

Franchisee Operating Costs and Franchisor Obligations

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The franchised business, that is to say the franchised outlet or franchisee is responsible for their own debts and operating costs. To prevent the possibility of the franchisor being obligated for such it is necessary to make sure to have a clause in the original franchise agreement stating that such franchise outlet operational costs are indeed the sole responsibility of the franchisee, not the franchisor.

In reviewing caselaw on this subject and becoming a little scared, I decided to add a clause to my franchise agreements to address this issue. Below you will find a clause that I inserted into each and every franchise agreement for our company;

3.25 Operating Costs

Franchisee will maintain and pay its own cost of doing business, including but not limited to rent, telephone, utilities, insurance, licenses, certificates, registrations, permits, payroll, equipment lease payments, royalties, bank fees and other fixed and variable expenses. All the costs of the Franchise, including opening and operating costs, will be Franchisee's sole obligation. Franchisor will have no costs, liability or expense whatsoever with respect to the opening and operation of the Franchises Business. Franchisee will not use or employ the Service Marks in performing any activity or incurring any obligation or indebtedness in a manner that could result in making Franchisor liable for them.

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Although normally franchise attorney will address this issue and have a boilerplate clause ready to go for your franchise agreements, you should make sure to ask questions about this issue and be sure to find a franchise attorney who prepares franchise documents, which is experienced and knowledgeable in this subject matter. I hope you will consider this in 2006. Lance Winslow - Online Think Tank forum board. If you have innovative thoughts and unique perspectives, come think with Lance; www.WorldThinkTank.net/wttbbs/