its Franchise Disclosure Document, filings with the
13 Commissioner, and California franchise laws.

14 11. Immediate Suspension of Registration for Failure to Comply With Agreement.
15 Amada and Turner agree that if either party fails to comply with the terms of this Agreement, the
16 Commissioner shall provide Amada and Turner with notice of the failure to comply by sending a
17 certified letter to 901 Calle Amanecer, Suite 350, San Clemente, California, 92673. If Amada and
18 Turner do not cure within 10 business days of the date of the Commissioner's notice, the
19 Commissioner shall immediately suspend any franchise registrations held by, and/or deny any
20 pending franchise application(s) of Amada, its successors and assigns, or any franchise applications
21 of companies in which Turner is an officer, director, control person, or shareholder, until the terms
22 are met. Amada and Turner hereby waive any notice and hearing rights to contest the immediate
23 suspension that may be afforded under the California Corporations Code, the California
24 Administrative Procedure Act, the California Code of Civil Procedure, or any other legal provision.

25 12. Future Actions by the Commissioner. The Commissioner reserves the right to
26 bring any future action(s) against Amada and Turner or any of Amada's partners, owners,
27 officers, directors, shareholders, employees, or successors, for any prior violations, as to which
28 the Commissioner presently lacks knowledge, or any future violations of the FIL. This Agreement

1 shall not serve to exculpate Turner or Amada, or any of its partners, owners, officers, directors,
2 shareholders, employees, or successors, from liability for such. However, this Agreement resolves
3 and discharges Amada and Turner of any further liability, fine or discipline, or other punitive
4 sanction or remedy, that could have been brought by the Commissioner arising out of or relating to
5 the allegations made in the Stop Order, Citations, and Desist and Refrain Order, or any fact,
6 circumstance, act or omission which the Commissioner, its counsel, investigators or agents know,
7 or had notice of, in the course of the Action or any investigation relating to the Action.

8 13. **Effective Date.** This Agreement shall become effective upon the receipt by each of
9 the Parties of an electronic copy of this Agreement signed by all Parties.

10 14. **Agreement Coverage.** The Parties hereby acknowledge and agree that this
11 Agreement is intended to constitute a full, final, and complete resolution of the Action. The
12 Parties further acknowledge and agree that nothing contained in this Agreement shall operate to limit
13 the Commissioner's ability to assist any other agency, county, or state or federal entity, with any
14 prosecution, administrative, civil or criminal, brought by any such agency against Amada or
15 Turner based upon any of the conduct alleged in the Action.

16 15. **Independent Legal Advice.** Each of the Parties represents, warrants, and agrees
17 that it has received or been advised to seek independent legal advice with respect to the
18 advisability of executing this Agreement.

19 16. **No Other Representation.** Each of the Parties represents, warrants, and agrees that in
20 executing this Agreement it has relied solely on the statements set forth herein and the advice of its
21 own counsel. Each of the Parties further represents, warrants, and agrees that in executing this
22 Agreement it has placed no reliance on any statement, representation, or promise of any other
23 party, or any other person or entity not expressly set forth herein, or upon the failure of any party or
24 any other person or entity to make any statement, representation or disclosure of anything
25 whatsoever. The Parties have included this clause: (1) to preclude any claim that any party was in
26 any way fraudulently induced to execute this Agreement; and (2) to preclude the introduction of
27 parol evidence to vary, interpret, supplement, or contradict the terms of this Agreement.
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1 17. **Modifications and Qualified Integration.** No amendment, change or
2 modification of this Agreement shall be valid or binding to any extent unless it is in writing
3 and signed by all of the Parties.

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

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

17 20. **Signatures.** A fax signature or e-mail scanned signature of this Agreement shall be
18 as effective as an original ink signature.

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

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

27 23. **Authority For Settlement.** Each party warrants and represents that such party is
28 fully entitled and duly authorized to enter into and deliver this Agreement. In particular, and

1 without limiting the generality of the foregoing, each party warrants and represents that it is fully
2 entitled to enter into the covenants, and undertake the obligations set forth herein.

3 24. **Public Record.** Amada and Turner hereby acknowledge that this Agreement, and
4 the Stop Order, Citations, and Desist and Refrain Order are and will be a matter of public record.

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

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

3 JAN LYNN OWEN
4 Commissioner of Business Oversight

5 Dated: 8/12/16 By _____
6 Mary Ann Smith
7 Deputy Commissioner

8 AMADA FRANCHISE, INC.

9 Dated: 8/8/16 By _____
10 Jared Glenn Turner
11 Executive Chairman

12 JARED GLENN TURNER,
13 Executive Chairman of Amada Franchise, Inc.

14 Dated: 8/8/16 By _____
15 Jared Glenn Turner

16 APPROVED AS TO FORM:

17 Dated: 8/11/16 By _____
18 Danielle A. Stoumbos
19 Senior Counsel
20 Department of Business Oversight

21 Dated: 8/10/16 By _____
22 Michael R. MacPhail, Esq.
23 Faegre Baker Daniels LLP
24 Counsel for Amada Franchise, Inc. and
25 Jared Glenn Turner

26 Dated: 8/10/16 By _____
27 Matthew B. Gruenberg, Esq.
28 Barnes & Thornburg LLP
Counsel for Amada Franchise, Inc. and
Jared Glenn Turner