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**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Franchise Investment Protection Act of  
Washington by:

Nutrishop, Inc.;

Respondent

Order No.: S-19-2724-19-CO01

CONSENT ORDER

Pursuant to the Franchise Investment Protection Act of Washington, RCW 19.100, the Securities Division and Respondent Nutrishop, Inc. do hereby enter into this Consent Order in settlement of the matters alleged herein. Respondent Nutrishop, Inc. neither admits nor denies the Findings of Fact or Conclusions of Law as stated below.

**FINDINGS OF FACT**

**Respondent**

1. Nutrishop, Inc. (“Nutrishop”) is a Nevada corporation with a principal place of business in Henderson, Nevada. Nutrishop was formed in 2003 as a California corporation, and converted into a Nevada corporation on February 5, 2013. Nutrishop grants franchises for stores that sell sports nutrition, dietary supplements, vitamins, weight loss products, food items, and other products. The President of Nutrishop, Inc. is Bryon McLendon.

**Nature of the Conduct**

2. On July 31, 2018, Nutrishop, Inc. filed an initial franchise registration application (DFI File No. 70016563) with the Securities Administrator. As part of its registration application, Nutrishop, Inc. disclosed that it previously operated under a license model where it granted licensees the right to operate stores in the state of Washington.

CONSENT ORDER

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Securities Division  
PO Box 9033  
Olympia, WA 98507-9033  
360-902-8760

1           3.       In May 2014, an Idaho resident paid \$7,500 to Nutrishop as a deposit to reserve a territory in  
2 Spokane, Washington for the operation of Nutrishop store. The Idaho resident owned and operated a  
3 Nutrishop store in Coeur d'Alene, Idaho. In 2017, the Idaho resident entered into a partnership with another  
4 individual who made a second \$7,500 payment to Nutrishop as a license fee. The payment was made in  
5 connection with the execution of a one-year Nutrishop Store License Agreement for a store that later opened  
6 in Spokane in December 2017.

7           4.       In March 2015, a Washington resident signed a Nutrishop Pro Shop Agreement for a Nutrishop  
8 business that began operating in Lacey, Washington in around April 2015. Under the agreement, the licensee  
9 had the right to operate a Nutrishop "pro shop" within a fitness studio in Lacey. Under the terms of the two-  
10 year agreement, the licensee was to required to pay a \$5,000 origination fee, but Nutrishop waived the required  
11 fee due to the licensee's existing endorsement relationship with Nutrishop. A renewal of the agreement was  
12 signed on February 1, 2017, which had a one-year term. Another one-year renewal agreement was signed on  
13 or about February 1, 2018.

14           5.       Nutrishop entered into other related agreements with the licensees, including a Product  
15 Distribution Agreement, which required the licensees to pay an administration fee on a monthly basis if they  
16 failed to purchase a specified minimum amount of products from an affiliate of Nutrishop.

17           6.       The Nutrishop Store License Agreement constitutes the sale of a franchise under the Franchise  
18 Investment Protection Act of Washington. Nutrishop granted the licensee the right to use the name  
19 "Nutrishop" in the operation of a Nutrishop business at a specific location in Washington. At the licensee's  
20 request, Nutrishop assisted in the licensee's creation of marketing materials for the licensee to use. The  
21 agreement also indicated that Nutrishop would provide training materials and guidelines to the licensee. The  
22 Nutrishop Store License Agreement created a business that was substantially associated with a trademark,  
23 service, or trade name. The agreement granted the licensee the right and license to use "Licensed Rights"

1 including Nutrishop’s trademarks and marketing materials at its Nutrishop business. As described above,  
2 Nutrishop Store License Agreement also required the licensee to pay a fee to Nutrishop.

