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7 Attorneys for Complainant

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

11 In the Matter of:)	FIL ORG ID: 85537
)	
12 THE COMMISSIONER OF BUSINESS)	AMENDED CITATION INCLUDING:
13 OVERSIGHT,)	(1) DESIST AND REFRAIN ORDER
)	
14 Complainant,)	(2) ASSESSMENT OF
)	ADMINISTRATIVE PENALTIES
15 v.)	
)	(3) CLAIM FOR ANCILLARY RELIEF
16 PROPERTY DAMAGE APPRAISERS, INC.,)	AND COSTS
)	
17 Respondent.)	
)	
)	
)	

20 The Complainant, the Commissioner of Business Oversight (Commissioner), of the
21 Department of Business Oversight (Department), finds the following:

22 **I.**

23 **Jurisdiction and Venue**

24 1. The Commissioner is authorized to administer and enforce the provisions of the
25 California Franchise Investment Law (Corp. Code § 31000, et seq.)¹ (FIL) and the rules and
26 regulations promulgated thereunder which control the registration, offer and sale of franchises in
27 California.

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

1 of good faith and fair dealing, conversation, and violation of the California Business and
2 Professions Code section 17200.

3 18. On or around August 14, 2016, Nygaard served the summons and a copy of the
4 complaint on PDA. On or around September 13, 2016, PDA filed a Notice of Removal in the matter
5 of *Nygaard v. PDA*, Case No. 34-2016-00195965, to have the case removed from Sacramento
6 Superior Court to the United States District Court, Eastern District of California.

7 19. The California Guidelines for Franchise Registration (FDD Guidelines) require
8 disclosure of litigations when the franchisor is a party to any material civil action involving the
9 franchise relationship in the last fiscal year.

10 20. Section 31123 requires that a “franchisor shall promptly notify the Commissioner in
11 writing, by an application to amend the registration of, any material change in the information
12 contained in the application as originally submitted.” Section 31123 required PDA to amend its
13 registration (Application 5570) by filing a Post-Effective Amendment Application with the
14 Commissioner to disclose the matter of *Nygaard v. PDA*, Case No. 34-2016-00195965, Superior
15 Court of California, County of Sacramento, in Item 3 of its FDD.

16 21. PDA failed to promptly file a Post-Effective Amendment Application with the
17 Commissioner to amend its registration approved on June 2, 2016 (Application 5570), as required
18 by section 31123 and the FDD Guidelines.

19 22. Section 31200 states “[i]t is unlawful for any person willfully to make any untrue
20 statement of a material fact in any application, notice or report with the commissioner under this
21 law, or willfully to omit to state in any such application, notice, or report any material fact which is
22 required to be stated therein[.]” PDA failed to disclose the matter of *Nygaard v. PDA*, Case No. 34-
23 2016-00195965, Superior Court of California, County of Sacramento, in Item 3 of FDD filed in
24 Application 8350, approved on May 16, 2017, in violation of section 31200.

25 23. The Franchise Guidelines and section 31200 required PDA to disclose the matter of
26 *Nygaard v. PDA*, Case No. 34-2016-00195965, Superior Court of California, County of
27 Sacramento, in Item 3 of FDD filed in Application 8350 because it was a material civil action
28 alleging a violation of franchise law, alleging fraud, and unfair or deceptive practices under the

1 Business and Professions Code section 17200. Indeed, in response to the Department’s subpoena
2 duces tecum, “PDA acknowledges that this litigation should have been disclosed in Item 3 of the
3 FDD accompanying its 2017 [A]pplication for [R]egistration.” (Declaration of Cassie Farmer in
4 Response to Subpoena Duces Tecum (Dec. of Farmer) Page 3, ¶ 5.)

5 24. On September 7, 2017, PDA filed a Post-Effective Amendment Application
6 (Application 9888) with the Commissioner to amend its 2017 registration to disclose the matter of
7 *Ngyaard v. PDA*.

8 **B. PDA Failed to Disclose the Lawsuit of Timothy B. Mott in its 2015, 2016, and 2017**
9 **Franchise Registration Renewal Applications Filed with the Commissioner**

10 25. Paragraphs 1-24 are incorporated and are hereby realleged and incorporated herein by
11 reference as if set forth in their entirety.

