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A publication of the DDIFO • Cultivating Relationships since 1989

Conflict brewing between Dunkin' Donuts and franchise owners

DDIFO survey indicates strong opposition to new distribution deals

The DD Independent Franchise Owners, Inc. (DDIFO) recently conducted a survey to gauge members' opinions on new deals between Dunkin' Brands and Sara Lee and Hess as well as the impact of the Procter & Gamble (P&G) coffee-channeling program. One hundred members responded to the survey. While this was not a scientific survey, it is reasonable to interpret the results as directionally reflecting member sentiment. Through the survey, members were invited to answer to specific questions and were given the opportunity to anonymously submit their comments. The comments reflect the opinions and experiences of the individual respondents, and do not necessarily reflect the position of the DDIFO or its Board of Directors.

The survey results clearly demonstrate that members are extremely concerned about Dunkin' Brands deals with the three new distribution partners both in terms of the impact on brand perception and on franchisee profits.

Regarding the newly announced agreements between Dunkin' Brands and Sara Lee and Hess, the survey demonstrates overwhelming franchisee opposition: 94% of survey participants indicated they do not support the agreements. Further, 96% express concern that the agree-

Nearly 60% of respondents indicated they have experienced a 10% to 39% decline in sales since P&G began selling Dunkin' Donuts coffee.

ments, over the long run, will negatively impact their profitability and/or the Dunkin' Donuts brand name. DDIFO members strongly expressed that Dunkin' Brands coffee should always be presented as the premium product it is, and in light of the new deals with Sara Lee and Hess, the vast majority is concerned about a potential lack of high quality standards and a

potentially diminished consumer perception of the brand.

One survey participant said, "We adhere to strict coffee standards in our shops. My question is who will be responsible for making sure our standards for holding times, weights, temps, etc. are followed in office buildings or other self-serve operations?" Along the same lines, another respondent commented, "My concern is that if customers experience low quality at Hess, it can endanger our brand. My other concern is that by placing us in gas stations, our coffee gives the impression of being able to be made anywhere instead of being a premium quality beverage".

Another participant raised a valid point about how these new deals are antithetical to the Dunkin' Donuts service philosophy: "The Hess self-serve model is the furthest thing from the 'Service the Dunkin Way' model to which we must adhere. That the company's management team would go there further

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President's message

by Mark A. Dubinsky



Mark A. Dubinsky

It wasn't that long ago that a formidable donut company took the country by storm. Krispy Kreme was the darling of Wall Street, had a run of great stories in the press and left many Dunkin' Donuts franchisees wondering if the donut wars were here to stay.

Fast forward a few years and Krispy Kreme's luster has faded into the sunset. Their franchisees no longer have to hire police details to manage the crowds. In fact, dozens of Krispy Kreme outlets have closed in California, New Mexico, Arizona, Illinois, New York and Massachusetts. Many experts point to the company's aggressive expansion plan as one reason for the failure. Others believe that they had an ill-conceived business model. No matter what the cause, Krispy Kreme is no longer the major competitor it once was. In fact, there are industry experts who wonder if it will survive at all.

What does all this mean for DDIFO members? Many have concern that Dunkin' Brands is not sufficiently focused on franchisee profitability. While there were many things that went wrong at Krispy Kreme, management's lack of focus on franchisee profitability is clearly a major factor which led to the company's downfall. Please consider this quote from an article entitled "Kremed!" in the June 2005 issue of CFO Magazine:

"McDonald's Corp. is the gold standard in franchising, driving such profitability to individual restaurants that franchisees are eager to join the system and follow the company's stringent operating guidelines. But Krispy Kreme concentrated on growing revenues and profits at the parent-company level, while its outlets struggled."

(I encourage each DDIFO member to read this cautionary tale of ambition, greed, and inexperience. You can find it at: <http://www.cfo.com/printable/article.cfm/4007436?f=options>)

Many DDIFO members have expressed deep concerns about the road Dunkin' Brands is taking. Anticipated incremental cash flows from NGSS have not yet materialized; the Procter & Gamble deal has reduced the amount of bulk coffee many franchisees have sold; and the dust has yet to settle from the blockbuster announcements about Dunkin' Brands' agreements with Hess and Sara Lee. These factors, coupled with sluggish top-line sales growth, higher labor costs, food costs, energy costs and other G & A expenses, clearly demonstrate an erosion of profitability at the franchise level.

