

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

BASKIN-ROBBINS)	CV. NO. 10-00758 DAE-BMK
FRANCHISING LLC, a Delaware)	
Limited Liability Company,)	
BASKIN ROBBINS FRANCHISED)	
SHOPS LLC, a Delaware Limited)	
Liability Company, and BR IP)	
HOLDER LLC, a Delaware Limited)	
Liability Company,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
DEAN MORRIS, individually, and)	
PARADISE ENDEAVORS, LLC, a)	
Hawaii Limited Liability Company,)	
)	
Defendants.)	
)	

EXHIBIT TO ORDER DATED AUGUST 22, 2011 GRANTING PLAINTIFFS' INJUNCTIVE RELIEF

TO: PARADISE ENDEAVORS, LLC, a Hawaii Limited Liability Company, and its AGENTS, REPRESENTATIVES AND EMPLOYEES:

WHEREAS, the above entitled action is pending in the United States District Court for the District of Hawaii; and

WHEREAS, this Court has reviewed the Complaint, the Request of Entry of Default filed herein, and Plaintiffs' instant Motion for (1) PARTIAL DEFAULT JUDGMENT; (2) PERMANENT INJUNCTION; AND (3)

DECLARATORY JUDGMENT, and the Memorandum in Support, the Affidavits and Exhibits submitted therewith; and

WHEREAS, it appears to the Court that despite having its rights as a franchise terminated, Defendant Franchisee continued to operate store # 344851 as a Baskin-Robbins store and sell ice cream and other Baskin-Robbins branded products, and otherwise use without authorization Plaintiffs' Proprietary trade and service Marks; and

WHEREAS, even after abandoning its unauthorized operation, Defendant Franchisee failed to fulfill its post-termination duty of de-identifying said store # 344851, abandoning store # 344851 which remains in disarray while still bearing the marks and trade dress of Plaintiffs, thereby tarnishing or otherwise irreparably harming Plaintiffs' marks and goodwill, as well as other nearby franchised stores in Plaintiffs' franchise system;

NOW THEREFORE, upon review of the foregoing Motion filed herein by Plaintiffs, and the Affidavits, Exhibits and Declaration attached thereto, and the Court being fully advised in the premises and good cause appearing therefore,

IT IS HEREBY ORDERED that TEN DAYS from the filing of this Order you are restrained, prohibited and permanently enjoined from infringing the trademarks and service marks of Baskin-Robbins and Baskin-Robbins identified herein, from falsely designating the origin, sponsorship or affiliation of Defendant Franchisee's business and services, from diluting the distinctive quality of the

trademarks and service marks of Plaintiffs, and from unfairly competing with Plaintiffs in any manner whatsoever, including but not limited to:

(a) Using in connection with Defendant Franchisee's businesses the trademarks and service marks of Baskin-Robbins identified herein, trade names, trade dress and distinguishing features, or reproductions or colorable imitations thereof, whether or not preceded or followed by any qualifying language including but not limited to the likenesses or phrases as set forth appended to this Exhibit, and;

(b) Making in any manner whatsoever any statement or representation or performing any act likely to leave the public or individual members of the public to believe that Defendant is in any manner, directly or indirectly, associated or connected with, or licensed, authorized or approved by Plaintiffs or someone in connection with them; and

(c) Committing any other act which infringes the trade name, trade dress, trademarks or service marks of Plaintiffs or constitutes unfair competition against Plaintiff Franchisors or their franchisees in their respective Systems.

IT IS FURTHER ORDERED, that TEN DAYS from the filing of this Order, you are restrained, prohibited and enjoined from preventing Plaintiffs, their authorized representatives, employees or contractors, from entering Defendant Franchisee's store premises and removing:

(a) All paper or other printed products, receipts, stationary, labels, signs, prints, packages, wrappers, napkins, receptacles, cartons, boxes, instruction

booklets and advertisements wherever located, in the possession, custody or control of Defendant Franchisee bearing the likeness or phrases as set forth appended to this Exhibit; and

(b) All stationary, business cards, employment applications or other business forms, invoices, catalogues, advertising materials, checks, or any materials of any type bearing the likeness or phrases as set forth appended to this Exhibit.

IT IS FURTHER ORDERED, that copies of this Order shall be posted on the premises of the following locations for the purpose of immediately stopping any further passing off of Defendant Franchisee's ice cream or other products as Baskin-Robbins, or any further use of Plaintiffs' Proprietary Marks and/or Trade dress:

1: Store # 344851: 2395 S. Kihei Road, Suite 120, Dolphin Plaza, Kihei, Maui Hawaii 96753; and

2: Store # 362235: 1280 S. Kihei Road, Kihei, Maui HI 96753 (if necessary).

IT IS FURTHER ORDERED that U.S. Marshals, the Sheriff of the State of Hawaii and his deputies, and/or the process servers of the State Department of Public Safety or private process servers designated by Plaintiffs, are authorized to accompany Plaintiffs' selected representatives in carrying out any of the provisions herein.


IT IS FURTHER ORDERED that no bond is required to be posted by Plaintiffs.

IT IS FURTHER ORDERED that Plaintiffs shall be responsible for all costs and liabilities stemming from damages to the franchise locations and its fixtures occasioned by Plaintiffs' removal of its Proprietary Marks and/or Trade Dress.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, August 23, 2011.





David Alan Ezra
United States District Judge

Appendix

BASKIN-ROBBINS, Registration No. 1185045, dated January 5, 1982; BASKIN 31 (IN ARC) ROBBINS, Registration No.1783116, dated July 20, 1993; 31, Registration No. 0796902, dated September 28, 1965; 31 In a Circle Design, Registration No. 0710670, dated January 31, 1961; 31 in a Circle Design, Registration No. 1228930, dated March 1,1983; 31 in an Arc Design, Registration No. 1761925, dated March 30, 1993; 31 Flavors, Trademark, Registration No. 1227721, dated February 15, 1983; 31 Baskin Robbins, Registration No. 2282002, dated September 28, 1999; Dots Design, Registration No. 1807776, dated November 30, 1993; and Dots Design, Registration No. 1835784, dated May 10, 1994.

“BR”, “BR Ice Cream Cake Creations”, “Happiness Served Daily”, “Flavor of the Month” and “31 Flavors”.

Baskin-Robbins Franchising LLC, et. al. v. Morris, et. al., CV No. 10-00758 DAE-BMK; EXHIBIT TO ORDER DATED AUGUST 22, 2011 GRANTING PLAINTIFFS’ INJUNCTIVE RELIEF