

1 CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection and Innovation  
2 COLLEEN MONAHAN  
Deputy Commissioner  
3 THERESA LEETS  
Assistant Chief Counsel  
4 MARISA I. URTEAGA-WATKINS (State Bar No. 236398)  
Senior Counsel  
5 Department of Financial Protection and Innovation  
6 2101 Arena Blvd.  
7 Sacramento, California 95834

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 )  
PROTECTION AND INNOVATION, )  
13 ) CONSENT ORDER  
Complainant, )  
14 v. )  
)  
15 STAY SALTY, LLC, also known as SALTY )  
16 PAWS, )  
)  
17 Respondent. )  
18 )

19 This Consent Order is entered into between the Commissioner of Financial Protection and  
20 Innovation (Commissioner) and Stay Salty, LLC, also known as Salty Paws (Salty) and together  
21 with Commissioner, (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.),<sup>1</sup> and registering the offer and sale of franchises  
27 in California. To register a franchise, a franchisor must file an application that includes a Franchise  
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<sup>1</sup> All further statutory references are to the Corporations Code unless otherwise indicated.

1 Disclosure Document (FDD) with the Department for review, in accordance with sections 31111 and  
2 31114. The FIL requires franchisors to disclose certain material information that is intended to  
3 provide prospective franchisees with facts upon which to make an informed decision to purchase a  
4 franchise, as stated in section 31001.

5 B. At all relevant times, Salty was and is a Delaware limited liability company located at  
6 43 Rehoboth Avenue, Rehoboth Beach, Delaware 19971, doing business in California. At all  
7 relevant times, Salty offers dog food and dog ice cream franchises to California investors. At all  
8 relevant times, Salty was registered to offer and sell franchises in California by the Department from  
9 June 10, 2022, to April 20, 2023, by way of Application No. 24906 filed on June 10, 2022 (2022  
10 Application). The 2022 Application included copies of the FDD and franchise agreement that Salty  
11 was to use with California investors. Any subsequent amendment made by Salty to the 2022  
12 Application is a Post-Effective Amendment relating back to the 2022 Application. In this case, Salty  
13 never filed any subsequent Post-Effective Amendment(s) to amend the 2022 Application with the  
14 Department.

15 C. Pursuant to Corporations Code section 31119, it is unlawful to sell any franchise  
16 without first providing a prospective franchisee with the Franchise Disclosure Document (FDD) at  
17 least fourteen (14) days prior to the execution of a franchise agreement or receipt of consideration.

18 1. After offering and selling a Salty franchise outlet to franchisees RS & JS,  
19 Salty executed an “Ice Cream Truck Addendum” with franchisees RS & JS for the sale of a second  
20 Salty franchise location in the form of an “ice cream truck” on or about March 14, 2023. Salty failed  
21 to provide franchisees RS & JS with a FDD that included information about the ice cream truck for  
22 this Salty franchise ice cream truck model outlet at least fourteen (14) days prior to the execution of  
23 a franchise agreement or receipt of consideration.

24 D. Pursuant to Corporations Code section 31200, it is unlawful for any person willfully  
25 to omit to state in any such application, notice, or report any material fact which is required to be  
26 stated therein or fail to notify the commissioner of any material change as required by section 31123.  
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1           1.       The 2022 Application did not contain an “Ice Cream Truck Addendum<sup>2</sup>” to  
2 the Salty franchise agreement. Salty did not file a Post- Effective Amendment to the 2022  
3 Application that contained an “Ice Cream Truck Addendum”. Despite, Salty allowed franchisees RS  
4 & JS to execute this “Ice Cream Truck Addendum” in March of 2023. Salty failed to disclose the  
5 material fact to the Commissioner by filing a Post-Effective Amendment, that there was an Ice  
6 Cream Truck Addendum that would be used in transactions with California franchisee investors by  
7 Post-Effective Amendment to the 2022 Application.

8           2.       In the 2022 Application, Salty, in FDD Item 5, sets forth that Salty allows  
9 franchisees to enter into a franchise agreement for additional franchised brick and mortar Salty  
10 businesses and location outlets. However, the 2022 Application FDD does not state that a Salty  
11 franchise outlet is or may be a mobile “ice cream truck.” Salty did not file a Post-Effective  
12 Amendment to the 2022 Application disclosing the fact that a Salty franchise outlet may optionally  
13 include a mobile “ice cream truck”. Therefore, Salty failed to disclose to the Commissioner the  
14 material fact that there was an “ice cream truck” Salty franchise outlet format by filing a Post-  
15 Effective Amendment to the 2022 Application.