12 26. On or around March 9, 2015, Plaintiff Timothy B. Mott, a former PDA franchisee,
13 filed a complaint in the matter of *Timothy B. Mott v. Property Damage Appraisers, Inc. (Mott v.*
14 *PDA)*, Case No. 2:15-cv-00545-MJP, Superior Court of Washington, County of Snohomish. The
15 complaint alleged that PDA violated the franchise laws of the State of Washington under the
16 Franchise Investment Protection Act. Plaintiff Mott served PDA with the summons and complaint
17 on or around March 9, 2015.

18 27. On or around April 4, 2015, PDA filed a Notice of Removal in the matter of *Mott v.*
19 *PDA* to have the case removed from the Superior Court of Washington, County of Snohomish to
20 federal district court in the Western District of Washington. Later, PDA filed a motion to transfer
21 venues and the matter of *Mott v. PDA* was transferred to a federal court in Northern District Texas
22 (Dec. of Farmer, page 4, ¶ 7.) Ultimately, the matter of *Mott v. PDA* became *Timothy B. Mott v.*
23 *Property Damage Appraisers, Inc.*, Case No. 4:2016cv00121, United States District Court,
24 Northern District of Texas.

25 28. PDA failed to disclose the matter of *Mott v. PDA*, Case No. 2:15-cv-00545-MJP,
26 Superior Court of Washington, County of Snohomish, in Application 3052, made effective on
27 November 10, 2015, in violation of section 31200 and the Franchise Guidelines.

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1 29. PDA failed to disclose the matter of *Mott v. PDA*, Case No. 4:2016cv00121, United
2 States District Court, Northern District of Texas, in Application 5770 made effective on June 2,
3 2016, in violation of section 31200 and the Franchise Guidelines.

4 30. PDA failed to disclose the matter of *Mott v. PDA*, Case No. 4:2016cv00121, United
5 States District Court, Northern District of Texas, in Application 8350 made effective on May 16,
6 2017, in violation of section 31200 and the Franchise Guidelines.

7 31. In fact, in response to the Department’s subpoena duces tecum, “PDA acknowledges
8 that this litigation matter should have been disclosed in Item 3 the FDD accompanying its 2015,
9 2016 and 2017 applications for registration.” (Dec. of Farmer, page 4, ¶ 9.)

10 32. On or around September 7, 2017, PDA disclosed the matter of *Mott v. PDA* by
11 amending its 2017 Application 8350 by filing a Post-Effective Application (Application 9888).

12 **C. PDA Failed to Amend its Franchise Registration (Application 515985) to Disclose the**
13 **Lawsuit of Dean G. Del Vecchio, Sr. by Promptly Filing A Post-Effective Amendment**
14 **Application with the Commissioner**

15 33. Paragraphs 1-32 are hereby realleged and incorporated herein by reference as if set
16 forth in their entirety.

17 34. On or around November 5, 2014, Plaintiff Dean G. Del Vecchio, Sr. filed a Verified
18 Complaint and Emergency Temporary Restraining Order Request in the matter of *Dean G. Del*
19 *Vecchio, Sr. v. Property Damage Appraisers, Inc., (Del Vecchio, Sr. v. PDA)* Case No. 4:14-cv-
20 1653, United States District Court, District of Connecticut. Del Vecchio, Sr. asserted claims against
21 PDA for: (1) violation of the Connecticut Franchise Act, (2) breach of contract and the covenant of
22 good faith and fair dealing, (3) sought declaratory relief, (4) violation of the Connecticut Unfair
23 Trade Practices Act, and (5) violation of the Massachusetts Unfair and Deceptive Trade Practices
24 Act.

25 35. On or around November 6, 2014, counsel for PDA filed a Notice of Appearance and
26 a Motion to Transfer to Another District (Northern District of Texas) in the matter of *Del Vecchio,*
27 *Sr. v. PDA*, Case No. 4:14-cv-1653, United States District Court, District of Connecticut.

