Doughnut Seem Like a Good Idea to Start A Franchise

By Reg P. Wydeven
January 21, 2006

Well known for being doughnut aficionados, both Homer Simpson and police officers around the world are in mourning this week. First, actor Michael Vale passed away at age 83. Vale was famous for portraying the portly Fred the Baker, Dunkin' Donuts' hard-working pastry chef who would rise at the crack of dawn and utter it was "time to make the doughnuts."

Then, adding insult to injury, world-renowned Krispy Kreme Doughnuts, Inc. terminated the license of Los Angeles-based Great Circle Family Foods, LLC, the company's largest franchise operator. Great Circle, which operates 28 Krispy Kreme locations in Southern California, can no longer sell doughnuts under the Krispy Kreme name.

Krispy Kreme terminated the license because Great Circle failed to pay required royalties and fees. Not only must Great Circle immediately cease and desist from operating its stores as Krispy Kreme outlets, it must also remove all signage, symbols and other marketing materials utilizing the Krispy Kreme brand.

This is not the first run-in Krispy Kreme has had with Great Circle. In September, Richard Reinis and Roger Glickman, the owners of Great Circle, filed a lawsuit against Krispy Kreme, alleging the company was attempting to force them into bankruptcy, or 'squeeze the filling out them'.

Reinis and Glickman claim that Krispy Kreme made misrepresentations that induced them into personally guaranteeing their company's financial obligations. Their lawsuit also contends that Krispy Kreme inflated prices and engaged in deceptive business practices.

It seems the desks of Krispy Kreme executives are 'sprinkled' with legal documents. The U.S. Securities and Exchange Commission is keeping their 'elephant ears' to the ground by investigating the company's repurchase of franchises and earnings warnings issued in May of 2004. Krispy Kreme is also the target of a federal criminal inquiry in the state of New York.

Krispy Kreme was able to show its bear claws by terminating Great Circle's license after it failed to pay royalties and fees pursuant to its franchise agreement with Krispy Kreme. A franchise agreement is the most important document in franchising. It contains many provisions and clauses designed to favor the franchisor, most of which are not discovered by the franchisee until it's too late. Some common (but not always contemplated) issues contained in the agreement are:

* the franchise fee and annual royalties
* mandatory training programs
* the purchase of inventory and/or supplies
* advertising policies
* non-compete provisions
* confidentiality requirements for trade secrets
* the possibility of the franchisor buying back the franchise (oftentimes only at cost), and
* encroachment problems, i.e., opening two McDonalds across the street from each other)

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.

Before investing in a franchise, the Federal Trade Commission requires all prospective buyers 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.

Doughnut Seem Like a Good Idea to Start A Franchise

By Reg P. Wydeven
January 21, 2006

Because they sell such addicting, desirable doughnuts, Krispy Kreme is confident it will only be a matter of time before Great Circle comes 'crulling' back.