BLOGS

Franchise Sales/Transactions

Illinois Court Denies Statute of Limitations Defense on Claims Under the Illinois Franchise Disclosure Act

The Illinois Franchise Disclosure Act (IFDA) imposes a one-year statute of limitations that begins to run when the franchisee becomes aware of facts or circumstances reasonably indicating a claim under the statute. In *RWJ Mgmt. Co. v. BP Prods. N. Am., Inc.*, 2011 U.S. Dist. LEXIS 2928 (E.D. Ill. Jan. 12, 2011), franchisor BP filed a motion for summary judgment, asserting that the franchisees' claims that BP had violated the IFDA registration requirements and committed fraud were barred because of the IFDA statute of limitations. BP argued that the limitations period began to run on the date the franchisees entered into the franchise agreement, which was more than a year before the lawsuit was filed. But the court disagreed. It found that under the IFDA, franchisees receive "a break on the statute of limitations" until they have had an opportunity to consult with an attorney regarding their claims. Because the franchisees met with an attorney within one year of suing, the court denied BP's motion for summary judgment.

The court also denied BP's motion for summary judgment on the franchisees' claim that BP provided them with false earnings data in violation of the IFDA. Although BP provided a written disclaimer with its earnings disclosure, the court found the disclaimer did not protect BP because it only applied to projections of future performance. Since the franchisees claimed BP provided them with false data concerning past performance, the court denied summary judgment.

In a related ruling, the court also denied BP's motion to exclude the franchisees' expert witness testimony on the duty of good faith and fair dealing. *RWJ Mgmt. Co. v. BP Prods. N. Am., Inc.*, 2011 U.S. Dist. LEXIS 2085 (E.D. Ill. Jan. 10, 2011).