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1 36. PDA failed to promptly amend its registration approved on June 3, 2014
2 (Application 515985) by filing a Post-Effective Amendment to Application with the Commissioner,
3 as required by section 31123 and the FDD Guidelines. PDA had the obligation to amend its
4 registration to disclose the matter of *Del Vecchio, Sr. v. PDA*, Case No. 4:14-cv-1653, United States
5 District Court, District of Connecticut, since it was a “pending” action.

6 37. On or around November 7, 2014, Plaintiff Del Vecchio, Sr. filed a Notice of Filing
7 of Arbitration Demand with American Arbitration Association. On or around November 10, 2014,
8 the court issued an Order Dismissing the Case as the parties in the matter of *Del Vecchio, Sr. v.*
9 *PDA*, Case No. 4:14-cv-1653, United States District Court, District of Connecticut, agreed upon
10 terms of arbitration in Texas.

11 38. On or around November 20, 2014, PDA, Dean Del Vecchio, Sr. and Andrew
12 Kowloenko signed a Memorandum of Settlement, Mediation Prior to Arbitration to resolve the
13 matter *Del Vecchio, Sr. v. PDA*, Case No. 4:14-cv-1653, United States District Court, District of
14 Connecticut. The parties agreed that none of the parties “are admitting fault, responsibility, or
15 reliability to one another, and each Party continues to deny one another’s allegations and
16 contentions with respect to the dispute.”

17 39. Pursuant to section 31001, the legislative intent of California’s requirement for
18 franchisors to disclose material litigation is “to provide each prospective franchisee with the
19 information necessary to make an intelligent decision regarding franchises being offered.” Here,
20 PDA had the obligation under sections 31123 and 31001 to file a Post-Effective Application while
21 the matter of *Del Vecchio, Sr. v. PDA*, Case No. 4:14-cv-1653, United States District Court, District
22 of Connecticut was pending.

23 40. On or around September 7, 2017, PDA amended its 2017 registration (Application
24 8350) to disclose the matter of *Del Vecchio, Sr. v. PDA* in the FDD and filed a Post-Effective
25 Amendment Application with the Commissioner (Application 9888). Here, PDA willfully omitted
26 to timely disclose the matter of *Del Vecchio, Sr. v. PDA* to the Commissioner during the course of
27 its franchise renewal registration, in violation of section 31200 and the Franchise Guidelines.

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1 **D. PDA Failed to Amend its Franchise Registration Application (Application 8350) to**
2 **Disclose Gary and Sue Rakestraws’ Demand for Arbitration by Promptly Filing A**
3 **Post-Effective Amendment Application with the Commissioner**

4 41. Paragraphs 1-40 are hereby realleged and incorporated herein by reference as if set
5 forth in their entirety.

6 42. On or around April 8, 2017, Gary and Sue Rakestraws (Rakestraws) filed a Demand
7 for Arbitration or Request for Mediation against PDA in the matter of *Gary and Sue Rakestraws v.*
8 *Property Damage Appraisers, Inc. (Rakestraws v. PDA)*, Case No. 01-17-0002-0592, America
9 Arbitration Association, Orange County, California. The Rakestraws cited that PDA committed
10 multiple violations of the franchise law in their demand for arbitration.

11 43. Pursuant to Corporations Code sections 31001, 31123, and the FDD Guidelines,
12 PDA had the obligation to file the Post-Effective Amendment Application to promptly amend its
13 Application 8350 to notify the Commissioner of the pending matter of *Rakestraws v. PDA*, Case
14 No. 01-17-0002-0592, America Arbitration Association, Orange County, California. Because this
15 matter alleged violations of the franchise laws and is a matter that is likely to influence a
16 prospective franchisee’s investment decision, the matter of *Rakestraws v. PDA* was required to be
17 disclosed in the FDD.

18 44. On or around September 7, 2017, PDA amended its 2017 application (Application
19 8350) to disclose the matter of *Rakestraws v. PDA* by filing a Post-Effective Application with the
20 Commissioner (Application 9888). Here, PDA omitted to timely disclose the *Rakestraws v. PDA*
21 arbitration matter to the Commissioner during the course of its franchise renewal registration in
22 violation of section 31200 and the Franchise Guidelines.

23 **E. PDA Made an Untrue Statement to the Commissioner During its Investigation**

24 45. Paragraphs 1-44 are hereby realleged and incorporated herein by reference as if set
25 forth in their entirety.

