

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AIRPORT MART, INC.,

Plaintiff,

2018 CV

-against-

COMPLAINT

DUNKIN' DONUTS FRANCHISING, LLC,

Defendants.

(JURY TRIAL DEMAND)

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Plaintiff Airport Mart, Inc. ("A Mart" or "Plaintiff"), by and through its attorneys Rodriguez McCloskey PLLC, as and for its complaint alleges as follows:

1. A Mart brings this action against defendant Dunkin' Donuts Franchising, LLC ("Dunkin" or "Defendant") for breach of contract, unjust enrichment, fraud and violations of the franchise law, among other wrongs. In connection with the Dunkin franchise of A Mart, Dunkin executed a franchise agreement with A Mart in 2010. Pursuant to the agreement, Dunkin was expressly obligated to support and provide guidance to A Mart as a franchisee. Instead, after A Mart expended significant time and efforts to secure the store and meet the specifications of Dunkin, Dunkin abandoned its obligations to A Mart under the franchise agreement and failed and refused to support the franchise.

2. Dunkin breached the terms of the franchise agreement and applicable law in numerous and substantial ways, including but not limited to inducing A Mart to purchase unusable equipment and add unnecessary and unusable space; misrepresenting critical aspects of the franchise agreement; forcing A Mart to purchase its baked goods from one of Dunkin's

preferred vendors rather than baking them internally with the “Just Baked on Demand” baking system that Dunkin had insisted the Plaintiff purchase, leading to the construction of the Store location at A Mart’s significant expense and detriment with unusable square footage; and ultimately failing to provide Dunkin’s professed skills, guidance and/or advice as required by the franchise agreement, and allowing the underlying lease with the Westchester Airport to lapse without support. As a result, A Mart has incurred monetary damages believed to be in excess of Ten Million Dollars.

THE PARTIES

3. Plaintiff A Mart is a New York corporation, with its principal place of business at 25 St. Charles Street, Thornwood, New York 10594.

4. Upon information and belief, defendant Dunkin is a Delaware limited liability company, with its principal office in Canton, Massachusetts. Upon information and belief, Dunkin is a wholly owned subsidiary of Dunkin’ Brands, Inc.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) as it is a civil action where the matter in controversy exceeds the value of \$75,000, and is between citizens of different states; this Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a).

6. This Court has personal jurisdiction over defendant Dunkin. Dunkin has purposely availed itself of the jurisdiction of this Court by, among other things, negotiating and entering into the contract which is the subject of this action.

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391 and the Local Rules for the Southern and Eastern Districts of New York in that this is the district in which the causes of action arose and where the plaintiff conducts business.

STATEMENT OF FACTS

8. Dunkin is engaged in franchising Dunkin' Donuts stores throughout the United States and in the State of New York for the sale of donuts, coffee and related products.

9. A Mart and Dunkin began discussing arrangements for A Mart to open the Store in the Westchester Airport located in White Plains, New York. It was always contemplated between the parties that the Store's location would ultimately move to inside the Westchester Airport's TSA area where maximum profits could be derived. However, initially the Store was located outside of the TSA area while certain construction at the Westchester Airport took place.

10. A Mart had an existing positive relationship with the Westchester Airport administration, predating the contractual relationship with Dunkin. A Mart leased (and continues to lease) a restaurant, coffee shop and bar at the Westchester Airport, on the second floor. Both Dunkin and A Mart envisioned entering a long term contract wherein A Mart would operate several Dunkin stores.

11. On or about December 30, 2009, A Mart entered into a 5-year lease agreement with the Westchester Airport to lease new space in the Westchester Airport for the Store, to begin January 1, 2010 and lasting through December 31, 2014, with a 5-year renewal option (the "Lease").

12. On June 30, 2010, A Mart and Dunkin duly executed a franchise agreement ("Franchise Agreement"). Pursuant to the Franchise Agreement, A Mart was authorized to sell

Dunkin coffee only. At the time, A Mart had a small existing space within the Westchester Airport where it intended to sell the coffee in a self-serve area.

