

ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF MARYLAND

IN THE MATTER OF: *

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

Respondent. *

* * * * *

FINAL STOP ORDER

WHEREAS, on December 27, 2019, under the authority granted in Section 14-221 of 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”), the Maryland Securities Commissioner (the “Securities Commissioner”) issued a Stop Order against Burgerim Group USA, Inc. (“Burgerim”); and

WHEREAS, under the Stop Order, the Securities Commissioner ordered that Burgerim’s franchise registration in Maryland be suspended pending a final determination of this proceeding instituted under Section 14-221 of the Maryland Franchise Law; and

WHEREAS, under the Stop Order, the Securities Commissioner further ordered that Burgerim show cause why a final Stop Order should not be issued against it revoking its franchise registration in Maryland; and

WHEREAS, the Stop Order advised Burgerim that, pursuant to Section 14-222 of the Maryland Franchise Law and COMAR 02.02.06.06, Burgerim shall file with the Securities Commissioner an Answer and written request for a hearing on the Stop Order within 15 days of service, and that Burgerim’s failure to file an Answer or a written request for a hearing in this

matter would be deemed a waiver of the right to such a hearing and result in the entry of a final Stop Order revoking Burgerim's franchise registration in Maryland; and

WHEREAS, the Stop Order was served on Burgerim's resident agent on December 31, 2019 and on Burgerim's counsel of record on January 6, 2020; and

WHEREAS, Burgerim has not filed an Answer or request for a hearing in this matter; and

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

NOW, THEREFORE, pursuant to Section 14-221 of the Maryland Franchise Law, the Securities Commissioner FINDS AND ORDERS:

I. JURISDICTION

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

II. FINDINGS 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.

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 disclosed that it had a total of 114 operating franchise outlets as of December 31, 2018.

6. Burgerim’s 2019 FDD also disclosed 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 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 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.

III. CONCLUSIONS OF LAW

The Securities Commissioner concludes that:

20. Burgerim's 2019 FDD is incomplete or inaccurate in a material respect and omits to state a material fact required to be stated in the prospectus because that 2019 FDD omits complete contact information, including telephone numbers, for current franchise outlets and former franchisees.

21. Burgerim's 2019 FDD is incomplete or inaccurate in a material respect and includes a false or misleading statement of material fact or omits to state a material fact because that 2019 FDD includes financial information about Burgerim but omits to disclose that Burgerim 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 appointed a Chief Restructuring Officer.

22. Burgerim violated 14-232 of the Maryland Franchise Law and COMAR 02.02.08.06 by failing to notify the Securities Commissioner promptly of a material change in Burgerim's financial condition 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.

IV. SANCTIONS

NOW, THEREFORE, IT IS HEREBY ORDERED, THAT:

- 23. Burgerim's franchise registration under the Maryland Franchise Law is revoked.
- 24. This Final Stop Order shall remain in effect unless modified or vacated.

V. JURISDICTION RETAINED

25. 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 this Final Stop Order

VI. APPEAL RIGHTS

26. Burgerim may appeal this Final Stop order to the appropriate Circuit Court of the State of Maryland within 30 days from the date this Final Stop Order is mailed by the Securities Division.

SO ORDERED:

February 5, 2020

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

MELANIE SENTER LUBIN
SECURITIES COMMISSIONER