Dear Corporate Finance Section and Project Group:

Myself and my Firm support the adoption of the Statement of Policy Regarding the Use of Franchise Questionnaires and Acknowledgments. My partners and I have represented franchisees for more than a Century based on our collective years of experience. The use of Questionnaires as described in the proposed Statement of Policy are purely designed to insulate franchisors from liability. The Questionnaires typically mischaracterize the franchise relationship. They usually consist of a series of confusing and self-serving questions each of which is designed to force a franchisee to deny that the franchisor has any liability or responsibility and to admit that the franchisee assumes the entire risk of the business venture regardless of the franchisor’s contractual obligations or performance.

It is our experience that prospective franchisees, who are often already emotionally and financially committed to the franchise purchase at the time the questionnaire is presented to them, are often told how to “correctly” answer the Questionnaire. As a practical matter, the Questionnaires serve no practical purpose other than to force franchisees to disclaim fraud and misconduct on the part of Franchisors as a condition of the purchase. As such, the use of Questionnaires should be limited and discouraged consistent with the Proposed Statement of Policy.

Robert

Robert M. Einhorn
disclosure, copying, distribution or use of the contents of this information is prohibited. If you have received this electronic transmission in error, please notify us immediately by telephone at 305-374-5418 or by electronic mail zarco@zarcolaw.com, and delete the message, all attachments and copies thereof. Thank you.

Zarco Einhorn Salkowski & Brito, P.A. cannot accept responsibility for the accuracy or completeness of this e-mail, as it has been transmitted over a public network. If you suspect that the e-mail may have been intercepted or amended, please call the sender. Any views expressed by an individual in this e-mail do not necessarily reflect the views of Zarco Einhorn Salkowski & Brito, P.A.

CIRCULAR 230 DISCLOSURE: To ensure compliance with recently-enacted U.S. Treasury Department Regulations, we are now required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication, including any attachments, is not intended or written by us to be used, and cannot be used, by anyone for the purpose of avoiding federal tax penalties that may be imposed by the federal government or for promoting, marketing or recommending to another party any tax-related matters addressed herein.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.