

1 CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation
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Acting Deputy Commissioner
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8 Attorneys for Complainant

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

11 In the Matter of:)
12 THE COMMISSIONER OF FINANCIAL)
13 PROTECTION AND INNOVATION,)
14 Complainant,) CONSENT ORDER
15 v.)
16 WKSA, LLC.,)
17 Respondent.)
18 _____)

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

22 **I.**

23 **RECITALS**

24 A. The Commissioner is the head of the Department of Financial Protection and
25 Innovation (Department) and is responsible for administering and enforcing the Franchise
26 Investment Law (FIL) (Corp. Code, § 31000 et seq.),¹ and registering the offer and sale of franchises
27 in California. To register a franchise, a franchisor must file an application which includes a Uniform
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, WKSA was and is a WKSA, LLC., a Texas limited liability
6 company doing business in California and in Texas at 37937 FM 1774 Road Magnolia, Texas
7 77355. At all relevant times, WKSA offers and sells martial arts school franchises in the “Kuk Sool
8 Won” Korean style of martial arts to California consumers. At all relevant times, WKSA engaged in
9 the offer and sale of WKSA franchises in California. At all relevant times, WKSA was registered to
10 offer and sell franchises in California by the Department from 2012 to April 20, 2022.

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

14 D. From at least 2018, WKSA executed three (3) franchise agreements, and/or collected
15 franchise fees for each of the franchisees in California (California Stores). However, WKSA did not
16 provide the California Stores franchisees with an FDD at all, let alone at least fourteen (14) days
17 prior to the execution of the franchise agreement and/or receipt of the franchise fee payment.

18 E. Pursuant to section 31150, every franchisor offering franchises for sale in California
19 shall at all times keep and maintain a complete set of books, records, and accounts of such sales.

20 F. On or about April 27, 2022, the Department issued a Request for Documents
21 requiring WKSA to produce books and records regarding franchise sales. Specifically, the
22 Department requested any and all copies of FDD receipts collected from all California prospective
23 and actual franchisees. The Department also requested accounting documents including records
24 regarding payment of application fees paid to WKSA from 2015 to present. WKSA did not possess
25 or maintain many of the requested books, records, payment documents because a third party
26 possessed them and WKSA could no longer access the documents or the third party.

27 G. Pursuant to section 31200, it is unlawful for any person willfully to make any untrue
28 statement of a material fact in any application, notice or report filed with the Commissioner under

1 the FIL, or willfully omit to state in any such application, notice, or report any material fact which is
2 required to be stated therein or fail to notify the Commissioner of any material change as required by
3 section 31123.

4 H. WKSA was registered to offer and sell franchises in California by the Department
5 from 2012 to April 20, 2022. In each FDD registered with the Department, WKSA asserts to the
6 Commissioner that each franchisee must receive a WKSA FDD at least fourteen (14) days prior to
7 executing a binding agreement or providing consideration to WKSA. However, in 2018, WKSA
8 failed to disclose to the Commissioner WKSA did not provide FDDs to the California Stores
9 franchisees.

10 I. The Commissioner finds that WKSA, on at least three (3) instances, failed to provide
11 franchisees in California with a WKSA FDD at least fourteen (14) days prior to the receipt of
12 consideration in violation of section 31119.

13 J. The Commissioner also finds that WKSA, on at least one (1) instance, failed to at all
14 times keep and maintain a complete set of books, records, and accounts of franchise sales, in
15 violation of section 31150.

16 K. The Commissioner finally finds that WKSA, on at least five (5) instances, failed to
17 disclose to the Commissioner that WKSA did not provide investors with a WKSA FDD at least
18 fourteen (14) days prior to the receipt of consideration, or at all, in violation of section 31200.

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

21 **II.**

22 **TERMS AND CONDITIONS**

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

27 2. Desist and Refrain Order. Pursuant to Corporations Code section 31406, WKSA,
28 LLC. is hereby ordered to desist and refrain from the violations of Corporations Code sections

1 31119, 31150, and 31200 set forth herein and from violating the Franchise Investment Law. The
2 issuance of this order is necessary, in the public interest, for the protection of investors, and is
3 consistent with the purposes, policies, and provisions of the Franchise Investment Law.

4 3. Penalties. WKSA shall pay an administrative penalty of \$7,500 (Penalties) pursuant
5 to the following payment schedule: first payment due October 4, 2022, Tuesday in the amount of
6 \$3750 (First Penalty Payment); and second payment due December 1, 2022, Thursday, in the
7 amount of \$3,750 (Second Penalty Payment). WKSA shall remit the First Penalty Payment and
8 Second Penalty Payment must be made payable in the form of a cashier's check or Automated
9 Clearing House deposit to the Department and transmitted to the attention of **Accounting – Legal**
10 **Division SRD Franchise Unit** at the Department of Financial Protection and Innovation, 2101
11 Arena Boulevard, Sacramento, California 95834. Notice of the payment must be concurrently sent
12 via email to Marisa I. Urteaga-Watkins, Esq. at marisa.urteaga-watkins@dfpi.ca.gov. Failure to
13 pay the First Penalty Payment and/or the Second Penalty Payment in a timely manner shall be
14 deemed to be a material breach of this Consent Order.

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

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

1 6. Information Willfully Withheld or Misrepresented. This Consent Order may be
2 revoked, and the Commissioner may pursue any and all remedies available under law against
3 WKSA, if the Commissioner discovers that WKSA knowingly or willfully withheld or
4 misrepresented information used for and relied upon in this Consent Order.

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

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

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

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

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

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

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

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

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

20 16. Effect Upon Future Proceedings. If WKSA applies for any license, registration,
21 permit, or qualification under the Commissioner’s current or future jurisdiction, or is the subject of
22 any future action by the Commissioner to enforce this Consent Order, then the subject matter hereof
23 shall be admitted for the purpose of such application(s) or enforcement proceeding(s).

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

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

3 To WKSA: Dana Desenberg, Esq.
4 Spence, Desenberg & Lee, LLC.
5 1770 St. James Place, Suite 625
Houston, Texas 77056

6 To the Commissioner: Marisa I. Urteaga-Watkins, Esq,
7 Department of Financial Protection and Innovation
8 2101 Arena Blvd.
9 Sacramento, California 95834
marisa.urteaga-watkins@dfpi.ca.gov

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

12 20. Public Record. WKSA hereby acknowledges that this Consent Order is and will be a
13 matter of public record.

14 21. Effective Date. This Consent Order shall become final and effective when signed by
15 all Parties and delivered by the Commissioner’s agent via e-mail to WKSA’s agent, Dana
16 Desenberg, Esq. dana@sdllaw.com

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

20 Dated: 10/4/2022

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation

21 By: _____

22 COLLEEN MONAHAN
23 Acting Deputy Commissioner

24 Dated:

25 WKSA, LLC.

26 By: _____

27 SANOMIN SUK HUI SUH
28 Manager