
From: Robert Zarco <RZarco@zarcolaw.com>
Sent: Wednesday, January 5, 2022 8:28 PM
To: Robert Einhorn
Cc: NASAA Comments; andrea.seidt@com.state.oh.us; Dale Cantone; Robert Zarco
Subject: [EXTERNAL]Re: NASAA Statement of Policy Regarding the Use of Franchise Questionnaires and Acknowledgments

Robert ZARCO and our entire law firm is in complete agreement with each of the statements and positions undertaken by my partner Robert Einhorn as to the intended misuse of these questionnaires.

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On Jan 5, 2022, at 3:58 PM, Robert Einhorn <REinhorn@zarcolaw.com> wrote:

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



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