

The Economy is in a Downward Dog

By Reg P. Wydeven
July 24, 2010

For a while now, the U.S. has been in the midst of an economic downturn. During periods of recession, folks tighten their purse strings. As a result, many businesses suffer. However, some industries are thriving during these difficult times.

For example, debt collectors and bankruptcy attorneys are busier than ever. The contraceptive industry is seeing lots of action for couples fearing the costs of raising a family. To deal with stress, many people flock to bars. For those who don't drink away their stress, several turn to yoga.

According to market research firm GfK-MRI, yoga practitioners have grown during the economic downturn in the U.S. from 11 million three years ago to 14 million today. With that many devotees, yoga has become big business.

Hundreds of companies have sprung up to provide all these yoga-goers with rubber mats, yoga pants, shorts and even bras, balance balls and sanitizing wands. Yoga Journal reports that in 2008, Americans spent \$5.7 billion on yoga classes and equipment, almost twice as much as they did in 2004.

Likewise, yoga studio franchises have also spread like wildfire. According to the U.S. Department of Commerce, buying a franchise is the average person's most viable avenue to owning a business. A franchisee can avoid many of the risks and headaches inherent with new businesses by instantly gaining a well-established tradename, business model and goodwill.

The Federal Trade Commission requires all prospective buyers of a franchise to be provided with a Uniform Franchise Offering Circular, which contains the financial statements and litigation history of the franchise, information pertaining to former franchisees and the reasons they no longer exist, and also future sales and earnings projections.

To start a franchise, a buyer must sign a franchise agreement. This document defines the franchise arrangement, and typically favors the franchisor. Common issues addressed are:

- the franchise fee and annual royalties
- mandatory training programs
- the purchase of inventory and/or supplies
- advertising policies
- the possibility of the franchisor buying back the franchise (oftentimes only at cost), and
- territorial encroachment problems

Like the mafia, franchises are hard to get out of. Typical problems include covenants not to compete and confidentiality policies, especially pertaining to trade secrets.

One such franchise is Bikram Yoga, a national franchise founded by yoga mogul Bikram Choudhury. Choudhury was born in India and founded the Yoga College of India in Beverly Hills in 1974. He currently has over 900 studios worldwide and charges \$5,000 for training for franchisees, who must be recertified every three years. In 2003, Choudhury sparked controversy by copyrighting the 26 poses and 2 breathing techniques that make up his distinctive form of "hot yoga," which is practiced in 105 degree heat.

Choudhury has successfully sued many outfits to enforce his copyright, much to the dismay of yoga traditionalists, such as the Open Source Yoga Unity, a national nonprofit organization of yoga enthusiasts. OSYU sued Choudhury, claiming yoga is a 5,000-year-old tradition that, like jogging, cannot be copyrighted. The parties reached a settlement whereby Choudhury agreed not to sue the members of a collective of hot yoga teachers if they agreed not to use the Bikram name.

Choudhury is a yoga champion in India, and interestingly, as a master and teacher of the yoga discipline, he is known as a "yogi." So that begs the question: if a yoga master pulls a muscle, does he suffer a yogi boo-boo?

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