16           3.       Salty failed to include any and all information regarding the “ice cream truck”  
17 format including, but not limited to, expenses relating to the “ice cream truck” franchise outlet,  
18 insurance, cost of truck, lease of truck, gas, repairs, registration, permits and the like by Post -  
19 Effective Amendment to the 2022 Application. There was no information available to the  
20 Commissioner regarding the “ice cream truck” Salty failed to disclose to the Commissioner the  
21 material facts associated with the ice cream truck mobile franchise outlet format as set forth herein  
22 by failing to file a Post-Effective Amendment to the 2022 Application. Also, Salty made an untrue  
23 statement of material fact to the Commissioner by asserting that the only form of franchise was the  
24 one listed in the 2022 Application, by not filing a subsequent Post-Effective Amendment when there  
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26 \_\_\_\_\_  
27 <sup>2</sup> The information regarding the Salty ice cream truck franchise outlet model option is not available  
28 in the 2022 Application because the ice cream truck franchise outlet model option did not come to  
fruition until after the 2022 Application was filed with the Department (March 2023). Therefore,  
Salty was to file a Post-Effective Amendment to the 2022 Application to notify the Commissioner of  
this material change/addition to the 2022 Application, pursuant to section 31200 and 31123

1 was an “ice cream truck” format in addition to the traditional brick and mortar Salty outlets. Salty  
2 was required by the FIL to file a Post Effective Amendment to the 2022 Application with this  
3 information to fulfill Salty’s requirement to disclose to the Commissioner but did not.

4 D. Pursuant to Corporations Code section 31123, a franchisor shall promptly notify the  
5 Commissioner in writing, by an application to amend the registration, of any material change in the  
6 information contained in the application as originally submitted, amended or renewed.

7 1. Salty failed to amend the 2022 Application to include the following material  
8 information in violation of section 31123: (a) The addition of an “Ice Cream Truck Addendum to the  
9 Franchise Agreement”; (b) The existence of an “ice cream truck” Salty franchise outlet format; and  
10 (c) Any and all expenses relating to the “ice cream truck” Salty franchise outlet format. Salty failed  
11 to file Post-Effective Amendment filings with the Department to amend the 2022 Application to  
12 include the above information.

13 E. The Commissioner finds that, while Salty provided an FDD to franchisees JS & RS at  
14 least fourteen (14) days prior to the execution of the franchise agreements, Salty violated section  
15 31119 by not providing franchisees JS & RS with an FDD containing disclosures about the ice  
16 cream truck franchise format at least fourteen (14) days prior to the execution of the Ice Cream  
17 Truck Addendum and acceptance of consideration thereunder.

18 F. The Commissioner also finds that Salty made untrue statements of material fact or  
19 willfully omitted to state a material fact required to be stated therein to the Commissioner, on  
20 multiple occasions, in violation of 31200.

21 G. The Commissioner finally finds that Salty failed to promptly notify the Commissioner  
22 in writing, by an application to amend the registration, or any material change in the information  
23 contained in the 2022 Application as originally submitted, amended or renewed, in violation of  
24 section 31123.

25 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set  
26 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, described in the Recitals 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 section 31406, Salty, LLC, also known as Salty Paws, is hereby ordered to desist and refrain from the violations of Corporations Code sections 31119, 31200, and 31123 set forth herein, and from any violations of the FIL. 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 FIL.

3. Penalties and Offset. Salty, LLC, shall pay an administrative penalty of ten thousand dollars (\$10,000) for at least fourteen (14) violations of the FIL (Penalties), no later than fifteen (15) days, after the Effective Date of this Consent Order as defined in paragraph 26 (Effective Date). However, the Department hereby declares that any payment of Penalties shall be offset by payment to franchisees RS & JS in paragraph 4 herein. Failure to pay Penalties in a timely manner shall be deemed to be a material breach of this Consent Order.

