

**ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF MARYLAND**

In the Matter of:	*	
JUICY BURGERS TEMECULA, LLC,	*	
and	*	Case Number 2017-0437
NICK R. WALPERT,	*	
Respondents.	*	

* * * * *

CONSENT ORDER

WHEREAS, the Securities Division of the Office of the Attorney General of Maryland (the “Securities Division”) initiated an investigation into the franchise-related activities of Juicy Burgers Temecula, LLC and Nick R. Walpert (collectively “Respondents”) under the authority granted under the Maryland Franchise Registration and Disclosure Law, MD. BUS. REG. CODE ANN. §§14-201 et seq. (2015 Repl. Vol.) (the “Maryland Franchise Law”); and

WHEREAS, based on information presented by the Securities Division, the Maryland Securities Commissioner (the “Commissioner”) concluded that grounds exist to allege that Respondents violated the registration, disclosure, and antifraud provisions of the Maryland Franchise Law, in relation to the offer to sell, and sale of a Juicy Burger franchise in Maryland;

WHEREAS, before the holding of a hearing in this matter, without trial or final adjudication of any issue of fact or law, and without Respondents admitting or denying any violation of law, the Commissioner and Respondents have reached an agreement to enter into this Consent Order;

NOW, THEREFORE, IT IS HEREBY ORDERED AND DECREED:

I. JURISDICTION

1. The Commissioner has jurisdiction in this proceeding and over Respondents pursuant to section 14-210 (a) of the Maryland Franchise Law.

II. FINDINGS OF FACT

A. Respondents

2. Juicy Burgers Temecula, LLC, also known as Juicy Burgers America (“Juicy Burgers”), is a New Mexico limited liability company with a principal business address of 2307 Fenton Parkway, Suite 10769, San Diego, CA 92108.

3. Juicy Burgers maintained an Internet website at www.juicyburgers.net.

4. Nick R. Walpert (“Walpert”) is the founder, president, and chief executive officer of Juicy Burgers.

B. Offer and Sale of Trademark Licenses

5. Juicy Burgers offers and sells licenses for individuals to own and operate hamburger restaurants using the name and trademarks of Juicy Burgers and Juicy Burgers America.

6. Juicy Burgers’ Internet website represented that Juicy Burgers was offering a multi-branded license concept. The website stated:

All Juicy Burgers America Restaurants are exciting established business opportunities backed by a successful organization. Our support includes real estate assistance, dynamic marketing program and national buying power. In addition, we provide a business system proven to be successful along with comprehensive management training programs. License owners also have the advantage of continuing support in all facets of the business and never pay any royalties.

7. The Juicy Burgers website also included a representation that a Juicy Burgers restaurant could generate total income of \$919,324 and operating profits of \$212,641, based on management performance.

8. In the Fall of 2016, SD, a resident of Prince George's County, Maryland, contacted Juicy Burgers about entering into a license agreement to own and operate a Juicy Burgers restaurant.

9. In September 2016, SD sent an e-mail to Walpert asking him for a list of current opened Juicy Burgers restaurant locations.

10. Walpert responded to SD's request by providing him with a list of addresses and telephone numbers of 21 Juicy Burgers locations in California, Colorado, Nevada, New York, and several foreign countries.

11. SD asked Walpert for a Juicy Burgers disclosure document similar to a franchise disclosure document.

12. Walpert responded that Juicy Burgers did not have a franchise disclosure document because it was a license system. Walpert stated "We don't charge royalties and have a simpler program with more flexibility."

13. SD's requested a list of existing Juicy Burgers owners for SD to call as references before signing an agreement. In response, Walpert gave SD the name and address of two individuals, one located in Bakersfield, California, and one located in Centennial, Colorado.

14. On March 28, 2017, SD sent Juicy Burgers LLC a cashier's check in the amount of \$39,000.00.

15. On March 31, 2017, SD entered into a "Confidential Trademark License Agreement" with Juicy Burgers granting SD a license to use the Juicy Burgers mark in connection with the provision of retail products and services at an approved location.

16. Under the Confidential Trademark License Agreement, the licensee was required

to pay a license fee of \$39,000.00 annually for each Juicy Burgers location.

17. Under the Confidential Trademark License Agreement, Respondents represented that the Juicy Burgers System included secret systems and formulas only known to the company, valuable expertise in the construction, management, and operation of stores, special formulas and processes for certain secret systems, and use of the trademarks Juicy Burgers and Juicy Burgers America.