3 7. Nutrishop failed to provide the licensees with a Franchise Disclosure Document containing  
4 current material information about Nutrishop and its officers and directors. Nutrishop failed to disclose to  
5 licensees that a director of the company, Clement Zirolì, Jr. (“Zirolì”), was subject to litigation for alleged  
6 securities violations and violations of Arizona law. Zirolì has been a director of Nutrishop, Inc. since the  
7 company’s formation in 2003. On December 28, 2010, Zirolì entered into a Consent Order with the Arizona  
8 Department of Financial Institutions for alleged violations of Arizona laws and regulations relating to his role  
9 as President of First Mortgage Corporation, a California-based mortgage company. As part of the Consent  
10 Order, Zirolì and First Mortgage Corporation agreed to pay a \$35,000 civil penalty. On May 31, 2016, Zirolì  
11 settled a civil complaint that was filed by the U.S. Securities and Exchange Commission (SEC) in the U.S.  
12 District Court for the Central District of California. The SEC’s complaint alleged Zirolì and other co-  
13 defendants violated the federal securities laws in connection with First Mortgage Corporation. As part of the  
14 settlement, Zirolì agreed to pay more than \$400,000 in disgorgement and a \$200,000 civil penalty.

### 15 **Registration Status**

16 8. Respondent Nutrishop, Inc. is not currently registered to sell franchises in the state of  
17 Washington and has not previously been so registered. There is no notification of exemption on file with the  
18 state of Washington. As described above, on July 31, 2018, Nutrishop, Inc. filed a franchise registration  
19 application with the Washington Securities Division. To date, that franchise registration application has not  
20 yet been approved.

21 Based upon the above Findings of Fact, the following Conclusions of Law are made:  
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1 **CONCLUSIONS OF LAW**

2 1. The offer or sale of the franchise described above constitutes the offer or sale of a franchise  
3 as defined in RCW 19.100.010(6), RCW 19.100.010(12), and RCW 19.100.010(17).

4 2. The offer or sale of said franchise was in violation of RCW 19.100.020 because no  
5 registration for such offer or sale is on file with the Securities Administrator.

6 3. The offer or sale of said franchise was in violation of RCW 19.100.080 because the  
7 Respondent failed to provide the franchisee with a franchise disclosure document prior to the sale of the  
8 franchise.

9 4. The offer or sale of said franchise was in violation of RCW 19.100.170 because the  
10 Respondent omitted to disclose material facts regarding prior litigation against one of the directors of the  
11 company.

12 **CONSENT ORDER**

13 Based upon the foregoing and finding it in the public interest:

14 IT IS AGREED AND ORDERED that Respondent Nutrishop, Inc. and their agents and employees  
15 shall each cease and desist from offering or selling franchises in violation of RCW 19.100.020, the registration  
16 section of the Franchise Investment Protection Act of the state of Washington.

17 IT IS FURTHER AGREED AND ORDERED that Respondent Nutrishop, Inc. and their agents and  
18 employees shall each cease and desist from any violation of RCW 19.100.080, the franchise disclosure  
19 document section of the Franchise Investment Protection Act of the state of Washington.

20 IT IS AGREED AND ORDERED that Respondent Nutrishop, Inc. and their agents and employees  
21 shall each cease and desist from offering or selling franchises in violation of RCW 19.100.170.  
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1 IT IS FURTHER AGREED AND ORDERED that Respondent Nutrishop, Inc. shall be liable for and  
2 shall pay investigative costs of \$1,000 prior to the entry of this Consent Order.

3 IT IS FURTHER AGREED that the Securities Division has jurisdiction to enter this Consent Order.

4 IT IS FURTHER AGREED that Respondent Nutrishop, Inc. enters into this Consent Order freely and  
5 voluntarily and with a full understanding of its terms and significance.

6 IT IS FURTHER AGREED that in consideration of the foregoing, Respondent Nutrishop, Inc. waives  
7 its right to a hearing and to judicial review of this matter.

8 Signed this 20th day of September, 2019

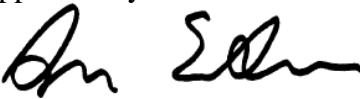
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11 Signed by:  
12 Nutrishop, Inc.

13 By /s/  
14 Bryon McLendon  
15 President

16 SIGNED and ENTERED this 25th day of September, 2019

17 

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19 \_\_\_\_\_  
20 William M. Beatty  
21 Securities Administrator

22 Approved by:  
23 

Presented by:

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Suzanne Sarason  
Chief of Enforcement

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Robert Kondrat  
Financial Legal Examiner