Some say that the Dunkin' Brands management team—and its private equity owners—are too focused on building franchisor

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DD Independent Franchise Owners, Inc.

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Mission Statement:

DDIFO: We communicate. We educate. We advocate.

Statement of Ownership:

DD Independent Franchise Owners, Inc. is an Independently Owned and Operated Association of Member Dunkin' Donuts Franchisees, and is not affiliated with Dunkin' Brands nor Dunkin' Donuts, Inc.

Employment-related practices: Are you prepared?

Provided by Wayne J. Golab, AAI, Fred C. Church, Inc.

Employment-related lawsuits are a growing concern for employers of all sizes. In 2004, the EEOC reported 79,432 charges filed for harassment, and harassment charge receipts filed and resolved were \$251.7 million. According to the Watson Wyatt Company, win or lose, the average cost of legal fees and related defense costs for the average liability claim are approximately \$114,000 (not including settlement amounts).

As costs for litigation and damage awards climb, experts predict that employment liability will only become more complex. As a result, it is critical for employers to understand their exposures and options to manage the risk.

Strategies to reduce your company's exposure

Two effective risk management strategies include solid human resources practices and employment practices liability (EPL) insurance coverage, a policy used to cover your risk due to the ever-changing legal and employment environment.

The three most common employment-related lawsuits today are:

1. Wrongful termination—the discharge of an employee for invalid reasons;
2. Discrimination—the denial of equal treatment of workers who are members of a protected class;
3. Sexual Harassment—when a worker is subject to unwelcome sexual advances, obscene or offensive remarks, or the failure to stop such behavior.

Employment practices liability (EPL) insurance works hand-in-hand with your internal employment practices to provide the necessary resources to defend your company against a suit or to pay a claim. To best understand how to cover your EPL risk, it's important to know the potential sources:

- Recruitment practices;
- Employment applications;
- Employment offers;
- Employee orientation;
- Annual conduct reviews;
- Enforcing performance policies;

- Termination; and
- Improper documentation of the above items

To limit your exposure, engaging in solid human resources practices is an important strategy in reducing your company's liability.

To verify your HR policies and best practices, conduct a thorough HR audit:

- Verify the Employee Handbook outlines all policies and terms of employment in clear and concise language;
- Require employees to sign an acknowledgement form for receipt of Handbook; and
- Develop training for supervisors including interview skills, performance reviews, 'zero-tolerance' policy, etc.

Employment law is often complex and varies depending on the jurisdiction. Well-organized and credible documents can demonstrate fair treatment, deter litigation, ensure employee honesty,

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The DDIFO needs your current e-mail address!

E-mail is a terrific communication method for us. We communicate via e-mail on current events, notifications of meetings, member surveys, etc. It is extremely fast and it is free to reach our members by e-mail.

Occasionally, we will also communicate by regular "snail mail." However, by comparison, U.S. Mail is slow, labor intensive, expensive and uses precious natural resources (paper).

If you, as a DDIFO member, are not currently getting our e-mail, please be sure to contact us ASAP at mark@ddifo.org. Please tell us your name (first and last) and your e-mail address. Too, when your contact information changes, please be sure to let us know so we can fix our database.

Thank you!

RI/SE MA franchisees raise more than \$75K for Special Olympics

This year's annual Pound of Coffee promotion held by Dunkin' Donuts franchisees in Rhode Island and Bristol County, Massachusetts raised \$72,252 for Special Olympics Rhode Island and Special Olympics Massachusetts South Section. Through the campaign, participating franchisees donated 25 cents for each one-pound package of coffee sold in November and December, historically the months with the highest sales. The check presentation was made at the Special Olympics Sports Celebrity Carnival Luncheon held on February 1 in Rhode Island.

