

PARLIN

Wake Up and Smell the Civet
Coffee beans gleaned from the droppings of the tree-climbing creature are among the exotic offerings of fledgling importer
Tastes of the World

Page 7

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HAZLET

When the Small Print Is Hard to Swallow

A disappointed franchisee feels like toast after battling national sandwich chain Quiznos

By Jennifer Nelson

WHEN JIM DIGIOVANNI found out the days were numbered for his job as a computer programmer, he figured it was time to become self-employed. Like many others in this situation, DiGiovanni thought that investing in a franchise would be a good way to reduce the risk of going into business. He decided to open a Quiznos sandwich shop in Monmouth County.

In July 2002 the Hazlet resident sat down with a Quiznos representative to talk about potential store sites. "I felt he wanted me to succeed and would work



DiGiovanni thought his first restaurant was going to be in this Holmdel mall.

with me," says DiGiovanni, 40.

That turned out to be the high point of his relationship with the Denver-based franchiser. Despite paying Quiznos \$40,000 in franchise fees, DiGiovanni has yet to serve a sandwich. And a few months ago, the 4,000-store chain canceled his franchise agreement.

However, despite being unemployed for much of the last couple of years, DiGiovanni has not been idle. He searched out other disgruntled franchisees and found he was not alone. Some, like him, had paid fees and not gotten a location; others had been assigned stores they felt were in poor locations. In May DiGiovanni and 23 other franchisees filed suit against Quiznos in New Jersey Superior

»» Continued on page 20

When the Small Print Is Hard to Swallow

► Continued from page 19

Court in New Brunswick. They want Quiznos to return their money.

"Quiznos has engaged in a deceptive practice that includes taking money from people by making them believe they are making a safe investment, when in fact this just isn't true," says Justin Klein, an attorney with Marks & Associates, a Red Bank firm representing the 24 franchisees.

Klein claims Quiznos has sold more than 326 franchises in New Jersey over the past three years while only 91 restaurants have opened. "They've oversold New Jersey substantially," says Klein. "They wanted to do this so they could qualify as one of the fastest-growing franchises in the country and get on the cover of *Entrepreneur* magazine."

Quiznos didn't rate the cover, but it did grab No. 3 in *Entrepreneur's* 2005 listing of the top franchises. Ratings were based on companies' financial strength, growth rate and the size of their systems. Quiznos was also listed as the fifth fastest-growing franchise based on the number of units added in the U.S. and Canada in 2003 and 2004. These days, the company says, it adds a new store every 11 hours.

Entrepreneur, which makes clear that its ratings aren't an endorsement, also offered

No Free Lunch: Quiznos Costs

Total investment	\$190,000-\$250,000
Franchise fee	\$25,000
Ongoing royalty fee	7%
Terms of agreement	15 years, renewable
Renewal fee	\$1,000
Net-worth requirement	\$125,000
Cash liquidity requirement	\$70,000

Source: Quiznos

advice that DiGiovanni may wish he had heeded more carefully up front: "You should always conduct your own independent investigation before you invest money in a franchise. The best way to protect yourself is to do your homework."

Quiznos did what it promised, says spokesperson Stacie Lange. "With respect to the lawsuit that is at the heart of this dispute, we believe it has no merit. It was brought by individuals who do not operate any Quiznos despite our good-faith efforts to help them find suitable sites and built their businesses."

But not everyone is impressed with

Quiznos' good faith. "This lawsuit is a classic example of a popular franchise chain using its brand-name recognition to deceive hard-working Americans into investing their dollars to grow a franchise," says Susan Kezozos, president of the American Franchise Association in Chicago.

DiGiovanni says his deal to open a restaurant at the Holmdel Commons mall fell through the day after he signed the franchise agreement. Then, after a close reading of his contract, DiGiovanni discovered he wasn't likely to get his money back. He describes the franchise agreement as restrictive and says Quiznos made it clear that "it wasn't responsible for anything." The franchisee bears the cost of putting up a store, purchasing equipment and signing a lease with a landlord.

"The only thing they must do is to loan you a training manual," says DiGiovanni. "I was buying the name and reputation of Quiznos."

It's not that the sandwich chain hasn't offered DiGiovanni a place to operate. Over the past three years, says DiGiovanni, Quiznos has offered him locations in "junky places across town that don't get much traffic." One spot in Belmar would see little traffic except during the summer, says DiGiovanni, and even then he would be competing with Boardwalk fare of hot dogs and french fries. He declined the offer because he thought he would never turn a profit. "I came very close to risking my house where I live with my wife and two children,"

says DiGiovanni. "If I had bought a horrible site for two stores, I could be \$650,000 in debt and earning no income. It could be a lot worse."

Quiznos' Lange says that ultimately franchisees pick their store locations; the company helps in negotiations with landlords and brokers and approves or disapproves a prospective site. "Quiznos does not profit from a store that closes because of a poor location," she says, "so it would make absolutely no business sense to pursue this kind of course of action."

At this point, says DiGiovanni, he is looking to recover his \$40,000 investment and move on to something else. He's unsure if he will look into buying a franchise from another company, saying Quiznos has killed his appetite for franchising.

Unfortunately, franchising is fraught with such conflict. Paul Frumkin, editor-at-large with *Nation's Restaurant News*, says the Quiznos situation is not unique. "There are any number of sticky points that can arise between a franchisee and a franchising company and that is certainly one of them," says Frumkin. "Franchising is so widespread in the U.S. that I would be hard-pressed to find a unique situation between a franchisee and a franchise company. These are just issues that come up."

Having company has not relieved DiGiovanni's misery. "Quiznos makes their money selling franchises, not sandwiches," he says. ♦

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