

SELECTING YOUR PROFESSIONAL ADVISOR

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One of the key components of growing a quality franchise organization is the qualified franchise legal advisor you select. Therefore, you should make your selection based upon a careful examination of his or her reputation and track record within franchising. It is equally important to determine if counsel can work comfortably and effectively with you and your management team.

The key factors in the selection of counsel are experience, competence, resources and personality. The franchisor will be operating a system into which they and their franchisees have invested significant financial and human resources. The quality of the advisor is the important criteria. With the advent of modern telecommunications, the proximity of a client to their advisors should not be a primary reason in making a decision. It is the quality of their advice which should drive the decision. A good working relationship between local corporate counsel and the franchise practitioner can bridge whatever day to day tasks need to be performed.

Franchise counsel should be well versed in the nuances of federal and state franchise laws and regulations. They should have experience in the drafting, registration and enforcement of the franchise agreements and offering documents. Ask for their client references and check them. Request copies of documents that they have prepared for other clients. Your franchise system while unique to you may share many of the same issues with other franchisors.

The franchise documents are one of the principal marketing tools used by the franchisor. It is important that the offering circular and franchise agreements be easy to read, easy to understand, and project your company's image and concept comprehensively. While you may be able to influence your prospective franchisees based upon your brochure and sales presentation, their legal and other advisors will base their recommendations primarily of the contents of the disclosure document.

Your franchise program must be kept in ongoing compliance under state and federal franchise laws. You should be aware of what types of systems the prospective attorney has in place to ensure that compliance is met on a continual basis. It is important to ascertain if the franchise attorney is equipped to train you and your staff in franchise compliance and is available to answer questions as you embark on the sales process and the ensuing franchise relationship.

Try to ascertain if the attorney has the experience and creativity to satisfy the needs of your system within the parameters of the franchise law as well as the laws which govern other methods of distribution and expansion. Franchising is

an effective method of distribution but it is not the only one. A franchise attorney should be able to advise you on the laws governing these alternatives and if they are appropriate to your system.

Finally, it is important that your franchise attorney is someone with whom you can have a good rapport. Counsel has to be able to fit effectively into your management team. Involve your staff, accountant, franchise consultant, corporate attorney and other advisors in the selection process. The best attorneys in the field understand that there is a difference between practicing law and practicing business and they will encourage you to seek advice from other professionals in the development and operation of your franchise program. You are establishing a success team to profitably move your company into the future.

Your franchise counsel is an essential member of the team.