13. The initial term of the Franchise Agreement begins ten years from the first date the Store opens.

14. However, Dunkin represented that this would be a long-term relationship, exceeding the term stated in the Franchise Agreement and that it would assist A Mart in obtaining additional locations and expanding its business. Indeed, A Mart's affiliated companies held many gas stations where Dunkin products could be sold.

15. The sale of Dunkin coffee was scheduled to commence in January, 2012.

16. In or about April, 2011, a representative of A Mart, Sammy Eljamal and Bob Wiggins, Vice President of Operations for Dunkin met to discuss the franchise, which at that time was at a standstill. By letter dated April 25, 2011, Mr. Eljamal, commemorated the discussion of an expansion of the relationship with Dunkin including allowing A Mart to expand its operations to include parbaking at the Westchester Airport. By email dated April 26, 2011, Mr. Wiggins confirmed that the just baked on demand (known as "JBOD"), option was available to A Mart so long as it secured additional space at the Westchester Airport.

17. As a result of these discussions, the Franchise Agreement was amended to remove the restriction for coffee only and allow a full-service Dunkin to be placed at Westchester Airport.

18. On November 4, 2010, based on the executed Franchise Agreement, A Mart agreed to amend the Lease with the Westchester Airport, adding 150 additional square feet for

the Store and increasing A Mart's annual license fee from \$16,109 to \$25,559 (the "First Amendment").

19. On July 9, 2012, A Mart and the Westchester Airport executed a second amendment (the "Second Amendment"). It stated unequivocally the motivation for and purpose of the expansions:

[T]he parties executed a First Amendment dated to increase the Licensed Premises by approximately 150 square feet to a new total of approximately 404 square feet, to allow a self-serve Dunkin Donuts franchise from this location for an additional annual license fee of \$9,450. ...

WHEREAS, the parties desire to amend the Agreement to increase the Licensed Premises, permit the Licensee to operate as a full service Dunkin Donuts franchise, and increase the license fee.

20. The Second Amendment added additional 300 square feet to the leased space, for an additional annual cost to A Mart of \$18,900.

21. A Mart spent in excess of Five Hundred Fifty Thousand Dollars to build the Store, improve the location and make it fit for the Dunkin brand.

22. After granting the franchise and expending significant funds, Dunkin disclosed for the first time that other Dunkin franchisees in the area viewed A Mart's franchise unfavorably and Dunkin required A Mart to purchase certain products from these competing franchises, to the detriment of A Mart and at its unnecessary cost.

23. While Dunkin amended self-serve coffee to authorize JBOD or parbaking onsite, which A Mart accepted, Dunkin forced A Mart to sign an agreement stating A Mart must purchase all its baked goods—including, significantly, all donuts—from a separate bakery, rendering the equipment, which A Mart was required to buy from Dunkin to open the franchise,

useless. This also rendered the expenses for such equipment, which had already been paid to Dunkin by A Mart, as a total loss.

24. Nevertheless, with over Five Hundred Fifty Thousand Dollars now invested by A Mart, the leased space was improved upon, constructed, and finished, and the Store was finally built, located in the pre-security area, on the first floor of the Westchester Airport.

25. Franchisees spend three days on site to learn how to make the coffee for a self-serve coffee franchise. After a store becomes a “full service” site, a franchisee must spend two weeks taking classes to get trained by Dunkin to operate their stores.

26. A Mart was required to spend a total of four weeks of training and to send its President and a second representative, at A Mart’s expense, to locations in Quincy, Massachusetts, Orlando, Florida and Great Neck, New York. During those trainings, representatives of A Mart learned how to make Dunkin coffee and how to finish and decorate the baked goods.

27. A Mart was further required to send two managers for an additional two weeks of classes specifically required for franchisees’ to learn how to make coffee, service customers and bake through their JBOD, as was understood when A Mart signed the Franchise Agreement. One week of training was in Long Island, and one week of training was in Massachusetts.

28. A Mart not only lost money for useless training and the cost of the unnecessary equipment, but also suffered lost profits from that point on, for the duration of the Franchise Agreement, as it would have been much cheaper to parbake the goods in house than to purchase them from a competing franchisor.