"No company in southeastern Massachusetts matches the level of generosity—and length of service—that Dunkin' Donuts delivers in support of Special Olympics," Jay O'Brien, Special

Olympics Massachusetts South Section Director, told QSR Magazine Online. "Their annual Pound of Coffee promotion is a shining example of how a great company partners with a great cause in smart pursuit of a common goal: to improve people's lives right here in our local communities."

As a sponsor of Special Olympics since 1988, Dunkin' Donuts has helped provide year-round training and competition opportunities in 26 sports for more than 3,000 athletes in southeastern Massachusetts. Due to its exceeding and longstanding dedication and support, Dunkin' Donuts has been distinctly honored with an induction into the Special Olympics Massachusetts Hall of Fame.

President's message

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profitability in anticipation of an IPO. Some say that this focus on their profitability is the inevitable outcome of a private equity purchase which topped \$2.4 billion and which may yield five times that in an IPO.

Unlike many QSRs, Dunkin' Donuts shops are 100% franchisee owned. And, if Dunkin' Brands fails to provide its current and potential franchisees with a favorable rate of return on their investments, then it is unlikely that financial institutions will be willing to finance new projects or existing shop remodels. Further, in such an unfavorable ROI environment, Dunkin' Brands will find it difficult if not impossible to find franchisees for the next 10,000 stores it intends to franchise.

We have hopes that Dunkin' Brands senior management team has learned from the mistakes of Krispy Kreme and will take the proper steps to ensure franchisee profitability. But, as many long-time DDIFO members can attest, profits are not

what they used to be. The question we must ask is, "Do we have confidence that Dunkin' Brands is committed to returning franchisee cash flows to previously high levels and beyond?" If the answer is "NO", then we have a responsibility to stand up and be heard.

If necessary, we need to remind the senior management team in Canton—and the public at large—that our DDIFO members are committed to the long-term success of our iconic brand and we intend to stay in business long after the present private equity owners have cashed out. That is what our customers expect of us and that is what we must be willing to do.

DID YOU KNOW?

**YEAR DUNKIN' DONUTS UNIVERSITY
(DDU) WAS OPENED: 1963**

Employment-related practices from page 3

and, should litigation occur, demonstrate the employer's actions.

In addition to having the appropriate employment policies and HR best practices in place, EPL insurance coverage is another useful risk management tool used to defend against a suit or pay a claim. In fact, evidence of desirable practices and policies will be required to obtain EPL coverage. Typically, the insurance underwriter will require a copy of your employee handbook, which should cover the following policies:

- Sexual harassment
- Discrimination
- Equal opportunity
- Disabled employees and accommodations
- Grievances
- Employee discipline
- Termination
- Performance evaluations
- Internet usage/employee privacy
- Pregnancy leave
- Internal job postings
- Hiring and interviewing
- Alternative dispute
- Resolution/arbitration
- Employment-at-will
- Employment application form

In addition, you are usually required to provide the most recent annual report or SEC 10-K, the list of entities proposed for the coverage, and most recent EEO-1 reports.

EPL insurance should work hand-in-hand with your internal employment practices to provide the necessary resources to defend your company against a suit or to pay a claim. Your insurance professional should be committed to assisting you in assessing employment-related policies and helping you to develop best-practice solutions.

This article is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel or an insurance professional for appropriate advice.

Wayne J. Golab, AAI, Vice President of Fred C. Church, Inc. of Lowell, MA, has provided tailored insurance solutions to Dunkin' Donuts franchisees for 20 years. Wayne can be reached at 1-800-225-1865 or wgolab@fredchurch.com.

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Dunkin' Brands Community Foundation grants top \$700K

Once again this year, the Dunkin' Brands Community Foundation will make generous awards to support the efforts of three emergency response organizations. As recently reported in Boston Business Journal the Foundation, created in partnership with Dunkin' Donuts and Baskin-Robbins franchisees, will provide funding in excess of \$700,000 to support the preparedness and response of such organizations in advance of an actual crisis.

