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Sent to: NASAAComments@nasaa.org

Andrea Seidt
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Chair, NASAA Franchise and Business Opportunities Project Group
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RE: Request for Public Comment on the Proposed Statement of Policy Regarding the Use of Franchise Questionnaires and Acknowledgments

Thank you for the opportunity to comment on the proposed statement of policy (SOP) regarding the use of franchise questionnaires and acknowledgments. I have been a Subway franchisee since 1988. I have served on the North American Association of Subway Franchisees (NAASF) board and was its first president in 2000-2001. I have served on the Coalition of Franchisee Associations (CFA) board since 2010 and served as its chair for 6 years. In 2018 I formed my consulting company, Franchisee Advocacy Consulting. I also serve as the Director of Public Affairs and Engagement for the American Association of Franchisees and Dealers (AAFD). Simply put, I have spent many years representing franchisees and working on issues to protect franchisees.

I am in full support of NASAA's proposed SOP. I have heard far too many stories of franchisees receiving financial data outside of the FDD. If we look at an industry in which approximately 35% of FDDs contain no financial representation, we are to believe that the buyers of those franchises bought the franchise with no knowledge of revenues or costs. That's not really believable. The fact of the matter is that improper financial data is given in many ways. It may come from directly from the franchisor, but in a subtle way. I few examples I have heard are as follows:

- On Discovery Day, we toured a company owned outlet. In the kitchen of that outlet, a large white board showed sales projections.
- When talking about required equipment, I was told we needed a Coke Freestyle dispenser because that what was needed for a restaurant with sales of \$1.4 million.
- The only franchisees that would talk to me were ones supplied by the franchisor, and they were the top performing outlets, not representative of the chain.
- I was told I had the potential to be part of the Million Dollar Club. (no franchised outlet ever achieved that number.)
- The franchisor supplied me with a trade magazine article that included sales numbers.

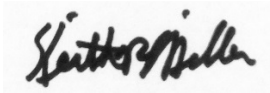
- I was supplied a spreadsheet for my loan application that gave me financials.

In addition to franchisors giving improper financial representations, it's often third parties that get involved. Franchise brokers or consultants often provide these numbers. You have to assume they got the information from the franchisor. Loan brokers or consultants also provide this information. Since many franchisors provide the access to the loan broker, you again have to assume the franchisor provided them with information and knows how it is being used.

Which gets us to the topic at hand. What is the purpose of questionnaires or acknowledgments? Well, it's obvious, to shield the franchisor from any liability or responsibility for improper information the prospective franchisee receives. It's really that simple. Yet, how wrong is that? I have spoken to so many franchisees, contacting me in their time of need, desperate that they relied on information they received, and now are losing everything they have. We have to remember that when a franchisee invests in a franchise, with personal guarantees, they are often putting ALL their assets at risk. Being given false information can financially ruin them. That is why this is so important. If only some of these franchisors and their lawyers cared about the pain inflicted on a failed franchisee, at times caused by improper disclosure.

It's time the industry stands up and takes responsibility. It's not okay to sell a franchise with improper information. And, it's not okay to shield responsibility by having franchisees quickly sign off on questionnaires and acknowledgments. Our industry needs to be better than this. I encourage NASAA to adopt the proposed SOP.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith R. Miller", is displayed on a light gray rectangular background.

Keith R. Miller
Principal, Franchisee Advocacy Consulting