

Good Day

below is a more detailed submission (as I indicated I would do in my initial submission) along with limited supporting evidence.

I would love to present further evidence in person to the committee and answer any questions in depth in relation to bullying, threats, coercion, unethical behavior, deception of this franchisor, implied guarantees and churning.

I have already forwarded a copy of some meeting minutes and notes in addition to this email.

http://www.ausbroker.com/detail_article.cfm?ArticleID=2009 is an article that has been published online.

Churned and Burned

My name is Rachel Neilson and I am a former mortgage broking franchisee based in Queensland.

In June 2006 I purchased what I believed was a reputable, national mortgage broking franchise that provided me with exclusive rights to own and operate a business. I paid a \$40,000 franchise agreement fee, plus a training levy of \$10,000 and another \$2,200 in legal fees to become a franchisee. Plus gst of \$5,000.

In addition to these up front costs I also paid an additional \$4,000 in start-up costs. In all I invested more than \$60,000 in the business only to have my business and my investment taken away from me, without notice, 17 months after a I started.

I have a child who was diagnosed with a rare cancer 8 years ago and who has, thankfully, remains clear of the disease.

Sustained campaign

I have been subject to a sustained campaign of aggression, bullying, and what can only be described as highly false, misleading and unconscionable conduct by the Franchisor since making the decision to try and sell my franchise and move in a different professional direction.

In 2006 my husband and I were looking at a range of business opportunities and the mortgage broking business was referred to us by a business broker we were dealing with at the time. I went into the business because I liked helping people and wanted to help them navigate through the maze of housing finance.

Under the Franchise Agreement, I was to pay the franchisor 20 per cent of the up front commission and 25 per cent of the trailing commission. I liked this model because it seemed simple and straight forward and didn't have the overheads of other franchise systems.

Not so Easy Exit

I was also told that if I didn't like the business it would be relatively easy to sell and that exiting would be straight forward.

At the time we needed income security and I was told that that the business would provide us with a steady income.

In 2003 we settled on the purchase our Home which we purchased for \$85,000 (a \$72,000 debt was all we had). In less than 12 months the house doubled in value and soon after we refinanced our home and then bought into the franchise with over the recommended working capital left over – giving us a possible debt of \$160,000 in total.

The day I signed the franchise agreement the Franchisor made it conditional that my husband – who has a low level bi-polar disorder – was made to go guarantor. We had been in business before so we felt comfortable that we didn't need to get legal or accounting advice. He also presented a prior representation deed for us to sign and indicated it needed to be done there and then or else I would miss out on training and would be left indefinitely before I could start. After being shown ads and marketing that was supposedly due to go out the following week I was hyped up and ready to sign.

After a few months the business was not performing to the levels promoted by the Franchisor, three months into the contract the franchisor was notified in writing that I was not happy with the support or training, I requested further help and made it very clear I loved the concept and believed that I could make it work. However when the help was not forthcoming I made the decision in early 2007 to sell the business. I had managed to get the business started and thought that this would be an easy thing to do given what I had been told by the Franchisor.

In March 2007 I received the exit pack from the Franchisor (It was different to my agreement and when questioned I was told verbally that they would honor the original agreement) I also knew that under the terms of my Franchise Agreement that I had to continue to work in the business until it was sold. By June I had not heard anything regarding a sale and by August our situation was only marginally improving.

During the time from the franchisor first being advised I was selling I had two potential purchasers for the franchise but the Franchisor stepped in and told one that the business wasn't for sale and fobbed the other off.

In August 2007 I was trained as a real estate agent for one of Queensland's biggest firms. I decided to do this to supplement our income and to also boost the mortgage broking business. I told the Franchisor's State Manager that was what I was doing and he congratulated me telling me that it would be good for the business because it would help generate more leads.

I also never though that this would be a problem because there were other franchises who were also working as real estate agents.

At the same time I wanted to use a business broker, I requested information that was relevant to give to a broker, wrote advertisements for the sale of the business for the sum of \$85,000 which I thought would be reasonable because I had managed, while working simultaneously as a real estate agent, to build the business by about 50 per cent.

Quick Termination

My problems really began when I requested from the Franchisor help to employ a loans writer to help take the pressure off because I was working two jobs and was finding that the franchisor was putting me under enormous stress due to the frustration of the sale of my business. When I found employing was difficult organize and experienced a lack of support from the franchisor I asked for a month off as per the franchise agreement I could request in writing, with one months notice for holiday or rest time and they would organize a manager for me. (oct 2 2007)

This request was refused and on October 5 2007 I received a solicitor's letter informing me that my franchise Agreement had been terminated because I had abandoned the business, contrary to the agreement.

Furthermore the Franchisor was demanding the payment of more than \$51,000 in upfront commissions and trailing commissions averaged out over the remaining term of the Franchise Agreement.

This was entirely false because I was due to settle on loans to the value of well over \$1.5 million on the coming weeks and months, because my agreement was terminated I lost more than \$10,000 in upfront commissions plus more in trailing commissions.

Soon after I received the letter from the Franchisor's lawyers the owner of the Franchisor began threatening me with legal action and in one phone call threatened that if I didn't comply with what he wanted then he would sue me and to quote: "you will lose your house, make no mistake about it".

My Franchise Agreement was terminated without any warning that I was in breach of the agreement and has left me with business related debts for which I am still responsible for.

To add insult to injury my clients were informed that my franchise had been 'bought' by someone else (the original mentor and business development manger in the business) and more recently that it has been 'sold' again, and I have received nothing by way of compensation.

I have provided all of this information to the ACCC but have been told by my lawyer that I would be wasting my money in trying to seek restitution though the courts.

I have had my business taken off me and at the same time it has placed an even greater burden on my family when we entered into this relationship on the promise of a better life financially.

I sincerely hope that this inquiry will put an end to this kind of unconscionable and opportunistic behavior that exposes individuals and families to the kind of conduct that wouldn't be allowed in a normal employer-employee relationship, but which can be gotten away with under the guise of franchising.

I have attached all the relevant background to this sad and sorry tale for the information of the committee and would be happy to tell my story in person.

Sincerely

Rachel Neilson