

1 CLOTHILDE V. HEWLETT
Commissioner
2 THERESA LEETS
Assistant Chief Counsel
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4 Counsel
Department of Financial Protection and Innovation
5 2101 Arena Blvd.
Sacramento, California 95834
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7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
9 OF THE STATE OF CALIFORNIA
10

11 In the Matter of:)
12)
THE COMMISSIONER OF FINANCIAL)
13 PROTECTION AND INNOVATION,)
14) CONSENT ORDER
Complainant,)
15 v.)
16)
PATH TO PROSPERITY, LLC, doing)
17 business as PURCHASE GREEN,)
18)
Respondent.)
19 _____)

20 This Consent Order is entered into between the Commissioner of Financial Protection and
21 Innovation (Commissioner) and Path to Prosperity, LLC., doing business as Purchase Green (PTP
22 or Respondent) (collectively, Parties) and is made with respect to the following facts:

23 **I.**

24 **RECITALS**

25 A. The Commissioner is the head of the Department of Financial Protection and
26 Innovation (Department) and is responsible for administering and enforcing the Franchise
27 Investment Law (FIL) (Corp. Code, § 31000 et seq.),¹ and registering the offer and sale of franchises
28 _____

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 that includes a Franchise
2 Disclosure Document (FDD) with the Department for review, in accordance with sections 31111 and
3 31114.

4 B. At all relevant times, PTP was and is a California limited liability company with a
5 principal place of business located at 2701 Kimball Avenue, Pomona, California 91767. At all
6 relevant times, PTP sells franchises involving the supply of artificial grass, artificial putting greens,
7 artificial sports turfs, solar power lights and relevant accessories.

8 C. Pursuant to section 31110, it is unlawful for any person to offer or sell a franchise in
9 California, unless the offer is registered with the Commissioner or is exempt from registration.

10 D. From at least February 24, 2014, to November 30, 2018, PTP entered into at least
11 nine (9) franchise agreements referred to as “territory holder agreements” (Agreements) with various
12 California franchisees for the operation of stores, using a system prescribed by PTP. PTP was not
13 registered to offer and sell franchises by the Commissioner, nor was PTP exempt from registration,
14 from February 2014 to November 2018, in violation of section 31110.

15 E. Pursuant to section 31119, it is unlawful to sell any franchise without first providing a
16 prospective franchisee with the FDD at least fourteen (14) days prior to the execution of a franchise
17 agreement or receipt of consideration.

18 F. From at least February 24, 2014, to November 30, 2018, PTP entered into the
19 Agreements. PTP failed to provide a PTP FDD to at least nine (9) franchisees at least fourteen (14)
20 days prior to the execution of the Agreements or receipt of consideration, in violation of section
21 31119.

22 G. Pursuant to 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.

27 H. On April 20, 2021, PTP filed initial application number 20969 for franchise
28 registration with the Department pursuant to the FIL (2021 Application). The Department issued an

1 Order Postponing Effectiveness on November 1, 2021. To date, the 2021 is pending with the
2 Department.

3 I. In the 2021 Application, PTP did not disclose the Agreements as franchises to the
4 Commissioner. Also, PTP represented to the Commissioner in Item 20 of the 2021 Application that
5 the Agreements were not franchises, but “territorial holder agreements”.

6 J. The Commissioner finds that from at least February 24, 2014 to at least November
7 20, 2021, PTP offered and sold non-exempt, unregistered franchises referred to as “territory holder
8 agreements”, to nine (9) franchisees in California, in violation of section 31110.

9 K. The Commissioner also finds that PTP failed to provide an FDD to nine (9)
10 franchisees at least fourteen (14) days prior to the execution of the Agreements or receipt of
11 consideration, in violation of section 31119.

12 L. The Commissioner finally finds that PTP willfully omitted to disclose the material
13 fact that the Agreements were PTP franchises in the 2021 Application and represented that the
14 Agreements were not franchises in the 2021 Application, which is required to be stated, in violation
15 of section 31200.

16 M. NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
17 set forth herein, the Parties agree as follows.

18 **II.**

19 **TERMS AND CONDITIONS**

20 1. Purpose. This Consent Order resolves the issues before the Commissioner,
21 described in the Recitals above, in a manner that avoids the expense of a hearing and other possible
22 court proceedings, protects consumers, is in the public interest, and is consistent with the purposes
23 and provisions of the applicable law.

