

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: Lollicup USA, Inc.
Alan Yu, Co-Founder and President/CEO
Marvin Cheng, Co-Founder and Executive Vice President
1100 Coiner Court
City of Industry, CA 91748

**CITATIONS
AND
DESIST AND REFRAIN ORDER
(For violations of section 31110 of the California Corporations Code)**

The California Corporations Commissioner finds that:

1. At all relevant times, Lollicup USA, Inc. (“Lollicup”) is and was a California corporation incorporated on January 21, 2000. Lollicup’s principal place of business is 1100 Coiner Court, City of Industry, CA 91748. The company maintains a website at www.lollicup.com.
2. At all relevant times, Alan Yu (“Yu”) was the Co-Founder and President/CEO and a control person of Lollicup.
3. At all relevant times, Marvin Cheng (“Cheng”) was the Co-Founder and Executive Vice President and a control person of Lollicup.
4. Since in or about December 2000, Lollicup, Yu and Cheng have offered and/or sold franchises to California residents pursuant to exclusive and non-exclusive “Trademark License” and other agreements. The agreements grant the right to engage in the business of offering, selling, or distributing goods or services under Lollicup® USA Inc.’s exclusive trademarks, including service marks and trade names.
5. The agreements offered and sold by Lollicup, Yu and Cheng constitute franchises within the meaning of California Corporations Code section 31005. The agreements provide that Lollicup will supply its franchisees with original beverage products and ingredients under the Lollicup brand, rights to its trademark name and logo, marketing and sales assistance and training, in-store facility and

1 machine support, business models, detailed sales and marketing plans, and commercial advertising
2 campaign materials in return for “franchise” or “license” fees. The agreements further include
3 obligations to purchase Lollicup products and materials, and grant Lollicup certain approval and
4 management rights.

5 6. Lollicup, Yu and Cheng’s offer and sale of franchises in California have not been
6 registered under the Franchise Investment Law and are not exempted under Chapter 1, beginning with
7 California Corporations Code section 31100, of that law.

8 7. California Corporations Code section 31402 provides in relevant part:

9 If, in the opinion of the commissioner, the offer of any franchise is subject
10 to registration under this law and it is being, or it has been, offered for sale
11 without the offer first being registered, the commissioner may order the
12 franchisor or offeror of that franchise to desist and refrain from the further
13 offer or sale of that franchise unless and until the offer has been duly
14 registered under this law. If, after the order has been made, a request for a
15 hearing is filed in writing within 60 days from the date of service of the
16 order by the person on to whom the order was directed, a hearing shall be
17 held in accordance with Chapter 5 (commencing with Section 11500) of
18 Part 1 of Division 3 of Title 2 of the Government Code

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20 If that person fails to file a written request for hearing within 60 days of
21 the date of service of the order, the order shall be deemed a final order of
22 the commissioner and shall not be subject to review by any court or
23 agency, notwithstanding Section 31501.

24 8. California Corporations Code section 31406 provides in relevant part:

25 (a) If, upon inspection or investigation, based upon a complaint or
26 otherwise, the commissioner has cause to believe that a person is violating
27 any provision of this division or any rule or order promulgated pursuant to
28 this division, the commissioner may issue a citation to that person in
writing describing with particularity the basis of the citation. Each citation
may contain an order to desist and refrain and an assessment of an
administrative penalty not to exceed two thousand five hundred dollars
(\$2,500) per violation and shall contain references to this section,
including the provisions of subdivision (c)

. . .

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

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

Based on the foregoing findings, the California Corporations Commissioner is of the opinion that Lollicup USA, Inc., Alan Yu and Marvin Cheng have engaged in the offer and sale of franchises in this state that are subject to registration under the Franchise Investment Law without the offers first being registered, in violation of California Corporations Code section 31110. Pursuant to California Corporations Code sections 31402 and 31406, Lollicup USA, Inc., Alan Yu and Marvin Cheng are hereby ordered to desist and refrain from the further offer or sale of franchises unless and until the offers have been duly registered under the Franchise Investment Law or unless exempt.

Further, pursuant to California Corporations Code section 31406, Lollicup USA, Inc., Alan Yu and Marvin Cheng are hereby ordered to pay to the California Corporations Commissioner an administrative penalty in the amount of thirty-five thousand dollars (\$35,000).

The Citations and Order are necessary, in the public interest, for the protection of investors and consistent with the purposes, policies and provisions of the Corporate Securities Law of 1968.

Dated: April 16, 2008

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Lead Corporations Counsel
Enforcement Division