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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)
THE COMMISSIONER OF BUSINESS)
OVERSIGHT,)
Complainant,)
v.)
GOMOBILETIRES USA, LLC, USA)
GOMOBILE, INC., AND ANAND DEREK)
NAIDOO,)
Respondents.)

CONSENT ORDER

This Consent Order is entered into between the Commissioner of Business Oversight (Commissioner) and GoMobileTires USA, LLC, USA GoMobile, Inc., and Anand Derek Naidoo (the Respondents) (collectively, the Parties) and is made with respect to the following facts:

I.

Recitals

A. The Commissioner is the head of the Department of Business Oversight (Department) and is responsible for administering and enforcing the Franchise Investment Law (FIL) (Corp. Code, § 31000, et seq.), and registering the offer and sale of franchises in California.

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1 B. GoMobileTires USA, LLC, a Missouri limited liability company, has its principal
2 place of business at 7360 SW Bonita Road, Suite A, Tigard, Oregon, 97224.

3 C. GoMobileTires USA, LLC is purportedly owned by USA GoMobile, Inc., a
4 Wyoming corporation, with its principal place of business located at 7360 SW Bonita Road, Suite A,
5 Tigard, Oregon, 97224.

6 D. Anand Derek Naidoo is the founder, owner and managing member of GoMobileTires
7 USA, LLC and USA GoMobile Inc., and as such, is authorized to enter into this Consent Order on
8 behalf of the Respondents.

9 E. The Department discovered that the Respondents offered four unregistered franchises
10 in California from November of 2019 to May of 2020. The prospective franchisees were granted the
11 right to open and operate a mobile tire retail facility, and supply onsite tire replacement services to
12 customers.

13 F. Based upon the foregoing, the Commissioner finds that the Respondents offered
14 franchises in California without registration or exemption in violation of Corporations Code section
15 31110.

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

18 **II.**

19 **Terms and Conditions**

20 1. Purpose. This Consent Order resolves the issues before the Commissioner set forth
21 in paragraphs A through F, above, in a manner that avoids the expense of a hearing and other
22 possible court proceedings, protects consumers, is in the public interest, and is consistent with the
23 purposes, and provisions of the FIL.

24 2. Final Desist and Refrain Order. Pursuant to Corporations Code section 31402,
25 GoMobileTires USA, LLC, USA GoMobile, Inc., and Anand Derek Naidoo are hereby ordered to
26 desist and refrain from the further offer or sale of franchises in violation of Corporations Code
27 section 31110, unless and until the offers have been duly registered under the FIL or are otherwise
28 exempt. This desist and refrain order is final and effective from the Effective Date of this Consent

1 Order, as defined in paragraph 25 (Effective Date).

2 3. Penalties. Within 60 days from the Effective Date of this Consent Order, and
3 pursuant to Corporations Code section 31406, GoMobileTires USA, LLC, USA GoMobile, Inc., and
4 Anand Derek Naidoo are hereby ordered to pay an administrative penalty in the total amount of
5 \$2,000.00 for violations of Corporations Code section 31110. The penalty payment shall be made in
6 the form of a cashier’s check or Automated Clearing House deposit to the “Department of Business
7 Oversight,” and transmitted to the attention of: Accounting - Litigation, at the Department of
8 Business Oversight, located at 1515 K Street, Suite 200, Sacramento, California 95814. Notice of
9 payment shall be sent concurrently to Afsaneh Eghbaldari, Counsel, Enforcement Division, by email
10 at: affi.eghbaldari@dbo.ca.gov. In the event the payment due date falls on a weekend or holiday, the
11 payment shall be due the next business day.

