

1 CLOTHIDE V. HEWLETT
Commissioner of Financial Protection and Innovation
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Acting Deputy Commissioner
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9 Attorneys for Complainant

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

12 In the Matter of:)
13 THE COMMISSIONER OF FINANCIAL)
PROTECTION AND INNOVATION,)
14 Complainant,) CONSENT ORDER
15 v.)
16 WCSD, INC. doing business as WEST)
COAST SOURDOUGH,)
17)
18 Respondent.)
19 _____

20 This Consent Order is entered into between the Commissioner of Financial Protection and
21 Innovation (Commissioner), and WCSD, Inc. doing business as West Coast Sourdough (WCSD)
22 (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

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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
4 information which is intended to provide prospective franchisees with facts upon which to make an
5 informed decision to purchase a franchise, as stated in section 31001.

6 B. At all relevant times, WCSD was and is a California corporation with a principal
7 place of business located at 100 Pine Street, Suite 1250, San Francisco, California 94111. At all
8 relevant times, WCSD offers and sells franchises for casual restaurants offering specialty
9 sandwiches, soups and salads for dine-in or take-out. At all relevant times, WCSD engaged in the offer
10 and sale of WCSD franchises in California. WCSD was registered to offer and sell franchises in
11 California by the Department from August 5, 2021, to April 20, 2022, by way of Application
12 Number 21264, filed by WCSD on May 4, 2021, with the Department (Registration). On April 20,
13 2022, WCSD filed for renewal registration by way of Application Number 24165 (Renewal
14 Application) which is pending with the Department. To date, the Department has not approved the
15 Renewal Application for registration.

16 C. Pursuant to section 31110, it is unlawful for any person to offer or sell a franchise in
17 this state unless the offer has been registered with the Commissioner or is exempt.

18 D. From at least March 2020 to April 2021, WCSD entered into eight (8) franchise
19 agreements each referred to as a “Trademark License Agreement” with various California
20 franchisees for the operation of stores, using a system prescribed by WCSD, at specific locations in
21 California (California Store(s)). WCSD was not registered to offer and sell franchises by the
22 Commissioner pursuant to the FIL from March 2020 to April 2021.

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

26 F. From March 2020 to April 2021, WCSD executed franchise agreements for each of
27 the California Stores. However, WCSD did not provide the California Store franchisees with an
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1 FDD at least fourteen (14) days prior to the execution of the franchise agreement or receipt of the
2 franchise fee payment.

3 G. Pursuant to section 31200, it is unlawful for any person willfully to make any untrue
4 statement of a material fact in any application, notice or report filed with the Commissioner under
5 the FIL, or willfully omit to state in any such application, notice, or report any material fact which is
6 required to be stated therein or fail to notify the Commissioner of any material change as required by
7 section 31123.

8 H. On August 5, 2021, WCSD was granted Registration by the Department to offer and
9 sell franchises in California from August 5, 2021, to April 20, 2022, by way of Application Number
10 21264. On April 20, 2022, WCSD filed a Renewal Application, Application Number with the
11 Department which is pending with the Department. To date, the Department has not approved the
12 Renewal Application for registration.

13 I. WCSD did not disclose the California Stores as franchises to the Commissioner in
14 Application Number 21264, Registration, and in Application Number 24165, Renewal Application.

15 J. The Commissioner finds that prior to Registration, WCSD offered and sold eight (8)
16 franchises in California without being registered with the Commissioner or exempt, in violation of
17 section 31110.

18 K. The Commissioner also finds that prior to Registration, WCSD failed to provide
19 prospective franchisees in California with a WCSD FDD at least fourteen (14) days prior to the
20 receipt of consideration in eight (8) instances, in violation of section 31119.

21 L. The Commissioner finally finds that WCSD, willfully omitted to state in Application
22 Number 21264, Registration, and in Application Number 24165, Renewal Application the material
23 fact that WCSD eight (8) California Stores in California, which is required to be stated therein, or,
24 failed to notify the Commissioner of any material change as required by section 31123, in violation
25 of section 31200.

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

TERMS AND CONDITIONS

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

2. Desist and Refrain Order. Pursuant to Corporations Code section 31406, WCSD, Inc., doing business as West Coast Sourdough, is hereby ordered to desist and refrain from the violations of Corporations Code sections 31110, 31119, and 31200 set forth herein. The issuance of this Order is necessary, in the public interest, for the protection of investors, and is consistent with the purposes, policies, and provisions of the Franchise Investment Law.

