Hotel interactive

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Franchise Associations Continue To Proliferate

By Stanley Turkel | bio

In a September 2003 article, I wrote that an independent franchise association named ASFONA (Association of Sheraton Franchisee Owners of North America) negotiated a settlement with Starwood on various financial, operational and brand issues. In addition, in the past nine years, more than 250 independent franchisee associations have been created in all U.S. industries.

It has come to my attention, as reported in LJN's Franchising Business and Law Alert (October 2003), that more than 350 franchisees of the vitamin store chain General Nutrition Centers (GNC) have banded together as the GNC Franchisee Association in order to sue the company for misuse of advertising and reset fees and predatory pricing. The lawsuit, filed in May 2003, indicates that the settlement of three lawsuits against GNC in 2001 did little to end the poor relationship between the company and its franchisees.

The GNC Franchisee Association was started by four New Jersey GNC franchisees, according to its law firm Gerald A. Marks & Associates, Red Bank, N.J. Marks said "We began this lawsuit over a question about how advertising funds were used. We say that our clients' money was being used for normal corporate expenses, not for advertising."

GNC responded that "these allegations are without merit on both a legal and factual basis.... GNC's 2002 investment in national advertising has been audited by an independent auditing firm, and the expenditures were appropriate."

Attorney Marks states that the audit "is totally defective and a sham. We are seeking new audits of both advertising and reset fee expenditures." Apparently, reset fees are paid by franchisees to franchisors for minor store redesigns tied to specific in-store promotions. A GNC franchisee would typically pay a reset fee of from $500 to $1000 but last year the franchisees were assessed $4500 each for a reset. "The company that came in did little work," said Marks.

GNC responded that its reset fees covered "updating the franchisees' store fixtures, graphics and product presentation" as part of a $20 million image makeover. "Work carried out is billed at our cost, with no mark-up, and reflects the same level of work done at company-owned stores," GNC added.

Predatory pricing allegations hark back to the three class action lawsuits that were settled in 2001 for $4.2 million. The franchisees content that they are paying higher prices for purchasing products from GNC than the prices paid by the company-owned, branded stores.

"Imagine if you get a flier that has a popular product like TrimSpa, advertised at a certain price", said Marks. "Then you go into a franchise store and that retail (advertised) price is lower than the store owner paid for it. He's got the choice of losing $2 to $3 on each sale, or losing a customer. That's what is happening on a bunch of products."

Stay tuned for a report on a developing class action lawsuit by a group of unhappy hotel franchisees regarding the cost of a rewards program, the slamming of telephone bills and the arbitrary requirement to lease a dish.

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