

OPENING A FRANCHISE...LOOK BEFORE YOU LEAP

By Attorney Judy Gedge

If you're like many people, you may have that secret yearning to own your own business. There are certainly advantages to 'being your own boss'. For one thing, no one can fire you! On the other hand, there's no 'calling in sick' when it's your own business. While you can open your own business or buy an existing business, a popular approach is to open a franchise business.

The benefits of opening a franchise business include

- Use of a tried and true set of business techniques
- The advantage of goodwill and name recognition of an established franchise
- Extensive training by the franchise company in how to run a successful business
- Pooled marketing and advertising dollars amongst a large numbers of franchise operators
- Assistance in site selection, build-out and other start-up requirements

The very essence of running a franchise business is that you must follow the franchise company's rules and regulations in operating your business. So, for instance, the owner of a Subway® sandwich shop is not allowed to serve his wife's spaghetti and meat sauce as an added menu item. Uniformity amongst franchise locations is a key element of buying into a franchise system. A Connecticut Yankee who walks into a McDonald's in South Dakota is entitled to expect substantially identical food, ambience and service as he receives in a McDonald's in West Hartford (local accents excepted!) So, if you're a real maverick who wants total control over your own business operations, you may want to think twice (or three times) about buying into a franchise business. But if you like the idea of buying into a tried and true method of doing business and you're prepared to pay the franchise fees, then franchising may be a good option for you.

There are franchise opportunities available for practically any type of business you can imagine, including businesses in retail, junk removal, fast food, tutoring, professional services and even pet waste clean-up. (See FranchiseOpportunities.com to get an idea of the multitude of franchise options available.) If you're considering opening a franchise business, you'll need to do two things - Do your due diligence (investigation and evaluation of the business) and put together a team of professionals to guide you through the process.

DUE DILIGENCE

The key to choosing the right franchise business for you is completing a thorough investigation of the franchise (a process we lawyers refer to as 'due diligence'). The franchise company will provide you with much of the information you'll need for this investigation in the form of the Uniform Franchise Offering Circular (UFOC). Franchise companies are required by federal law to provide you with an updated UFOC and give you adequate time to review it.

Do not succumb to high pressure tactics to sign up today or risk losing the opportunity to 2/10/100 people (fill in the number) who are ready to sign on the dotted line if you don't. Buying into a franchise system is an



important and expensive business decision that will take time to properly investigate.

Here are some of the areas that you'll need to investigate in any franchise opportunity.

• **Cost and Financing.** How much will it cost to open the business (initial franchise fee and other start-up costs). How will you pay for it? Do you have home equity you can 'tap into' to fund the business? Are you prepared to mortgage your house to get a business loan?

• **Projections.** What will your projected cash flow be? Will you have sufficient working capital to fund the early start-up months of the business? Your accountant can be of great help in this area.

• **Franchisor Assistance.** What exactly will the franchise company do to help you start this business. Will they actively work with you to find the right location? Will they provide plans & specifications for a build-out? Do they have a list of approved contractors you can comfortably use?

• **Terms of the Deal.** What will the franchise company commit to do for you? For instance, will you be entitled to an exclusive territory (meaning they won't open another franchise in your area)? What are you obligated to do as a franchise owner? Make sure you understand each and every franchise fee. In addition to royalties on sales, you may be paying an additional percentage of revenues for an advertising fund. Is there a minimum royalty payment regardless of revenues?

• **Talking to Others.** Make sure you talk with other franchise operators including, if possible, owners that have left the business. You'll want to find out what it's really like to operate this kind of business and whether the franchise company truly delivers on its promises. The contact information is listed in the UFOC for current and former franchise owners.

PROFESSIONAL TEAM

Last, but not least, you'll want to put together a solid team of professionals to help you evaluate a franchise opportunity. This includes an accountant, banker, insurance agent, real estate agent and, of course, a business lawyer. Buying into a franchise business may be just right for you. But it's like any other important decision, you'll want to 'look before you leap'.