

Franchising World, March 2006

An ode to the laws of franchising, or something like That.

By Lane Fisher

Robert Frost said “Poetry is what is lost in translation.” It is also, according to English romantic poet Percy Bysshe Shelley, record of the best and happiest moments of the happiest and best minds.”

If there were ever a segment of franchising that could use a little poetic freshening, it is the law. *Franchising World*, with some reservation, offers a tip of its literary hat to Lane Fisher, Esquire, who for reasons that may never be revealed, converted some of the most mind-deadening legal items of franchising to verse.

For this mighty attempt, he has placed himself well ahead of the pack to become franchising’s poet laureate. Behold...

Earning’s claims: Even a jockey ultimately stops beating a dead horse. Add a frame to your game, by breaking the chain and making the claim. After unsuccessfully trying to reach many of you in presentations, articles and otherwise about the benefits of using and Item 19 earnings claims, and recognizing that year after year the same 18-20% of franchisors make written claims. I am now appealing to the least common denominator by describing the concept at a nursery school level.

Current Earnings Claim Law

Under the Rules of the FTC
Geographically relevant, all claims must be.
All it needs is a reasonable basis
Of misleading information it can’t show any traces.
The claim must disclose the factual basis,
And walk the prospect through all the paces.
Break it down by size or service
Don’t want the prospect to be nervous.
Must say if it’s like the ones you’re trying to sell
Make sure there is nothing you’re forgetting to tell.

Avoid oral statements, no matter how inviting
Legal earnings claims must be in writing.
If an average is based on past history
The factual basis can be no mystery.

In the claim, you must read
The percentage which, did not meet or exceed.

If in the process of contract formation
you've given earnings information
Must timely deliver the UFOC
Within which all required warnings must be.

If a franchise wants independent corroboration,
Of your Item 19 information
Better know the precise location
Of all your substantiating, documentation,

In markets which exceed your claims
Another angle to your game.