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9
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:)
)
13 THE COMMISSIONER OF BUSINESS) CITATION INCLUDING DESIST AND
OVERSIGHT,) REFRAIN ORDER
14)
15 Complainant,)
)
16 v.)
)
17 DENTAL SUPPORT PLUS FRANCHISE,)
18 LLC, KENT MAERKI, AND NORMA JEAN)
MAERKI,)
19)
20 Respondents.)
)
_____)

21
22 Jan Lynn Owen, the Commissioner of Business Oversight (Commissioner), is responsible for
23 administering and enforcing the California Franchise Investment Law, and registering the offer and
24 sale of franchises in California, pursuant to Corporations Code section 31000 et seq. The
25 Commissioner finds the following:

26 I.
27 STATEMENT OF FACTS

28 1. Dental Support Plus Franchise, LLC (Dental) is an Arizona limited liability company

1 with its principal place of business of 8149 North 87th Street, Suite 139, Scottsdale, Arizona 85258.

2 2. Kent Maerki is or was Dental’s President and Co-Founder and Norma Jean Maerki
3 (formerly Norma Jean Coffin) is or was Dental’s Vice President and Co-Founder (referred together as
4 the “Maerkis”).

5 3. Dental was a franchisor engaged in offering and selling franchises with a business plan
6 of soliciting patients for dentists.

7 4. Dental, by and through the Maerkis, registered its franchise with the Commissioner in
8 2011, 2012, and 2013.

9 5. To become registered in California, the Maerkis filed registration applications pursuant
10 to Corporations Code section 31111. These applications included a Uniform Franchise Disclosure
11 Document (“UFDD”). Their UFDDs failed to disclose that Kent Maerki was permanently barred by
12 the National Association of Securities Dealers (NASD) (now known as the Financial Industry
13 Regulatory Authority or FINRA) on January 28, 1977.¹ In fact, these UFDDs represented that no such
14 order existed. These applications were signed under penalty of perjury.

15 **II.**
16 **DESIST AND REFRAIN ORDER FOR VIOLATION OF CORPORATIONS**
17 **CODE SECTION 31200**

18 6. Corporations Code section 31114 requires an application for registration to be
19 accompanied by a proposed UFDD including additional disclosures specified by rule of the
20 Commissioner. Title 10, California Code of Regulations, section 310.111, subdivision (c) (Rule)
21 states that when an application is filed using the UFDD, the applicant shall include the required
22 information set forth in Rule 310.114.1. Rule 310.114.1, subdivision (c) requires disclosure of any
23 currently effective order of any national securities association expelling certain persons, including the
24 franchisor’s officer, from membership in that association.

25 7. Corporations Code section 31200 provides:

26 _____
27 ¹ FINRA, formerly the NASD, is the national organization that regulates the securities
28 broker-dealer industry.

1 It is unlawful for any person willfully to make any untrue statement of a material
2 fact in any application, notice or report filed with the commissioner under this
3 law, or willfully to omit to state in any such application, notice, or report any
4 material fact which is required to be stated therein, or fail to notify the
5 commissioner of any material change as required by Section 31123.

6 8. Corporations Code section 31406 provides:

7 (a) If, upon inspection or investigation, based upon a complaint or otherwise, the
8 commissioner has cause to believe that a person is violating any provision of this
9 division or any rule or order promulgated pursuant to this division, the
10 commissioner may issue a citation to that person in writing describing with
11 particularity the basis of the citation. Each citation may contain an order to desist
12 and refrain and an assessment of an administrative penalty not to exceed two
13 thousand five hundred dollars (\$2,500) per violation and shall contain reference to
14 this section, including the provisions of subdivision (c). All penalties collected
15 under this section shall be deposited in the State Corporations Fund.

16 (b) The sanctions authorized under this section shall be separate from, and in
17 addition to, all other administrative, civil, or criminal remedies.

18 (c) If within 60 days from the receipt of the citation, the person cited fails to notify
19 the commissioner that the person intends to request a hearing as described in
20 subdivision (d), the citation shall be deemed final.

21 (d) Any hearing under this section shall be conducted in accordance with Chapter 5
22 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
23 Government Code.

24 (e) After the exhaustion of the review procedures provided for in this section, the
25 commissioner may apply to the appropriate superior court for a judgment in the
26 amount of the administrative penalty and order compelling the cited person to
27 comply with the order of the commissioner. The application shall include a
28 certified copy of the final order of the commissioner and shall constitute a
sufficient showing to warrant the issuance of the judgment and order.

9. Penal Code section 7 defines willfully as a purpose or willingness to commit the act, or
make the omission referred to.

10. Based upon the foregoing, the Commissioner believes that Dental Support Plus
Franchise, LLC, Kent Maerki and Norma Jean Maerki willfully made an untrue statement or omission
of material fact in the registration applications filed, under penalty of perjury, with the Commissioner,
in violation of Corporations Code section 31200 by not disclosing the bar order issued by the NASD

1 and representing that no such order existed. Pursuant to Corporations Code section 31406, Dental
2 Support Plus Franchise, LLC, Kent Maerki and Norma Jean Maerki are hereby ordered to desist and
3 refrain from willfully making any untrue statement of material fact in any application, notice or report
4 filed with the Commissioner under the California Franchise Investment Law or willfully omitting to
5 state in any application, notice or report any material fact which is required to be stated therein.

6 This order is necessary, in the public interest, for the protection of investors and consistent with
7 the purposes, policies, and provisions of the California Franchise Investment Law.

8 Dated: December 20, 2018

JAN LYNN OWEN
Commissioner of Business Oversight

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11 By _____
12 MARY ANN SMITH
13 Deputy Commissioner
14 Enforcement Division
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