The National Volunteer Fire Council, a nonprofit association representing the interests of volunteer fire, EMS and rescue services, will receive nearly \$400,000. America's Second Harvest – the largest charitable hunger-relief organization in the U.S. – will gain \$300,000, and \$25,000 will go to the Leary Firefighters Foundation, a charity established by actor Denis Leary to provide fire departments with access to up-to-date equipment and training.

Since its establishment two years ago, The Dunkin' Brands Community Foundation has awarded more than \$1.2 million in grants to emergency response organizations.

The DDIFO has been a strong supporter of the Dunkin' Brands Community Foundation since its inception and continues to support the good work that franchisees and Dunkin' Brands employees do to support this worthy endeavor

Is your company throwing money away on inflated disposal expenses?

by Bob Benjamin, WasteFocus, LLC

Over the past few years we have seen most waste disposal companies increase their disposal rates to improve their profit margins. On top of their increased service rates they are also adding fuel surcharges, delivery charges, administration fees, late fees, finance charges, and reactivation fees. These costly and largely un-

necessary charges add up quickly and adversely affect business owners' bottom line while increasing the disposal company's revenue streams. As increased service costs are combined with reductions of landfills across the United States, much stricter environmental guidelines, and higher fuel prices, disposal costs will likely increase exponentially

over the next five years.

There are ways to be ahead of the curve and better manage your disposal costs through recycling, waste reduction, and composting. By implementing a custom trash reduction program you may be able to save your company many thousands of

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Conflict brewing between Dunkin' Donuts and franchise owners

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proves that they are no longer in the same business as their franchisees."

The survey also examined the impact of the P&G coffee-channeling program through the 4th quarter of 2007. Survey results show 77% of responders have suffered indisputable unfavorable impact to their volume and are experiencing consumer confusion and negative reactions, as well. According to comments from survey participants, the consumer confusion centers around: the difference in the weight (Dunkin' franchisees packages are 16 ounces; P&G packages are 12 ounces), pricing of the packages, attempted exchanges of P&G packages for Dunkin' franchisee packages, complaints about a noticeable difference in the flavor profile of the coffee, and the misconception that DDIFO members enjoy direct financial benefit from the P&G program.

Beyond the consumer issues raised, the survey results reflect a negative impact on franchisee volume and gross margin. Nearly 60% of respondents indicated they have experienced a 10% to 39% decline in sales since P&G began selling Dunkin' Donuts coffee. In direct response to competing with P&G and the resulting declining sales, 53% of those surveyed said they have discounted their pound of coffee prices.

The survey posed additional questions related to the overall direction of Dunkin' Brands and the bottom-line consequences for franchisees. Ac-

cording to the survey results, 55% of respondents strongly believe that Dunkin' Brands has been acting in its own self-interest at the expense of its long-term franchisees since Jon Luther became CEO in January of 2003. An additional 30% say they agree more than they disagree with this premise.

When presented with the statement "My cash flows from operations have been declining for an extended period of time and show little sign of improving any time soon," 84% of survey participants said they strongly agree, while 15% said they agree more than they disagree.

Mark Dubinsky, DDIFO president concluded, "There is little doubt in my mind that the Dunkin' Brands Management Team either failed to understand or did not much care about DDIFO member sentiment as to the Hess and Sara Lee distribution deals. Our survey revealed that these programs have upset our members greatly and remain hugely unpopular with them. Additionally, the Procter & Gamble channeled coffee program appears to have hurt DDIFO members directly in their pocketbooks during the past holiday season. Perhaps worse, consumers who buy Dunkin' Donuts coffee outside a Dunkin' Donuts shop may frequent their local Dunkin' Donuts shop less often. We need our franchisor to help drive consumers to franchised shops, not create deals that appear to divert sales from them."

Members' Meeting Report

Over 110 DDIFO members attended the Members' Meeting on November 29, 2007 at Lombardo's in Randolph. It was a chance for franchisees to hear about the latest developments related to franchise agreements, security, litigation and the DDIFO's pending partnership with the CFA.