29. After Dunkin forced A Mart to purchase all baked goods from a competing franchise, Beekman Group LLC (“Beekman Group”), because the Westchester Airport was located within “Beekman Group’s area.” This was never disclosed to A Mart prior to its entering into the Franchise Agreement.

30. Upon information and belief, Dunkin has similar arrangements with other bakeries, and forces its franchisors elsewhere into similar agreements with similar stores with whom Dunkin does business.

31. Dunkin’s last minute requirement on the day of the opening of the Store, that A Mart agree to purchase all baked goods from Beekman Group caused tension between Dunkin and A Mart and Dunkin Franchisees and Donut Suppliers.

32. At all times relevant hereto, A Mart complied with the requests and last minute changes that were represented as temporary by Dunkin.

33. Later, in 2014, Westchester Airport issued Requests for Proposals (“RFPs”), seeking alternative vendors to operate within A Mart’s leased space. Prior to that time, it was understood by A Mart that renewal of its lease would be routinely granted.

34. A Mart requested that Dunkin explain the delays in assisting it secure an extension of the Lease to coincide with the Franchise Agreement terms.

35. A Mart’s requests were made based on the Franchise Agreement, which provides that Dunkin has acquired “experience and skill in the continued development of the Dunkin’ Donuts System,” involving, among other things, “development” and “operation.”

36. A Mart’s requests were also based on the Franchise Agreement, which sets out that Dunkin “will maintain a continuing advisory relationship with [A Mart], providing such

assistance ... regarding the development and operation of the Store. ... [Dunkin] will advise ... on all aspects of Store operations.”

37. Dunkin refused to assist A Mart in securing an extension of the Lease to coincide with the Franchise Agreement terms. Dunkin refused to provide guidance or even advise A Mart as to the RFP and continued operation of the Store under the agreement. Dunkin even refused to attend meetings relating to the Store with A Mart and Westchester Airport officials.

38. A Mart submitted an RFP to the Westchester Airport, but A Mart’s Lease was not renewed. Ultimately, the space was leased to another vendor and A Mart was forced to close its Store in that space.

39. In order to save the Store and continue the business pursuant to the Franchise Agreement, A Mart attempted to lease an alternative available space within the Westchester Airport, located past the TSA security checkpoint and still on the first floor.

40. Under the Franchise Agreement, the location of the Store needed only to be at “Westchester County Airport, 240 Airport Road, White Plains, New York 10604” and not in any specific space within the airport.

41. Dunkin unjustifiably refused to allow the sales area to be moved to the location A Mart already secured just steps away, within the Westchester Airport; the space was bigger, busier and only 50 to 100 square feet away. Moreover, the Franchise Agreement expressly provides that the location of the Store was within the Westchester Airport located 240 Airport Road, White Plains, New York 10604 and not at a specific location within the Westchester Airport.

42. Dunkin's refusal to work with, provide guidance to, or advise A Mart in securing its existing Lease and its renewal for the Store, prior to the end of the Franchise Agreement's ten-year term, was a material breach of the Franchise Agreement. As a result of which, A Mart lost the existing lease for the space from Westchester Airport located outside of TSA at the lower level to another vendor.

43. A Mart sought to move the Store inside TSA and was granted a lease by the Westchester Airport which would allow it to do so. By letter dated June 30, 2015, A Mart submitted a formal relocation plan for Dunkin. Dunkin refused to participate in the submission of the relocation plan or to otherwise support A Mart in its relocation efforts.

44. After A Mart diligently worked to remain a franchise partner with Dunkin, Dunkin terminated the Franchise Agreement leaving A Mart with no alternatives and no possibility of recouping losses for repairs, improvements, rent and equipment.

44. Although the Franchise Agreement did not identify a location for the Store, and A Mart was seeking merely to move its location within the Westchester Airport, Dunkin refused to allow the Store to move or relocate within the Westchester Airport with a new lease, prior to the end of the Franchise Agreement's ten-year term. Dunkin's refusal was a material breach of the Franchise Agreement.

FIRST CLAIM FOR RELIEF
(Breach of Contract)

45. Plaintiff repeats, reiterates and realleges each and every allegation set forth in paragraphs 1 through 44 as if more fully set forth herein.

