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## *NewsFlash!*

### Choosing The Best Franchise Model For You

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Today, approximately ten percent of franchises are owned solely by women and that percentage is steadily increasing. Women's superior relationship skills shine in service businesses and women currently gravitate toward more female oriented franchise models such as hair salons, weight loss centers, flower shops, cosmetic companies, etc. Driven by the desire to start a small business in order to create more flexibility and control over their time and to be their own boss, the franchising model provides an exciting lure. Caution, however, speed bumps abound. Your entrepreneurial zeal should be tempered with a reality knowledge check supplied by due diligence performed by you, number crunching services performed by your accountant and perspective and negotiating advice provided by your attorney.

#### **What to Expect from Franchise System**

Although the franchise model is no guarantee, the model does increase your chance of staying in business. Banks are more willing to lend to franchisees, given that 80% of independent small businesses close within seven to eight years of opening, compared to an estimated 10% of franchisees. Why the deviation? Primarily because a good franchisor should eliminate, control or manage many of the common mistakes small businesses make. From a good franchisor, at the minimum, you should expect name recognition, quality control, site selection, training, operational guidance, advertising and promotion.

Information regarding these critical facts should be obtained by a careful review of the franchisor's offering circular or prospectus as required by the Federal Trade Commission Rule and various site registration and disclosure states ("Disclosure Documents"). Disclosure Requirements place you in a knowledgeable position at the earliest possible time in the business relationship and help you make an informed decision.

#### **Your Due Diligence**

If you have a passion for a certain type of business, and have found a model that you think will work, you need to perform as much due diligence as possible with the particular franchise system and model. Work in the business industry (if you don't like what you are selling, you will fail), and visit with existing and terminated franchisees (from the Disclosure Documents, you will find the names and addresses). Check rival franchisors' information and compare Disclosure Documents. Spend time determining the credibility and seasoning of the franchisor, given you are paying for the franchisor's experience, honesty and past performance models. Keep in mind that many franchisors are startups themselves and may go out of business in a few years.

#### **Accountant Input**

Sit down with your accountant and ask him/her to review the franchisor's numbers as to what it will "realistically" take in capital to start and maintain the

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business in the first couple of long lean years. You need to have an economic sense of the investment, including whether extensive remodeling may be acquired, whether the property where the unit is located will be leased or owned, whether there will be sufficient time to recoup the investment if the franchise is for a limited time. You will generally need to locate financing sources for the initial investment and working capital for at least the first year of operation. For example, a major fast food franchisee may require upwards of \$300,000 in working capital plus a franchisee fee of at least \$40,000 where a temporary help service or a dry-cleaning operation may require well under \$80,000 in working capital and a considerably smaller franchise fee.

## Attorney Guidance and Negotiation

Your attorney will help you evaluate the fairness of the deal from your point of view considering such key questions as: (i) whether you have an exclusive or nonexclusive territory and the significance of same; (ii) what con-

trols the franchisor has over you as to the purchase of supplies, hours of operation, and choice of personnel, etc.; (iii) the specifications of your franchise term and whether your renewal rights are reasonable (remember, you are licensing a business model, you do not own it); (iv) the ramifications of the non-compete; (v) what fees (initial amount or down stroke), royalties and advertising fees are due and how are they paid; (vi) under what grounds may a franchisor terminate the franchise relationship and whether you are given a notice of default and opportunity to cure; and finally (vii) under what conditions you will be able to transfer your franchisee rights to a third party.

## Conclusion

If you are looking to own your own small business, the franchise model may be right for you. You must, however, choose the particular franchise model and franchisor with a great deal of thought and research.

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*Ruth serves both mature and emerging businesses concentrating in the areas of corporate, intellectual property and technology, and labor and employment law. Her commitment and understanding of multifaceted issues inherent in operations distinguish her practice.*