

Transfer Restrictions in Franchise Agreements

Article by: Lance Winslow

A smart franchisor must control the strength of the franchise organization in team. Therefore when a transfer is to occur from one franchisee to one another the franchisor must provide guidelines, stipulations and if necessary restrictions to the right to transfer.

In our franchise company we had considered this at length and below is a clause which I had inserted into every franchise agreement;

2.7 Transfer Restrictions

If at any time any legal restrictions shall be imposed upon the purchase of U.S. currency or the transfer to or credit of a non-resident corporation with payments in such currency, Franchisee shall notify Franchisor immediately. Franchisee shall use its best efforts to obtain any consents or authorizations which may be necessary to effect payment in U.S. currency. If Franchisee, despite its best efforts, is unable to effect payment in U.S. currency, Franchisor may direct Franchisee to make payment to Franchisor in such other currency and in such other territory or jurisdictions as Franchisor may select. Franchisor may (to the extent permissible by law) require Franchisee to make such payments to a separate account for the exclusive and sole use and benefit of Franchisor and provide Franchisor with evidence of such payments. Franchisor's acceptance of payment in a currency other than that of the U.S. shall not relieve or release Franchisee of or from its obligations to make future payments in U.S. currency to the extent permitted by law.

If, having used its best efforts, Franchisee is unable to obtain consent to or authorization of a method and manner of payment acceptable to Franchisor, then Franchisor may, by written notice to Franchisee, forthwith terminate this Agreement without any claim being made by either party against the other with respect to such termination, but subject to the provisions of this Agreement which expressly or by implication become effective or continue in effect subsequent to such termination.

Such transfer restrictions are commonplace in franchise agreements, however if they are not worded correctly they can do more harm than good. It is for this reason that franchisee companies are well advised to consult with an experienced franchise attorney on this subject matter. 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/