46. Plaintiff had a valid and enforceable agreement with Defendant, which provided for a 10-year term from the date of opening in 2012 through 2022.

47. At all relevant times, Plaintiff has been in full compliance with and performed all its obligations under the Franchise Agreement.

48. Plaintiff relied upon the Franchise Agreement and upon Dunkin's performance thereunder.

49. Plaintiff relied upon the experience and expertise of Dunkin as a national franchisor.

50. Plaintiff spent substantial sums of money establishing the Store.

51. Dunkin breached the terms of the Franchise Agreement by, among other things:

- (a) Failing to comply with the terms of the Franchise Agreement;
- (b) Failing to assist Plaintiff with an extension of the lease requiring Plaintiff to submit to an RFP;
- (c) Failing to assist Plaintiff to move the retail store to a space after security checkpoints in the Airport waiting area;
- (d) Making derogatory remarks about Plaintiff and its staff to Westchester Airport officials;
- (e) Interfering with the contractual relationship between Plaintiff and the County of Westchester and Westchester Airport;
- (f) Changing the terms of the Franchise Agreement without consent or permission;

- (g) Imposing unrealistic demands upon Plaintiff to serve the Defendant's selfish purpose;
- (h) Changing the plans and layout for the store causing substantial delays in opening;
- (i) Failing to provide Plaintiff and its employees with proper training, supervision and advice;
- (j) Failing to provide proper marketing, advertising and support;
- (k) Using the Plaintiff and the Franchise Agreement to gain advantage with other franchisees;
- (l) Failing to disclose all material facts to A Mart;
- (m) Interfering with and destroying the business relationship between Plaintiff and the County of Westchester and Westchester Airport;
- (n) Refusing to relocate the Dunkin' Donuts store behind security in the Airport terminal waiting area after making written and oral assurances that Dunkin would support Plaintiff; and
- (o) Failing to assist Plaintiff in obtaining a renewal of the lease knowing that the Franchise Agreement was for 10 years and the lease for only five years.

52. Dunkin's failure to assist Plaintiff in securing an extension of the lease for the Store prior to termination of the Finance Agreement or providing, based on its skill or knowledge in the operation of such Store, any advice, guidance, or assistance as to RFP, are each material breaches of the Franchise Agreement.

53. As a direct and proximate result of Dunkin's breach, A Mart has suffered actual damages and is entitled to monetary damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs and pre- and post-judgment interest.

SECOND CLAIM FOR RELIEF
(Unjust Enrichment)

54. Plaintiff repeats, reiterates and realleges each and every allegation set forth in paragraphs 1 through 44 as if more fully set forth herein.

55. A Mart was obligated by Dunkin to incur significant expenses, including but not limited to its purchase of operating equipment under the false pretense that it would be using this equipment to bake its own goods. However, Dunkin then forced A Mart to spend substantial sums of money to purchase all baked goods from a third party of Dunkin's choosing.

56. A Mart, in purchasing the operating equipment, has paid significant funds to Dunkin and has not received anything of value in return.

57. A Mart spent in excess of Five Hundred Fifty Thousand Dollars for the improvement and construction of the leased Westchester Airport space to comply with Dunkin's requirements for the Store.

58. As a result, Dunkin has been unjustly enriched at the expense of A Mart.

59. Dunkin used A Mart to gain advantage with its other businesses and was unjustly enriched at Airport Mart's expense.

60. Airport Mart is entitled to monetary damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs and pre- and post-judgment interest.

THIRD CLAIM FOR RELIEF
(Breach of Implied Covenant of Good Faith and Fair Dealing)

61. Plaintiff repeats, reiterates and realleges each and every allegation set forth in paragraphs 1 through 44 as if more fully set forth herein.

62. Implied in the Franchise Agreement and in the relationship between Airport Mart and Dunkin is the obligation on the part of Dunkin to act in good faith and deal fairly with Airport Mart.

63. The foregoing conduct of Dunkin, including, without limitation, its misrepresentations to Airport Mart, both oral and written, and its refusal to support the Store at the agreed-upon location, constitutes one or more breaches of the implied covenant of good faith and fair dealing.

64. As a direct and proximate result of Dunkin's breach of the implied covenant of good faith and fair dealing, Airport Mart has suffered actual damages in an amount to be determined by the Court.

65. Airport Mart is entitled to monetary damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs and pre- and post-judgment interest.

FOURTH CLAIM FOR RELIEF
(Fraud in the Inducement; Intentional Misrepresentation)

66. Plaintiff repeats, reiterates and realleges each and every allegation set forth in paragraphs 1 through 44 as if more fully set forth herein.

67. The foregoing conduct of Dunkin constitutes material misrepresentations of fact, false promises, and fraudulent statements, including, without limitation, the following:

- (a) Dunkin misrepresented to Airport Mart that Dunkin's skills and expertise would support a successful Dunkin franchise restaurant;
- (b) Dunkin misrepresented to Airport Mart that Dunkin would adequately train and support Airport Mart's staff and personnel so that they would be able to successfully run a Dunkin franchise restaurant;
- (c) Dunkin misrepresented to Airport Mart that Dunkin would assist Airport Mart's staff and personnel in establishing and operating a successful Dunkin franchise restaurant;
- (d) Dunkin misrepresented to Airport Mart that the Westchester Airport was a suitable and acceptable location for a successful Dunkin franchise restaurant;
- (e) Dunkin misrepresented to Airport Mart that Dunkin would continue to provide support and training to Airport Mart and that Dunkin would continue to do business with Airport Mart; and
- (f) Dunkin misrepresented to Airport Mart that Airport Mart would produce and sell Airport Mart's own baked goods by use of baking equipment which Airport Mart was required to purchase to operate the Dunkin franchise store.

68. Dunkin made these material misrepresentations of fact, false promises and fraudulent statements with the intent to have Airport Mart rely on those statements.

69. Airport Mart reasonably relied on these misrepresentations, false promises and fraudulent statements to their detriment.

70. Dunkin benefited financially from its fraudulent acts.

71. The actions of Dunkin were intentional, knowing, and malicious, and were done without cause or excuse.

72. As a direct and proximate result of Dunkin's fraudulent acts, Airport Mart has suffered actual damages in an amount to be determined by the Court.

73. Airport Mart is entitled to monetary damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs and pre- and post-judgment interest.

FIFTH CLAIM FOR RELIEF
(Negligent Misrepresentation)

74. Plaintiff repeats, reiterates and realleges each and every allegation set forth in paragraphs 1 through 44 as if more fully set forth herein.

75. Airport Mart and Dunkin stood in a special relationship by virtue of the franchisee/franchisor relationship which imposed a duty of care upon Dunkin to render accurate information.

76. By the foregoing conduct of Dunkin, Dunkin negligently failed to provide correct—or negligently provided incorrect—and misleading information, which Airport Mart relied upon to its detriment.

77. As a direct and proximate result of Dunkin's negligent misrepresentation, Airport Mart has suffered actual damages and incurred attorneys' fees in an amount to be determined by the Court.

78. Airport Mart is entitled to monetary damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs and pre- and post-judgment interest.

SIXTH CLAIM FOR RELIEF
(Violation of NY GBL § 349—Deceptive Acts and Practices)

79. Plaintiff repeats, reiterates and realleges each and every allegation set forth in paragraphs 1 through 78 as if more fully set forth herein.

80. The foregoing conduct of Dunkin constitutes deceptive acts or practices in the conduct of trade or commerce.

81. Dunkin's foregoing acts and practices constitute a violation of New York General Business Law § 349.

82. As a direct and proximate result of Dunkin's § 349 violation(s), Airport Mart has suffered actual damages and incurred attorneys' fees in an amount to be determined by the Court.

83. Airport Mart is entitled to monetary damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs, attorneys' fees and pre- and post-judgment interest.

SEVENTH CLAIM FOR RELIEF
(Violation of Title 13, New York Codes Rules and Regulations,
Part 200 —New York State Franchise Regulations)

84. Plaintiff repeats, reiterates and realleges each and every allegation set forth in paragraphs 1 through 83 as more fully set forth herein.