12 4. Remedial Education. Within 60 days of the Effective Date of this Consent Order,
13 Anand Derek Naidoo and all persons employed by the Respondents, who will assist in preparing
14 franchise registrations or who will assist in franchise selling, are hereby ordered to attend an eight-
15 hour, in-person compliance training in the area of the FIL compliance, including but not limited to
16 the offering and selling of franchises, and preparing the Franchise Disclosure Document (Training),
17 offered by franchise law specialist instructor(s). The instructor(s) and general format of this Training
18 must be approved by the Commissioner. Within 65 days of the Effective Date of this Consent Order,
19 the Respondents shall submit proof of compliance to: Afsaneh Eghbaldari, Counsel, Enforcement
20 Division, by email at: affi.eghbaldari@dbo.ca.gov.

21 5. Registration Filing. The Respondents acknowledge that, within 60 days of the
22 Effective Date of this Consent Order and after fully complying with the remedial education term, as
23 described in paragraph 4, above, GoMobileTires USA, LLC or an affiliated company plans to file an
24 Initial Franchise Registration Application with the Department, pursuant to Corporations Code
25 section 31111, and in compliance with the FIL and the Department’s Guidelines for Franchise
26 Registration. Such application shall be submitted to the attention of the Securities Regulation
27 Division, Department of Business Oversight, 320 West Fourth Street, Suite 750, Los Angeles,
28 California 90013 or filed with the Department online. This Consent Order shall be disclosed in each

1 such Initial Franchise Registration Application and Franchise Disclosure Document. The
2 Respondents agree that, in the event the Respondents or an affiliated company do not register their
3 franchise in California, the Respondents shall include a disclaimer on their website(s) stating that the
4 Respondents are not registered to offer or sell franchises in California, and are not offering or selling
5 franchises in California or to California residents.

6 6. Waiver of Hearing Rights. The Respondents acknowledge the Commissioner is
7 ready, willing, and able to proceed with the filing of an administrative enforcement action on the
8 charges contained in this Consent Order. The Respondents hereby waive the right to any hearings,
9 and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the
10 FIL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any
11 other provision of law. The Respondents further expressly waive any requirement for the filing of
12 any enforcement action or pleading pursuant to Government Code section 11415.60, subdivision (b).
13 By waiving such rights, the Respondents effectively consent to this Consent Order and the Desist
14 and Refrain Order becoming final.

15 7. Full and Final Settlement. The Parties hereby acknowledge and agree that this
16 Consent Order is intended to constitute a full, final, and complete resolution of the violations and
17 Desist and Refrain Order as identified herein. No further proceedings or actions will be brought by
18 the Commissioner in connection with these matters under the FIL, or any other provision of law,
19 excepting therefrom any proceeding to enforce compliance with the terms of this Consent Order.

20 8. Failure to Comply with Consent Order. The Respondents agree that if they fail to
21 comply with any terms of this Consent Order or the Desist and Refrain Order, the Commissioner
22 may, summarily suspend/revoke any of the Respondents' FIL registration and/or deny any pending
23 registration applications of the Respondents and/or their respective affiliates, successors, and
24 assigns, by whatever names they might be known, in addition to all other available remedies it may
25 invoke under the FIL. The Respondents waive any notice and hearing rights to contest such
26 summary suspensions, revocation or denial which may be afforded under the FIL, the California
27 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law
28 in connection therewith.

1 9. Information Willfully Withheld. The Consent Order may be revoked and the
2 Commissioner may pursue any and all remedies available under law against the Respondents if the
3 Commissioner discovers that the Respondents knowingly or willfully withheld or misrepresented
4 information used for and relied upon in this Consent Order.

5 10. Future Actions by Commissioner. If the Respondents fail to comply with any terms of
6 the Consent Order or violate the Desist and Refrain Order, they agree that the facts in the Desist and
7 Refrain Order are admitted for the purpose of proving a violation of this Consent Order and Desist
8 and Refrain Order. The Respondents further agree that the Commissioner may institute proceedings
9 for any and all violations otherwise unresolved under this Consent Order. The Commissioner
10 reserves the right to bring any future actions against the Respondents, or any of their partners,
11 owners, officers, shareholders, directors, employees, or successors for any and all unknown
12 violations of the FIL.

13 11. 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 the Respondents or any other
16 person based upon any of the activities alleged in this matter or otherwise.

17 12. Independent Legal Advice. Each of the Parties represents, warrants, and agrees that
18 he, she, or it has received independent advice from its attorney(s) or representative(s) with respect to
19 the advisability of executing the Consent Order.

20 13. Headings. The headings to the paragraphs of this Consent Order are inserted for
21 convenience only and will not be deemed a part hereof or affect the construction or interpretation of
22 the provisions hereof.

23 14. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in
24 interest.

25 15. Reliance. Each of the Parties represents, warrants, and agrees that in executing this
26 Consent Order it has relied solely on the statements set forth herein and the advice of its own
27 counsel. Each of the Parties further represents, warrants, and agrees that in executing this Consent
28 Order it has placed no reliance on any statement, representation, or promise of any other party, or

1 any other person or entity not expressly set forth herein, or upon the failure of any party or any other
2 person or entity to make any statement, representation or disclosure of anything whatsoever. The
3 Parties have included this clause: (1) to preclude any claim that any party was in any way
4 fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of parol
5 evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

6 16. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
7 this Consent Order will be valid or binding unless it is in writing and signed by each of the Parties.
8 The waiver of any provision of this Consent Order will not be deemed a waiver of any other
9 provision. No waiver by either party of any breach of, or of compliance with, any condition or
10 provision of this Consent Order by the other party will be considered a waiver of any other condition
11 or provision or of the same condition or provision at another time.

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

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

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

25 20. Effect Upon Future Proceedings. If the Respondents apply for any license, permit or
26 qualification under the Commissioner's current or future jurisdiction, or are the subject of any future
27 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be
28 admitted for the purpose of such application(s) or enforcement proceeding(s).

1 21. Voluntary Agreement. The Respondents enter into this Consent Order voluntarily and
2 without coercion and acknowledges that no promises, threats, or assurances have been made by the
3 Commissioner or any officer, or agent thereof, about this Consent Order. The Parties each represent
4 and acknowledge that he, she, or it is executing this Consent Order completely voluntarily and
5 without any duress or undue influence of any kind from any source.

6 22. Notice. Any notices required under the Consent Order shall be provided to each party
7 at the following addresses:

8 If to Respondents: Anand Derek Naidoo, owner
9 GoMobileTires USA, LLC
10 USA GoMobile, Inc.
11 7360 SW Bonita Road, Suite A
 Tigard, Oregon, 97224

12 If to the Commissioner: Afsaneh Eghbaldari, Counsel
13 Department of Business Oversight
 1350 Front Street, Room 2034
 San Diego, California 92101

14 23. Signatures. A fax or electronic mail signature shall be deemed the same as an original
15 signature.

16 24. Public Record. The Respondents hereby acknowledge that this Consent Order is and
17 will be a matter of public record.

18 25. Effective Date. This Consent Order shall become final and effective when signed by
19 all parties and delivered by the Commissioner’s counsel via e-mail to the Respondents’ counsel,
20 Ryan Smith, at Ryan@PeakFranchiseLaw.com.

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

4 Dated: July 21, 2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

6 By: _____
7 MARY ANN SMITH
8 Deputy Commissioner

9 Dated: July 21, 2020

GOMOBILETIRES USA, LLC, USA GOMOBILE,
INC., AND ANAND DEREK NAIDOO

11 By: _____
12 ANAND DEREK NAIDOO, individually and as
13 the Owner and Founder of GoMobileTires USA,
14 LLC, and USA GoMobile, Inc.

15 APPROVED AS TO FORM AND CONTENT:

16 _____
17 Ryan D. Smith, Esq.
18 PEAK FRANCHISE LAW
19 Counsel for GoMobileTires USA, LLC,
20 USA GoMobile, Inc., and Anand Derek Naidoo
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