

ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF MARYLAND

IN THE MATTER OF:

**Paradise Biryani Express, Inc.,
a.k.a. Paradise Biryani Pointe, LLC,
a.k.a. Paradise Biryani Pointe,**

and

Narsing Raj Gowlikar,

Respondents.

Case No. 2014-0286

* * * * *

FINAL ORDER TO CEASE AND DESIST

WHEREAS, on December 22, 2014, the Maryland Securities Commissioner (the “Securities Commissioner”) entered into a Consent Order (the “2014 Consent Order”) with Paradise Biryani Express, Inc., a.k.a. Paradise Biryani Pointe, LLC, a.k.a. Paradise Biryani Pointe and Narsing Raj Gowlikar (collectively, “Respondents”) to resolve alleged violations of the registration, disclosure, and antifraud provisions of the Maryland Franchise Registration and Disclosure Law, MD. CODE ANN. BUS. REG. §14-201 et seq. (2015 Repl. Vol.) (the “Maryland Franchise Law”) and the regulations promulgated thereunder; and

WHEREAS, under the 2014 Consent Order, Respondents agreed and were ordered to, among other things: (A) promptly file with the Securities Division and diligently pursue the completion of an initial application to register its franchise offering in Maryland; (B) within five days of the date of the Consent Order, make a “rescission offer” to two Maryland Franchisees identified in the Consent Order, and, if the Maryland Franchisees did not rescind at that time, send

a second rescission offer to the Maryland Franchisees upon the later of the date of registration of Respondents' franchise offering in Maryland or September 30, 2015, completing payment of any rescission offer within 30 days of acceptance by any Maryland Franchisee; and (C) pay a civil monetary penalty of \$85,000 to the State of Maryland on or before December 31, 2015, which penalty was to be reduced by the amount of any payments Respondents had made to Maryland Franchisees that opted to rescind their franchise under the terms of the 2014 Consent Order; and

WHEREAS, the Maryland Securities Division (the "Securities Division") initiated an investigation into whether the Respondents violated the terms of the 2014 Consent Order by not diligently pursuing the registration of its franchise offering in Maryland, by not completing rescission offers to two Maryland Franchisees by September 30, 2015, by modifying terms of the rescission offer that Maryland Franchisees eventually accepted, and by not paying the balance of the civil monetary penalty to the State of Maryland on or before December 31, 2015; and

WHEREAS, on June 2, 2016, based on information presented by the Securities Division, the Securities Commissioner concluded that grounds exist to allege that Respondents violated the terms of the 2014 Consent Order and issued an Order to Show Cause for Respondents to show cause why they should not be ordered to permanently cease and desist from violations of the Consent Order and permanently cease and desist from the offer and sale of franchises in Maryland in violation of sections 14-214, 14-223, 14-228 and 14-229 of the Maryland Franchise Law and section 02.02.08.16 of COMAR; and

WHEREAS, Respondents were served with a copy of the Order to Show Cause on June 6, 2016; and

WHEREAS, Respondents' counsel requested an extension of time to respond to the Order to Show Cause to July 7, 2016, which the Securities Division granted; and

WHEREAS, the Securities Division continued to grant Respondents additional time to respond to the Order to Show Cause, until October 6, 2016, at which time the Securities Division gave Respondents an additional fifteen (15) days from that date to respond to the Order to Show Cause; and

WHEREAS, Respondents have not filed an Answer or request for hearing in response to the Order to Show Cause;

WHEREAS, Respondents still have not paid to the State of Maryland the \$5,000 balance due on the civil monetary penalty that Respondents had agreed, under the 2014 Consent Order, to pay the State of Maryland by December 31, 2015; and

WHEREAS, on October 17, 2016, Respondents counsel notified the Securities Division that Respondents were withdrawing the pending application to register Respondents' franchise registration in Maryland and would not contest the Order to Show Cause;

NOW, THEREFORE, IT IS HEREBY ORDERED AND DECREED:

I. JURISDICTION

1. The Securities Commissioner has jurisdiction in this proceeding pursuant to Section 14-210 (a) of the Maryland Franchise Law.

II. FINDINGS OF FACT

A. Respondents

2. Paradise Biryani Express, Inc. ("Paradise Biryani") is a New Jersey corporation with a principal business address of 2 Paddock Dr., Plainsboro, NJ 08536.

3. Paradise Biryani also uses the names "Paradise Biryani Pointe, LLC" and "Paradise Biryani Pointe."

4. Narsing Raj Gowlikar ("Gowlikar") is the founder and president of Paradise

Biryani.

5. Gowlikar is the owner of the Paradise Biryani Pointe trade name and the only person with managerial responsibility over the offer and sale of Paradise Biryani Pointe franchises.

6. Paradise Biryani offers and sells franchises for the operation of Indian restaurants featuring an Indian specialty food called Biryani.

7. In 2007, Paradise Biryani Express began offering licenses for the operation of Paradise Biryani restaurants.

B. Background

8. On December 22, 2014, the Securities Commissioner entered into a Consent Order with Respondents to resolve alleged violations of the registration, disclosure, and antifraud provisions of the Maryland Franchise Law, in relation to offers and sales of Paradise Biryani franchises in Maryland in the form of “Business License Agreements.”

9. As part of the Consent Order, the Securities Commissioner concluded that Respondents violated sections 14-214, 14-216, 14-223, 14-228, and 14-229 of the Maryland Franchise Law and section 02.02.08.16 of the Code of Maryland Regulations (COMAR).

10. Under the terms of the Consent Order, Respondents agreed, among other things, to “promptly file with the Securities Division” and “diligently pursue” the completion of an initial application to register its franchise offering in Maryland and, within five days of the date of the Consent Order, make a “rescission offer” to two Maryland Franchisees identified in the Consent Order. “Diligently pursue” was defined under the Consent Order to mean that an applicant would submit a substantive response to a Securities Division comment letter regarding a registration application no later than 30 days after the applicant’s receipt of the comment letter.

11. Under the Consent Order, Respondents also agreed that if Respondents had not

obtained an effective registration of the Paradise Biryani franchise offering in Maryland by September 30, 2015, Respondents would make a second rescission offer to any Maryland Franchisee that had not previously rescinded its Paradise Biryani franchise.

12. Under the form of rescission offer required under the Consent Order, Respondents agreed to return all initial license fees that the Maryland Franchisees paid, if those Maryland Franchisees opted to rescind their Paradise Biryani franchise.

13. The rescission offer Respondents were required to make to the Maryland Franchisees under the Consent Order provided that, if any Maryland Franchisee opted to rescind its franchise, Respondents would make payments to the rescinding franchisee within 30 days after Respondents' receipt of the acceptance of the offer of rescission.

14. Based on information Respondents provided to the Securities Division, one of the Maryland Franchisees, Paradise Biryani Point, Inc., paid Respondents an initial license fee of \$30,000 for the right to operate a Paradise Biryani restaurant located in Gaithersburg, Maryland, and the second Maryland Franchisee, Seven Hills, LLC, paid Respondents an initial license fee of \$50,000 for the right to operate a Paradise Biryani restaurant in Catonsville, Maryland.

15. Under the Consent Order, Respondents agreed to pay a civil monetary penalty of \$85,000 to the State of Maryland on or before December 31, 2015, which penalty was to be reduced by the amount of any payments Respondents had made to Maryland Franchisees that opted to rescind their franchise under the terms of the Consent Order.

C. Failure to Promptly File and Diligently Pursue a Registration Application

16. On May 28, 2015, approximately five months after the date of the Consent Order, the Securities Division wrote counsel for Respondents advising them that Respondents had not, as of that date, filed an initial franchise registration in Maryland, and reminded them of their

obligation to “promptly file” and diligently pursue that registration.

17. Respondents did not file an initial application to register the Paradise Biryani franchise in Maryland until October 8, 2015, more than nine months after the date of the Consent Order.

18. On October 27, 2015, the Securities Division sent a comment letter to Respondents’ counsel identifying 27 deficiencies in Respondents’ franchise registration application.

