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11 Attorneys for Complainant

12 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
13 OF THE STATE OF CALIFORNIA

14 In the Matter of: )  
15 THE COMMISSIONER OF FINANCIAL )  
16 PROTECTION AND INNOVATION, )  
17 Complainant, ) CONSENT ORDER  
18 v. )  
19 T ROCK, INC., doing business as HAPPY )  
20 LEMON, )  
21 Respondent. )

22 This Consent Order is entered into between the Commissioner of Financial Protection and  
23 Innovation (Commissioner), T Rock, Inc., doing business as Happy Lemon (TROCK) (collectively,  
24 Parties) and is made with respect to the following facts:

25 **I.**

26 **RECITALS**

27 A. The Commissioner is the head of the Department of Financial Protection and  
28 Innovation (Department) and is responsible for administering and enforcing the Franchise  
Investment Law (FIL) (Corp. Code, § 31000 et seq.),<sup>1</sup> and registering the offer and sale of franchises  
in California. To register a franchise, a franchisor must file an application which includes a Uniform  
Franchise Disclosure Document (FDD) with the Department for review and approval, in accordance  
with sections 31111 and 31114. The FIL requires franchisors to disclose certain material information

<sup>1</sup> All further statutory references are to the Corporations Code unless otherwise indicated.

1 which is intended to provide prospective franchisees with facts upon which to make an informed  
2 decision to purchase a franchise, as stated in section 31001.

3 B. At all relevant times TROCK was a California corporation with a principal place of  
4 business located at 35233 Newark Blvd., Unit G, Newark, California 94560. At all relevant times,  
5 Maurice Chin was the chief executive officer and president of TROCK. At all relevant times,  
6 TROCK opened and operated fast-casual restaurant franchises offering a variety of tea drinks, under  
7 the name “Happy Lemon”.

8 C. Under section 31110, it is unlawful for any person to offer or sell a franchise in this  
9 state unless the offer has been registered with the Commissioner or is exempt.

10 D. On May 2, 2018, TROCK filed registration documents with the Department,  
11 including its FDD. The FDD disclosed that TROCK had opened and was operating seven Happy  
12 Lemon franchise outlets in California prior to filing for registration with the Commissioner. In  
13 response to an inquiry by the Commissioner, TROCK disclosed on September 27, 2018 that it had  
14 opened and operated an additional sixteen TROCK outlets in California between 2016 and 2018,  
15 prior to filing with registration.

16 E. On March 20, 2020, TROCK submitted a detailed letter to the Department expressly  
17 withdrawing its franchise registration application and notifying the Department that it no longer  
18 sought to offer or sell franchises. In the letter, TROCK also acknowledged that had previously  
19 offered and sold franchises without first complying with the registration and disclosure requirements  
20 of the FIL. In that letter, TROCK asserted that the violations were committed unknowingly and in  
21 accordance with the advice of legal counsel.

22 F. Under section 31200, it is unlawful for any person willfully to make any untrue  
23 statement of a material fact in any application, notice or report filed with the Commissioner under  
24 the FIL, or willfully omit to state in any such application, notice, or report any material fact which is  
25 required to be stated therein or fail to notify the Commissioner of any material change as required by  
26 section 31123.

1 G. TROCK did not, at the onset, disclose to the Commissioner the additional sixteen  
2 outlets in their May 2, 2018 FDD. TROCK eventually amended their FDD to include these outlets  
3 after the Department required TROCK to do so.

4 H. The Commissioner finds that TROCK, in at least twenty-three instances, offered or  
5 sold a franchise in California without being registered with the Commissioner or exempt in violation  
6 of section 31110.

7 I. The Commissioner further finds that TROCK, in at least sixteen instances, willfully  
8 made an untrue statement of a material fact in any application, notice or report filed with the  
9 Commissioner under the FIL, or willfully omitted to state in any such application, notice, or report  
10 any material fact which is required to be stated therein or failed to notify the Commissioner of any  
11 material change as required by section 31123.

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

14 **II.**

15 **TERMS AND CONDITIONS**

16 1. Purpose. This Consent Order resolves the issues before the Commissioner [findings  
17 in paragraphs C, D, E, F, G, and H above] in a manner that avoids the expense of a hearing and  
18 other possible court proceedings, protects consumers, is in the public interest, and is consistent with  
19 the purposes and provisions of the applicable law.

20 2. Desist and Refrain Order. Pursuant to Corporations Code sections 31402 and 31406,  
21 T Rock, Inc. is hereby ordered to desist and refrain from the violations set forth herein, in violation  
22 of Corporations Code sections 31110, and 31200.

23 3. Penalties. TROCK shall pay penalties of \$20,000 (Penalties) for the violations  
24 discussed herein. TROCK shall pay the Penalties to the Commissioner within twenty calendar days  
25 of the effective date of this Consent Order in paragraph 22 herein (Effective Date) via cashier's  
26 check or Automated Clearing House deposit to the Department of Financial Protection and  
27 Innovation, Accounting, 2101 Arena Blvd., Sacramento, California 95834. Failure to timely pay the  
28 Penalties constitutes a breach of this Consent Order.