26 46. On or around March 8, 2019, the Department personally served PDA with a Demand
27 Letter and Subpoena Duces Tecum (SDT) for documents and records. On or around April 5, 2019,
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1 PDA produced records and the Declaration of Cassie Farmer (Farmer) in Response to the
2 Department’s SDT. Pursuant to California Code of Civil Procedure section 2015.5, Farmer
3 signed her declaration under penalty of perjury under the laws of the State of California.

4 47. In response to the Department’s requests number 1 through 3 of the SDT, Farmer
5 stated that “true and correct copies of the requested documents from PDA’s records (to the extent
6 available) are being produced (Bates numbers PDA_00001 to PDA_00855). . . . PDA is providing
7 an FDD receipt signed by the Rakestraws for PDA’s 2009 FDD (Bates number PDA_00001); PDA
8 was unable to locate a copy of its 2009 FDD in its records.” (Dec. of Farmer, Page 1, ¶ 2.)

9 48. When the Department reviewed PDA_00001, it discovered PDA did not provide the
10 FDD receipt signed by the Rakestraws for PDA’s 2009 FDD. The document listed as PDA_00001
11 was a “Franchise Disclosure Document Format Delivery Request” signed by Gary Rakestraw
12 signed on September 18, 2009. Gary Rakestraw indicated on the “Franchise Disclosure Format
13 Delivery Request” that he wanted PDA to send him a paper copy of its current FDD. This was not
14 an FDD receipt signed by the Rakestraws for PDA’s 2009 FDD as stated in Farmer’s declaration.

15 49. Section 31204, subdivision (b), states “[i]t is unlawful for any person to knowingly
16 make an untrue statement to the commissioner during the course of licensing, investigation, or
17 examination, with the intent to impede, obstruct, or influence the administration or enforcement of
18 any provision of this division.”

19 50. While the Corporations Code does not define the term “knowingly” and while
20 Corporations Code section 31204, subdivision (b), is not a penal statute, the Penal Code definition is
21 nonetheless persuasive in determining the intent of the Legislature in using “knowingly” in other
22 statutes. Penal Code section 7, subdivision 5, defines “knowingly” as importing only knowledge that
23 the facts exist which bring the act or omission within the provisions of the Code. California case law
24 has long held that the requirement of “knowingly” is satisfied where the person has knowledge of the
25 facts, though not to the law. (*Steinmetz v. Cal. State Board of Education* (1955) 44 Cal.2d 816, 822-
26 823; *People v. Burns* (888) 75 Cal. 627, 630-632; *People v. Auttersen* (1968) 261 Cal.App.2d 627,
27 632; *People v. McCree* (1954) 128 Cal.App.2d 196, 202.)

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1 51. Therefore, PDA’s conduct of making a false statement to the Commissioner does not
2 require any “intent to deceive” but only knowledge of the facts and circumstances that gave rise to
3 the false statement when Ms. Farmer signed her declaration under penalty of perjury and produced
4 bates number PDA_00001 in response to the Commissioner’s subpoena duces tecum. (*Steinmetz v.*
5 *Cal. State Board of Education* (1955) 44. Cal.2d 816, 822-823; *People v. Burns* (888) 75 Cal. 627,
6 630-632; *People v. Autterson* (1968) 261 Cal.App.2d 627, 632; *People v. McCree* (1954) 128
7 Cal.App.2d 196, 202.) Here, PDA knowingly made an untrue statement to the Commissioner during
8 the course of investigation with the intent to impede, obstruct, or influence the administration or
9 enforcement of the FIL in violation of section 31204, subdivision (b).

10 **IV.**

11 **Citations and Desist and Refrain Orders**

12 52. Paragraphs 1-51 are hereby realleged and incorporated herein by reference as if set
13 forth in their entirety.

14 53. Corporations Code section 31001 states:

15 The Legislature hereby finds and declares that the widespread sale of
16 franchises is a relatively new form of business which has created
17 numerous problems both from an investment and business point of view in
18 the State of California. Prior to the enactment of this division, the sale of
19 franchises was regulated only to the limited extent to which the Corporate
20 Securities Law of 1968 applied to those transactions. California
21 franchisees have suffered substantial losses where the franchisor or his or
22 her representative have not provided full and complete information
23 regarding the franchisor-franchisee relationship, the details of the contract
24 between franchisor and franchisee, and the prior business experience of
25 the franchisor.