4. Rescission and Disgorgement. Salty shall rescind all contracts relating to or made with franchisee's RS & JS. Salty shall restore franchisee's RS & JS to their former position (i.e. prior to any transactions with Salty) by disgorging and returning all received funds, including, but not limited to franchise initial fees, payments, marketing and advertisement fees, royalties, and any deposits according to proof (Funds) from franchisee's RS & JS. Salty is hereby ordered, and Salty hereby agrees to disgorge any benefit received by franchisee's RS & JS and refund all Funds from franchisee's RS & JS, thereby making the franchisees RS & JS whole again.

5. Within 30 days of the Effective Date of this Consent Order, Salty shall submit to the Commissioner proof of payment of all Funds to franchisee's RS & JS. The proof of disgorgement and payment of Funds shall be sent to the attention of: Ms. Marisa I. Urteaga-Watkins, Senior

1 Counsel, at marisa.urteaga-watkins@dfpi.ca.gov. Any amount paid to franchisee’s RS & JS shall  
2 offset the Penalties amount assessed in paragraph 3 herein.

3 6. Salty shall make offers of rescission (rescind the contracts and restore the parties to  
4 their former position by requiring each to return whatever he or she received as Funds under the  
5 contract or otherwise) (Rescission Offers) for each franchisee who was offered and sold a Salty  
6 franchise from August 1, 2022 to April 20, 2023 in California (Franchisee Class). Salty shall restore  
7 each member of the Franchisee Class to their former position (i.e. prior to any transactions with  
8 Salty) by disgorging and returning all Funds from any and all members of the Franchisee Class.  
9 Salty is hereby ordered, and Salty hereby agrees to disgorge any benefit received by any and all  
10 members of the Franchisee Class and refund all received Funds, thereby making the franchisees  
11 whole again.

12 7. Within 90 days of the Effective Date of this Consent Order, Salty shall submit to the  
13 Commissioner satisfactory documentation evidencing each franchisee in the Franchisee Class  
14 response to Salty's Rescission Offer. The documentation of each response shall be sent to the  
15 attention of: Ms. Marisa I. Urteaga-Watkins, Senior Counsel, at marisa.urteaga-  
16 watkins@dfpi.ca.gov.

17 8. Within 160 days of the Effective Date of this Consent Order, Salty shall make all  
18 payments and refunds required under the Rescission Offer. Salty shall submit evidence of the  
19 refunds to Ms. Marisa I. Urteaga-Watkins, Senior Counsel, at marisa.urteaga-watkins@dfpi.ca.gov.  
20 Evidence of refunds shall include franchisee business name and owner name, last known address  
21 and/or any other contact information (including telephone number and email address), copies of  
22 cleared refund checks, and copies of certified mail receipts for any checks not cleared. Salty shall  
23 escheat any unclaimed refunds to the State Controller's Office within the period provided by Code of  
24 Civil Procedure section 1520 of the Unclaimed Property Law (Code of Civ. Proc., § 1500, et seq.).

25 9. Waiver of Hearing Rights. Salty acknowledges that the Commissioner is ready,  
26 willing, and able to proceed with the filing of an administrative enforcement action on the charges  
27 contained in this Consent Order. Salty hereby waives the right to any hearings, and to any  
28 reconsideration, appeal, or other right to review which may be afforded pursuant to the FIL, the

1 California Administrative Procedure Act (APA), the Code of Civil Procedure (CCP), or any other  
2 provision of law. Salty further expressly waives any requirement for the filing of any accusation  
3 pursuant to Government Code section 11415.60, subdivision (b). By waiving such rights, Salty  
4 effectively consents to this Consent Order and all of its terms becoming final.

5 10. Failure to Comply with Consent Order or Cure Breach. Salty agrees that if it fails to  
6 comply with the Desist and Refrain Order in this Consent Order or fails to timely cure any breach to  
7 the satisfaction of the Commissioner, the Commissioner may, in addition to all other available  
8 remedies it may invoke under the FIL, summarily suspend, revoke, or deny its FIL registration (if  
9 applicable). Salty stipulates to the finality of any such FIL registration suspensions, revocations, or  
10 denials that the Commissioner may order. Salty waives any notice and hearing rights to contest  
11 such summary suspensions, revocations, or denials which may be afforded under the FIL, the APA,  
12 the CCP, or any other provision of law in connection therewith.

13 11. Information Willfully Withheld or Misrepresented. This Consent Order may be  
14 revoked, and the Commissioner may pursue any and all remedies available under law against Salty,  
15 if the Commissioner discovers that Salty knowingly or willfully withheld or misrepresented  
16 information used for and relied upon in this Consent Order.

