

MARY ANN SMITH
Deputy Commissioner
SEAN M. ROONEY
Assistant Chief Counsel
DANIELLE A. STOUMBOS (State Bar No. 264784)
Senior Counsel
Department of Business Oversight
320 West 4th Street, Suite 750
Los Angeles, California 90013
Telephone: (213) 576-7591
Facsimile: (213) 576-7181

Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	FIL ORG ID.: 92090
)	
THE COMMISSIONER OF BUSINESS OVERSIGHT,)	CITATIONS INCLUDING:
)	
Complainant,)	(1) DESIST AND REFRAIN ORDER;
)	
v.)	(2) ASSESSMENT OF ADMINISTRATIVE PENALTIES; AND
)	
AMADA FRANCHISE, INC.(a Wyoming Corporation); JARED GLENN TURNER (an individual))	(3) CLAIM FOR ANCILLARY RELIEF AND COSTS
)	
Respondents.)	
)	
)	
)	

Complainant, the Commissioner of Business Oversight for the State of California (“Commissioner”) (formerly the Commissioner of Corporations) is informed and believes, and based on such information and belief, finds as follows:

I
Introduction

1. Amada Franchise, Inc. (“Amada”) is a Wyoming Corporation formed on January 27, 2012 and is authorized to conduct business in California. Amada’s principal business address is 901 Calle Amanecer, Suite 350, San Clemente, California, 92673. Amada formerly conducted business

1 from 2463 El Toro Rd., Suite 205, Laguna Woods, California 92637. Amada does business under
2 the name “Amada Senior Care.” According to documents filed with the Commissioner, the Amada
3 Senior Care business “provides and markets non-medical homemaker, companionship, personal
4 care services, personal technology services, and equipment to the elderly and others who need
5 assistance in daily living.”

6 2. Jared Glenn Turner (“Turner”) was Amada’s Chief Operating Officer from January
7 2012 –March 2014, and has been Amada’s Executive Chairman from April 2014 to the present.
8 Turner has been on Amada’s Board of Directors since January 2012.

9 3. At all relevant times, and since at least January 2012, Jeff R. Putnam (“Putnam”)
10 was Amada’s Chief Financial Officer.

11 4. At all relevant times, Play N Trade Franchise, Inc. (“Play N Trade”) was a Nevada
12 corporation engaged in business activities relating to the franchising of Play N Trade retail outlets
13 offering new and used electronic video games and consoles for consumer purchase. Play N Trade
14 has conducted business from the following locations: 3400 Irvine Avenue, Suite 205, Newport
15 Beach, California 92660; and 131 Calle Iglesia, Suite 200, San Clemente, California 92672.

16 5. At all relevant times, Turner was Play N Trade’s officer, director, consultant, and/or
17 part owner.

18 6. At all relevant times, Putnam was Play N Trade’s Treasurer and Chief Financial
19 Officer.

20 7. The Commissioner is the head of the Department of Business Oversight and is
21 responsible for administering and enforcing the California Franchise Investment Law (“FIL”)
22 (Corporations Code § 31000, et seq.),¹ and registering the offer and sale of franchises in California.

23 8. To register a franchise, a franchisor must file a Uniform Franchise Disclosure
24 Document (“Franchise Disclosure Document”) with the Department for review and approval, in
25 accordance with sections 31111 and 31114.

26
27
28 _____
¹ All further statutory references are to the Corporations Code unless otherwise indicated.

- c. refund unit franchisees \$285,000.00, in the aggregate;
- d. refund area developers approximately \$190,000.00, in the aggregate; and
- e. pay citations, attorney’s fees, and costs to the Commissioner.

12. Under the Play N Trade Stipulation, in the event that Play N Trade officers (including Turner and Putnam) applied for franchise registration with a different franchisor, the Commissioner could consider the Play N Trade enforcement action as a factor in determining whether to approve such registration or application.

13. Also under the terms of the Play N Trade Stipulation, Play N Trade’s principal officers (including Turner and Putnam), employees, in house legal counsel, and compliance officers, were required to attend at least 8 hours of franchise law compliance training from 2010 to 2014, and submit proof of compliance to the Commissioner annually.

B.

Amada’s Initial Application Failed to Disclose Play N Trade As An Affiliate and The Play N Trade Order and Stipulation

14. Amada filed an Initial Franchise Registration Application with the Department on or around June 26, 2012 (“Initial Application”). The Initial Application listed Jared Turner as Amada’s Chief Operating Officer and also stated that he was Play N Trade’s Executive Vice Chairman of the Board.

