

ADMINISTRATIVE HEARING
BEFORE THE
MARYLAND SECURITIES COMMISSIONER

IN THE MATTER OF:

OYO Hotels, Inc.,

Respondent.

Case No. 2019-0125

* * * * *

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 OYO Hotels, Inc. (“OYO Hotels”) under the authority granted under the Maryland Franchise Registration and Disclosure Law, MD. CODE ANN. BUS. REG. §14-201 et seq. (2015 Repl. Vol. and Supp. 2019) (the “Maryland Franchise Law”); and

WHEREAS, based on information presented by the Securities Division, the Maryland Securities Commissioner (the “Securities Commissioner”) has concluded that grounds exist to allege that OYO Hotels violated provisions of the Maryland Franchise Law in relation to the offer and sale of marketing, consulting, and revenue management agreements to hotel business owners; and

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

WHEREAS, OYO Hotels waives its rights to a hearing and any rights to seek judicial

review or otherwise challenge or contest the terms and conditions of this Consent Order; and

WHEREAS, the Securities Commissioner has determined that it is in the public interest to issue this Consent Order;

NOW, THEREFORE, it is hereby agreed, and the Securities Commissioner hereby orders:

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. *Background*

2. OYO Hotels is a Delaware corporation formed in 2018 with a principal place of business located at 3232 McKinney Avenue, Dallas, Texas 75204.

3. OYO Hotels is in the business of operating hotels in the United States.

4. OYO Hotels and its affiliates maintain a website located at www.oyorooms.com. That website serves as a reservation platform (“OYO Reservation Platform”) for customers to book OYO branded hotel rooms.

5. OYO Franchising, LLC (“OYO Franchising”) is a Delaware limited liability company formed on May 30, 2019 and is an affiliate of OYO Hotels. OYO Franchising has the same principal business address as OYO Hotels.

6. OYO Franchising is in the business of offering and selling franchises for OYO branded hotels.

7. On August 14, 2019, OYO Franchising filed an initial registration application

with the Securities Division to offer franchises under the Maryland Franchise Law.

8. On September 3, 2019, the Securities Division sent OYO Franchising a comment letter outlining comments to the application that the franchisor needed to address in order to register the OYO franchise offering under the Maryland Franchise Law.

9. As of the date of this Consent Order, OYO Franchising's registration application is still pending.

B. OYO Hotels Agreements in Maryland

10. In response to a Securities Division letter of inquiry, OYO Hotels acknowledged that, on or around October 30, 2019, OYO Hotels entered into a Marketing, Consulting, and Revenue Management Agreement (hereafter "OYO MCRM") with Sayona Corporation ("Sayona"), a Maryland corporation that operates a hotel located in Baltimore, Maryland.

11. Under the OYO MCRM with Sayona, OYO Hotels agreed to provide Sayona initial capital for improvements to Sayona's hotel. After capital improvements to Sayona's hotel were completed to OYO Hotel's satisfaction, Sayona's hotel would be operated as an OYO branded hotel and accept reservations through OYO's Reservation Platform.

12. Under the OYO MCRM, OYO Hotels agreed to provide revenue management services, including setting rates and prices for hotel guestrooms and participating in promotions directed by OYO Hotels. Sayona agreed to be responsible for the cost of marketing activities performed at Sayona's request and on its behalf.

13. Sayona did not pay any initial fees to OYO Hotels under the OYO MCRM. Sayona agreed, however, to book all sales revenue through OYO Hotels on a gross accounting basis.

14. Under the OYO MCRM, OYO Hotels distributes the gross revenues earned by the

hotel each month based upon the percentage agreed to by Sayona in the MCRM and after OYO Hotels retains its portion of the gross revenues from the revenues of the hotel.

15. The term of Sayona's OYO MCRM is 6 years. If Sayona terminates its OYO MCRM prior to the end of the original term, Sayona is responsible to pay OYO Hotels a termination fee equal to 1.5 times the amount of the capital improvements OYO Hotels made to Sayona's hotel under the OYO MCRM.

16. As of the date of this Consent Order, Sayona has completed capital improvements on its hotel property with funds provided by OYO and is operating its hotel as an OYO branded hotel.

17. On or around January 25, 2020, OYO Hotels entered into an OYO MCRM with Biddle Street Inn, LLC ("Biddle"), a Maryland limited liability company that operates a hotel in Baltimore, Maryland.

18. Under Biddle's OYO MCRM, OYO Hotels agreed to provide initial capital to Biddle's hotel.

19. The terms of OYO's MCRM with Biddle are similar to the terms of OYO's MCRM with Sayona, although Biddle was to receive a different percentage of gross revenue earned from hotel operations.

20. The term of OYO's MCRM with Biddle is 7 years. If Biddle terminates its OYO MCRM prior to the end of the original term, Biddle, like Sayona, would be responsible to pay OYO hotels a termination fee equal to 1.5 times the amount of the capital improvements OYO Hotels made to Biddle's hotel under the OYO MCRM.

21. As of the date of this Consent Order, Biddle has commenced capital improvements on its hotel property. OYO will provide funds for the capital improvements once

Biddle starts operating its hotel as an OYO branded hotel, which is expected to occur in 2020.

C. Acknowledgments and Representations by OYO Hotels

22. OYO Hotels acknowledges that it never sought to register the OYO MCRM with the Securities Division.

23. OYO Hotels acknowledges that it did not provide to either Sayona or Biddle (collectively “Maryland Hotel Owners”) copies of Franchise Disclosure Documents (“FDDs”) under the Maryland Franchise Law.

