



MATT DICKSTEIN

Business Attorney

Making legal matters easy and economical for your business

39488 Stevenson Pl., Suite 100, Fremont, CA 94539

510-796-9144. matt dickstein@hotmail.com. matt dickstein.com

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Legal Compliance Checklist for a Start-Up Franchisee

Buying a franchise can feel overwhelming. You worry about all the things you know, and you worry about all the things you don't know. I write this checklist to fill in the great unknown. This checklist gives you a bird's eye view of legal compliance for your start-up franchise.

Let's start at the beginning – buying the franchise.

Franchise Documents. I assume you're done researching your new franchise and you're ready to buy. Next up are the franchise documents. The Uniform Franchise Disclosure Document (UFDD) is your primary source for information about the franchise system. Thoroughly read the UFDD.

The Franchise Agreement is your primary contract with the franchisor, and it controls the relationship. This legal document binds you in many ways, for example, it usually requires that you pay a nonrefundable up-front fee to the franchisor, that you pay on-going franchise fees, and that you pay liquidated damages to the franchisor if you try to get out of the franchise early. The franchisor also might demand a personal guaranty from you.

You should have a franchise lawyer help you understand the franchise documents before you sign them. Your franchise lawyer can negotiate the franchise documents, and can make sure that all of the franchisor's promises to you are in writing.

Form a Corporation or LLC. Your basic choices are a C corporation, S corporation, or an LLC. Get an attorney to help you choose among the entities, and in which state to incorporate.

Shareholders / Buy-Sell Agreement. If your business has more than one owner, seriously consider getting a shareholders / buy-sell agreement to govern your relationship with your partner. These agreements save you a lot of money if partner relations go bad. A buy-sell agreement resolves disputes between the partners, including exit provisions if the partners can't work together anymore. I call this the partners' economic divorce.

Employer Identification Number (EIN). Call the IRS for your EIN or get it from the IRS' website.

Bank Accounts. Once you have your company's articles of incorporation plus EIN, you can open bank accounts.

Choose a Location. First decide on a general location, then check local zoning requirements to be sure you can operate your business there. Visit your local planning / permits department for this and other local requirements for your chosen location.

Real Property Lease. One of the most important contracts you'll sign is the lease for your company's offices. The lease will bind you for years to come, and you'll have to continue paying rent even if the business doesn't perform well. This is another area where you need a lawyer.

Fictitious Business Name. If your company uses a fictitious name (that is, a dba or some name other than the company's legal name), you must register the name in your county.

State & Local Business Licenses. There are many types of state and local licenses that could apply to your business. For example, you'll need health and sanitation licenses if you have a restaurant. Call the CA Department of Commerce, Office of Small Business, for information about the state licenses that might apply to you. Call your city about your local business license.

Seller's Permit. If you sell merchandise, get a seller's permit from the California State Board of Equalization.

Employer Filings and Withholdings. If you have employees, file form DE-1 with California EDD. This starts the never-ending process of employment law compliance. Hire a payroll company to handle your employee wage withholdings.

Workers Compensation and Other Insurance. Once you have employees, get an insurance broker for workers compensation insurance. Workers comp is required by law. And now that you have an insurance broker, look into property and liability insurance to cover risks associated with your operations (note that the landlord in your lease might require this insurance).

That's it for this bird's eye view of the start-up of your franchise. I hope this checklist has been helpful to you. Call me if you want to talk more.

F. Scott Fitzgerald Quotes

My generation of radicals and breakers-down never found anything to take the place of the old virtues of work and courage and the old graces of courtesy and politeness.

Family quarrels are bitter things. They don't go according to any rules. They are not like aches or wounds; they are more like splits in the skin that won't heal because there is not enough material.

I like people and I like them to like me, but I wear my heart where God put it, on the inside.

At eighteen our convictions are hills from which we look; at forty-five they are caves in which we hide.