15. Amada’s Initial Application listed Putnam as Amada’s Chief Financial Officer and also stated that he was Play N Trade’s Treasurer and Chief Financial Officer.

16. Franchisors are required to disclose certain affiliated entities in the franchise registration application. An affiliate is an entity controlled by, controlling, or under common control with another entity. Control may be direct or indirect.

17. From on or around January 2012 to at least November 2013, Turner directly and/or indirectly controlled both Amada and Play N Trade. Specifically, during this time, Turner: was Amada’s Chief Operating Officer and Chairman of the Board, and was Play N Trade’s Executive Vice Chairman of the Board, negotiated with third parties on behalf of Play N Trade, and held high-level business meetings in his home.

1 18. Amada’s Initial Application failed to disclose Play N Trade as an affiliate, and failed
2 to disclose the Commissioner’s 2009 Play N Trade Order and the Play N Trade Stipulation.

3 19. Amada’s omission was in direct contrast with statements made in Play N Trade’s
4 contemporaneously filed Franchise Registration Application disclosing Amada as an affiliate.

5 20. An officer of the applicant is required to review the Franchise Disclosure Document
6 and certify its accuracy to the Commissioner. The Chief Executive Officer and co-founder of
7 Amada, Tafa Jefferson, signed the Initial Application on June 8, 2012 certifying under penalty of
8 law that the documents submitted to the Commissioner did not contain any material
9 misrepresentations or omissions.

10 21. The Department issued an order allowing Amada to offer and sell franchises in
11 California on July 19, 2012. Under this order, Amada’s franchise registration was effective through
12 April 22, 2013.

13
14 C.
Amada and Turner failed to Promptly Notify the Commissioner of Trade2Save’s Lawsuit Against
15 Play N Trade and Turner

16 22. On or around July 19, 2013, Trade2Save.com, Inc. filed a complaint in Contra Costa
17 County Superior Court against defendants Play N Trade Franchise, Inc. and Jared Turner as alter
18 egos for breach of contract and making material intentional misrepresentations (the “Trade2Save
19 Litigation”). Trade2Save.com, Inc. sought \$246,237.45 in damages, interest, and attorney’s fees.

20 23. Turner was personally served with the Trade2Save Litigation on or around August 6,
21 2013.

22 24. Amada was required to promptly amend the Initial Registration to disclose the civil
23 action against Turner. Amada and Turner failed to file a post-effective amendment to disclose the
24 Trade2Save Litigation.

25 ///

26 ///

27 ///

28

1 D.
2 Amada and Turner Failed to Disclose the Trade2Save Lawsuit in Amada’s December 5, 2013 Post-
3 Effective Amendment

4 25. On or around December 5, 2013, Amada filed a post-effective amendment with the
5 Commissioner, amending Amada’s Franchise Disclosure Document. Amada and Turner again
6 failed to disclose the Trade2Save litigation.

7 26. An officer of the applicant is required to review the Franchise Disclosure Document
8 and certify its accuracy to the Commissioner. Turner signed the post-effective amendment’s
9 certification on December 2, 2013, certifying under penalty of law that the documents submitted to
10 the Commissioner did not contain any material omissions.

11 E.
12 Amada and Turner Failed to Disclose the Trade2Save Lawsuit in Amada’s April 16, 2014 Franchise
13 Renewal Application

14 27. Amada filed a franchise renewal application with the Commissioner on or around
15 April 16, 2014. Amada and Turner again failed to disclose the Trade2Save litigation.

16 28. Turner signed the renewal application certification on March 26, 2014, certifying
17 under penalty of law that the documents submitted to the Commissioner did not contain any
18 material omissions.

19 F.
20 Jared Turner’s Franchise Seller Disclosure Form Failed to Disclose the Trade2Save Litigation

21 29. Applicants are further required to identify, on a Franchise Seller Disclosure Form, all
22 persons who will solicit, offer, or sell franchises in California. Applicants are required to disclose
23 whether any sales person:

24 Has an administrative, criminal or material civil action pending against
25 that person alleging a violation of franchise, antitrust of [sic] securities
26 law, or alleging fraud, unfair or deceptive practice or any comparable
27 allegations?

28 30. Amada submitted a Franchise Seller Disclosure Form for Turner with its April 16,
2014 renewal registration application. The above question was answered “No.”

31. Turner signed the certification on March 26, 2014, certifying under penalty of
perjury of law that the documents submitted to the Commissioner did not contain any material
misrepresentations or omissions.

1
2 32. The Department issued an order allowing Amada to offer and sell franchises in
3 California on April 25, 2014. Under this order, Amada’s franchise renewal registration was
4 effective through April 20, 2015.

