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9  
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
11 OF THE STATE OF CALIFORNIA

12 In the Matter of: ) FIL ORG. ID. 331516  
13 )  
14 THE COMMISSIONER OF BUSINESS ) CONSENT ORDER  
OVERSIGHT, )  
15 )  
Complainant, )  
16 )  
v. )  
17 )  
PIARA PIZZA, LLC and SERGIO BAYEH, )  
18 )  
Respondents. )  
19 )  
20 )

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22 Complainant, the Commissioner of Business Oversight (Commissioner), and Respondents,  
23 Piara Pizza, LLC (Piara Pizza) and Sergio Bayeh (Bayeh), (hereinafter, Respondents),  
24 (Commissioner and Respondents are collectively referred to as Parties), enter into this Consent  
25 Order based on the following facts:

26 **Recitals**

27 A. The Commissioner is authorized to administer and enforce the provisions of the  
28 Franchise Investment Law (Corp. Code § 31000 et seq.) (FIL) and the rules and regulations

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promulgated thereunder which control the registration, offer, and sale of franchises in California.

B. The Commissioner brings this action pursuant to the provisions of the FIL, and the rules and regulations promulgated thereunder, including Corporations Code sections 31303, 31402, 31406, and 31408.

C. Respondents admit to the jurisdiction of the Commissioner in this matter and for the purposes of issuing and enforcing this Consent Order.

D. At all relevant times, Piara Pizza was a California limited liability company organized on February 23, 2010, with a business address located at 8808 Painter Avenue, Wittier, California 90602. Piara Pizza is the owner of the trademark “Piara Pizza.”

E. At all relevant times, Piara Franchise Group, Inc. (Piara Franchise) was a California corporation organized on December 6, 2018, with a business address located at 681 S Beach Boulevard, Unit B, La Habra, California 90631. Piara Franchise was formed for the purpose of offering and selling franchises for the operation of pizza restaurants under the trademark “Piara Pizza.”

F. During the relevant timeframe, Piara Franchise was an affiliate of Piara Pizza (collectively, Companies).

G. Bayeh is the President and a control person of the Companies, and as such, is authorized to enter into this Consent Order on behalf of the Companies.

H. From 2011 to 2017 Piara Pizza entered into seven licensing agreements (Agreements) with California companies for the operation of pizza restaurants under the trademark “Piara Pizza” at specified locations in California. Piara Pizza was never registered to offer and sell franchises by the Commissioner pursuant to the FIL.

I. On or about July 17, 2019, Piara Franchise applied to the Department of Business Oversight (Department) for registration to offer and sell franchises in California pursuant to Corporations Code section 31111. In its application, Piara Franchise disclosed that it had since realized that the Agreements entered into by its affiliate Piara Pizza might fall within the definition of “franchise” under the FIL and therefore, the Commissioner might consider the sale of the

1 Agreements unqualified sales of franchises in California.

2 G. The Commissioner, through his representatives at the Department, subsequently  
3 informed Piara Pizza of his intent to commence an administrative enforcement action against Piara  
4 Pizza and Bayeh on the grounds that: 1) the seven Agreements Piara Pizza offered and sold in  
5 California constitute franchises, despite being referred to as “licenses” in the agreements with the  
6 purchasers; 2) Piara Pizza was never registered to offer and sell franchises by the Commissioner  
7 pursuant to the FIL and the sales of the Agreements were not exempt from registration; 3) Piara  
8 Pizza sold the Agreements in this state without first providing to the prospective franchisees, at least  
9 14 days prior to the execution by the prospective franchisee of any binding franchise or other  
10 agreement, or at least 14 days prior to the receipt of any consideration, whichever occurs first, a copy  
11 of the franchise disclosure document; and 4) the seven Agreements previously sold in California as  
12 “license agreements” were sold in violation of Corporations Code sections 31110 and 31119.

13 K. Upon being informed of the Commissioner’s intent to commence an enforcement  
14 action, Piara Pizza admitted that the Agreements constituted franchises and indicated its intent and  
15 desire to cooperate fully with the Department to correct and remedy any past violations and to  
16 consent to the entry of this Consent Order by the Commissioner for the requested relief without the  
17 need for the Commissioner to file the administrative action or for further litigation.

18 **Terms and Conditions**

19 1. **Purpose.** This Consent Order resolves the violations before the Commissioner in a  
20 manner that avoids the expense of a hearing and other possible court proceedings, protects  
21 consumers, is in the public interest, and is consistent with the purposes, policies, and provisions of  
22 the FIL.

