



To Whom It May Concern,

Please find attached my submission for the Senate Standing Committee for Corporations and Financial services franchising inquiry.

I can be contacted by email [REDACTED] should you require further information.

Gerry Hugh

To The Senate Standing Committee for Corporations and Financial services.

Ex Franchisee – Whitford city, Western Australia.

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I was a franchisee of the [REDACTED] store from December 2004 to June 2006. In that time I saw my marriage crumble, I lost my home and my health deteriorated to the stage where I needed to be on permanent medication to avoid a stroke. I attribute this to the way the franchisor treated me and my prolonged dissatisfaction with the Management.

I had 3 years left on my franchise agreement (that I paid for) when I was terminated. If [REDACTED] honoured the term of the franchise agreement conservatively I would have made about \$1.95M in revenue. There was a further option for another 5 year lease. At \$650K per annum would have amounted to \$3.25M, totalling about \$5.2M over the eight years. This estimate was on a weekly turnover of \$12500 per week. The turnover was in reality was about \$14K per week and was growing. Because I was pressured out of my business, I never got to reap the benefits of a business I paid legitimately for.

The verbiage emanating from [REDACTED] was "we are here to help you succeed". Nothing could be further from the truth in practice. They served as obstructionist and a deterrent to the business growing. I was constantly harangued and under stress created by the Management for at least 3 years.

A business like a bakery is dependent on a relationship with customers and the continued reliance on those customers coming back. What help I had from [REDACTED] served to drive those customers away. For instance, I was told I needed more "theatre" by the business development managers at [REDACTED]. In demonstrating this, my business consultant appointed by [REDACTED] came to the store and instructed staff on what to do. This involved touting behaviours which people in the area found offensive. This was reported to me and my staff by many of our regular customers on subsequent days. Another example of the "help" from [REDACTED] was in their use of their technical baker. Here was a guy with the people skills of Athilla the Hun. [REDACTED] would send him around to the bakeries. When he came to my bakery he criticised the staff and built up the anti with his line of questioning and comment. On each visit a valuable baker left after a confrontation with the technical baker. Losing a baker from a bakery is akin to removing the femoral artery. This approach was also used when [REDACTED] enlisted a "star" franchisee who had a bakery in a neighbouring suburb, another franchisee and who later sought to buy my business, to assist in the presentation of my product. This just served to drive bakers away with his perceptions of a good product, and the fact that it really was subjective and a matter of opinion.

This franchisee had done his training at this store and there was a history of animosity between the head baker and this other franchisee. In addition he was encouraged by [REDACTED] to report negatively on my store to keep on their good side

Another instance of help was when the former state manager, in a loud voice in front of a counterful of customers criticised the cleanliness of the store. This was on the same day we had an oven fire due to poor installation, an installation [redacted] oversaw. A further example of "assistance" was [redacted] technical baker seeking to enforce the recipe. He produced a document all bakeries were to abide by when baking the bread in the oven. In order to comply I had my ovens recalibrated and I used an infra red thermometer to check temperatures complied with the temperature chart. The product turned out darker than what customers were used to and wanted. There was an immediate drop off in custom. Counter staff were faced with a barrage of negativity from customers. Yet, I had to bake it his way or be breached.

The bakery had up to this point received five star ratings even though the equipment had been abused. My business consultant later told me he had never seen a store's equipment deteriorate so quickly. This is after he had been inspecting the store and rating the performance. When I took over the store I was faced with massive repair bills on equipment which he knew had been abused but failed to tell me. This same line was used when I did not have any bakers, I approached [redacted] and asked them had they got a cadre of bakers that franchisees could call on. They didn't. I advertised and received a call from a baker who [redacted] knew the reputation of drug abuse. This was known to the technical baker who had worked with him in a prior job. Again no warning was issued that this guy was a drug user. They only told me after I fired him after he turned up for work stoned out of his head. The list of "help" continued with numerous other instances.

During this period when I was short of bakers the turn over suffered. Subsequently, cashflows were difficult. The supplier of packaging who is [redacted] business partner, promptly put me on a pay in advance order. I could not believe it. They were the only supplier and I was being disadvantaged additionally by having to get an essential ingredient with funds that were not present, as I had not traded. I sought help from [redacted]. They refused to help. I then sought to get packaging from other suppliers and to my surprise found others at a much lower price and better service. I was told by the Regional Manager that I could not use them under the franchisee agreement and that if I did I would be breached.

The relationship between me and [redacted] got much worse following my discovering the increased prices charged and my interest in sourcing the packaging myself.

