

ADMINISTRATIVE PROCEEDING  
BEFORE THE  
SECURITIES COMMISSIONER OF MARYLAND

IN THE MATTER OF: \*

**BURGERIM GROUP USA, INC.** \* Case No. 2019-0213

Respondent. \*

\* \* \* \* \*

**STOP ORDER**

WHEREAS, Burgerim Group USA, Inc. (“Burgerim”) is registered with the Securities Division of the Office of the Attorney General of Maryland (the “Securities Division”) to offer and sell franchises under the Maryland Franchise Registration and Disclosure Law, MD. BUS. REG. CODE ANN. §14-201 et al. (2015 Repl. Vol. and 2019 Supp.) (the “Maryland Franchise Law”); and

WHEREAS, under Section 14-221 of the Maryland Franchise Law, the Maryland Securities Commissioner (the “Securities Commissioner”) summarily may pass a stop order to deny, suspend, or revoke a registration if the Securities Commissioner finds, among other things, that there has been a violation of the Maryland Franchise Law or a regulation adopted under it; that the prospectus or amendment to it is incomplete or inaccurate in any material respect; or that the prospectus or amendment to it includes a false or misleading statement of a material fact or omits to state a material fact required to be stated in the prospectus or amendment or necessary to make the statements in the prospectus or amendment not misleading; and

WHEREAS, based on information provided by the Securities Division, the Securities Commissioner finds that Burgerim’s prospectus is incomplete and inaccurate in a material

respect and omits to state a material fact required to be stated in the prospectus because the prospectus fails to disclose any telephone numbers of current franchise outlets or former franchisees as required under the Maryland Franchise Law and fails to disclose material information about Burgerim's current financial condition; and

WHEREAS, based on information provided by the Securities Division, the Securities Commissioner finds that Burgerim has violated and is about to violate Section 14-232 of the Maryland Franchise Law and Maryland Franchise Regulations (COMAR) Section 02.02.08.06 by failing to promptly file an application for an amendment to a registration because of a material change in its prospectus previously filed with the Securities Division; and

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

ACCORDINGLY, IT IS HEREBY ORDERED, pursuant to Section 14-221 of the Maryland Franchise Law, that Burgerim's franchise registration in Maryland is hereby suspended, pending a final determination of this proceeding instituted under Section 14-221 of the Maryland Franchise Law; and

IT IS FURTHER ORDERED, pursuant to Section 14-222 of the Maryland Franchise Law, that Burgerim show cause why a final Stop Order should not be issued against it revoking its franchise registration in Maryland.

The Securities Commissioner alleges the following as a basis for this Stop Order:

I. JURISDICTION

1. The Securities Commissioner has jurisdiction in this proceeding pursuant to Section 14-221 of the Maryland Franchise Law.

## II. STATEMENT OF FACTS

2. Burgerim is a California corporation formed in 2014 that offers franchises for fast casual burger restaurants.

3. Burgerim has been registered to offer and sell franchises under the Maryland Franchise Law since February 12, 2018.

4. Burgerim's most recent franchise registration with the Securities Division was made effective July 25, 2019 and does not expire until July 25, 2020.

5. In the franchise prospectus, called a Franchise Disclosure Document or "FDD," that Burgerim filed with the Securities Division as part of its most recent franchise registration and which is dated February 12, 2019 ("2019 FDD"), Burgerim discloses that it had a total of 114 operating franchise outlets as of December 31, 2018.

6. Burgerim's 2019 FDD also discloses that, as of December 31, 2018, Burgerim had entered into 452 franchise agreements that had not opened, while projecting that it would open 351 franchise outlets in 2019, including 5 franchises in Maryland.

7. On September 13, 2019, the Securities Division advised Burgerim that it had received information that Burgerim may be misrepresenting in its 2019 FDD the number of franchises that had an outlet terminated, canceled, not renewed, or otherwise ceased to do business.

8. The Securities Division also advised Burgerim that, based on a review of Burgerim's 2019 FDD, Burgerim failed to disclose telephone numbers for current franchise outlets and former franchisees as required under Item 20 of the Federal Trade Commission Franchise Rule ("FTC Franchise Rule") and COMAR 02.02.08.04, which adopts for use in Maryland a form of FDD consistent with the FTC Franchise Rule.

9. The Securities Division advised Burgerim that the failure to disclose contact information for current franchisees is among the most material information in any FDD, and that Burgerim should immediately file an amendment to Burgerim's 2019 FDD to include telephone numbers for all current franchise outlets and former franchisees.

10. Burgerim did not respond to the Division's September 13, 2019 letter.

11. On October 28, 2019, the Securities Commissioner issued a Subpoena for Documents to Burgerim related to offers and sales of franchises in Maryland.

12. Burgerim was served with a copy of the Securities Commissioner's Subpoena for Documents on October 31, 2019.

13. Burgerim failed to respond to the Securities Commissioner's Subpoena for Documents.

14. On December 18, 2019, Burgerim sent to at least one Burgerim franchisee a notice advising the franchisee that Burgerim has hired insolvency counsel to assist in restructuring its debts, which may involve filing a petition for reorganization under Chapter 11 of the United States Bankruptcy Code. The letter also advised that Burgerim has appointed a Chief Restructuring Officer.

15. Burgerim's 2019 FDD does not disclose information about its financial condition suggesting that the franchisor may be required to file bankruptcy, or that it must restructure any debt, or that it has appointed a Chief Restructuring Officer.

16. Specifically, Burgerim's December 31, 2018 audited financial statements included in its 2019 FDD reported total assets of \$7.6 million and total liabilities of only \$788,269 as of that date, and Burgerim's June 30, 2019 unaudited financial statements reported total assets of \$2.4

million and total liabilities of \$989,468 as of that date.