23 2. **Desist and Refrain Order.** Pursuant to Corporations Code section 31402, Piara Pizza  
24 is hereby ordered to desist and refrain from the further offer or sale of franchises in violation of  
25 Corporations Code section 31110, unless and until the offers have been duly registered under the FIL  
26 or are otherwise exempt. Pursuant to Corporations Code section 31406, Piara Pizza is hereby  
27 ordered to desist and refrain from the further sale of franchises in this state that are subject to  
28 registration under the FIL in violation of Corporations Code section 31119 without first providing to

1 the prospective franchisee, at least 14 days prior to the execution by the prospective franchisee of  
2 any binding franchise or other agreement, or at least 14 days prior to the receipt of any  
3 consideration, whichever occurs first, a copy of the franchise disclosure document, together with a  
4 copy of all proposed agreements relating to the sale of the franchise.

5 3. Administrative Penalties. Piara Pizza agrees to pay administrative penalties in the  
6 total amount of \$35,000.00. Such payment shall be made within ten (10) business days of the  
7 effective date of this Consent Order, as such date is defined in Paragraph 20 (Effective Date), made  
8 payable in the form of a cashier's check or Automated Clearing House deposit to the "Department of  
9 Business Oversight," and transmitted to the attention of Accounting- Litigation, Department of  
10 Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814. Notice of all payments  
11 shall be sent to Boryana Arsova, Counsel, at Boryana.Arsova@dbo.ca.gov. In the event any payment  
12 due date falls on a weekend or holiday, the payment shall be due the next business day.

13 4. Notice of Violation. Within 30 days from the Effective Date of this Consent Order,  
14 Piara Pizza is hereby ordered to comply with the provisions of Corporations Code section 31303 and  
15 California Code of Regulations, title 10, section 310.303, by submitting to the Commissioner for  
16 review and approval proposed notices of violation (Notices of Violation) for violations of  
17 Corporations Code section 31110. The Notices of Violation must be mailed to Lulu Gomes,  
18 Counsel, Securities Regulation Division, Department of Business Oversight, 320 West Fourth Street,  
19 Suite 750, Los Angeles, California 90013. Within 30 days from approval by the Commissioner,  
20 Piara Pizza will deliver the approved Notices of Violation to all franchisees who, from the period  
21 2011 to the present acquired rights to own and operate a Piara Pizza franchise in California.

22 5. Preservation of Franchisees' Ability to Maintain a Private Action. Nothing in this  
23 Consent Order prohibits franchisees from filing or maintaining a private action in accordance with  
24 FIL section 31303, or any other provision in law.

25 6. Waiver of Limitation Period under California Corporations Code section 31303. Piara  
26 Pizza agrees to waive the limitation period in Corporations Code section 31303, or any other  
27 provision of law, as a defense to a claim in a private action that alleges damages or seeks equitable  
28 relief as a result of any of the violations described in the Notices of Violations so long as any such

1 claim is filed in a private action within 90 days of delivery of the approved Notices of Violations to  
2 the franchisee.

3 7. Report to the Commissioner. Piara Pizza will provide the Commissioner with proof of  
4 delivery of the Notices of Violations (Report) within 120 calendar days of the Commissioner’s Order  
5 approving the Notices of Violation. Piara Pizza will submit the Report to Boryana Arsova, Counsel,  
6 at Boryana.Arsova@dbo.ca.gov.

7 8. Education. Within 45 days of the Effective Date of this Consent Order, Bayeh will  
8 attend 8 hours of remedial education, in the form of franchise law training courses offered by a  
9 franchise law specialist certified with the State Bar of California, or courses offered by or through  
10 the International Franchise Association. Within 60 days of the Effective Date of this Consent Order,  
11 Bayeh shall submit proof of compliance to: Boryana Arsova, Counsel, by email at:  
12 Boryana.Arsova@dbo.ca.gov.

13 9. Remedy for Breach. In the event Respondents fail to timely comply with any of the  
14 terms of this Consent Order, and upon written notice from the Commissioner to Respondents and  
15 30 days’ opportunity to cure, the Respondents and their respective affiliates, successors, and assigns  
16 agree that this Consent Order may be converted immediately to an enforceable civil judgment for  
17 the entire penalty amount of \$35,000.00. Respondents further agree that such civil judgment may  
18 be entered by the court ex parte without further notice or hearing. Respondents agree that a breach  
19 of this Consent Order shall be cause for the Commissioner to immediately suspend or revoke any  
20 registrations held by, and deny any pending application(s) of, Respondents and their respective  
21 affiliates, successors, and assigns, by whatever names they might be known.

22 10. Waiver of Hearing Rights. Respondents acknowledge and agree that the  
23 Commissioner is ready, willing, and able to proceed with the filing of an administrative enforcement  
24 action on the charges contained in this Consent Order. Respondents hereby waive the right to any  
25 hearing, and to any reconsideration, appeal, or other right to review which may be afforded under the  
26 FIL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any  
27 other provision of law. Respondents further expressly waive any requirement for the filing of an  
28 Accusation pursuant to Government Code section 11415.60, subdivision (b). By waiving such

1 rights, Respondents effectively consent to this Consent Order becoming final.

2 11. Future Actions by the Commissioner. The Commissioner reserves the right to bring  
3 any future action(s) against Piara Pizza or any of its partners, owners, officers, directors,  
4 shareholders, employees, or successors for all future violations of the FIL. This Consent Order shall  
5 not serve to exculpate Piara Pizza or any of its partners, owners, officers, shareholders, directors,  
6 employees, or successors from liability for all unknown or future violations of the FIL.

7 12. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in  
8 interest.

9 13. Effect Upon Future Proceedings. If Respondents apply for any license, permit or  
10 qualification under the Commissioner's current or future jurisdiction, or are the subject of any future  
11 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be  
12 admitted for the purpose of such application(s) or enforcement proceedings(s).

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

17 14. Independent Legal Advice. Each of the Parties represents and warrants that they have  
18 received independent advice from their attorneys and/or other representatives with respect to the  
19 advisability of executing this Consent Order.

20 15. Reliance. Each of the Parties represents, warrants, and agrees that in executing this  
21 Consent Order, it had 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 person or entity not expressly set forth herein, or upon the failure of any party or any other  
25 person or entity to make any statement, representation, or disclosure of anything whatsoever. The  
26 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           16.    Full Integration. This Consent Order is the final written expression and the complete  
2 and exclusive statement of all stipulations, agreements, conditions, promises, representations, and  
3 covenants between the Parties with respect to the subject matter hereof, and supersedes all prior or  
4 contemporaneous agreements, discussions, negotiations, representations, understandings, and  
5 discussions between and among the Parties, their respective representatives, and any other person or  
6 entity, with respect to the subject matter covered in this Consent Order.

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

14           18.    Waiver or Modification. No waiver, amendment, or modification of this Consent  
15 Order will be valid or binding unless it is in writing and signed by each of the Parties. The waiver of  
16 any provision of this Consent Order will not be deemed a waiver of any other provision set forth  
17 herein. No waiver by either Party of any breach of, or of compliance with, any condition or provision  
18 of this Consent Order by the other Party will be considered a waiver of any other condition or  
19 provision or of the same condition or provision at another time.

20           19.    Headings and Governing Law. The headings of the paragraphs of this Consent Order  
21 are inserted for conveniences only and will not be deemed a part hereof or affect the construction or  
22 interpretation of the provisions hereof. This Consent Order shall be construed and enforced in  
23 accordance with and governed by California law.

24           20.    Effective Date. This Consent Order shall not become effective until signed by all  
25 parties and delivered by the Commissioner's counsel by email to Respondents' attorney, Mathew  
26 Kreutzer, at mkreutzer@howardandhoward.com.

27           21.    Counterparts. This Consent Order may be executed in any number of counterparts by  
28 the Parties, and when each party has signed and delivered at least one such counterpart to the other

1 party, each counterpart shall be deemed an original, and taken together shall constitute one and the  
2 same Consent Order.

3 22. Public Record. Respondents acknowledge that this Consent Order is and will be a  
4 matter of public record.

5 23. Information Willfully Withheld. This Consent Order may be revoked, and the  
6 Commissioner may pursue all remedies available under the law against Respondents if the  
7 Commissioner later finds out that Respondents knowingly or willfully withheld information used  
8 and relied upon in this Consent Order.

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

12 25. Voluntary Agreement. Respondents enter into this Consent Order voluntarily and  
13 without coercion and acknowledge that no promises, threats, or assurances have been made by the  
14 Commissioner or any officer, or agent thereof, about this Consent Order. The Parties represent and  
15 acknowledge that each of them is executing this Consent Order completely voluntary and without  
16 any duress or undue influence of any kind from any source.

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26. Signatures. This Consent Order may be executed by facsimile or scanned signature, and any such facsimile or scanned signature by any party hereto shall be deemed to be an original signature and shall be binding on such party to the same extent as if such facsimile or scanned signature was an original signature.

MANUEL P. ALVAREZ  
Commissioner of Business Oversight

Dated: 2/21/20

By \_\_\_\_\_  
Mary Ann Smith  
Deputy Commissioner

PIARA PIZZA LLC

Dated: 2/6/20

By \_\_\_\_\_  
Sergio Bayeh

SERGIO BAYEH

Dated: 2/6/20

\_\_\_\_\_

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_  
Mathew Kreutzer, Esq.  
HOWARD & HOWARD  
Counsel for Piara Pizza LLC and Sergio Bayeh