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Deputy Commissioner
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Attorneys for Complainant

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

In the Matter of:)
)
THE COMMISSIONER OF FINANCIAL)
PROTECTION AND INNOVATION,)
)
Complainant,) CONSENT ORDER
v.)
)
OTA FRANCHISE CORPORATION, doing)
business as ONLINE TRADING ACADEMY,)
)
)
Respondent.)
)

This Consent Order is entered into between the Commissioner of Financial Protection and Innovation (Commissioner), and OTA Franchise Corporation doing business as Online Trading Academy (OTA) (collectively, Parties) and is made with respect to the following facts:

I.

RECITALS

A. The Commissioner is the head of the Department of Financial Protection and 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

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

1 in California. To register a franchise, a franchisor must file an application which includes a Uniform
2 Franchise Disclosure Document (FDD) with the Department for review and approval, in accordance
3 with sections 31111 and 31114. The FIL requires franchisors to disclose certain material information
4 which is intended to provide prospective franchisees with facts upon which to make an informed
5 decision to purchase a franchise, as stated in section 31001.

6 B. At all relevant times, OTA was and is a Nevada corporation, formed on March 8,
7 2004, with a principal place of business located at 17780 Fitch, Suite 200, Irvine, California 92614.
8 At all relevant times and since at least 2004, OTA has advertised, marketed, distributed, promoted,
9 franchised and sold training programs, including seminars, courses, and instructional materials on
10 trading and investing in an online platform, to consumers throughout the United States and
11 internationally.

12 C. Under section 31115(d)(3), the Commissioner may summarily issue a stop order
13 denying the effectiveness of or suspending or revoking effectiveness of any registration, if the
14 Commissioner finds that any person identified in the application or any officer or director of the
15 franchisor, whether or not identified in the application, is the subject to any currently effective order
16 or ruling of the Federal Trade Commission, and the involvement of this person in the sale or
17 management of the franchise creates an unreasonable risk to prospective franchisees.

18 D. At all relevant times, OTA was and is the subject of a civil Stipulated Order for
19 Permanent Injunction and Monetary Judgement by the Federal Trade Commission, dated September
20 11, 2020, in Case No. 8:20-CV-00287 JVS in the United States District Court, Central District of
21 California (OTA Federal Order). The OTA Federal Order is attached hereto and incorporated by
22 reference as “Attachment A”.

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

25 **II.**

26 **TERMS AND CONDITIONS**

27 1. Purpose. This Consent Order resolves the issues before the Commissioner [findings
28 in paragraphs A through D above] in a manner that avoids the expense of a hearing and other

1 possible court proceedings, protects consumers, is in the public interest, and is consistent with the
2 purposes and provisions of the applicable law.

3 2. Stop Order. The Commissioner has determined to deny the effectiveness of any
4 franchise application filed with the Commissioner from OTA Franchise Corporation doing business
5 as Online Trading Academy for a period of one year from the effective date of this order set forth in
6 Paragraph 20 (Effective Date) (Stop Order). OTA Franchise Corporation doing business as Online
7 Trading Academy hereby agrees to comply with the Commissioner’s Stop Order and represents to
8 the Commissioner that OTA Franchise Corporation doing business as Online Trading Academy
9 shall be not offer and sell franchises in California for a period of one year from the Effective Date
10 of this Consent Order. OTA Franchise Corporation doing business as Online Trading Academy
11 agrees that the Stop Order is in the best interest and protection of investors. OTA Corporation
12 doing business as Online Trading Academy hereby agree and understand that a failure to comply
13 with this Stop Order shall be a material breach of this Consent Order and shall result in a three- or
14 five-year bar from offering and selling franchises in California.

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

23 4. Failure to Comply with Consent Order. OTA agree that if it fails to comply with the
24 terms of this Consent Order, the Commissioner may, in addition to all other available remedies it
25 may invoke under the FIL, summarily suspend/revoke its FIL registration (if applicable), summarily
26 and permanently bar OTA from offering and selling franchises in California or deny FIL
27 applications (if applicable). OTA waives any notice and hearing rights to contest such summary
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1 actions by the Commissioner which may be afforded under the FIL, the APA, the CCP, or any other
2 provision of law in connection therewith.

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

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

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

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

19 9. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in
20 interest.

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

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

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

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

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

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

26 16. Voluntary Order. OTA enters into this Consent Order voluntarily and without
27 coercion and acknowledges that no promises, threats or assurances have been made by the
28 Commissioner or any officer, or agent thereof, about this Consent Order. The parties each represent

1 and acknowledge that he, she or it is executing this Consent Order completely voluntarily and
2 without any duress or undue influence of any kind from any source.

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

5 To OTA: Nicola McDowall, Esq.
6 for OTA Franchise Corporation
7 Symbus Law Group, PLLC.
8 P.O. Box 933
9 Culpeper, Virginia 22701
10 nmdowall@symbus.com

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

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

18 19. Public Record. OTA hereby acknowledges that this Consent Order is and will be a
19 matter of public record.

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1 20. Effective Date. This Consent Order shall become final and effective when signed by
2 all Parties and delivered by the Commissioner’s agent via e-mail to OTA’s agent, Nicola McDowall,
3 Esq.at nmdowall@symbus.com

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

7
8 Dated: 7/27/2021

CHRISTOPHER SHULTZ
Acting Commissioner of Financial Protection and
Innovation

11 By: _____

12 JENNIFER RUMBERGER
13 Deputy Commissioner

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16 Dated: 7/22/2021

OTA FRANCHISE CORPORATION
doing business as ONLINE TRADING ACADEMY

19
20 By: _____

21 EYAL SHAHAR
22 Chief Executive Officer

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ATTACHMENT A TO DFPI CONSENT ORDER
OTA FEDERAL ORDER DATED SEPTEMBER 11, 2020