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Franchise Sales/Transactions

Maryland District Court Denies Franchisee's Earnings Claims

In *WW, LLC v. The Coffee Beanery, Ltd.*, 2013 U.S. Dist. LEXIS 100673 (D. Md. July 17, 2013), the United States District Court for the District of Maryland granted in part and denied in part Coffee Beanery's motion for summary judgment relating to the franchisee's claims alleged under the Maryland Franchise Act. WW alleged that Coffee Beanery violated Section 14-227 of the Act, which creates civil liability if the person who sells or grants a franchise makes an untrue statement or omission of a material fact to induce an unaware buyer to purchase a franchise. WW claimed that Coffee Beanery made several misrepresentations or omissions in the UFOC relating to its business and franchising experience, the criminal background of one of its employees, as well as certain required contracts and programs. The court found that there were genuine issues of material fact relating to a majority of WW's misrepresentation claims under the MFA. However, the court held that WW's misrepresentation claim did not include an earnings claim because it only addressed alleged misrepresentations in the UFOC.

Subsequently, WW moved the court to reconsider its order with respect to the earnings claim. *WW, LLC v. The Coffee Beanery, Ltd.*, 2013 U.S. Dist. LEXIS 122345 (D. Md. Aug. 28, 2013). The court agreed to consider an earnings claim as part of the misrepresentation claim, but still granted summary judgment in favor of Coffee Beanery. WW alleged that a representative of Coffee Beanery misrepresented potential net earnings, and that a pro forma misstated the average revenues of Coffee Beanery cafes. However, the franchisee had testified that he believed the comments made by the representative were "puffing" and that he did not consider the significance of the pro forma numbers provided. Additionally, WW had disclaimed any reliance on representations regarding potential revenues and profits in the franchise agreement. Therefore, the court determined that the claim failed for WW's lack of evidence of reliance on the alleged misrepresentation. The court also stated that even if reliance had been demonstrated, case law established that misrepresentations regarding projected future earnings or profitability are not actionable. Therefore, the court granted summary judgment in favor of Coffee Beanery on the earnings claim.

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