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LAW & ACCOUNTING

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LEGAL WISE FRANCHISES

Both franchisors and franchisees need specific legal counsel

BY SUSAN R. MILLER

Before jumping into the franchise frenzy – whether it's to become a franchisee or a franchisor – it is important to do plenty of legwork early on.

Although just about every kind of business imaginable has been franchised, that doesn't mean every idea can be successfully replicated.

"Just because you may like Sanskrit, it's not a great franchise to teach it, as you probably won't have a line of people waiting to sign up," said Robert Zarco of Zarco Einhorn Salkowski and Brito in Miami.

HOW TO MAKE THE DECISION

On the other hand, because it's a long-term commitment, the decision to sign on the dotted line should not solely be based on how much money can be made, but by what the franchisee enjoys doing because of the hours they will be involved in the business.

"Once you sign, you are typically obligat-



Zarco

ed for five, 10, 20 years," Smith said. "It's not like a job you can quit. You need to do a lot of research in advance and make sure you have the right fit, not just for yourself, but for your family."

The best way to find the right franchise is to attend the numerous franchise ex-

positions that take place nationwide. At January's Franchise Expo South at the Miami Beach Convention Center, more than 200 exhibitors were on hand to pitch their products to potential investors.

"These expos are fabulous opportunities for potential franchisees to see the range of offerings," Smith said.

Zarco notes that, while it takes an entrepreneurial spirit to start a business, a franchisee can't be so entrepreneurial that they can't follow the steps and processes laid out by a franchisor. A good franchisee, he said, is one who can "color by numbers."

A good franchisor, on the other hand, is one who not only has been able to operate a successful solitary business, but who has

opened a second, third and even a fourth location to ensure that their model can be successfully replicated, Smith noted.

McDonald's is a good example. It has a relatively short franchise disclosure document, which lays out the terms and conditions of becoming a franchisee. However, its systems standards manual is volumes long.

"They put their time and energy into making sure customers are getting consistency because that's what sells. That's why they have been incredibly successful," Smith said.

For first-time franchisees, the paperwork can be intimidating. That's why it's important to have a franchise attorney read over the documents. Franchise relationships are governed by franchise statutes.

"Franchise agreements are a horse of a different color from your standard contract relationship," Zarco said.

Some franchisors are flexible when it comes to the provisions in their contracts; others are not, Smith noted.

Her advice: "If something is important to you, work to negotiate that into your contract."