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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 OCG MANAGEMENT COLORADO, LLC.,)
16 doing business as UNITY RD.,)
17 Respondent.)

18 This Consent Order is entered into between the Commissioner of Financial Protection and
19 Innovation (Commissioner), and OCG Management Colorado, LLC., doing business as Unity Rd.
20 (Unity) (collectively, Parties) and is made with respect to the following facts:
21

22 I.
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.),¹ 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

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

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

5 B. At all relevant times, Unity was and is a Colorado limited liability company with a
6 principal place of business located at 2727 N 3rd St Unit 201, Phoenix, Arizona 85008. At all
7 relevant times, Unity offers and sells franchises for the operation of cannabis retail businesses that
8 sell recreational cannabis.

9 C. Pursuant to section 31110, it shall be unlawful for any person to offer or sell any
10 franchise in California unless the offer of the franchise has been registered with the Commissioner or
11 exempted.

12 D. In August 2021, the Department engaged in an investigation whereby the Department
13 discovered offers to sell a Unity franchise directed to California consumers via
14 www.americasbestfranchises.com and www.franchisedirect.com despite the fact that Unity was not
15 registered to do so in California. Also in August 2021, the Department received an offer to sell a
16 Unity franchise by phone, text, and email by a Unity employee, despite the fact that Unity was not
17 registered to do so in California.

18 E. The Commissioner finds that Unity offered franchises in California without being
19 registered with the Commissioner or exempt, in violation of section 31110.

20 F. NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
21 set forth herein, the Parties agree as follows:

22 **II.**

23 **TERMS AND CONDITIONS**

24 1. **Purpose.** This Consent Order resolves the issues before the Commissioner [findings
25 in paragraphs A through E above] in a manner that avoids the expense of filing any action,
26 conducting any hearing, the entry of any injunction or restrictive order by the Commissioner and
27 any other possible court proceedings, actions, protects consumers, is in the public interest, and is
28 consistent with the purposes and provisions of the applicable law.

1 2. Administrative Cost and Fees Payment. Unity agrees to pay to the Department the
2 sum of \$2,500 as Administrative Costs and Fees (Administrative Payment). Unity agrees to pay the
3 Administrative Payment within ten (10) business days of the effective date in Paragraph 24
4 (Effective Date) of this Consent Order via cashier's check or ACH deposit to the Department of
5 Financial Protection and Innovation, Accounting-Legal, 2101 Arena Blvd., Sacramento, CA 95834.
6 Unity agrees to provide a notice of payment concurrently to Marisa I. Urteaga-Watkins, Counsel via
7 email at marisa.urteaga-watkins@ dfpi.ca.gov.

8 3. Initial Sales Compliance Training. Unity agrees the following class of persons will
9 attend initial franchise sales compliance training: (1) All persons with direct management
10 responsibility relating to the sale of franchises; (2) All persons who assist in preparing franchise
11 materials (excluding outside lawyers and accountants); and (3) The person who certifies the
12 accuracy of any Unity FDD. Each of these persons shall complete at least six (6) hours of franchise
13 sales compliance training offered by a training provider that is approved by the Commissioner
14 within thirty (30) calendar days of the Effective Date of this Consent Order. The Commissioner's
15 approval of the training provider is required prior to the training. Unity agrees to submit proof of
16 compliance, in the form of a sworn statement of each person required to take compliance training,
17 and a certificate of completion from the approved training provider to the Commissioner upon
18 completion. Unity agrees to provide proof of compliance within thirty (30) calendar days from the
19 date of training completion to the Department of Financial Protection and Innovation, Attn. Marisa
20 I. Urteaga-Watkins, Counsel, 2101 Arena Blvd., Sacramento, CA 95834. Unity's failure to timely
21 complete said initial sales compliance training requirement constitutes a breach of this Consent
22 Order.

