

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

7-ELEVEN, INC.,

Plaintiff,

Case No.: 6:13-cv-953-Orl-36GJK

v.

KAPOOR BROTHERS INC.,
PURSHARTH KAPOOR,

Defendants.

**JOINT MOTION FOR ENTRY OF
AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION**

Plaintiff 7-Eleven, Inc. and Defendants Kapoor Brothers, Inc. and Pursharth Kapoor request the Court's entry of the attached Agreed Final Judgment and Permanent Injunction, and say:

1. This is an action for, *inter alia*, trademark infringement and breach of contract arising from a franchise relationship between the parties. This Court has jurisdiction under 15 U.S.C. § 1121 and 28 U.S.C. § 1332.

2. The parties have settled their disputes and request entry of the Agreed Final Judgment and Permanent Injunction ("**Agreed Injunction**") attached to this Motion as **Exhibit "A"**. The Agreed Injunction is a product of the parties' settlement compromise and concludes this action.

3. The relief accorded by the Agreed Injunction and its factual predicate are supported by the existing record, including the sworn record accompanying 7-Eleven's Motion for Preliminary Injunction (Doc. 10) and evidentiary hearing conducted by this Court on July 25 and 31, 2013 (Doc. 30, 32).

4. Consistent with Rule 65, the Agreed Injunction “describes in reasonable detail – and not by reference to the complaint or other document – the act or acts restrained or required.” Fed. R. Civ. P. 65(d); See Am. Red Cross v. Palm Beach Blood Bank, Inc., 143 F.3d 1407, 1411-12 (11th Cir. 1998) (citing to Rule 65 and explaining that every injunction must give sufficient, reasonably-detailed notice of the actions it prohibits).

5. The Agreed Injunction is not “unconstitutional, unlawful, unreasonable or contrary to public policy.” Stovall v. City of Cocoa, 117 F.3d 1238, 1240 (11th Cir. 1997) (subject to these exceptions “[d]istrict courts should approve consent decrees”). The Constitution is not implicated in these proceedings and the relief being accorded in the Agreed Injunction is consistent with objectives of the involved statutes and their remedies. See White v. Alabama, 74 F.3d 1058, 1074 (11th Cir. 1996) (holding that for statutory claims, the consent decree must be consistent with the statutory objectives); see also 15 U.S.C. §§ 1116, 1127 (intent of the Lanham Act is to “protect registered marks” and its permitted remedies include injunctive relief); §542.335(j) Fla. Stat. (2013) (permitting enforcement of reasonable restrictive covenants against competition by injunction).

WHEREFORE, all parties request the Court’s entry of the Agreed Injunction in the attached form.

Respectfully submitted,

s/Christian C. Burden

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v.

KAPOOR BROTHERS INC.,
PURSHARTH KAPOOR,

Defendants.

AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION

This cause is before the Court on all parties' Joint Motion for Entry of Agreed Final Judgment and Permanent Injunction. (Doc. ____). Upon due consideration, the Court grants the Joint Motion, **FINDING** that:

1. This is an action for, *inter alia*, trademark infringement and breach of contract arising from a franchise relationship between the parties. This Court has jurisdiction under 15 U.S.C. § 1121 and 28 U.S.C. § 1332.

2. Plaintiff 7-Eleven, Inc. ("7-Eleven") is a franchisor of convenience store businesses. It owns a number of federally-registered trademarks and service marks, including 7-Eleven®, Slurpee®, Big Gulp®, Big Bite®, Oh Thank Heaven for 7-Eleven®, Super Big Bite®, and Super Big Gulp® (collectively the "**Marks**"). It licenses use of the Marks to its franchisees along with its format for conducting business through written franchise agreements.

3. Defendants Pursharth Kapoor ("Mr. Kapoor") and Kapoor Brothers, Inc. ("Kapoor Brothers") are former 7-Eleven franchisees with store locations in Merritt Island, Florida. Mr. Kapoor owns Kapoor Brothers and had guaranteed the performance of its

obligations to 7-Eleven.

4. 7-Eleven terminated Mr. Kapoor and Kapoor Brother's franchise agreements on June 20, 2013.

5. 7-Eleven sued Defendants for, among other things, trademark infringement and unfair competition under the Lanham Act and to enforce Defendants' post-termination obligations under the parties' franchise agreements. (Doc. 1). Its complaint requests preliminary and permanent injunctive relief and damages. (Id.).

6. On September 13, 2013, the Court granted 7-Eleven's Motion for Preliminary Injunction and entered a Preliminary Injunction. (Doc. 46). The Preliminary Injunction enjoined Defendants' infringement of 7-Eleven's Marks and ordering their compliance with the post-termination restrictive covenants in the franchise agreements. (Id.).

7. The Preliminary Injunction was conditioned on the posting of a bond in the amount of \$200,000.00. (Doc. 46). 7-Eleven filed this bond on September 17, 2013. (Doc. 50).

8. After various negotiations, the parties settled their disputes. In their resulting Joint Motion for Entry of Agreed Final Judgment and Permanent Injunction, the parties represent that the relief accorded herein is the result of their compromise and is warranted by the record.

Accordingly, the Joint Motion for Entry of Agreed Final Judgment is **GRANTED** and it is **ORDERED AND ADJUDGED** that Defendants Pursharth Kapoor and Kapoor Brothers, Inc., their agents, servants and employees, and those people in active concert or participation with them who receive actual notice of this preliminary injunction, by personal service or otherwise, be and they **ARE HEREBY PERMANENTLY RESTRAINED AND ENJOINED** from directly or indirectly:

- (a) Using or otherwise infringing upon any of 7-Eleven's Marks, including 7-Eleven®, or any confusingly similar trademark, service mark, logo or trade name;

(b) Causing a likelihood of confusion or misunderstanding as to the source or sponsorship of Defendants' businesses, goods, or services;

(c) Causing a likelihood of confusion or misunderstanding as to Defendants' affiliation, connection or association with 7-Eleven and its franchisees or any of their goods and services; and

(d) Maintaining, operating, engaging in or having any financial or beneficial interest in a convenience store business located at: (i) 1105 Courtenay Parkway, Merritt Island, Florida 32593; (ii) 400 W Merritt Island Causeway, Merritt Island, Florida 32592; or (iii) the site of any former 7-Eleven store within 2 years of it last being operated as a 7-Eleven.

10. The restrictions of paragraph 9(d) above shall expire and be of no further force and effect on September 17, 2014.

11. The bond posted by 7-Eleven on September 17, 2013 (Doc. 50) is discharged and 7-Eleven and its surety exonerated from liability thereunder.

12. All claims and counterclaims of the parties that are not specifically resolved by the above are dismissed with prejudice.

13. The relief accorded above is the Court's final judgment in this matter. The parties shall bear their own attorneys' fees and costs. Any pending motions are hereby denied as moot and the Clerk shall close this case.

DONE AND ORDERED in Orlando, Florida, this ____ day of December, 2013.

CHARLENE EDWARDS HONEYWELL
UNITED STATES DISTRICT JUDGE

Copies to:
Counsel of Record
Unrepresented Parties