26 It is the intent of this law to provide each prospective franchisee with the
27 information necessary to make an intelligent decision regarding franchises
28 being offered. Further, it is the intent of the law to prohibit the sale of
franchises where the sale would lead to fraud or a likelihood that the
franchisor’s promises would not be fulfilled, and to protect the franchisor
and franchisees by providing a better understanding of the franchisor and
franchisee with regard to their business relationship.

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54. Corporations Code section 31123 states:

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

55. Corporations Code section 31200 states:

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

56. Corporations Code section 31204, subdivision (b), states:

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

57. Corporations Code section 31406 states:

(a) If, upon inspection or investigation, based upon a complaint or otherwise, the commissioner has cause to believe that a person is violating any provision of this division or any rule or order promulgated pursuant to this division, the commissioner may issue a citation to that person in writing describing with particularity the basis of the citation. Each citation may contain an order to desist and refrain and an assessment of an administrative penalty not to exceed two thousand five hundred dollars (\$2,500) per violation and shall contain reference to this section, including 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 58. Based upon the foregoing findings, the Commissioner is of the opinion that Property
12 Damage Appraisers, Inc. willfully made an untrue statement of material fact in an application, notice
13 or report filed with the Commissioner under the Franchise Investment Law (FIL), or willfully
14 omitted to state in any such application, notice, or report at least one material fact which is required
15 to be stated therein, or failed to notify the Commissioner of any material change in violation of
16 section 31123 and 31200. Pursuant to Corporations Code section 31406, is Property Damage
17 Appraisers, Inc. is hereby cited and ordered to desist and refrain from willfully making any untrue
18 statement of a material fact in an application, notice or report filed with the Commissioner under the
19 FIL, or willfully omitting to state in any such application, notice, or report any material fact which is
20 required to be stated therein, or failing to notify the Commissioner of any material change.

21 59. Also, based upon the foregoing findings, the Commissioner is of the opinion that
22 Property Damage Appraisers, Inc. in violation of section 31204, subdivision (b), knowingly made
23 an untrue statement to the Commissioner during the course of licensing, investigation, or
24 examination with the intent to impede, obstruct, or influence the administration or enforcement of
25 the FIL. Pursuant to Corporations Code section 31406, Property Damage Appraisers, Inc. is hereby
26 cited and ordered to desist and refrain from knowingly making an untrue statement to the
27 Commissioner during the course of licensing, investigation, or examination with the intent to
28 impede, obstruct, or influence the administration or enforcement of the FIL.

60. This Order is necessary, in the public interest, for the protection of investors and
franchisees and consistent with the purposes, policies and provisions of the Franchise Investment
Law.

V.

Administrative Penalties

61. Paragraphs 1-61 are hereby realleged and incorporated herein by reference as if set forth in their entirety.

62. Pursuant to section 31406, Property Damage Appraisers, Inc. is hereby assessed and ordered to pay an administrative penalty of \$2,500.00 for each of the 8 citations under the Franchise Investment Law, totaling \$20,000.00, as follows:

63. **CITATION A:** On or around August 14, 2016, PDA failed to notify the Commissioner of the matter of *Ngyaard v. PDA*, Case No. 34-2016-00195965, Superior Court of California, County of Sacramento – a material change to its 2016 FDD approved on June 2, 2016 (Application 5570) as required by section 31123. On or around April 5, 2017, PDA failed to disclose the matter of *Ngyaard v. PDA* in Item 3 in its FDD approved on May 16, 2017 (Application 8350) in violation of section 31200.

