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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 YUMMY-TOWN USA, LLC.)
20 Respondent.)
21 _____)

22 This Consent Order is entered into between the Commissioner of Financial Protection and
23 Innovation (Commissioner), Yummy-town USA, LLC. (YT) (collectively, Parties) and is made
24 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.),¹ 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

¹ 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, YT was a Delaware limited liability company, formed on
4 August 30, 2017 with a principal place of business located at 6F. No.79 Xinhua 1st Road Neihu
5 District Taipei City Taiwan and at 1620 Greencastle Avenue, #B, Rowland Heights, California,
6 91748. At all relevant times, the manager is Yute Chen. At all relevant times, YT is the franchisor
7 for a tea shop concept offering a variety of drinks under the name “Happy Lemon” in the United
8 States. Yummy-town, through its affiliates, also owns and operates company-owned “Happy
9 Lemon” outlets in the United States.

10 C. Under section 31200, it is unlawful for any person willfully to make any untrue
11 statement of a material fact in any application, notice or report filed with the Commissioner under
12 the FIL, or willfully omit to state in any such application, notice, or report any material fact which is
13 required to be stated therein or fail to notify the Commissioner of any material change as required by
14 section 31123.

15 D. YT failed to disclose to the Commissioner the existence of affiliate franchise outlets,
16 in at least three instances, in their 2018 and 2019 franchise applications, as required in YT’s FDD
17 Item 20:

18 i. YT first filed an application for franchise registration with the Commissioner
19 on June 26, 2018, which was registered on August 22, 2018 (App-12586);

20 ii. YT filed a post-effective amendment to this registration on September 11,
21 2018, which was registered on September 17, 2018 (App-13006);

22 iii. On January 29, 2019, it filed a renewal application, which was registered on
23 March 19, 2019 (App-13698);

24 iv. In App-12586, App-13006 and App-13698, YT disclosed that RBT Holdings
25 Limited, a Hong Kong company (RBT) was the parent company of YT and Happy Lemon Hong
26 Kong, Ltd., a Hong Kong company (HLHK). RBT was a shareholder in Happy Lemon California,
27 Inc. (HL California), a California corporation formed on June 15, 2016, which is a joint venture of
28 RBT, YT’s parent company, and Sunmerry Foods Ltd. (Sunmerry), a Taiwan company. Sunmerry

1 owns 51% of HL California and RBT owns 49%. Sunmerry also operates several franchises by the
2 name of Happy Lemon.

3 v. YT disclosed the existence of HL California and that HL California was an
4 affiliate of YT by way of YT’s parent company. YT also disclosed HL California’s three existing
5 franchise outlets as “company owned” outlets. However, YT failed to list either of the two
6 Sunmerry outlets or any of the existing T Rock, Inc. (TROCK) licenses as franchises. TROCK was a
7 California corporation with a principal place of business located at 35233 Newark Blvd., Unit G,
8 Newark, California 94560, which had multiple franchise outlets with HLHK at the time. These
9 outlets should have been disclosed due to TROCK’s affiliation with HLHK.

10 E. The Commissioner finds that YT, in at least three instances, willfully made an untrue
11 statement of a material fact in any application, notice or report filed with the Commissioner under
12 the FIL, or willfully omitted to state in any such application, notice, or report any material fact which
13 is required to be stated therein or failed to notify the Commissioner of any material change as
14 required by section 31123, in violation of section 32100.

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

17 **II.**

18 **TERMS AND CONDITIONS**

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

23 2. Desist and Refrain Order. Pursuant to Corporations Code sections 31402 and 31406,
24 Yummy-town USA, LLC. is hereby ordered to desist and refrain from the violations set forth herein,
25 in violation of Corporations Code section 31200.

26 3. Penalties. YT shall pay penalties of \$7,500 (Penalties) for the violations discussed
27 herein. YT shall pay the Penalties to the Commissioner within ten calendar days of the effective
28 date of this Consent Order in paragraph 22 herein (Effective Date) via cashier's check or Automated

1 Clearing House deposit to the Department of Financial Protection and Innovation, Accounting, 2101
2 Arena Blvd., Sacramento, California 95834. Failure to timely pay the Penalties constitutes a breach
3 of this Consent Order.

