TIMELY ADVICE, REMINDERS & TIPS

JW | The A.R.T. of Franchising

An Important Franchising Update from the firm of Jackson Walker L.L.P.

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JW Franchise Attorneys

Wayne P. Bunch, Jr.
713.752.4333
wbunch@jw.com

Mark H. Miller
210.978.7751
mmiller@jw.com

The A.R.T. of Franchising
Advice - Reminders - Tips

Dear Franchisor,

Welcome to Jackson Walker's *ART of Franchising* newsletter. As always, our intention is to provide you with timely and easy-to-read franchise *advice, reminders and tips*, so that, as industry leaders, your knowledge of franchising will be continually expanding.

Today's Advice, Reminder and Tip – Creating a Better Franchisor/Franchisee Relationship

We have all heard stories, and in some case had issues, regarding unhappy Franchisees who are dissatisfied with operating in a Franchisor's system. Certainly a strong relationship between a Franchisor and its Franchisee is something all parties would prefer. However, in many cases, this relationship gets derailed along the way, causing angst and lost opportunities for both parties.

It would seem, at first glance, that both parties have similar goals. As a franchised unit does better, both parties benefit, right? The Franchisee generates more revenue (and potentially more profit), and the Franchisor earns increased royalties. Yet, when you drill down a bit further, it becomes clear that both parties' interests are not completely aligned. The Franchisor is focused on the entire system, and therefore making decisions based upon what is best for the majority of units. The Franchisee is strictly focused on the single unit or units he or she is operating. What is good for the many is not always good for the few. So, how can a Franchisor maintain a positive working relationship with its Franchisees?

Screening for Compatible Franchisees

The first step to creating a smoother relationship begins at the beginning! Franchisors have a responsibility to screen and qualify Franchisee candidates so that those who are invited to join the franchised system are a compatible fit with the operational culture of the franchise. When the opposite occurs, the relationship will inevitably get off track in a very bad way. Franchisors generally screen Franchisee candidates for sufficient capital and the proper level experience to operate the franchised unit. In most instances, there is also an interview process to further determine compatibility. Additionally, Franchisors develop Franchisee profile criteria which are matched against candidates. Even further, a small percentage of Franchisors require candidates to take personality tests meant to determine, more scientifically, whether there is compatibility with the franchise system.

Despite all of these screening methods, it is still necessary for the Franchisor to stay disciplined, so that the idea of earning a promised franchise fee (which could be in the range of $25,000 to $50,000) does not result in the lowering of qualifying standards. When a

Franchisor uses good screening and qualifying tools, and stays disciplined to those tools, the chances of having a long-term positive relationship increase dramatically.

Educating Franchisees

Good Franchisors do an exceptional job of educating franchise candidates with respect to what a franchise arrangement really is. There is a huge misconception that Franchisees "buy" a franchise; and Franchisors "sell" franchises. As a result, in the eyes of an uneducated Franchisee, once a franchised deal has been closed, the Franchisee considers that it now "owns" the franchise, and problems with respect to a Franchisor's need to guide and protect the brand can arise. For instance, in this scenario, when a Franchisor tells the Franchisee what it can or cannot do in terms of operating the unit, rolling out a new product, utilizing certain marketing materials, or buying certain products from certain vendors, the Franchisee may object, as it is "his" or "her" business, and how dare the Franchisor dictate how he or she should run it.

When a Franchisor makes it very clear that the Franchisee is not buying the franchise, but instead is being "granted" the franchise, things can go much smoother. Under this more accurate explanation of a franchise arrangement, the Franchisor helps the Franchisee understand that he or she is receiving a temporary and conditional license to "use" the trademarks and operational systems that have been created and are owned by the Franchisor. The Franchisee comes to further understand that the franchise fee paid is meant to help the Franchisor recover its costs in putting the Franchisee in business, and the royalty paid is a license fee earned by the Franchisor in return for granting the Franchisee continued use of the Franchisor's trademarks, operational systems and other intellectual property.

Once this is clear to the Franchisee, it becomes much easier for a Franchisor to establish boundaries regarding how the unit must operate. It becomes easier to manage expectations, as well.

Franchisees Expect Good Franchisors

Franchisors must accept and be cognizant of why Franchisees buy franchises. Many Franchisees cannot articulate the reasons, but all Franchisees implicitly expect the following from their Franchisor:

- Effective operational systems, which promote profitability.
- Distribution efficiencies, which lead to volume buying power, reduced costs and uniformity of products.
- Marketing efficiencies, which lead to positive brand recognition and awareness.
- Operational support and guidance, which looks forward and is not a negative comment on past operational behavior.

Similarly, Franchisees want proactive guidance and assistance. Good Franchisors do this through productive site visits which result in help with operational efficiencies and profitability, and are not simply quality assurance audits meant to grade Franchisees. Franchisors also do this through dynamic research and development, new marketing campaigns and techniques, and better overall operating systems.

In other words, Franchisees want to know that their Franchisor is "earning" its royalty. If it is cheaper and/or more profitable to operate as a Franchisee in the system, as opposed to operating independently, the relationship will go immeasurably smoother.

Communication

This sounds too easy, but it cannot be overstated. Effective, positive, and frequent communication between Franchisors and Franchisees is imperative. And, it cannot just be e-mail correspondence. We have all been made aware of, or been the victim of, a misinterpreted e-mail gone viral in an organization. The communication should come from multiple sources, such as newsletters, site visits by field representatives, phone calls, annual conventions, and regional or cooperative meetings.

A Franchisor that effectively communicates to Franchisees its general message of the brand in terms of its growth and development strategies, as well as its operational and marketing strategies, will be more respected. A Franchisor that keeps this information to itself will have suspicious Franchisees who fear the unknown. A policy of openness and trust goes a very long way.

I suggest setting up Franchisee advisory boards and/or Franchisee advertising councils, which allow for Franchisees to play a certain part in the managing of the brand. Franchisees are on the customer front lines, and are therefore a great source of information and feedback to Franchisors. Some of the best ideas in franchising have, in fact, come from Franchisees. McDonald's Big Mac and Filet-O-Fish sandwich both were Franchisee ideas that were adopted by McDonald's.

Lastly, with respect to communication, there is no replacement for a face-to-face meeting. When the relationship has gotten derailed, for whatever reason, I always recommend that a person of authority from the Franchisor reach out to the Franchisee and schedule a meeting that will get the parties talking in the same room. In most cases, there will be more common ground than not, and disputes can be resolved.

Summary

Using these general ideas in an effort to improve the Franchisee/Franchisor relationship requires attention and diligence on the part of both parties. And, the stakes are high. When goals are aligned, and both Franchisor and Franchisee are pulling in the same direction, the chances for success and bigger profits increase to the degree that the effort is imperative.

We welcome your comments and suggestions. Please send to **wbunch@jw.com** or **mmiller@jw.com**.

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JW | JACKSON WALKER L.L.P.

901 Main Street, Suite 6000 | Dallas, Texas 75202