The Franchise Mediation Program Steering Committee

Monday, November 26, 2001 Meeting Minutes

Wednesday, November 26, 2001


Absent: Tom Damigella, Donald Hachenberger, Donald Hazlett

Also Attending: F. Peter Phillips, Matthew Shay, Neil J. Simon, Nancy Weingartner

Introduction and Welcome

Mr. Aronson convened the meeting at 9:15 a.m. and asked the attendees to introduce themselves. He also introduced Raxit Shah as a new member of the Steering Committee. Mr. Shah is a franchisee of five Holiday Inn Express hotels. Mr. Shah briefly recounted his experiences in the industry and expressed his enthusiasm about contributing to the program.

Mr. Aronson introduced Nancy Weingartner of Franchise Times. He indicated that this trade journal publication was invited to attend our meeting with a goal to give mediation, and in particular the NFMP, news coverage in a future edition of Franchise Times.

Mr. Aronson noted that the NFMP should represent a variety of constituencies, and recounted recent developments involving the Asian American Hotel Owners Association (AAHOA). The Committee discussed whether AAHOA should be formally represented on the Committee. Members voiced the view that more participation at any level, including leadership, will be good, and that the organization was an impressive and influential one. On the other hand, AAHOA may be reticent to take any action that may be perceived as an endorsement. Mr. Aronson will invite AAHOA to attend the next meeting as nonvoting participant, to be involved in the dialogue and deliberations of the organization and to permit the AAHOA leadership to become more familiar with the Program.

Mr. Aronson acknowledged the propriety of the Committee’s meeting in New York City in light of the September 11 attack.

Recent Events

Mr. Phillips reported on CPR’s recent trip to Russia.

Approval of Minutes

The Minutes of the meetings of May 11 and June 8, 2001, were approved.

Report on ABA Activities

Mr. Dienelt reported on the most recent meeting of the ABA Franchising Forum, including a session on dispute resolution. One goal of the Forum is to ensure that it is perceived
as a neutral organization, favoring neither franchisors or franchisees. Mr. Dienelt noted that the mechanisms within the ABA make explicit endorsement of the NFMP problematic, but he will try to urge the Forum to take a public position in favor of the Program.

Report on National Franchise Council

Mr. Simon said that NFC’s goal is to make all NFC members participants in the Program, and offered to make every effort to persuade them to do so. Mr. Aronson will reach out to Program nonparticipants who are NFC members. Mr. Simon reported that the audit of the FTC that distracted NFC staff members and, therefore, reduced referrals to the NFC. Since the audit’s completion there has been an increase in activity in the alternative enforcement area at NFC.

Report on IFA Activities

Mr. Shay and Mr. Hall discussed ways that IFA can continue, and build upon, its support of the Program. IFA positions itself as a franchising organization, not a franchisor organization. The IFA Ombudsman program continues to gain additional visibility and utilization through regional meetings and promotion. The organization is offering membership eligibility to franchisees of member franchisors – “system-wide membership” – and is promoting this concept by mail and telephone campaigns. NFMP is sometimes included in these communications. Mr. Shay distributed feature articles and advertisements on the Program that have appeared in recent IFA publications. Mr. Aronson asked IFA’s consideration of providing a list of IFA members whom the Program can contact, to increase the number of franchisors endorsing the Program.

Program Membership and Financial Support

Mr. Aronson reviewed the history of NFMP membership terms, and the recent effort to require financial contributions to assist marketing the Program. Current economic conditions and membership response to the prior request indicate that contributions not continue to be required. A close combined effort between the Program and IFA was proposed to increase franchisor membership. Additional leverage and credibility might be gained if all endorsing organizations (that is, AAFD and NFC) joined in this effort. Materials might be appropriately prepared by a franchisee author. It was noted that the IFA has undertaken such efforts in the past, but without signal success. Increased franchisee participation was seen as key, and to some members most important. Articles and other promotional materials aimed at franchisees will be prepared. Endorsement by franchisee organizations and associations may also be influential. Mr. Simon reminded CPR that NFC’s endorsement should be included in promotional materials.

Program Usage

John Fleming Kelly reported on usage of the Program. Increased usage in the first half of 2001 was not continued in the second half. The success ratio is holding constant at about 85%. There is some evidence that certain franchisors who do not require the participation of a representative who is authorized to settle the claim, pursuant to Rule 5 of the Program Procedures. Food and hotels are the industry sectors that use the Program most often.

Marketing Strategies

Mr. Aronson and Mr. Kaplan reported on visits made to their company legal staff by Mr. Phillips. Members were encouraged to invite more such visits. The Committee discussed whether a video of an actual franchise mediation might be of interest to a broadcaster. The objectives of such an effort were discussed, and whether public dissemination promotes the Program as well as creating an instructional tape available to potential disputants.
The Committee encouraged the creation of a smaller brochure to explain the highlights of the Program, and approved the use of Program funds for that purpose. Franchisors will continue to be requested to contribute to the Program, but such support will not be a prerequisite to participation in the Program.

The meeting adjourned at 12:00 p.m.

Respectfully Submitted,
F. Peter Phillips