



January 4, 2022

Sent via email to NASAAComments@nasaa.org

Cc: Section Chair, Andrea Seidt
Project Group Chair, Dale Cantone

COMMENT ON NASAA STATEMENT OF POLICY REGARDING THE USE OF FRANCHISE QUESTIONNAIRES AND ACKNOWLEDGEMENTS

On behalf of more than 46,000 franchisees nationwide who own over 120,000 businesses and employ over 2.6 million individuals, the Coalition of Franchisee Associations (CFA) shares NASAA’s concerns and opposes the use of Franchise Questionnaires and Acknowledgements as tools to shield franchisors from liability for false and misleading claims.

By way of background, CFA is the largest franchisee-only trade association in the country, bringing together the largest and most reputable independent franchisee associations with a mission “to leverage the collective strengths of franchisee associations for the benefit of the franchisee community.” The CFA represents 21 franchisee associations whose members own brands including McDonalds, Burger King, 7-Eleven, Planet Fitness, Buffalo Wild Wings, Dunkin’ Donuts, Meineke, Supercuts, Dominos and Popeyes - among others.

CFA believes that the use of Questionnaires and Acknowledgements (hereinafter “Q&A”) – presented after the prospective franchisee has financially and emotionally invested in the business – do not prevent fraud. In fact, franchisors often use these provisions to shield themselves from liability for fraudulent claims made both outside the four corners of the agreement and throughout the Franchise Disclosure Document (FDD).

Misleading earnings claims by franchisors are used to create a false hope for franchisees wishing to invest in the business. When these businesses fail, franchisors often point to the disclaimers in the FDD and the corresponding Q&A to relieve themselves of liability for making these financial representations. While franchisors continue to profit, franchisees are the true victims - they often risk their life savings to invest in their business only to see it taken away because of false promises.





While several states have enacted laws to help prevent fraud by voiding releases or waivers in the FDD, more action needs to be taken. CFA applauds NASAA for addressing this issue and agrees that these states need to include Q&A's as violations of the law when they are used to disclaim or release a franchisees' rights under that state's law.

As the only true stakeholders in this process, franchisees should be given accurate and transparent information prior to entering into a franchise agreement. As such, the use of Q&A's to protect franchisors from liability for misleading information encourages fraudulent behavior and should be void in all FDDs.

Sincerely,

John Motta, CFA Chairman

Misty Chally, CFA Executive Director