17. Under Section 14-232 of the Maryland Franchise Law a person may not fail to notify the Securities Commissioner promptly of a material change as required by Section 14-220 of the Maryland Franchise Law, which requires the filing of an amendment to a franchise registration if there is a material change in the information that a registrant previously filed with the Securities Commissioner.

18. Under Maryland Franchise Regulations, COMAR 02.02.08.06, a franchisor must promptly file an application for amendment of a registration if there is a material change in the information that a registrant previously filed with the Securities Commissioner.

19. Burgerim has not filed an application for amendment of its current registration to include updated financial information, or the fact that Burgerim intends to restructure and reorganize its debts, or that it has hired insolvency counsel, or that it has appointed a Chief Restructuring Officer.

**COUNT ONE**  
**(Inaccurate Prospectus that Contains Omissions of Material Fact)**

WHEREAS, under Section 14-221 of the Maryland Franchise Law, the Securities Commissioner summarily may pass a stop order to deny, suspend, or revoke a registration if the Securities Commissioner finds that the prospectus is incomplete or inaccurate in any material respect, or that the prospectus includes a false or misleading statement of material fact or omits to state a material fact required to be stated in the prospectus or necessary to make the statements made in the prospectus not misleading; and

WHEREAS, in Burgerim's 2019 FDD, Burgerim has omitted complete contact

information, including telephone numbers, for current franchise outlets and former franchisees; and

WHEREAS, disclosure of contact information, including telephone numbers, of current franchise outlets and former franchisees is material information about a franchise offering that must be disclosed in a franchise prospectus under the Maryland Franchise Law; and

WHEREAS, Burgerim's 2019 FDD includes disclosure about Burgerim's financial condition, but that prospectus omits to disclose that Burgerim has hired insolvency counsel to assist in restructuring its debts, which may involve filing a petition for reorganization under Chapter 11 of the United States Bankruptcy Code, or that Burgerim has appointed a Chief Restructuring Officer; and

WHEREAS, disclosure that a franchisor has hired insolvency counsel to assist in restructuring its debts, which may involve filing a bankruptcy petition, and that it has appointed a Chief Restructuring Officer, are material information about a franchise offering that must be disclosed in a franchise prospectus under the Maryland Franchise Law;

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Section 14-221 of the Maryland Franchise Law, that Burgerim's franchise registration in Maryland is hereby suspended, pending a final determination of this proceeding instituted under Section 14-221 of the Maryland Franchise Law; and

IT IS FURTHER ORDERED, pursuant to Section 14-222 of the Maryland Franchise Law that Burgerim show cause why a final Stop Order should not be issued against it revoking its franchise registration in Maryland.

**COUNT TWO**  
**(Failure to Amend Registration Based on Material Change)**

WHEREAS, under Section 14-221 of the Maryland Franchise Law, the Securities Commissioner summarily may pass a stop order to deny, suspend, or revoke a registration if the Securities Commissioner finds that there has been a violation of the Maryland Franchise Law or a regulation adopted under it; and

WHEREAS, under Section 14-232 of the Maryland Franchise Law, a person may not fail to notify the Securities Commissioner promptly of a material change as required by Section 14-220 of the Maryland Franchise Law, which requires an amendment to a franchise registration when there is a material change in the information previously filed with the Securities Commissioner; and

WHEREAS, under COMAR 02.02.08.06, a franchisor must promptly file an application for amendment of a registration if there is a material change in the information that a registrant previously filed with the Securities Commissioner; and

WHEREAS, Burgerim has advised at least one franchisee that Burgerim has hired insolvency counsel to assist in restructuring its debts, which may involve filing a petition for reorganization under Chapter 11 of the United States Bankruptcy Code, and that it has appointed a Chief Restructuring Officer; and

WHEREAS, a franchisor's intention to seek counsel to assist in restructuring its debts, which may involve filing a petition for reorganization under Chapter 11 of the United States Bankruptcy Code, and the appointment of a Chief Restructuring Officer are all material information about a franchise offering that must be disclosed in a franchisor's FDD; and

WHEREAS, Burgerim has not promptly filed an application for amendment of its current registration to include material updated financial information, or the fact that Burgerim intends to restructure its debt, which may involve filing a petition for reorganization under Chapter 11 of the United States Bankruptcy Code, or that it has appointed a Chief Restructuring Officer;

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Section 14-221 of the Maryland Franchise Law, that Burgerim's franchise registration in Maryland is hereby suspended, pending a final determination of this proceeding instituted under Section 14-221 of the Maryland Franchise Law; and

IT IS FURTHER ORDERED, pursuant to Section 14-222 of the Maryland Franchise Law, that Burgerim show cause why a final Stop Order should not be issued against it revoking its franchise registration in Maryland.

### III. REQUIREMENT TO FILE ANSWER AND REQUEST A HEARING

IT IS FURTHER ORDERED, pursuant to Section 14-222 of the Maryland Franchise Law, and COMAR 02.02.06.06, that Burgerim shall file with the Securities Commissioner an Answer and written request for a hearing on this Stop Order within 15 days of service. The Answer shall admit or deny each factual allegation in the Stop Order and set forth affirmative defenses, if any. If Burgerim is without knowledge or information sufficient to form a belief as to the trust of an allegation, Burgerim shall so state. A hearing will be scheduled in this matter within 15 days of the receipt of a written request received within the time period prescribed unless Burgerim consents to a later date. Burgerim's failure to file an Answer or a written request for a hearing in this matter will be deemed a waiver of the right to such a hearing and shall result



in the entry of a final Stop Order revoking Burgerim's franchise registration in Maryland.

**SO ORDERED:**

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

December 27, 2019

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MELANIE SENTER LUBIN  
SECURITIES COMMISSIONER