19. Respondents did not respond to the Securities Division comment letter until January 7, 2016.

20. On January 11 2016, the Securities Division sent a second comment letter to Respondents’ counsel identifying nine deficiencies that Respondents had not corrected.

21. Respondents never responded to the Securities Division’s January 11, 2016 comment letter.

D. Failure to Pay Civil Monetary Penalty to State of Maryland

22. Respondents have not paid to the State of Maryland the civil monetary penalty required under the Consent Order.

23. The civil monetary penalty was due to be paid to the State of Maryland no later than December 15, 2015.

24. The amount of the civil monetary penalty under the Consent Order was to be at least \$5,000, if both of the Maryland Franchisees rescinded their respective Paradise Biryani franchises, or a larger penalty, up to a maximum of \$85,000, if one or both of the Maryland Franchisees opted not to exercise their respective rights to rescind their Paradise Biryani franchise.

E. Failure to Make Rescission to Maryland Franchisee

25. On March 10, 2016, the Securities Commissioner issued a Subpoena for

Documents to Respondent seeking, among other things, all documents demonstrating that Respondents had refunded the license fees to the Maryland Franchisees who accepted Respondents' offer to rescind their Paradise Biryani franchise.

26. In response to the Securities Commissioner's Subpoena for Documents, Respondent Gowlikar produced to the Securities Division copies of two Promissory Notes: one Promissory Note payable to Seven Hills, LLC in the principal amount of \$50,000, with zero percent interest, due on or before September 1, 2016; and a second Promissory Note payable to Paradise Biryani Pointe Corp, in the principal amount of \$30,000, with zero percent interest, due on or before September 1, 2016.

27. Respondents had not sought to modify the terms of the Securities Commissioner's 2014 Consent Order and did not obtain approval from the Commissioner to unilaterally modify the terms of payment of rescission to the Maryland Franchisees or the payment of the civil monetary penalty to be paid to the State of Maryland.

28. In August 2016, Respondents represented to the Securities Division that Respondents finally completed rescission payments totaling \$80,000 to the Maryland Franchisees under the terms of the 2014 Consent Order, although those rescission payments were made in installments, and were not completed until July 2016, contrary to the terms Respondents had agreed to under the 2014 Consent Order.

F. False Submission of Signed Rescission Offers

29. Upon information and belief, contrary to Respondents' representation to the Securities Division, the owners of Seven Hills, LLC did not receive a rescission offer from Respondents in 2015, as Respondents represented, did not sign the rescission offer in 2015 indicated that they opted to rescind their Paradise Biryani franchise, and never received a

Promissory Note from Respondents for repayment of their initial license fees.

30. Upon information and belief, the rescission offer allegedly signed by an owner of Seven Hills, LLC that Respondents provided to the Securities Division in February 2016 was not, in fact, signed by that owner or any owner of Seven Hills, LLC.

III. CONCLUSIONS OF LAW

The Commissioner concludes that:

31. Respondents violated the terms of the 2014 Consent Order, including the term requiring Respondents to pay a civil monetary penalty of \$5,000 to the State of Maryland.

32. Respondents violated sections 14-214, 14-223, 14-228 and 14-229 of the Maryland Franchise Law and section 02.02.08.16 of COMAR.

IV. SANCTIONS

NOW, THEREFORE, the Commissioner finds it to be in the public interest to issue this Final Order to Cease and Desist and HEREBY ORDERS THAT:

33. Respondents permanently cease and desist from the offer and sale of franchises in violation of the Maryland Franchise Law.

V. JURISDICTION RETAINED

34. Jurisdiction is retained by the Commissioner for the purpose of enabling any party to this Order to apply for such further orders and directions as may be necessary or appropriate for the construction or enforcement of this Order.

VI. NOTICE OF RIGHT TO APPEAL

35. Pursuant to the Code of Maryland Regulations, COMAR 02.02.06.24, any Respondent has the right to file an appeal of this Order with the circuit court of Maryland. Any appeal must be filed within 30 days from the date this Order is mailed by the Securities Division.

SO ORDERED:

Commissioner's Signature on
File w/Original Documents

Dated: November 15, 2016

MELANIE SENTER LUBIN
SECURITIES COMMISSIONER