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BLOGS

State Franchise and Dealer Laws

Franchisor Not Liable Under Texas Business Opportunity Act for Failure to Provide Franchisee With Disclosure Document

Following a bench trial, a Missouri federal court found an automobile cosmetic repair franchisor not liable to a former master franchisee under the Texas Business Opportunity Act (“TBOA”). *Restored Images Consulting, LLC v. Dr. Vinyl & Assocs., Ltd.*, 2016 WL 3064142 (W.D. Mo. May 31, 2016). Restored Images had been a franchisee of Dr. Vinyl before entering into a master franchise agreement with Dr. Vinyl. The master franchise agreement obligated Restored Images to sell a minimum number of franchises, though Restored Images repeatedly repudiated this obligation, and the obligation was never enforced. In turn, Dr. Vinyl agreed to provide Uniform Franchise Offering Circulars (“UFOCs”) which Restored Images could then provide to prospective franchisees. Restored Images, however, claimed it never received the UFOCs. The relationship between Restored Images and Dr. Vinyl deteriorated, and Restored Images brought a myriad of claims against Dr. Vinyl, including breach of contract and TBOA claims based on Dr. Vinyl’s failure to provide UFOCs.

The court found that the failure to provide UFOCs had not caused Restored Images any damages. Restored Images submitted no evidence that lacking a UFOC prevented it from promoting, selling, or growing franchises, that any sales had been imminent or likely, or that any sale was hindered by a potential franchisee’s inability to review a UFOC. Because damages are an essential element of both a claim for breach of contract and claims for violation of the TBOA, the court found for Dr. Vinyl on those claims, though the court did award Restored Images damages for a commission on the single franchise sale it made.

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