17 12. Future Actions by Commissioner. If Salty fails to comply with any terms of the  
18 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise  
19 resolved by this Consent Order. The Commissioner reserves the right to bring any future actions  
20 against Salty, or any of its partners, owners, officers, shareholders, directors, employees, or  
21 successors for any and all unknown violations of the FIL or any other law under the Commissioner's  
22 jurisdiction.

23 13. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner's  
24 ability to assist any other government agency (whether city, county, state, or federal) with any  
25 administrative, civil, or criminal action brought by that agency against Salty, or any other entity or  
26 person based upon any of the activities alleged in this matter or otherwise.

1           14.    Headings. The headings to the paragraphs of this Consent Order are inserted for  
2 convenience only and will not be deemed a part hereof or affect the construction or interpretation of  
3 the provisions hereof.

4           15.    Binding. This Consent Order is binding on all heirs, assigns, and/or successors in  
5 interest.

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

15           17.    Waiver, Amendments, and Modifications. No waiver, amendment, or modification  
16 of this Consent Order will be valid or binding unless it is in writing and signed by each of the  
17 Parties. The waiver of any provision of this Consent Order will not be deemed a waiver of any  
18 other provision. No waiver by either Party of any breach of, or of compliance with, any condition  
19 or provision of this Consent Order by the other Party will be considered a waiver of any other  
20 condition or provision or of the same condition or provision at another time.

21           18.    Full Integration. This Consent Order is the final written expression and the complete  
22 and exclusive statement of all the agreements, conditions, promises, representations, and covenant  
23 between the Parties with respect to the subject matter hereof, and supersedes all prior or  
24 contemporaneous agreements, negotiations, representations, understandings, and discussions  
25 between and among the Parties, their respective representatives, and any other person or entity with  
26 respect to the subject matter covered hereby.

27           19.    Governing Law. This Consent Order will be governed by and construed in  
28 accordance with California law. Each of the Parties hereto consents to the jurisdiction of such



1 court, and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an  
2 inconvenient forum to the maintenance of such action or proceeding in such court.

3 20. Counterparts. This Consent Order may be executed in one or more separate  
4 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall  
5 together constitute a single document.

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

10 22. Voluntary Agreement. Salty enters into this Consent Order voluntarily and without  
11 coercion and acknowledges that no promises, threats, or assurances have been made by the  
12 Commissioner or any officer, or agent thereof, about this Consent Order. The Parties each  
13 represent and acknowledge that he, she, or it is executing this Consent Order completely voluntarily  
14 and without any duress or undue influence of any kind from any source.

15 23. Notice. Any notice required under this Consent Order shall be provided to each  
16 party at the following addresses:

17 To Stay Salty: Jonathan Barber, Esq.  
18 Franchise.Law  
19 3540 Toringdon Way, Suite 200  
20 Charlotte, North Carolina 28277  
jonathan@franchise.law

21 To the Commissioner: Marisa I. Urteaga-Watkins, Esq.  
22 Department of Financial Protection and Innovation  
23 2101 Arena Boulevard  
Sacramento, California 95834  
marisa.urteaga-watkins@dfpi.ca.gov

24 24. Signatures. A fax, scanned, or electronic signature shall be deemed the same as an  
25 original signature.

26 25. Public Record. Salty hereby acknowledges that this Consent Order is and will be a  
27 matter of public record.  
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1           26.    Effective Date. This Consent Order shall become final and effective when signed by  
2 all Parties and delivered by the Commissioner’s agent via e-mail to Salty’s agent, Jonathan Barber,  
3 Esq., at jonathan@franchise.law.

4           27.    Authority to Sign. Each signatory hereto covenants that he/she possesses all  
5 necessary capacity and authority to sign and enter into this Consent Order and undertake the  
6 obligations set forth herein.

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8 Dated: 8/6/2024

CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection  
and Innovation

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10  
11 By: \_\_\_\_\_  
12 COLLEEN MONAHAN  
13 Deputy Commissioner

14  
15 Dated: 7/31/2024

STAY SALTY, LLC. also known as SALTY PAWS

16  
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18 By: \_\_\_\_\_  
19 SUZANNE TRETOWICZ  
20 President/Chief Executive Officer