1           4.       Remedial Education. The chief executive officer and president of TROCK, Maurice  
2 Chin, shall complete at least eight hours of remedial FIL education offered by a Department-  
3 approved vendor or franchise attorney within ninety days of the Effective Date of this Consent  
4 Order. TROCK shall file proof of compliance, in the form of a sworn statement of each person  
5 required to take remedial education, under penalty of perjury, and a certificate of completion from  
6 the vendor to the Commissioner upon completion. Proof of compliance shall be sent to the  
7 Department of Financial Protection and Innovation, Attn. Marisa I. Urteaga-Watkins, Counsel, 2101  
8 Arena Blvd., Sacramento, California 95834.

9           5.       Waiver of Hearing Rights. TROCK acknowledges that the Commissioner is ready,  
10 willing, and able to proceed with the filing of an administrative enforcement action on the charges  
11 contained in this Consent Order. TROCK hereby waives the right to any hearings, and to any  
12 reconsideration, appeal, or other right to review which may be afforded pursuant to the FIL, the  
13 Administrative Procedure Act (APA), the Code of Civil Procedure (CCP), or any other provision of  
14 law. TROCK further expressly waives any requirement for the filing of an Accusation pursuant to  
15 Government Code section 11415.60, subdivision (b). By waiving such rights, TROCK effectively  
16 consents to this Consent Order and the Desist and Refrain Order becoming final.

17           6.       Failure to Comply with Consent Order. TROCK agrees that if it fails to comply with  
18 the terms of this Consent Order, the Commissioner may, in addition to all other available remedies  
19 it may invoke under the FIL, summarily suspend/revoke its FIL registration (if applicable) or deny  
20 FIL applications (if applicable) until TROCK is in compliance. TROCK waives any notice and  
21 hearing rights to contest such summary suspensions which may be afforded under the FIL, the APA,  
22 the CCP, or any other provision of law in connection therewith.

23           7.       Information Willfully Withheld or Misrepresented. This Consent Order may be  
24 revoked, and the Commissioner may pursue any and all remedies available under law against  
25 TROCK if the Commissioner discovers that TROCK knowingly or willfully withheld or  
26 misrepresented information used for and relied upon in this Consent Order.

27           8.       Future Actions by Commissioner. If TROCK fails to comply with any terms of the  
28 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise

1 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions  
2 against TROCK, or any of its partners, owners, officers, shareholders, directors, employees or  
3 successors for any and all unknown violations of the FIL.

4 9. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner’s  
5 ability to assist any other government agency (whether city, county, state, or federal) with any  
6 administrative, civil or criminal action brought by that agency against TROCK or any other person  
7 based upon any of the activities alleged in this matter or otherwise.

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

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

13 12. Reliance. Each of the Parties represents, warrants, and agrees that in executing this  
14 Consent Order it has relied solely on the statements set forth herein and the advice of its own  
15 counsel. Each of the Parties further represents, warrants, and agrees that in executing this Consent  
16 Order it has placed no reliance on any statement, representation, or promise of any other party, or  
17 any other person or entity not expressly set forth herein, or upon the failure of any party or any  
18 other person or entity to make any statement, representation or disclosure of anything whatsoever.  
19 The Parties have included this clause: (1) to preclude any claim that any party was in any way  
20 fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of parol  
21 evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

22 13. Waiver, Amendments, and Modifications. No waiver, amendment, or modification  
23 of this Consent Order will be valid or binding unless it is in writing and signed by each of the  
24 Parties. The waiver of any provision of this Consent Order will not be deemed a waiver of any  
25 other provision. No waiver by either party of any breach of, or of compliance with, any condition  
26 or provision of this Consent Order by the other party will be considered a waiver of any other  
27 condition or provision or of the same condition or provision at another time.  
28

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

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

11           16.    Counterparts. This Consent Order may be executed in one or more separate  
12 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall  
13 together constitute a single document.

14           17.    Effect Upon Future Proceedings. If TROCK applies for any license, registration,  
15 permit, or qualification under the Commissioner’s current or future jurisdiction, or is the subject of  
16 any future action by the Commissioner to enforce this Consent Order, then the subject matter hereof  
17 shall be admitted for the purpose of such application(s) or enforcement proceeding(s).

18           18.    Voluntary Order. TROCK enters into this Consent Order voluntarily and without  
19 coercion and acknowledges that no promises, threats or assurances have been made by the  
20 Commissioner or any officer, or agent thereof, about this Consent Order. The parties each represent  
21 and acknowledge that he, she or it is executing this Consent Order completely voluntarily and  
22 without any duress or undue influence of any kind from any source.

23           19.    Notice. Any notice required under this Consent Order shall be provided to each  
24 party at the following addresses:

25           To TROCK:                   Kevin A. Adams, Esq.  
26   Mortenson Taggart, LLP.  
27   300 Spectrum Center Drive, Suite 1100  
28   Irvine, California 92618  
  kadams@mortensontaggart.com

                  To the Commissioner:           Marisa I. Urteaga-Watkins, Counsel

Department of Financial Protection and Innovation  
2101 Arena Blvd.  
Sacramento, California 95834  
marisa.urteaga-watkins@dfpi.ca.gov

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

21. Public Record. TROCK hereby acknowledges that this Consent Order is and will be a matter of public record.

22. Effective Date. This Consent Order shall become final and effective when signed by all Parties and delivered by the Commissioner’s agent via e-mail to TROCK’s agent, Kevin A. Adams, Esq. at kadams@mortensontaggart.com.

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

Dated: April 23, 2021

MANUEL P. ALVAREZ  
Commissioner of Financial Protection and Innovation

By: \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner

Dated: April 22, 2021

T ROCK, INC.

By: \_\_\_\_\_  
MAURICE CHIN,  
President