4 4. Remedial Education. The following class of persons are required to attend
5 remedial education: (1) All persons with direct management responsibility relating to the sale of
6 franchises; (2) All persons who assist in preparing franchise materials (excluding outside lawyers
7 and accountants); and (3) the person who certifies the accuracy of the franchise disclosure
8 document. Each of these persons shall complete at least eight hours of continuing education offered
9 by a Commissioner approved vendor or franchise attorney within one year of the Effective Date of
10 this Consent Order. YT shall file proof of compliance, in the form of a sworn statement of each
11 person required to take remedial education, under penalty of perjury, and a certificate of
12 completion from the vendor to the Commissioner upon completion. Proof of compliance shall be
13 sent to the Department of Financial Protection and Innovation, Attn. Marisa I. Urteaga-Watkins,
14 Counsel, 2101 Arena Blvd., Sacramento, California 95834. YT agrees that the Department shall not
15 register any YT franchise application for registration until all remedial education is
16 complete. Failure to timely complete said remedial education requirement within one year of the
17 Effective Date of this Order constitutes a breach of this Consent Order and YT shall be barred from
18 offering and selling franchises until said training is complete.

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

27 6. Failure to Comply with Consent Order. YT agrees that if it fails to comply with the
28 terms of this Consent Order, the Commissioner may, in addition to all other available remedies it

1 may invoke under the FIL, summarily suspend/revoke its FIL registration (if applicable) or deny
2 FIL applications (if applicable) until YT is in compliance. YT waives any notice and hearing rights
3 to contest such summary suspensions which may be afforded under the FIL, the APA, the CCP, or
4 any other provision of law in connection therewith.

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

9 8. Future Actions by Commissioner. If YT fails to comply with any terms of the
10 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise
11 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions
12 against YT, or any of its partners, owners, officers, shareholders, directors, employees or successors
13 for any and all unknown violations of the FIL.

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

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

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

23 12. Reliance. Each of the Parties represents, warrants, and agrees that in executing this
24 Consent Order it has relied solely on the statements set forth herein and the advice of its own
25 counsel. Each of the Parties further represents, warrants, and agrees that in executing this Consent
26 Order it has placed no reliance on any statement, representation, or promise of any other party, or
27 any other person or entity not expressly set forth herein, or upon the failure of any party or any
28 other person or entity to make any statement, representation or disclosure of anything whatsoever.

1 The Parties have included this clause: (1) to preclude any claim that any party was in any way
2 fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of parol
3 evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

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

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

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

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

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

27 18. Voluntary Order. YT enters into this Consent Order voluntarily and without coercion
28 and acknowledges that no promises, threats or assurances have been made by the Commissioner or

1 any officer, or agent thereof, about this Consent Order. The parties each represent and acknowledge
2 that he, she or it is executing this Consent Order completely voluntarily and without any duress or
3 undue influence of any kind from any source.

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

6
7 To YT: Jimmy Chen, Esq.
8 Garcia, Rainey, Blank and Bowerbank, LLP
9 695 Town Center Drive, Suite 700
10 Costa Mesa, California 92626
11 jchen@garciarainey.com

12 To the Commissioner: Marisa I. Urteaga-Watkins, Counsel
13 Department of Financial Protection and Innovation
14 2101 Arena Blvd.
15 Sacramento, California 95834
16 marisa.urteaga-watkins@dfpi.ca.gov

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

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

21 22. Effective Date. This Consent Order shall become final and effective when signed by
22 all Parties and delivered by the Commissioner’s agent via e-mail to YT’s agent, Jimmy Chen, Esq.
23 at jchen@garciarainey.com

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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 28, 2021

MANUEL P. ALVAREZ
Commissioner of Financial Protection and Innovation

By: _____
MARY ANN SMITH
Deputy Commissioner

Dated: April 27, 2021

YUMMY-TOWN USA, LLC.

By: _____
YUTE CHEN
Manager