

1 THERESA LEETS  
Assistant Chief Counsel  
2 SHOHREH ARAM (State Bar No.192879)  
Senior Counsel  
3 Department of Financial Protection and Innovation  
4 320 W. 4<sup>th</sup> Street, Suite 750  
Los Angeles, CA 90013  
5 Telephone: (213) 576-7584  
6 Facsimile: (213) 576-7179  
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, )  
) CONSENT ORDER  
13 Complainant, )  
14 v. )  
)  
15 CARRE D’ARTISTES GREAT AMERICA, )  
16 LLC, doing business as CARRE D’ARTISTES )  
)  
17 Respondent. )  
\_\_\_\_\_ )

18 This Consent Order is entered into between the Commissioner of Financial Protection and  
19 Innovation (Commissioner) and Carre d’artistes Great America, LLC (Respondent) (Commissioner  
20 and Respondent are collectively referred to herein as Parties) and is made with respect to the  
21 following facts:  
22

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.),<sup>1</sup> and registering the offer and sale of franchises  
28

<sup>1</sup> 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. The FIL requires franchisors to disclose certain material information that is intended to  
4 provide prospective franchisees with facts upon which to make an informed decision to purchase a  
5 franchise, as stated in section 31001.

6 B. At all relevant times, Respondent was and is a New York limited liability company.  
7 Its principal place of business is located at 336AZ-179, Suite B121, Sedona, Arizona 86336. At all  
8 relevant times, Respondent has offered franchises for the operation of art galleries selling  
9 contemporary artwork.

10 C. To the best of Commissioner's and Respondent's knowledge, at all relevant times,  
11 Jean-Louis Vorburger (Vorburger), was an individual and a sole proprietor and/or an associate at  
12 KVB Partners, Inc. (KVB), a corporation, doing business at 60 Broad Street, #3502, New York, New  
13 York 10004. On March 26, 1984, Vorburger became a certified public accountant and licensed with  
14 the New York State Department of Education (NYSDE) (License No. 049094). The license has not  
15 been registered as of July 31, 2021. A true and correct copy of Vorburger's license history from the  
16 official NYSDE public website at <http://www.nysed.gov/com> is attached hereto and incorporated by  
17 reference herein as "Exhibit A".

18 D. Neither Vorburger nor KVB are enrolled in the peer review program. The  
19 accountancy reform law in the State of New York requires that every certified public account's firm  
20 that provides attest services in New York state obtain a peer review every three years and submit  
21 copies of the report and acceptance letter to the New York State Department of Education, before it  
22 can perform an audit. A search of the public website at  
23 <https://us.aicpa.org/forthepublic/peerreviewpublicfile> did not reveal an enrollment for either of the  
24 companies.

25 E. Pursuant to section 31200, it is unlawful for any person willfully to make any untrue  
26 statement of a material fact in any application, notice or report filed with the Commissioner under  
27 the FIL, or willfully omit to state in any such application, notice, or report any material fact which is  
28

1 required to be stated therein or fail to notify the Commissioner of any material change as required by  
2 section 31123.

3 F. On July 2, 2018, Respondent filed an application for registration with the Department  
4 to offer and sell franchises in California (2018 Application). The Application included an auditor's  
5 consent and an FDD containing audited financial statements accompanied by an independent  
6 auditor's report signed by Vorburger on June 29, 2018 (2018(1) Financial Statements). The 2018(1)  
7 Financial Statements included a balance sheet as of June 29, 2018, related statement of operations,  
8 and cash flows for the period of June 15, 2018, through June 29, 2018, and related notes. The  
9 independent auditor's report contained an unqualified audit opinion on the 2018(1) Financial  
10 Statements. On January 28, 2019, the Department issued an order making this registration effective,  
11 thereby allowing Respondent to offer and sell franchises in California from January 28, 2019,  
12 through April 22, 2019.

13 G. On August 12, 2019, Respondent filed an application for registration with the  
14 Department to offer and sell franchises in California (2019 Application). The Application included  
15 an auditor's consent and an FDD containing audited financial statements accompanied by an  
16 independent auditor's report signed by Vorburger on May 14, 2019 (2018(2) Financial Statements).  
17 The 2018(2) Financial Statements included a balance sheet as of December 31, 2018, related  
18 statement of operations, and cash flows for the period of June 15, 2018, through December 31, 2018,  
19 and related notes. The independent auditor's report contained an unqualified audit opinion on the  
20 2018(2) Financial Statements. On August 14, 2019, the Department issued an order making this  
21 registration effective, thereby allowing Respondent to offer and sell franchises in California from  
22 August 14, 2019, through April 20, 2020.

23 H. On July 30, 2020, Respondent filed an application for registration with the  
24 Department to offer and sell franchises in California (2020 Application). The Application included  
25 an auditor's consent and an FDD containing audited financial statements accompanied by an  
26 independent auditor's report signed by Vorburger on July 27, 2020 (2019 Financial Statements). The  
27 2019 Financial Statements included a balance sheet as of December 31, 2019, related statement of  
28 operations, and cash flows for the period of January 1, 2019, through December 31, 2019, and

1 related notes. The independent auditor’s report contained an unqualified audit opinion on the 2019  
2 Financial Statements. On September 9, 2020, Respondent withdrew its application.