Carl Lisa, Sr., Esq., of the law firm Lisa & Sousa LTD, gave a detailed presentation examining the new Rhode Island Fair Dealership Act and how it will impact franchise owners. He pointed out how the new law contains language not contained in the current franchise agreements which protects Rhode Island franchisees. A similar law is pending in Massachusetts and could, possibly, inspire other states—and the Federal Government—to reexamine laws covering franchise owners.

Mr. Lisa also discussed the status of negotiations towards a new franchise agreement which should be completed in 2008. "This new agreement does not provide for a change in franchise fees," he said, but future negotiations will cover "more time to cure" which relates directly to the Rhode Island Fair Dealership Act.

Former Rhode Island Treasurer Paul Tavares has been hired as a DDIFO lobbyist to help preserve the Fair Dealership Act and expand it to other states. He spoke to assembled members and explained the importance of having someone with ties to state and local governments working on behalf of the DDIFO.

Kelly Andrade, a Connecticut franchisee, said he found the meeting very informative. "I learned a lot today about pending legislation that will definitely affect us," he said. Louise O'Neil who lives in Rhode Island but owns stores in Massachusetts said this meeting was a great opportunity for her to share ideas with other franchisees, "I want to see how others are doing in the business and see what's working for them—and what's not. I'm always looking for ideas to help improve business and increase my bottom line," she said.

Many franchisees say they are concerned about issues like energy prices, insurance and supply costs—just like all businesspeople. As the QSR business continues to evolve and Dunkin' Brands introduces more initiatives, franchisees say they value the time spent discussing problems and solutions with other DDIFO members.

Waste disposal expenses

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dollars each year. Our professional recommendation for DDIFO members to better manage their aggregate disposal costs is to consider implementing the following five action steps: 1) Recycle as much plastic, paper, and cardboard as possible (thereby keeping it out of the landfill waste stream); 2) Consider less costly organic composting options for coffee grounds and bakery products; 3) Utilize compaction equipment to reduce frequency of service; 4) Frequently review and optimize trash and recycling pick-up schedule; and 5) Carefully monitor your invoices for unauthorized fees and services.

In our experience, the biggest barrier to doing this is a business owner would need to possess a vast amount of complex knowledge of a quickly changing industry of which they likely have little knowledge. Because of this, it is very unlikely that

a DDIFO member would be able to maximize their overall savings potential by himself. Surprisingly, often these savings can be achieved by utilizing the business owner's current service provider!

We suggest that DDIFO members should consider outsourcing their waste removal to a professional waste management consultant. By doing so, DDIFO members may be able to optimize their savings and also free up valuable management resources so as to focus better on building top-line retail sales.

Bob Benjamin has 24 years experience in the waste removal industry, including partnering with many Dunkin' Donuts franchises and CMLs. WasteFocus, LLC, a national solid waste & recycling management company, maximizes industry knowledge to obtain the most competitive rates in the market for their clients. Feel free to contact Bob at 800-530-6911 Ext. 204 or bbenjamin@wastefocus.com to discuss what he can do for your business. www.wastefocus.com

CEO tools

by John Franco, Vistage International

Here are three quick ways to improve profits AND assure the satisfaction of your employees: set meaningful goals and assure that you keep those goals in front of your people every day; over communicate so that people know what is important to improve the performance of the business; and identify heroic actions and publicize them frequently.

People need to know where you want to take your firm and that there are rewards for those that participate. Make the goal setting process interesting and encourage people to STRETCH. Then reward them handsomely for exceeding expectations. In fact many successful firms place no limit on incentive compensation since the incremental performance improvement funds the bonus plan.

Communicate weekly the important financial results for the firm. In fact you might want to write a monthly newsletter- no more than one page- that reports on performance and highlights

individual success stories. You might occasionally highlight individual successes because these are the stories that will motivate others to above and beyond types of actions. There is significant benefit to making examples of the heroes in your firm.

Lastly walk around and talk with every individual at least once a week. Just ask them open ended questions and let them ask you questions. It is 15 minutes of uninterrupted time to learn.

With references to: Kraig Kramers CEO and President of Corporate Partners, McDonough Georgia.

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