64. **CITATION B:** On or around April 16, 2015, PDA knowingly failed to disclose to the Commissioner, the matter of *Mott v. PDA*, Case No. 2:15-cv-00545-MJP, Superior Court of Washington, County of Snohomish, in Application 3052 – effective on April 16, 2015 – in violation of section 31200 and the Franchise Guidelines. On or around April 14, 2016, PDA knowingly failed to disclose to the Commissioner the matter of *Mott v. PDA*, Case No. 4:2016cv00121, United States District Court, Northern District of Texas, in Application 5770 – effective on June 2, 2016 – in violation of sections 31200 and the Franchise Guidelines. On or around April 5, 2017, PDA knowingly failed to disclose to the Commissioner the matter of *Mott v. PDA*, Case No. 4:2016cv00121, United States District Court, Northern District of Texas, in Application 8350 – effective on May 16, 2017 – in violation of sections 31200 and the Franchise Guidelines.

65. **CITATION C:** On or around November 5, 2014, PDA failed to notify the Commissioner of the matter of *Del Vecchio, Sr. v. PDA*, Case No. 4:14-cv-1653, United States District Court, District of Connecticut – a material change to its 2014 FDD approved on June 3, 2014 (Application 515985) as required by section 31123.

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1 66. **CITATION D:** On or around April 8, 2017, PDA failed to notify the Commissioner
2 of the matter of *Rakestraws v. PDA*, Case No. 01-17-0002-0592, America Arbitration Association,
3 Orange County, California – a material change to its 2017 FDD approved on May 16, 2017
4 (Application 8350) as required by section 31123.

5 67. **CITATION E:** On or around April 5, 2019, PDA knowingly made a false statement
6 to the Commissioner in violation of section 31204, subdivision (b), in its response to the
7 Department’s subpoena duces tecum stating: “PDA is providing an FDD receipt signed by the
8 Rakestraws for PDA’s 2009 FDD (Bates number PDA_00001).” However, PDA_00001 was not an
9 FDD receipt signed by the Rakestraws for PDA’s 2009 FDD as stated in Farmer’s declaration and
10 PDA never produced the 2009 FDD receipt for the Rakestraws to the Department.

11 68. Pursuant to Corporations Code section 31406, the total administrative penalty of
12 \$20,000.00 shall be due within 60 days of receipt of Citations A-E and shall be made payable to the
13 Commissioner in the form of a cashier’s check or Automated Clearing House deposit to the
14 “Department of Business Oversight,” and transmitted to the attention of: Accounting – Enforcement
15 Division, California Department of Business Oversight, 1515 K Street, Suite 200, Sacramento,
16 California 95814, contemporaneously with notice of transmittal to Enforcement Counsel, Vanessa T.
17 Lu at Vanessa.Lu@dbo.ca.gov.

18 **VI.**

19 **Ancillary Relief and Fees**

20 69. Paragraphs 1-68 are hereby realleged and incorporated herein by reference as if set
21 forth in their entirety.

22 70. Corporations Code section 31408 states:

23 (a) If the commissioner determines it is in the public interest, the
24 commissioner may include in any administrative action brought under this
25 division, including a stop order, a claim for ancillary relief, including, but
26 not limited to, a claim for rescission, restitution or disgorgement or
27 damages on behalf of the persons injured by the act or practice
28 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.

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(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.

71. Pursuant to section 31408, Property Damage Appraisers, Inc. and all persons employed by Property Damage Appraisers, Inc. who assist in preparing franchise registrations or who assist in franchise selling are hereby required to attend remedial education, which shall consist of eight hours of franchise law training courses per person offered by instructors that are acceptable to the Commissioner. Proof of attendance of the remedial education shall be submitted to Enforcement Counsel, Vanessa T. Lu at Vanessa.Lu@dbo.ca.gov, no later than 90 days from the date of this order.

72. Pursuant to section 31408, subdivision (b), Property Damage Appraisers, Inc. shall pay attorney's fees and investigative expenses to the Department of Business Oversight in the amount of \$15,000.00 or according to proof. The amount awarded for attorney's fees and investigative expenses shall be made payable to the Commissioner in the form of a cashier's check or Automated Clearing House deposit to the "Department of Business Oversight," and transmitted to the attention of: Accounting – Enforcement Division, California Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814, contemporaneously with notice of transmittal to Enforcement Counsel, Vanessa T. Lu, Vanessa.Lu@dbo.ca.gov, no later than 60 days from the date of this order.

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

Dated: August 27, 2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
Mary Ann Smith
Deputy Commissioner
Enforcement Division