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7 Attorneys for Complainant

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

10 In the Matter of: )  
11 THE COMMISSIONER OF FINANCIAL )  
12 PROTECTION AND INNOVATION, )  
13 Complainant, ) CONSENT ORDER  
14 v. )  
15 PB ASSET GROUP, INC. )  
16 Respondent. )

17  
18 This Consent Order is entered into between the Commissioner of Financial Protection and  
19 Innovation (Commissioner), PB Asset Group, Inc. (PB) (collectively, Parties) and is made with  
20 respect to the following facts:

21 **I.**  
22 **RECITALS**

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

28  
<sup>1</sup> All further statutory references are to the Corporations Code unless otherwise indicated.

1 with sections 31111 and 31114. The FIL requires franchisors to disclose certain material information  
2 which is intended to provide prospective franchisees with facts upon which to make an informed  
3 decision to purchase a franchise, as stated in section 31001.

4 B. At all relevant times, PB was a California corporation, formed on February 21, 2020  
5 with a principal place of business located at 4750 Almaden Expressway, Suite 100, San Jose,  
6 California 95118. At all relevant times, the manager is Nick Nguyen. At all relevant times, PB is the  
7 franchisor for a poke bowl restaurant under the name “Poki Bowl” in the United States.

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

13 D. Under section 31201, it is unlawful for any person to offer or sell a franchise by  
14 means of any written or oral communication which includes an untrue statement of a material fact or  
15 omits to state a material fact necessary in order to make the statements made, in the light of the  
16 circumstances under which they were made, not misleading.

17 E. PB failed to disclose to the Commissioner the existence of pending litigation, on at  
18 least two instances, in PB’s 2020 and 2021 franchise applications, that was required to be disclosed  
19 in Item 3 of PB’s FDD:

20 i. PB first filed an application for franchise registration with the Commissioner  
21 on April 2, 2020, which was registered on June 30, 2020 (App-17367);

22 ii. PB filed a renewal application on April 9, 2021, which is currently pending as  
23 of the date of this Consent Order (App-20593);

24 iii. In App-17367 and App-20593, PB disclosed three affiliates in Item 1: NJNJ,  
25 LLC, PB Curtner/Coronado, LLC, and PB Palo Alto, LLC (“Affiliates”).

26 iv. In App-17367 and App-20593, PB disclosed Nick Nguyen as its CEO in Item  
27 2.

28

1 v. On February 20, 2020, a civil action was filed against Nick Nguyen and the  
2 Affiliates alleging fraud and unfair practices.

3 F. The Commissioner finds that PB, in at least two instances, willfully made an untrue  
4 statement of a material fact in an application, notice or report filed with the Commissioner under the  
5 FIL, or willfully omitted to state in any such application, notice, or report any material fact which is  
6 required to be stated therein or failed to notify the Commissioner of any material change as required  
7 by section 31123, in violation of section 32100.

8 G. The Commissioner also finds that PB, in at least eight instances, offered or sold a  
9 franchise in California by means of any written or oral communication which includes an untrue  
10 statement of a material fact or omits to state a material fact necessary in order to make the statements  
11 made, in the light of the circumstances under which they were made, not misleading, in violation of  
12 section 31201.

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

15 **II.**

16 **TERMS AND CONDITIONS**

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

21 2. Desist and Refrain Order. Pursuant to Corporations Code sections 31402 and 31406,  
22 PB Asset Group, LLC is hereby ordered to desist and refrain from the violations set forth herein, in  
23 violation of Corporations Code section 31200.

24 3. Penalties. PB shall pay an administrative penalty of \$15,000.00 no later than 15 days  
25 after the effective date of this Consent Order as defined in paragraph 24 (Effective Date). The  
26 penalty must be made payable in the form of a cashier's check or Automated Clearing House deposit  
27 to Accounting-Legal, Department of Financial Protection and Innovation, 2101 Arena Blvd.,  
28 Sacramento, California 95834. Notice of the payment must be concurrently sent to Lindsay Nelson,

1 Counsel, at Lindsay.Nelson@dfpi.ca.gov. Failure to timely pay the Penalties constitutes a breach of  
2 this Consent Order.