[redacted] became divisive, playing my partner and me off against each other; they would pass on different information of a derogatory nature. This eventually led to trust issues as my spouse began to disbelieve me as she was told the "truth" from an "impeccable source". Our relationship broke down and my spouse stopped helping me in the business. She became "the" antagonist with the assistance of [redacted]. This was made worse as one of my neighbours was the training officer at [redacted] and the untruths were poured in to the home front and from the neighbour, which is highly unprofessional and a conflict of interest.

The worse piece of assistance was to come. On Easter Thursday 2006, the busiest day of the year, eight persons from [redacted] descended on my bakery on the pretext of lending a helping hand. They stopped my production because I did not have a lid to the mixer.

The lid was broken when I took over the store. The replacement cost of a new one from their recommended supplier was prohibitive. I sought to get a stronger and better one made locally rather than the imported Italian sourced product. Phil Schupp came with me and knew the state of play and at what stage of manufacture the lid was at. On this Easter Thursday, this group which included my business consultant, stopped production on the busiest day of the year. With late night trading on the Easter Thursday I had no product to sell by 1630 hours. I suffered financially that day to the tune of thousands of dollars.

In about May 2006 I was asked by State Manager to the head office for a meeting. I was not aware this was an ambush. I had commenced work at 0100 hours and the meeting was at 1400hrs. I had no sleep and was exhausted. I was not aware that Financial Controller had come from Melbourne as well. In this meeting I was told the relationship between us had broken down and my franchise agreement was going to be terminated. In addition, they communicated to me the [REDACTED] bank would call up the loan if I did not agree to sell my business to a couple who had been groomed by [REDACTED]. The Regional Manager then told me that a letter from the [REDACTED] bank had already been sent to call up the loan. All this was done without any consultation with me. The termination and take over had been arranged with a couple who had known what was happening before me, considering I was the owner of the business, I found this very unusual.

This was to take place at 30 Jun 2006. In the meantime, I had built a team of bakers up and had turned the business around under extreme difficulties. (My relationship with my spouse had deteriorated and we had split and I was finding it difficult to find accommodation. For the first week I lived in my car in the basement car park). I bought the business for \$420,000 and they offered me \$280,000. The replacement cost of the equipment alone was in excess of \$370,000. I had no option and was literally bullied into taking the offer or lose the business. They even said that they would terminate me out if I did not comply and take the offer.

[REDACTED] has the practice of issuing "Breach Notices" for any number of things. They had a practice of issuing three such breaches then sought to terminate the franchise agreement. On each occasion they notified the [REDACTED] bank who promptly contacted you with warnings about calling up the loan. I lived under constant threat of breach. A breach could come for not having an "approved" piece of equipment. The system was so trivial as to be unconscionable. On one occasion I had a meeting with my business consultant at 1730 hours at another shopping centre. He could comment on the status of my loan and liquidity. The only source of such information was the [REDACTED] bank. Meetings were held following long periods of no sleep and I was physically exhausted as I was doing 20 hour days. My business consultant told me financial details about my financial position with the [REDACTED] that could have only come from the bank. I never gave the Bank or my consultant permission to discuss my financial affairs.

Another issue I have is fraudulent behaviour. This was with the franchise fee. When I bought the store, the franchise fee had 3 years to run. The bank required that the business be for at least 5 years. [REDACTED] extended the franchise agreement period at a cost of \$10,000 plus legal costs for a further 3 years. As the head lessee they were also to extend the business lease with Westfield. This never happened as I

Found out when I tried to sell the business to [REDACTED] So in effect they took an additional \$10,000 for a business I did not have after 3 years. [REDACTED] did not refund the unused portion and kept it. This is just dishonest.

I further paid top dollar for my business, I paid [REDACTED] ongoing Royalty and advertising levies to grow my business, yet they would bill me each time they came to my store to give "expert" advice or training. This was a levy that was passed on to me only and not the other franchisees. I could not afford this as I was already struggling. I found [REDACTED] very difficult to deal with and their behaviour oppressive and bullying. The fact that I now find myself, without a home, a business and with losses caused by them and the bank, quite distressing. I still have not recovered and I was coerced out of my business almost 2 years ago.

I complained to the ACCC, although they did listen to my complaint and accepted my written statement, they did not investigate my complaint other than to tell me I needed to hand them evidence. This astounding, when they have the powers to obtain all records and conduct investigations to find all the facts. Who do I turn to if the ACCC won't act?

I hope that my submission, gives the committee an idea of the heartache that franchising has become especially where [REDACTED] is concerned.

Gerry Hugh