24. OYO Hotels represents that, other than the agreements it entered into with the Maryland Hotel Owners described above, OYO Hotels has not entered into any OYO MCRMs with any Maryland residents or with any other residents granting them the right to operate an OYO branded hotel located in whole or in part in Maryland.

25. OYO Hotels represents that it has ceased offering OYO MCRMs in Maryland.

III. CONCLUSIONS OF LAW

26. By engaging in the above activities, the Securities Commissioner has determined that OYO Hotels violated Sections 14-214, 14-216, and 14-223 of the Maryland Franchise Law.

IV. ORDER AND CONSENT

27. THE SECURITIES COMMISSIONER HEREBY ORDERS AND OYO HOTELS HEREBY CONSENTS AND REPRESENTS AS FOLLOWS:

- A. OYO Hotels shall immediately and permanently cease and desist from the offer and sale of the OYO MCRMs in Maryland.;
- B. Within fifteen (15) days of its receipt of a fully executed Consent Order, OYO Hotels shall send to the Maryland Hotel Owners the following: (i) a copy of the executed Consent Order; and (ii) a disclosure document in a format approved by the Securities Division with relevant disclosures about OYO Hotels and the OYO

Hotels Marketing Agreement; and (iii) a letter, in substantially the form attached to this Consent Order as Exhibit 1, informing the Maryland Hotel Owners that they are being offered an opportunity to rescind their OYO Hotels MCRMs under the terms of this Consent Order;

- C. The Securities Commissioner has determined that OYO Hotels' offer of a franchise for the limited purposes described in this Consent Order is exempt from the registration provisions of the Maryland Franchise Law;
- D. OYO Hotels shall pay the Office of the Attorney General the sum of Two Thousand (\$2,000.00) as a civil monetary penalty;
- E. OYO Hotels acknowledges that this Consent Order is a disclosable order as described under the Maryland Franchise Law, and Item 3 of the NASAA Franchise Registration and Disclosure Guidelines and Amended FTC Franchise Rule.

V. JURISDICTION RETAINED

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

VI. CONSEQUENCES OF VIOLATING THIS CONSENT ORDER

29. If OYO Hotels 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 Securities 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 Securities Commissioner or a court finds that OYO Hotels 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.

VII. MODIFICATION OF CONSENT ORDER

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

SO ORDERED:

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

MELANIE SENTER LUBIN
SECURITIES COMMISSIONER

DATE OF THIS ORDER:

April 24, 2020

BY CONSENT:

OYO Hotels, Inc.

By: Christopher Nowak, Vice President

FORM
(On Company Letterhead)

Certified Mail
Return Receipt Requested

Re: Notice of Rescission Offer

Dear _____:

In accordance with discussions our attorneys have had with the Division of Securities of the Maryland Attorney General's Office (the "Securities Division"), OYO Hotels, Inc. ("we") have agreed to offer rescission to Maryland hotel facility owners who entered into an OYO Marketing, Consulting, and Revenue Management Agreement (the "MCRM") with us. This offer of rescission is made in settlement of the administrative proceeding that the Securities Division may bring for the sale of a franchise in violation of the Maryland Franchise Law and does not affect any civil liability for which we may be responsible.

If you elect to rescind your MCRM with us, we agree to cancel your obligations under your MCRM without payment of any penalty or termination fee by you. You will give up any rights to use our trademarks, and you may not use or disclose any of our trade secrets and any of our confidential and proprietary information.

In addition, if, as of the date we receive your acceptance to rescind, the total amount of capital improvements and other expenditures we made for your hotel under your MCRM, including any minimum guarantees and OTA fees, exceed the amount of revenue we received from the operation of your hotel, you must return to us the difference between the total amount of capital improvements and other monies we expended on your hotel less the amount of revenues we received from the operation of your hotel as of that date. Alternatively, if as of the date we receive your acceptance to rescind, the total amount of capital improvements and other expenditures we incurred for your hotel under your MCRM is less than the amount of revenue we received from the operation of your hotel, we will return to you the difference between the amount of revenues we received from the operation of your hotel less the total amount of capital improvements we expended on your hotel under your MCRM.

If we must make payments to you, we will make those payments within fifteen (15) days from the date we receive your acceptance to rescind. If you must make payments to us, you must make those payments within fifteen (15) days from the date you send us your acceptance to rescind.

This offer will remain open for thirty (30) days from the date you receive this letter. Please check the appropriate place below and return a signed copy of this letter to me within the time period. If you have any questions, please contact Dale E. Cantone, Assistant Attorney General, at the Division (410-576-6368).

Sincerely,

Christopher Nowak
Vice President - Legal

cc: Consent Order
Disclosure Document

ACCEPTANCE OR REFUSAL OF OFFER TO RESCIND MARKETING AGREEMENT

1. I, the undersigned, acknowledge that I have read the preceding Notice of Rescission Rights and understand its contents.
2. I understand that I have not waived my rights under the Maryland Franchise and Disclosure Law by signing this document.

CHECK ONE

_____ I hereby **accept** your offer of rescission and agree to not use your trademarks and to not use or disclose to anyone the trade secrets and confidential and proprietary information that we obtained from you.

_____ **I do not wish to accept your offer of rescission.** I wish to continue to operate my hotel under my Marketing Agreement for the duration of that agreement.

Date: _____

Hotel Owner