3 4. Remedial Education. The following class of persons are required to attend  
4 remedial education: (1) All persons with direct management responsibility relating to the sale of  
5 franchises; (2) All persons who assist in preparing franchise materials (excluding outside lawyers  
6 and accountants); and (3) the person who certifies the accuracy of the franchise disclosure  
7 document. Each of these persons shall complete at least eight hours of remedial education within 60  
8 days from the Effective Date of this Consent Order in the form of franchise law training courses  
9 offered by a seasoned franchise attorney to be approved by the Department. PB shall file proof of  
10 compliance, in the form of a sworn statement of each person required to take remedial education,  
11 under penalty of perjury, and a certificate of completion from the vendor to the Commissioner  
12 upon completion. Proof of compliance shall be sent to the Department of Financial Protection and  
13 Innovation, Attn. Lindsay Nelson, Counsel, 320 W. 4<sup>th</sup> St., Suite 750, Los Angeles, CA  
14 90013. Failure to timely complete said remedial education requirement within 60 days of the  
15 Effective Date of this Order constitutes a breach of this Consent Order and PB shall be barred from  
16 offering and selling franchises until said training is complete.

17 5. Notice of Consent Order.

18 i. PB shall provide a copy of this Consent Order to all franchisees who  
19 purchased a franchise from June 30, 2020 to the Effective Date of this Consent Order (Franchisee  
20 Class).

21 ii. Within 30 days of the Effective Date of this Consent Order, PB shall submit to  
22 the Commissioner proof(s) of service (by email and certified mail) of a copy of this Consent Order  
23 to each of the franchisees in the Franchisee Class. PB shall not include any other documents in the  
24 mailing. The Proof(s) of Service shall be sent to the attention of Lindsay Nelson, Counsel, at  
25 Lindsay.Nelson@dfpi.ca.gov.

26 6. Waiver of Hearing Rights. PB acknowledges that the Commissioner is ready, willing,  
27 and able to proceed with the filing of an administrative enforcement action on the charges contained  
28 in this Consent Order. PB hereby waives the right to any hearings, and to any reconsideration,

1 appeal, or other right to review which may be afforded pursuant to the FIL, the California  
2 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law.  
3 PB further expressly waives any requirement for the filing of an action pursuant to Government  
4 Code section 11415.60, subdivision (b). By waiving such rights, PB effectively consents to this  
5 Consent Order and all of its terms becoming final.

6 7. Opportunity to Cure. In the event PB fails to comply with the terms of this Consent  
7 Order (except for Desist and Refrain Order), PB will have calendar days to cure such breach from  
8 the date written notice of the breach is emailed by the Commissioner to PB (Notice) at the email  
9 address in paragraph 21. Proof of cure, satisfactory to the Commissioner, shall be sent via traceable  
10 method with a notice via email by PB to Lindsay Nelson at Lindsay.Nelson@dfpi.ca.gov so that it is  
11 received within 15 days of the date of Notice.

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

18 9. Information Willfully Withheld or Misrepresented. This Consent Order may be  
19 revoked, and the Commissioner may pursue any and all remedies available under law against PB if  
20 the Commissioner discovers that PB knowingly or willfully withheld or misrepresented information  
21 used for and relied upon in this Consent Order.

22 10. Future Actions by Commissioner. If PB fails to comply with any terms of the  
23 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise  
24 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions  
25 against PB, or any of its partners, owners, officers, shareholders, directors, employees or successors  
26 for any and all unknown violations of the FIL.

27 11. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner's  
28 ability to assist any other government agency (whether city, county, state, or federal) with any

1 administrative, civil or criminal action brought by that agency against PB or any other person based  
2 upon any of the activities alleged in this matter or otherwise.

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

6 13. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in  
7 interest.

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

17 15. Waiver, Amendments, and Modifications. No waiver, amendment, or modification  
18 of this Consent Order will be valid or binding unless it is in writing and signed by each of the  
19 Parties. The waiver of any provision of this Consent Order will not be deemed a waiver of any  
20 other provision. No waiver by either party of any breach of, or of compliance with, any condition  
21 or provision of this Consent Order by the other party will be considered a waiver of any other  
22 condition or provision or of the same condition or provision at another time.

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



1           23.    Public Record. PB hereby acknowledges that this Consent Order is and will be a  
2 matter of public record.

3           24.    Effective Date. This Consent Order shall become final and effective when signed by  
4 all Parties and delivered by the Commissioner's agent via e-mail to PB's agent, Jason Power, Esq.  
5 at jason@franchise.law.

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

9  
10 Dated: 10/27/2021

\_\_\_\_\_CHRISTOPHER S. SHULTZ (Acting)  
Commissioner of Financial Protection and Innovation

11  
12  
13 By: \_\_\_\_\_  
14 JENNIFER RUMBERGER  
15 Deputy Commissioner

16  
17 Dated: 10/25/2021

PB ASSET GROUP, LLC

18  
19  
20 By: \_\_\_\_\_  
21 NICK NGUYEN  
22 Chief Executive Officer