3. Penalties. WCSD shall pay an administrative penalty of \$60,000 (Penalties) no later than fifteen (15) days after the effective date of this Consent Order as defined in Paragraph 23 (Effective Date). The Penalties must be made payable in the form of a cashier's check or Automated Clearing House deposit to the Department and transmitted to the attention of Accounting at the Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California 95834. Notice of the payment must be concurrently sent via email to Marisa I. Urteaga-Watkins, Esq. at marisa.urteaga-watkins@dfpi.ca.gov. Failure to pay Penalties in a timely manner shall be deemed to be a material breach of this Consent Order.

4. Post-Effective Amendment to Registration Application. WCSD hereby agrees that it will file a Post-Effective Amendment to Registration Application No. 21264 within five (5) calendar days of the Effective Date in accordance with section 31123 to include all WCSD California Stores identified herein, thereby complying with the FIL. WCSD further hereby agrees that it will, in accordance with state and federal law; (1) Add the WCSD California Stores formerly misidentified as licenses to Item 20; and (3) Disclose all WCSD California Stores in the exhibit list of current and former franchisees.

5. Renewal Application and Disclosure. WCSD hereby agrees that it will modify the Renewal Application Number 24165 within five (5) calendar days of the Effective Date in

1 accordance with section 31123 to its currently effective registration to include all WCSD California
2 Stores identified herein, thereby complying with the FIL. WCSD further hereby agrees that it will, in
3 accordance with state and federal law; (1) Disclose this Consent Order in Item 3 of all future FDDs;
4 (2) Add the WCSD California Stores formerly misidentified as licenses to Item 20; and (3) Disclose
5 all WCSD California Stores in the exhibit list of current and former franchisees in all future FDDs.

6 6. Waiver of Hearing Rights. WCSD acknowledges that the Commissioner is ready,
7 willing, and able to proceed with the filing of an administrative enforcement action on the charges
8 contained in this Consent Order. WCSD hereby waives the right to any hearings, and to any
9 reconsideration, appeal, or other right to review which may be afforded pursuant to the FIL, the
10 Administrative Procedure Act (APA), the Code of Civil Procedure (CCP), or any other provision of
11 law. WCSD further expressly waives any requirement for the filing of an accusation pursuant to
12 Government Code section 11415.60, subdivision (b). By waiving such rights, WCSD effectively
13 consents to this Consent Order becoming final.

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

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

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

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

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

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

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

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

27 15. Full Integration. This Consent Order is the final written expression and the complete
28 and exclusive statement of all the agreements, conditions, promises, representations, and covenant

1 between the Parties with respect to the subject matter hereof, and supersedes all prior or
2 contemporaneous agreements, negotiations, representations, understandings, and discussions
3 between and among the Parties, their respective representatives, and any other person or entity with
4 respect to the subject matter covered hereby.

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

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

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

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

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

23 To WCSD: Attn: Galen M. Gentry, Esq.
24 Hughey Gentry
25 520 9th Street, Suite 230
Sacramento, California 95814

26 To the Commissioner: Marisa I. Urteaga-Watkins, Esq,
27 Department of Financial Protection and Innovation
28 2101 Arena Blvd.
Sacramento, California 95834
marisa.urteaga-watkins@dfpi.ca.gov

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

4 22. Public Record. WCSD hereby acknowledges that this Consent Order is and will be a
5 matter of public record.

6 23. Effective Date. This Consent Order shall become final and effective when signed by
7 all Parties and delivered by the Commissioner’s agent via e-mail to WCSD’s agent, Galen M.
8 Gentry, Esq. at ggentry@hugheygentry.com.

9 24. Authority to Sign. Each signatory hereto covenants that he/she possesses all
10 necessary capacity and authority to sign and enter into this Consent Order and undertake the
11 obligations set forth herein.

12 Dated: 8/25/2022

CLOTHIDE V. HEWLETT
Commissioner of Financial Protection and Innovation

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15 By: _____

16 COLLEEN MONAHAN
17 Acting Deputy Commissioner

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19 Dated: 8/24/2022

WCSD, INC., doing business as WEST COAST
20 SOURDOUGH

21 By: _____

22 KARNDEEP UPPAL
23 Chief Executive Officer