

BLOGS

Terminations

Pennsylvania Federal Court Enforces Immediate Termination and Eviction for Underreporting of Sales

A federal district court in the Eastern District of Pennsylvania this month issued a permanent injunction against a 7-Eleven franchisee and its employees who were found to have defrauded the franchisor by underreporting store sales. *7-Eleven, Inc. v. Upadhyaya*, 2013 U.S. Dist. LEXIS 29091 (E.D. Pa. Mar. 1, 2013). In this case, the franchisor had terminated the franchise without an opportunity to cure, which the court upheld on the grounds that fraud by the franchisee goes directly to the essence of the contract and cannot be cured. Finding that the defendants had failed to offer credible evidence to explain their misrecording of sales and their incorrect cash reports, the court upheld the termination. Building on that conclusion, the court entered an injunction under the federal Lanham Act against the defendants' continued operation of the business under the franchisor's name, and the court required them to turn the premises over to 7-Eleven.

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