

HIRING A FRANCHISE ATTORNEY

Obviously starting or buying into a franchise is a complicated matter. It is wise to involve an attorney and/or accountant to assist you. Should you choose to hire a franchise attorney, the most important consideration is whether he or she is competent to represent you in franchise matters. Franchising is a very specialized area of law and you should seek out an attorney with extensive experience in that area. As a business owner, you will be devoting substantial time, money and effort to your business. You really owe it to yourself to get an attorney that is right for your specific needs. For new franchisors the areas of law you will likely need are (i) franchise law, (ii) trademark law, and (iii) corporate law. For new franchisees, the areas you will likely need are (i) franchise law and (ii) corporate law. Set forth below are some tips and some helpful websites that will help you to evaluate an attorney.

1. Where to Start. There are several ways to get an initial list of attorneys in a particular field. A few of these are:

(i) Check with the state bar association. Most state bar associations allow you to do an attorney search online, where you can enter certain criteria (office location, areas of practice, etc.) to find a list of potential attorneys. The Colorado Bar Association website is www.Cobar.org. Just click on “for the public” and scroll down to “find a lawyer.”

(ii) Yellow Pages. Attorneys are indexed by the type of law they practice.

(iii) Attorney Search Directories. A few of the better known and most widely used of these directories are (i) www.lawyers.com, (ii) www.martindale.com and (iii) www.attorneypages.com. These are national directories that allow you to tailor specific searches by attorney specialty, geographical location and much more.

(iv) Referrals from friends, business contacts or other attorneys. This is often the best method if it is available to you. With a referral at least you are able to gain a little personal knowledge about the attorney prior to contacting him or her.

2. Evaluating an Attorney. You should start by checking their websites to see what you can learn there. For example, do they even have one? If after reviewing the site, you still believe that they can meet your needs, you should contact the attorney directly and conduct a short phone interview. Some of the questions you may want to ask are:

(i) What areas of law do you practice?

Is he or she a “jack of all trades” (i.e. does the attorney seemingly practice every area of law?) Always review the attorney’s bio very carefully. You will want someone who has extensive experience in your area of need.

(ii) How long have you been practicing in this (these) area?

(iii) What type of clients do you typically handle?

Are these clients similarly situated to you and your business?

(iv) How quickly do you return phone calls?

This question will often catch the attorney off guard. While the precise timeframe given may not be important, the answer may provide some insight into how important responsiveness is to this

attorney. The number one client complaint about attorneys is that they are unresponsive and/or did not keep the client informed.

(v) **Have you ever been disciplined by any state bar association?**

(vi) **Can you provide client references?**

(vii) **What type of billing arrangements do you provide?**

Some attorneys charge strictly by the hour and some charge a flat fee for a certain service. For example, my firm offers flat rates for some services and hourly rates for others. It is very important that you understand the fee arrangements before the attorney begins any work on your behalf.

3. Meeting with an Attorney. Because many attorneys bill you based on the amount of time they spend on your work, it is a good idea to be well organized and focused, so as to minimize the amount of time needed to meet with your attorney and to allow him/her to do the best possible work. A few meeting tips:

(i) Write out your name and contact information on a sheet of paper (or bring a business card).

(ii) Be prepared to concisely explain your situation and what has prompted you to contact this attorney.

(iii) Write down any pertinent details that you think may be important for the attorney to know (such as ownership structure of your business, any relevant history, etc.).

(iv) Bring a copy of all relevant documents relating to your issue (e.g. business incorporation documents, vendor contracts, franchise agreement, trademark registration info, etc.).

(vi) Write out any questions you want to ask before the meeting.

4. Other Professionals. Many of the methods listed in the sections above can assist you with hiring other professionals. In addition, I have a network of other professionals that I, or my clients, have worked with in the past, including accountants, franchise brokers, insurance agents and other attorneys. I would be happy to put you in touch with the right people to meet your particular needs.

5. Additional Information. Additional information on hiring attorneys can be found at:

American Bar Association's Guide to Legal Help on the Internet
<http://www.abanet.org/legalservices/findlegalhelp/home.html>

Legal tips at Lawyers.com (http://www.lawyers.com/legal_tips/index)

Both of these sites contain numerous articles on hiring attorneys, understanding fee arrangements and similar topics.

© Brown & Kannady, LLC (2008)
303-757-3800
info@brownlegal.com