3 I. On September 29, 2021, Respondent filed an application for registration with the  
4 Department to offer and sell franchises in California (2021 Application). The Application included  
5 an auditor’s consent and an FDD containing audited financial statements accompanied by an  
6 independent auditor’s report signed by Vorburger on June 28, 2021 (2020 Financial Statements).  
7 The 2020 Financial Statements included a balance sheet as of December 31, 2020, related statement  
8 of operations, and cash flows for the period of January 1, 2020, through December 31, 2020, and  
9 related notes. The independent auditor’s report contained an unqualified audit opinion on the 2020  
10 Financial Statements. This application is still pending with the Department.

11 J. Respondent included the auditor’s consent and financial Statements with  
12 accompanying independent auditor’s report in its 2018, 2019, 2020 and 2021 Applications with the  
13 Department even though Vorburger was not qualified to perform an audit. Respondent failed to  
14 disclose to the Commissioner that Vorburger could not perform an audit at the time the 2018, 2019,  
15 2020 and 2021 Applications were filed with the Department.

16 K. The Commissioner finds that the failure to disclose in the 2018, 2019, 2020 and 2021  
17 Applications that Vorburger could not perform an audit is an omission of a material fact under the  
18 FIL, in violation of section 31200.

19 L. The Commissioner also finds that the inclusion of the 2018(1), 2018(2), 2019, and  
20 2020 Financial Statements in the 2018, 2019, 2020 and 2021 Applications accompanied by  
21 Vorburger’s independent auditor’s report stating that such Financial Statements were audited when  
22 Vorburger was not qualified to conduct audits is an untrue statement of a material fact in an  
23 application filed with the Commissioner, in violation of section 31200.

24 M. NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions  
25 set forth herein, the Parties agree as follows:  
26  
27  
28

**II.****TERMS AND CONDITIONS**

1  
2  
3       1.     Purpose. This Consent Order resolves the issues before the Commissioner,  
4 described in the Recitals above, in a manner that avoids the expense of a hearing and other possible  
5 court proceedings, protects consumers, is in the public interest, and is consistent with the purposes  
6 and provisions of the applicable law.

7       2.     Desist and Refrain Order. Pursuant to section 31406, Carre d'artistes Great America  
8 LLC doing business as Carre d'artistes is hereby ordered to desist and refrain from the violations set  
9 forth herein, in violation of Corporations Code section 31200, and from any violations of the  
10 Franchise Investment Law. The issuance of this order is necessary, in the public interest, for the  
11 protection of investors, and is consistent with the purposes, policies, and provisions of the Franchise  
12 Investment Law.

13       3.     Penalties. Respondent shall pay an administrative penalty of \$20,000 (Penalties), in  
14 two installments of \$10,000 each, with the first payment no later than April 30, 2022, and the  
15 second payment no later than June 30, 2022. The Penalties must be made payable in the form of a  
16 cashier's check or Automated Clearing House deposit to the Department and transmitted to the  
17 attention of Accounting-Legal at the Department of Financial Protection and Innovation, 2101  
18 Arena Boulevard, Sacramento, California 95834. Notice of the payment must be concurrently sent  
19 via email to Shohreh Aram at Shohreh.Aram@dfpi.ca.gov. Failure to pay Penalties in a timely  
20 manner shall be deemed to be a material breach of the terms and conditions of this order.

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

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

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

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

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

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

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

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

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

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

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

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

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

27       16.    Effect Upon Future Proceedings. If Respondent applies for any license, registration,  
28 permit, or qualification under the Commissioner's current or future jurisdiction, or is the subject of

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

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

10 To Respondent: Beata Krakus, Esq.  
11 Greensfelder, Hemker & Gale, P.C.  
12 200 W. Madison, Suite 3300  
13 Chicago, IL 60606  
bk@greensfelder.com

14 To the Commissioner: Shohreh Aram, Senior Counsel  
15 Department of Financial Protection and Innovation  
16 320 W. 4<sup>th</sup> Street, Suite 750  
Los Angeles, CA 90013  
Shohreh.Aram@dfpi.ca.gov

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

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

21 21. 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 Respondent’s agent, Beata  
23 Krakus, Esq., Greensfelder, Hemker & Gale, P.C., 200 W. Madison Street, Suite 3300, Chicago,  
24 Illinois 60606.

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

28 [Signature Page to Follow]



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: 4/8/2022

CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection  
and Innovation

By: \_\_\_\_\_  
THERESA LEETS  
Assistant Chief Counsel

Dated: 4/7/2022

CARRE D'ARTISTES GREAT AMERICA LLC doing  
business as CARRE D'ARTISTES

By: \_\_\_\_\_  
MARC BELLAÏCHE  
Manager