18. Juicy Burgers, SD, and others made efforts to try to find an acceptable location in Maryland for a Juicy Burgers restaurant for SD.

19. SD never opened a Juicy Burgers restaurant.

20. On May 5, 2017, SD asked Walpert for the return of his license fee, claiming that Walpert made material misrepresentations to him about Juicy Burgers, the number of locations that Walpert represented Juicy Burgers had, and the references that Walpert gave SD to contact.

21. In June 2017, SD and Juicy Burgers entered into a Confidential Settlement Agreement and Mutual Release, in which Respondents refunded to SD the sum of \$35,000, representing 90% of the license fee that SD paid to Juicy Burgers in March 2017.

22. Juicy Burgers has never been registered with the Securities Division to offer and sell franchises under the Maryland Franchise Law.

23. Respondents did not give to SD a Juicy Burgers franchise disclosure document in the form required under the Maryland Franchise Law.

24. Respondents had no operational Juicy Burgers licensed locations at the time they entered into a Confidential Trademark License Agreement with SD, and the list of 21 locations that Respondents provided to SD were not affiliated with Juicy Burgers, but were simply

restaurants with names similar to Juicy Burgers.

C. Representations by Respondents

25. Respondents represent that they were unaware of the registration and disclosure requirements of the Maryland Franchise Law or that franchise regulatory requirements could apply to license agreements.

26. Respondents represent that they have obtained new counsel to assist them with complying with federal and state franchise law and regulatory requirements.

27. Respondents also represent that they will not offer to sell or sell any franchises, including trademark license agreements, in Maryland or to any Maryland residents.

28. Respondents further represent that, other than the franchise offer and sale made to SD, whom Juicy Burgers has identified in documents submitted to the Securities Division, Juicy Burgers did not offer to sell or sell any franchises, in the form of Confidential Trademark License Agreements or otherwise, in Maryland or to any Maryland residents.

29. By engaging in the above activities, the Commissioner has concluded that Juicy Burgers violated §§14-214, 14-216, 14-228, and 14-229 of the Maryland Franchise Law.

III. ORDER AND CONSENT

30. THE COMMISSIONER HEREBY ORDERS, AND RESPONDENTS REPRESENT AND CONSENT THAT:

- A. Respondents shall immediately and permanently cease and desist from the offer and sale of franchises in violation of the Maryland Franchise Law;
- B. Respondents shall refund to SD the full amount of the license fee that SD paid to Juicy Burgers under the Confidential Trademark License Agreement, minus any payments that Juicy Burgers has already made to SD under the terms of any

Confidential Settlement Agreement and Mutual Release, and Juicy Burgers shall provide the Securities Division with verification that the total license fee has been fully refunded to SD without any additional limitations or variations on the terms of any mutual releases already entered into between SD and Juicy Burgers;

- C. Respondents agree not to offer to sell or sell any franchises, in the form of Confidential Trademark License Agreements or otherwise, in Maryland or to any prospective Maryland residents;
- D. Respondents acknowledge that this Consent Order is a discloseable order as described under the Maryland Franchise Law, and Item 3 of the NASAA Franchise Registration and Disclosure Guidelines and Amended FTC Franchise Rule.

IV. JURISDICTION RETAINED

31. Jurisdiction shall be retained by the Commissioner for such further orders and directions as may be necessary or appropriate for the construction or enforcement of the Consent Order.

V. CONSEQUENCES OF VIOLATING THIS CONSENT ORDER

32. If any Respondent fails to comply with any term of this Consent Order, the Securities Division may bring administrative or judicial proceedings against it to enforce this Consent Order or to sanction it for violating an order of the Commissioner, and may take any other action authorized under the Maryland Franchise Law or any other applicable law. In any such proceeding in which, after an opportunity for a hearing, the Commissioner or a court finds that any Respondent has violated this Consent Order, the Statement of Facts and the violations of the Maryland Franchise Law alleged in the Consent Order shall be deemed admitted and may be introduced into evidence against it.

VI. MODIFICATION OF CONSENT ORDER

33. The terms of this Consent Order may be modified only by a subsequent order issued by the Commissioner.

SO ORDERED:

**Commissioner's Signature on
File w/Original Document**

MELANIE SENTER LUBIN
SECURITIES COMMISSIONER

DATE OF THIS ORDER:

August 16, 2017

BY CONSENT:

Juicy Burgers Temecula, LLC

By: Nick R. Walpert, President

Nick R. Walpert