5 **III**
6 **Citations and Desist and Refrain Order**
7 **Violation of Corporations Code Sections 31123 and 31200**

8 33. Corporations Code section 31123 provides:

9 A franchisor shall promptly notify the commissioner in writing, by an
10 application to amend the registration, of any material change in the
11 information contained in the application as originally submitted, amended
12 or renewed. The commissioner may by rule further define what shall be
13 considered a material change for such purposes, and the circumstances
14 under which a revised offering prospectus must accompany such
15 application.

16 34. Corporations Code section 31200 provides:

17 It is unlawful for any person willfully to make any untrue statement of a
18 material fact in any application, notice or report filed with the
19 commissioner under this law, or willfully to omit to state in any such
20 application, notice, or report any material fact which is required to be
21 stated therein, or fail to notify the commissioner of any material change as
22 required by Section 31123.

23 35. Based upon the foregoing findings, the Commissioner is of the opinion that Amada
24 and Turner, in violation of section 31123, failed to promptly notify the Commissioner of a material
25 change in the information contained in the application as originally submitted.

26 **CITATION A:** Amada and Turner failed to promptly notify the Commissioner in writing of the
27 Trade2Save Litigation.

28 36. Based upon the foregoing findings, the Commissioner is of the opinion that Amada
and Turner willfully made untrue statements of material fact in applications filed with the
Commissioner or omitted to state material facts which were required to be stated in an application
filed with the Commissioner, in violation of section 31200, including the following:

1 **CITATION B:** Amada and Turner willfully failed to disclose Play N Trade as an affiliate in the
2 Initial Application.

3 **CITATION C:** Amada and Turner willfully failed to disclose the Play N Trade Order and Play N
4 Trade Stipulation in the Initial Application.

5 **CITATION D:** Amada and Turner willfully failed to disclose the Trade2Save Litigation in Amada’s
6 December 2013 post-effective amendment.

7 **CITATION E:** Amada and Turner willfully failed to disclose the Trade2Save Litigation in Amada’s
8 April 16, 2014 renewal application filed with the Commissioner.

9 **CITATION F:** Amada and Turner willfully failed to disclose the Trade2Save Litigation in Turner’s
10 Franchise Seller Disclosure Form, attached to the April 16, 2014 renewal application filed with the
11 Commissioner.

12 Pursuant to section 31406, Amada and Turner are hereby cited and ordered to desist and
13 refrain from further violations of the Franchise Investment Law, including sections 31123 and
14 31200.

15 37. This order is necessary, in the public interest, for the protection of franchisees and
16 consistent with the purposes, policies and provisions of the FIL.

17 **IV**
Administrative Penalties

18 38. Corporations Code section 31406 provides:

19
20 (a) If, upon inspection or investigation, based upon a complaint or
21 otherwise, the commissioner has cause to believe that a person is violating
22 any provision of this division or any rule or order promulgated pursuant to
23 this division, the commissioner may issue a citation to that person in
24 writing describing with particularity the basis of the citation. Each citation
25 may contain an order to desist and refrain and an assessment of an
26 administrative penalty not to exceed two thousand five hundred dollars
27 (\$2,500) per violation and shall contain reference to this section, including
28 the provisions of subdivision (c). All penalties collected under this section
shall be deposited in the State Corporations Fund.

(b) The sanctions authorized under this section shall be separate from, and
in addition to, all other administrative, civil, or criminal remedies.

(c) If within 60 days from the receipt of the citation, the person cited fails
to notify the commissioner that the person intends to request a hearing as
described in subdivision (d), the citation shall be deemed final.

1 (d) Any hearing under this section shall be conducted in accordance with
2 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of
3 Title 2 of the Government Code.

4 (e) After the exhaustion of the review procedures provided for in this
5 section, the commissioner may apply to the appropriate superior court for
6 a judgment in the amount of the administrative penalty and order
7 compelling the cited person to comply with the order of the commissioner.
8 The application shall include a certified copy of the final order of the
9 commissioner and shall constitute a sufficient showing to warrant the
10 issuance of the judgment and order.

11 39. Pursuant to section 31406, Amada and Turner are hereby assessed and ordered to
12 pay an administrative penalty of \$15,000.00, which consists of a penalty of \$2,500.00 for each of
13 the six violations of the FIL recited above.

14 40. The administrative penalties in the amount stated above shall be made payable to the
15 Department of Business Oversight and submitted to Danielle A. Stoumbos, Senior Counsel, 320
16 West 4th Street, Suite 750, Los Angeles, California 90013-2344, no later than 60 days from the date
17 of this order.