23 4. Annual Compliance Training. Unity agrees that the following class of persons will
24 attend annua franchise compliance training each year, for a period of five (5) years from the
25 Effective Date of this Consent Order, commencing after the completion of the Initial Sales
26 Compliance Training, as referenced in Paragraph 3, herein : (1) All persons with direct management
27 responsibility relating to the sale of franchises; (2) All persons who assist in preparing franchise
28 materials (excluding outside lawyers and accountants); and (3) The person who certifies the

1 accuracy of any Unity FDD. Each of these persons shall complete at least six (6) hours of annual
2 franchise compliance training offered by a training provider that is approved by the Commissioner.
3 Unity agrees to provide proof of compliance, in the form of a sworn statement of each person
4 required to take compliance training, and a certificate of completion from the approved training
5 provider to the Commissioner upon completion. Unity agrees to provide proof of compliance
6 within thirty (30) calendar days from the date of completion to the Department of Financial
7 Protection and Innovation, Attn. Marisa I. Urteaga-Watkins, Counsel, 2101 Arena Blvd.,
8 Sacramento, CA 95834. Unity's failure to timely complete said annual compliance training
9 requirement each year constitutes a breach of this Consent Order.

10 5. Third Party Franchise Sales Websites. Unity agrees to contact and provide notice to
11 www.americasbestfranchises.com, www.franchisedirect.com and third-party brokers that Unity has
12 a contractual relationship with that Unity's franchises are not currently available in California until
13 Unity registers a FDD with the Department or there is an available exemption from registration
14 under the FIL (Notice). Unity agrees to provide proof of compliance within sixty (60) calendar days
15 from the Effective Date of this Consent Order in the form of a sworn affidavit from Unity's chief
16 franchise officer attesting to the completion of this requirement to the Department of Financial
17 Protection and Innovation, Attn. Marisa I. Urteaga-Watkins, Counsel, 2101 Arena Blvd.,
18 Sacramento, CA 95834. Unity's failure to complete this requirement constitutes a breach of this
19 Consent Order.

20 6. Unity Website Email Inquiries. Unity agrees to send a prompt automated response to
21 any California consumer that makes a franchise inquiry submitted through Unity's website to
22 operate a franchise in California stating that Unity franchises are not available to operate in
23 California until Unity registers an FDD with the Department or there is an available exemption
24 under FIL. Unity agrees to provide proof of compliance within sixty (60) calendar days from the
25 Effective Date of this Consent Order in the form of a sworn affidavit from Unity's chief franchise
26 officer attesting to the completion of this requirement to the Department of Financial Protection and
27 Innovation, Attn. Marisa I. Urteaga-Watkins, Counsel, 2101 Arena Blvd., Sacramento, CA 95834.
28 Unity's failure to complete this requirement constitutes a breach of this Consent Order.

1 7. Waiver of Hearing Rights. Unity acknowledges that the Commissioner is ready,
2 willing, and able to proceed with the filing of an administrative enforcement action on the charges
3 contained in this Consent Order. The Commissioner and Unity agree that, to date, the
4 Commissioner has not filed any administrative enforcement action against Unity for the matters
5 described in this Consent Order. Nothing herein is intended to be an entry of any injunction or
6 restrictive order by a governmental agency. Unity agrees to waive the right to any hearings, and to
7 any reconsideration, appeal, or other right to review which may be afforded pursuant to the FIL, the
8 Administrative Procedure Act (APA), the Code of Civil Procedure (CCP), or any other provision of
9 law. Unity further expressly waives any requirement for the filing of an accusation pursuant to
10 Government Code section 11415.60, subdivision (b). By waiving such rights, Unity effectively
11 consents to this Consent Order becoming final. The Commissioner and Unity agree that the terms of
12 this Consent Order are intended to finally resolve the matters described in this Consent Order.

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

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

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

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

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

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

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

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

25 16. Full Integration. This Consent Order is the final written expression and the complete
26 and exclusive statement of all the agreements, conditions, promises, representations, and covenant
27 between the Parties with respect to the subject matter hereof, and supersedes all prior or
28 contemporaneous agreements, negotiations, representations, understandings, and discussions

1 between and among the Parties, their respective representatives, and any other person or entity with
2 respect to the subject matter covered hereby.

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

7 18. Counterparts. This Consent Order may be executed in one or more separate
8 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
9 together constitute a single document.

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

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

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

21 To Unity: Jenni Wisniewski, Esq.
22 Lexagon Law
23 6550 E 6th Ave. Pkwy
24 Denver, CO 80220
25 jenni.wisniewski@lexagonlaw.com

26 To the Commissioner: Marisa I. Urteaga-Watkins, Esq.,
27 Department of Financial Protection and Innovation
28 2101 Arena Blvd.
Sacramento, California 95834

22. Signatures. A fax, scanned, or electronic signature shall be deemed the same as an
original signature.

