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Thinking about Franchising Your Business?

As a successful mature business owner or a business owner with a new and trendy concept, you probably get approached frequently by people asking you if they can operate a business like yours “back home.” You are probably flattered by the attention and consider how you can help them go into business, for a fee, of course. What you are typically thinking about is called “franchising.”

If you’re considering franchising, you should make sure that you have your ducks in a row prior to launching your franchising efforts. Franchising a business prematurely is likely to result in failure, a waste of time and money and litigation. Taking the time to properly refine and institutionalize your business operations and develop an infrastructure for the franchise system will put you in the best position to offer a viable franchise opportunity and help your franchisees, and your franchise system, succeed.

1. **Brand Recognition:** Because brand name recognition is the cornerstone of a franchise system, you should make sure that your brand name is strong, available and registered on the principal register of the U.S. Patent and Trademark Office (USPTO). If you have not yet determined the availability of your brand name, discussed the strength of your brand name with a trademark attorney and registered your brand name with the USPTO, you should do so. The registration process typically takes a minimum of several months to complete.
2. **Methods & Systems:** Refine your business methods, systems, marketing and advertising practices and trade dress. Locate local, regional and national vendors and suppliers for food products, furniture, fixtures and equipment and evaluate them in terms of price, quality and customer service. Work the kinks out of your methods and systems and establish best practices. Track the results of your various marketing and advertising efforts. Take the steps necessary to improve the economics of your business to make it profitable, particularly after your prospective franchisees pay your franchise fee, royalties and advertising payments.
3. **Standardization:** Institutionalize your business methods, systems, marketing and advertising practices and trade dress. Standardized recipes, prep guides and operational procedures are necessary if the product and service offerings will be consistent (and consistently good) from unit to unit. Standardization is also necessary for the franchisor to teach its franchisee how to establish and operate the business. Franchisees will appreciate and benefit from proven marketing and advertising practices. Trade dress will streamline build out and enhance brand name recognition.
4. **Operating Manual:** Prepare an Operating Manual for your business. A franchise system Operating Manual is similar to the Operating Manual you give your employees. It conveys key information that your franchisees (and their managers, chefs and other staff members) need to know about operating your business, such as recipes, opening

and closing procedures and crew member responsibilities, to protect the franchise system and the goodwill associated with your trademarks. However, in the context of a franchise system, it is critical that you not cross the hazy line that might result in your being liable for your franchisees' operations. The Operating Manual must not get too involved in the details of running the day-to-day operations of the franchised unit or the franchisee's relationship with its employees.

5. **Training Program:** Establish a Training Program for your business. Like an Operating Manual, a franchise system Training Program is similar to the Training Program for your employees. It trains your franchisees (and their managers, chefs and/or other staff members) how to operate the franchised business. It also trains franchisees how to be owners of the business. Again, in the context of a franchise system, it is critical that you not get too involved in the details of running the day-to-day operations of the franchised unit or the franchisee's relationship with its employees.
6. **Visual Language:** Have a web design professional create and build a consumer website for your business, if you do not already have one. It takes several months to establish a presence on the web. Make sure your website can be expanded to accommodate your franchise marketing and sales activities and your franchisee intranet requirements. Have your webmaster utilize current search engine optimization techniques to improve your presence.
7. **Support:** Decide what initial and ongoing support and benefits you will provide or make available to your franchisees. Site location and evaluation services or a list of required site criteria? Architectural design services or prototype plans? Tenant improvement build-out services or assistance, or prototype plans? Established sources of supply? Bulk purchasing power? Furniture, fixtures and equipment brokerage or ordering services or a list of required items? Marketing or local advertising services? Research and development with respect to new product offerings? As you can discern, the list can be exhaustive.

The most critical element of being able to establish and operate a successful franchise system is a successful business that has withstood the test of time. Doing your homework now will enable you to make your business as successful as possible and put you in the best position to offer a viable franchise opportunity and help your franchisees, and your franchise system, succeed.

Susan E. Wells is a partner with the Phoenix law firm of Wells & Gerstman PLLC. Her corporate and business practice encompasses all aspects of business transactions and commercial relationships in numerous industries, including franchising and buying and selling businesses.

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