

ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF MARYLAND

IN THE MATTER OF:

1-800-Flowers.Com Franchise Co., Inc.

Case No. 2014-0102

Respondent,

* * * * *

CONSENT ORDER

WHEREAS, the Securities Division of the Office of the Attorney General of Maryland (the “Securities Division”) initiated an inquiry into the franchise-related activities of 1-800-Flowers.Com Franchise Co., Inc. (“Flowers”) under the authority granted under the Maryland Franchise Registration and Disclosure Law, MD. CODE ANN. BUS. REG §14-201 et seq. (2010 Repl. Vol. and Supp. 2013) (the “Maryland Franchise Law”); and

WHEREAS, based on information presented by the Securities Division, the Maryland Securities Commissioner (the “Securities Commissioner”) has determined that Flowers may have violated the prospectus provisions of the Maryland Franchise Law in relation to offers and sales of Flowers franchises in Maryland; 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 Flowers admitting or denying any violation of law, the Securities Commissioner and Flowers have reached an agreement to enter into this Consent Order;

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. STATEMENT OF FACTS

A. **Background**

2. Flowers is a Delaware corporation with a principal business address of One Country Road, Fifth Floor, Carle Place, New York 11514.

3. Flowers offers franchises for retail flower shops. Flowers also offers conversion franchises for existing retail flower shops to convert to a co-branded 1-800-Flowers shop and Fruit Bouquet program.

4. Flowers has been registered with the Securities Division to offer conversion franchises under the Maryland Franchise Law from February 25, 2013 through February 25, 2014.

5. As a condition of granting Flowers' registration in Maryland, the Securities Commissioner required that Flowers include Maryland specific addenda to Flowers' Maryland Franchise Disclosure Document ("FDD") and standard franchise agreement. The Securities Commissioner also required Flowers to defer all initial franchise fees and payments from franchisees until all of Flowers' pre-opening obligations were satisfied.

6. On January 15, 2014, Flowers filed an application with the Securities Division to renew its then-current franchise registration in Maryland.

7. The Securities Division reviewed Flowers' registration application and requested clarification regarding offers and sales of Flowers' conversion franchises in Maryland.

8. In its response to the Securities Division inquiry, Flowers represented that between February 25, 2013 through February 25, 2014, Flowers sold three (3) 1-800 Flowers franchise conversion programs to Maryland flower shop owners (“Maryland Conversion Franchisees”).

9. Flowers represented that it gave an FDD to each of the 3 Maryland Conversion Franchisees. Flowers acknowledges, however, that it did not give the 3 Maryland Conversion Franchisees the form of FDD registered for use in Maryland.

10. Flowers acknowledges that at the time the Maryland Conversion Franchisees signed their Conversion Franchise Agreements, Flowers did not require any of them to execute the Maryland Addendum to Agreements included in Flower’s Maryland FDD registered for use in Maryland. Flowers represents, however, that all 3 Maryland Conversion Franchisees signed a Maryland Addendum to Agreements prior to the date of this Consent Order, in April 2014.

11. Flowers also acknowledges that, with respect to one Maryland Conversion Franchisee who executed a Conversion Franchise Agreement on May 9, 2013, Flowers did not defer the receipt of all initial franchise fees and payments prior to the time Flowers completed its initial obligations under its franchise agreement, as required by the Securities Commissioner. Flowers represents, however, that with respect to the remaining two Maryland Conversion Franchisees, Flowers did defer the receipt of all initial franchise fees and payments prior to the time Flowers completed its initial obligations under the franchise agreements with those franchisees.

12. Flowers represents that it has implemented new procedures to ensure that, in the future, Flowers complies with all requirements the Securities Commissioner imposes on Flowers

as a condition of registration by the Securities Division under the Maryland Franchise Law.

III. CONCLUSIONS OF LAW

13. By engaging in the above activities, the Securities Commissioner has concluded that Flowers violated §14-216 of the Maryland Franchise Law.

IV. ORDER AND CONSENT

14. THE SECURITIES COMMISSIONER HEREBY ORDERS, AND FLOWERS REPRESENTS AND CONSENTS THAT:

- A. Flowers shall immediately and permanently cease and desist from the offer and sale of franchises in violation of the Maryland Franchise Law;
- B. Flowers shall pay the Office of the Attorney General the sum of \$5,000 as a civil monetary penalty;
- C. Flowers acknowledges 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.

V. JURISDICTION RETAINED

15. 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

16. If Flowers 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 Flowers 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

17. 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 Document**

MELANIE SENTER LUBIN
SECURITIES COMMISSIONER

DATE OF THIS ORDER:

June 19, 2014

BY CONSENT:

1-800-Flowers.Com Franchise Co., Inc.

By:

