



Expanding Your Business Through Franchising

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According to a recent study conducted by Pricewaterhouse Coopers for the International Franchise Association Educational Foundation, there are approximately 750,000 franchises businesses operating in the United States, providing nearly ten million jobs and producing approximately 625 billion of output. This same study found that there are over 20,000 franchise establishments in New Jersey, contributing over forty billion dollars to New Jersey's economy. These numbers reflect the growing trend of businesses' expansion through franchising.

The popularity of franchising is the result of numerous factors. From the franchisor's perspective, franchising represents the ability to expand its business without having to expend its own capital or incur additional debt. Rather, the franchisee is required to secure the necessary capital needed to build and operate the franchise location. In addition, the franchisee typically signs the lease agreement and other contracts, giving the franchisor the added benefit of expand its business while limiting its own liability.

Even if a franchisor has a sufficient capital to expand, it may not be able to dedicate the time and personnel required to open and operate another location. The franchisee is responsible for site selection, lease negotiations, overseeing the build out and the hiring of staff. After opening, the franchisee is also responsible for the day-to-day operations of the franchise location, the ongoing training of its employees. The franchisee (with guidance from the franchisor) willingly takes on these duties to protect his or her investment.

While franchising may be an attractive option for the expansion of a business, there are certain legal requirements that must be followed.

With any franchise concept, the franchisor is licensing the franchisee the right to use its trademark. Therefore, the first step for a new franchisor is to register its trademark with the United States Trademark Office. A successful registration will enable you to protect your trademark throughout the country and prevent others from infringing upon the trademark licensing rights the franchisor has granted to its franchisees.

The next step is to prepare the required disclosure documents. The Federal Trade Commission (FTC) requires a franchisor to provide multiple disclosures

to a prospective franchisee. These required disclosures are typically made through a Uniform Franchise Offering Circular (UFOC). In the UFOC, a franchisor is required to disclose various items, such as the total cost of the franchise (the amount of royalty fees, initial franchise fee, initial investment, etc.), pertinent information concerning the franchisor (business experience, financial issues, litigation filed against the franchisor, the number of current franchises, the number of franchises that have been terminated, etc.) and the franchisor's and franchisee's obligations. The UFOC also must include

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