18 41. This order is necessary, in the public interest, for the protection of investors and
19 franchisees and consistent with the purposes, policies and provisions of the Franchise Investment
20 Law.

21 **V**
22 **Attorney's Fees**

23 42. Corporations Code section 31408 provides:

24 (a) If the commissioner determines it is in the public interest, the
25 commissioner may include in any administrative action brought under this
26 division, including a stop order, a claim for ancillary relief, including, but
27 not limited to, a claim for rescission, restitution or disgorgement or
28 damages on behalf of the persons injured by the act or practice
constituting the subject matter of the action, and the administrative law
judge shall have jurisdiction to award additional relief. The person
affected may be required to attend remedial education, as directed by the
commissioner.

(b) In an administrative action brought under this part the commissioner is
entitled to recover costs, which in the discretion of the administrative law
judge may include any amount representing reasonable attorney's fees and
investigative expenses for the services rendered, for deposit into the State
Corporations Fund for the use of the Department of Corporations.

1
2 43. Pursuant to section 31408, Amada and Turner shall pay attorney's fees to the
3 Department of Business Oversight in the aggregate amount of \$5,000.00, or according to proof.
4 The amount awarded for attorney's fees shall be made payable to the Department of Business
5 Oversight and submitted to Danielle A. Stoumbos, Senior Counsel, 320 West 4th Street, Suite 750,
6 Los Angeles, California 90013-2344, no later than 60 days from the date of this order.

7
8 **VI**
Ancillary Relief and Fees

9 44. Section 31408 provides in relevant part:

10 (a) If the commissioner determines it is in the public interest, the
11 commissioner may include in any administrative action brought under this
12 division, including a stop order, a claim for ancillary relief, including, but
13 not limited to, a claim for rescission, restitution or disgorgement or
14 damages on behalf of the persons injured by the act or practice
15 constituting the subject matter of the action, and the administrative law
16 judge shall have jurisdiction to award additional relief. The person
17 affected may be required to attend remedial education, as directed by the
18 commissioner.

19 (b) In an administrative action brought under this part the commissioner is
20 entitled to recover costs, which in the discretion of the administrative law
21 judge may include any amount representing reasonable attorney's fees and
22 investigative expenses for the services rendered, for deposit into the State
23 Corporations Fund for the use of the Department of Corporations.

24 45. **Remedial Education**. Within sixty (60) days of the date of this order, pursuant to
25 section 31408, all officers, directors, shareholders, and persons employed by Amada who assist in
26 preparing franchise registrations or who assist in franchise selling are hereby required to attend
27 remedial education, which shall consist of eight (8) hours of franchise law training courses per
28 person offered by instructors that are acceptable to the Commissioner. Proof of attendance of the
remedial education shall be submitted to Danielle A. Stoumbos, Senior Counsel, 320 West 4th
Street, Suite 750, Los Angeles, California 90013-2344, no later than ninety (90) days from the date
of this order.

46. **Notice of Violation**. Due to the Commissioner's finding that Amada has committed
violations of section 31200, Amada is hereby ordered to comply with the provisions of section

1 31303 and Title 10 of the California Code of Regulations, Rule 310.303 within sixty (60) days of
2 this order, by submitting a proposed notice of violation to the Department for review and approval
3 to Shohreh Aram, Senior Counsel, Securities Regulation Division, 320 West Fourth Street, Suite
4 750, Los Angeles, California, 90013. Upon the Commissioner’s approval, Amada is hereby ordered
5 to mail a copy of the approved notice of violation to each California franchisee who purchased a
6 franchise between July 19, 2012 through April 22, 2013 and September 1, 2013 through April 20,
7 2015. Amada is hereby ordered to submit proof that the notice of violation has been sent to each
8 franchisee within (30) days after the Department approves the notice of violation.

9 47. **Rescission and Restitution Order**. Due to the Commissioner’s finding that Amada
10 has committed violations of sections 31123 and 31200, Amada is ordered to rescind all franchise
11 agreements entered into with California residents between July 19, 2012 through April 22, 2013 and
12 September 1, 2013 through April 20, 2015 (the “California Franchisees”) and provide restitution (in
13 the amount of the franchise fee collected) to each California Franchisee.

14 48. This order is necessary, in the public interest, for the protection of investors and
15 franchisees and consistent with the purposes, policies and provisions of the Franchise Investment
16 Law.

17 Dated: June 21, 2016
18 Los Angeles, California

JANN LYNN OWEN
Commissioner of Business Oversight

19
20
21 By _____
22 MARY ANN SMITH
23 Deputy Commissioner
24 Enforcement Division
25
26
27
28