85. The foregoing conduct of Dunkin constitutes unfair and deceptive acts or practices in and affecting commerce.

86. Dunkin's foregoing acts and practices constitute a violation of law under the Title 13 of the New York Codes Rules and Regulations, Part 200—New York State Franchise Regulations.

87. As a direct and proximate result of Dunkin's Title 13, New York Codes Rules and Regulations, Part 200 violation(s), Airport Mart has suffered actual damages and incurred attorneys' fees in an amount to be determined by the Court.

88. Airport Mart is entitled to monetary damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs, attorneys' fees and pre- and post-judgment interest.

EIGHTH CLAIM FOR RELIEF
(Violation of New York General Business Law,
Article 33—Franchises, § 683—Disclosure Requirements)

89. Plaintiff repeats, reiterates and realleges each and every allegation set forth in paragraphs 1 through 88 as if more fully set forth herein.

90. The foregoing conduct constitutes unfair and deceptive acts or practices in and affecting commerce.

91. Dunkin's foregoing acts and practices constitute a violation of law under the New York General Business Law, Article 33 (Franchises), § 683—Disclosure Requirements, including, but not limited to § 683(8).

92. As a direct and proximate result of Dunkin's NY GBL § 683 violation(s), Airport Mart has suffered actual damages and incurred attorneys' fees in an amount to be determined by the Court.

93. Airport Mart is entitled to monetary damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs, attorneys' fees and pre- and post-judgment interest.

NINTH CLAIM FOR RELIEF
(Violation of New York General Business Law
Article 33—Franchises, § 687—Fraudulent and Unlawful Practices)

94. Plaintiff repeats, reiterates and realleges each and every allegation set forth in paragraphs 1 through 93 as if more fully set forth herein.

95. The foregoing conduct constitutes unfair and deceptive acts or practices in and affecting commerce.

96. Dunkin's foregoing acts and practices constitute a violation of law under the New York General Business Law, Article 33 (Franchises), § 687—Fraudulent and Unlawful Practices.

97. As a direct and proximate result of Dunkin's NY GBL § 687 violation(s), Airport Mart has suffered actual damages and incurred attorneys' fees in an amount to be determined by the Court.

98. Airport Mart is entitled to monetary damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs, attorneys' fees and pre- and post-judgment interest.

WHEREFORE, plaintiff Airport Mart, Inc. respectfully requests that this Court enter judgment in its favor and against defendant Dunkin' Donuts Franchising, LLC as follows:

(i) On the First Cause of Action, awarding to plaintiff Airport Mart, Inc. money damages including lost profits in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs and pre- and post-judgment interest; and

(ii) On the Second Cause of Action, awarding to plaintiff Airport Mart, Inc. money damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs and pre- and post-judgment interest; and

(iii) On the Third Cause of Action, awarding to plaintiff Airport Mart Inc. money damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs and pre- and post-judgment interest; and

(iv) On the Fourth Cause of Action, awarding to plaintiff Airport Mart, Inc. money damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs and pre- and post-judgment interest; and

(v) On the Fifth Cause of Action, awarding to plaintiff Airport Mart, Inc. money damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs and pre- and post-judgment interest; and

(vi) On the Sixth Cause of Action, awarding to plaintiff Airport Mart, Inc. money damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs, attorneys' fees and pre- and post-judgment interest; and

(vii) On the Seventh Cause of Action, awarding to plaintiff Airport Mart, Inc. money damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs, attorneys' fees and pre- and post-judgment interest; and

(viii) On the Eighth Cause of Action, awarding to plaintiff Airport Mart, Inc. money damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs, attorneys' fees and pre- and post-judgment interest; and

(ix) On the Ninth Cause of Action, awarding to plaintiff Airport Mart, Inc. money damages in an amount to be determined by this Court but presently believed to be in excess of Ten Million Dollars plus costs, attorneys' fees and pre- and post-judgment interest; and

(x) For such other and further relief as this Court may deem just, equitable and proper, including reasonable attorneys' fees, punitive damages and disbursements incurred in this action.

Dated: Brooklyn, New York
January 9, 2018

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