24 2. Desist and Refrain Order. Pursuant to Corporations Code sections 31402 and 31406,
25 Path to Prosperity, LLC., doing business as Purchase Green is hereby ordered to desist and refrain
26 from the violations set forth herein, in violation of Corporations Code sections 31110, 31119 and
27 31200. The issuance of this Consent Order is necessary, in the public interest, for the protection of
28

1 investors and is consistent with the purposes, policies, and provisions of the Franchise Investment
2 Law.

3 3. Penalties. Path to Prosperity, LLC., doing business as Purchase Green shall pay
4 penalties of \$45,000 for the violations discussed herein. Path to Prosperity, LLC., doing business as
5 Purchase Green shall pay the Penalties to the Commissioner within ten (10) calendar days of the
6 effective date of this Consent Order in Paragraph 22 herein (Effective Date) via cashier's check or
7 Automated Clearing House deposit to the Department of Financial Protection and Innovation,
8 **Accounting - Legal**, 2101 Arena Blvd., Sacramento, California 95834. Notice of the payment must
9 be concurrently sent via email to Marisa I. Urteaga-Watkins, Esq. at marisa.urteaga-
10 watkins@dfpi.ca.gov. Failure to timely pay the Penalties constitutes a breach of this Consent Order.

11 4. Administrative Cost. Path to Prosperity, LLC., doing business as Purchase Green
12 shall pay the administrative cost of \$2,000 (Administrative Cost) to the Commissioner within ten
13 (10) calendar days of the Effective Date of this Consent Order. Path to Prosperity, LLC., doing
14 business as Purchase Green shall pay the Administrative Cost to the Commissioner within ten (10)
15 calendar days of the Effective Date of the Consent Order via cashier's check or Automated Clearing
16 House deposit to the Department of Financial Protection and Innovation, **Accounting - Legal**, 2101
17 Arena Blvd., Sacramento, California 95834. Notice of the payment must be concurrently sent via
18 email to Marisa I. Urteaga-Watkins, Esq. at marisa.urteaga-watkins@dfpi.ca.gov. Failure to timely
19 pay the Administrative Cost constitutes a breach of this Consent Order.

20 5. Waiver of Hearing Rights. PTP acknowledges that the Commissioner is ready,
21 willing, and able to proceed with the filing of an administrative enforcement action on the charges
22 contained in this Consent Order. PTP hereby waives the right to any hearings, and to any
23 reconsideration, appeal, or other right to review which may be afforded pursuant to the FIL, the
24 Administrative Procedure Act (APA), the Code of Civil Procedure (CCP), or any other provision of
25 law. PTP further expressly waives any requirement for the filing of an accusation pursuant to
26 Government Code section 11415.60, subdivision (b). By waiving such rights, PTP effectively
27 consents to this Consent Order becoming final.
28

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

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

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

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

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

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

26 12. Reliance. Each of the Parties represents, warrants, and agrees that in executing this
27 Consent Order, it has relied solely on the statements set forth herein and the advice of its own
28 counsel. Each of the Parties further represents, warrants, and agrees that in executing this Consent

1 Order, it has placed no reliance on any statement, representation, or promise of any other party, or
2 any other person or entity not expressly set forth herein, or upon the failure of any party or any
3 other person or entity to make any statement, representation, or disclosure of anything whatsoever.
4 The Parties have included this clause: (1) to preclude any claim that any party was in any way
5 fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of parol
6 evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

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

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

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

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

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

3 18. Voluntary Order. PTP enters this Consent Order voluntarily and without coercion
4 and acknowledges that no promises, threats, or assurances have been made by the Commissioner or
5 any officer, or agent thereof, about this Consent Order. The Parties each represent and
6 acknowledge that he, she, or it is executing this Consent Order completely voluntarily and without
7 any duress or undue influence of any kind from any source.

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

10 To PTP: David Gurnick, Esq.
11 Lewitt Hackman Shapiro Marshall Harlan
12 16633 Ventura Blvd., 11th Floor
13 Encino, CA 91436-1865
dgurnick@lewitthackman.com

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

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

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22 ///

23 [THIS PORTION LEFT BLANK INTENTIONALLY]

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

3 22. 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 PTP’s agent, David Gurnick,
5 Esq. at dgurnick@lewithhackman.com.

6 23. 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: 3/2/2022

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection
and Innovation

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12
13
14 By: _____
15 THERESA LEETS
16 Assistant Chief Counsel

17 Dated: 3/2/2022

18 PATH TO PROSPERITY, LLC. doing business as
19 PURCHASE GREEN

20
21 By: _____
22 ANTHONY VENA
23 Manager