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SUBMISSION RE: [REDACTED] FRANCHISING PTY LTD

I wish to lodge a submission to the committee relating to my experience with [REDACTED] Franchising PTY LTD.

I was initially attracted to buying a business because I sought the financial and emotional rewards of owning and running my own business. I was driven to work hard with the goal of success. I had been employed for many years in retail and even though I had no prior experience in running my own venture I knew my practical skills were an advantage should I choose to purchase a business in this industry.

After much research and consultation I decided to buy a franchise. I believed that franchises offered those that lack business experience the chance to own and operate a business with a high probability of success, the security of proven products and business formats, management training and support, brand name appeal, and experience in all aspects of the business. I sought and heeded the advice offered by websites such as the Franchise Council of Australia not realising that their motives were in line with those of the franchisors.

The [REDACTED] franchise had strong appeal. I was particularly impressed with their convincing advertisements offering an attractive model, guaranteed income, their prominence and recognition in the market place, my attraction to the products, and affordability in comparison to many other franchises. I was also aware that the day to day running of the business would not be too physically demanding as I had a slight back problem.

I was diligent in my research sought legal and accountancy advice and took time to enter into the agreement. At this time I was barraged with phone calls from their administration manager seeking confirmation, I even received a personal visit to my home from the director [REDACTED]. The people I dealt with at this time all presented a positive, helpful and supportive attitude.

I took possession of my store located in Campbelltown Mall, Campbelltown on 12th June 2004. I paid \$145,000 for my store plus legal fees, for myself and [REDACTED]. In total the cost was approximately \$160,000. Most of these funds were generated from the sale of my house as I was living with my mother, plus a bank loan I took out as working capital. My store had only been opened 8 months so sales were based on projections. Because of the guaranteed income and the assurances of [REDACTED] and [REDACTED] I felt confident. I had put my faith in the franchisor and trusted everything I was told. I believed that their success was dependant on the success of their franchise owners. I believed their spiel on their experience, their no fail system, their army of experts in buying, marketing, training, their cutting edge technology. How delusional!

During my first 6 months I was busy learning all aspects of my business which included learning basic bookkeeping. I worked long hours choosing to do the major work myself to reduce expenses. As my knowledge increased I became aware that I had purchased a business which could soon become insolvent. I would like to list some of the facts which soon became apparent.

- The projected expenses were greatly underestimated, with major expenditures like superannuation, work cover insurance and GST on royalty, advertising and rent subsidy not included.
- Wages were estimated on staff staying the same age during their employment.
- Very little say in stock levels, any enquiry was met with a "we know best, you are at the right level for your store grading" in spite of having up to 1 dozen of some items and not having sold any for 2 months.
- Being stocked with large quantities of selected items and be made to reduce them to below cost price within 2 weeks. Would not listen when I expressed concern. .
- I soon realised that if I had a large bank loan to service I would have been unable to make repayments even though I was reducing expenses by working most hours.
- Very lonely and isolated, no one with which to discuss concerns. Fraternising between franchise owners was actively discouraged. A sense of mistrust as you didn't know who you could confide in. Had no way of knowing if my situation was unique or common.
- [REDACTED] were the lessees and I paid my rent to them. They were responsible for paying the landlord. I was continually harassed by the landlord and threatened with eviction because [REDACTED] hadn't paid, and their communications were ignored. It was very stressful not knowing each month if I would have a business.
- During the first 12 months I also came to realise that I had not been fully advised on many aspects of my franchise agreement and recognised that my situation was more precarious than I initially thought. I eventually consulted with another solicitor who quoted me a large sum to have my franchise agreement re-appraised. I didn't have the money for this expense especially without a guarantee of being able to terminate my agreement.
- After 2 years I attended my first conference for franchise owners and made the acquaintance of other franchisees. From this time life became a little easier as I

had others to share and discuss with. I also realised that my situation was very easy compared to problems faced by others.

- By talking to others I became aware of the extent of the intimidation, bullying and threats that were taking place. Although not subjected to these things, during my 4 years I witnessed franchise owners on the brink of suicide, family breakups, stores handed back rather than accumulate more debts, churning and franchisees privacy being exposed in general faxes. I have never witnessed such hardship and despair.

The ultimate realisation that basically there are no laws to protect franchise owners in this country slowly became evident. Your only recourse is the ACCC which from feedback received from other franchise owners is a total waste of time, as well as it moving at slower than snail pace.

If you have any money after the franchiser has bled you dry you can employ a very expensive lawyer who will also charge huge amounts for useless promises.

I continued to operate my business and observed the struggle as [REDACTED] continued with policy changes and tried to become an effective player in the market place. Their stock was old and tired, competition was hard as there were many new stores with vibrant, fashionable cutting edge goods. It was like being chained to the titanic. By early 2007 there were constant rumours circulating about [REDACTED] performance. Enquiries were met with denials, everything was great. I didn't believe this, especially when they were constantly closing down stores.

On the 18th March 2008 I attended my second franchisees conference. Some present asked the inevitable, was [REDACTED] heading into liquidation? This was vehemently denied. On 1st May 2008 we were notified [REDACTED] was in receivership. Eight weeks before this announcement we were introduced to two new franchisees who had just taken possession of their stores in Victoria.

Where are the codes of conduct and disclosure that would have prevented such a sale from taking place?

Franchising in Australia is a major part of the retail and service industry contributing a large percentage of the nations GDP yet it is very poorly legislated. This fact became very evident.

On receiving notification of the appointment of administrators I immediately consulted my franchise agreement only to find there is **NOT ONE LAW** in place to protect franchisees when the franchiser goes into liquidation.

The next few weeks became a nightmare. Lawyers and consultants took advantage of the situation with promises of class actions and other empty promises. Desperate franchisees on the brink of financial ruin looking for a saviour were coerced into parting with more money they didn't have.

Dealing with the administrators presented more problems. We were faced with with poor communication, calls were not returned if made by the female franchisees. Their husbands or partners fared better in receiving replies. Once again there were implied threats and intimidation . The group was beginning to splinter with people receiving advice in groups or individually. The administrators were losing control and wanted to maintain order by issuing legal threats.

The collapse of [REDACTED] Franchising has been the biggest collapse since Traveland, yet there has been no great cries of indignation, no promises of reform. The only way this can be prevented from reoccurring is to ensure that laws are passed to protect the rights of the franchisee.

- **We need a Franchise Advisory Committee in every franchise system**
- **Franchisors should be compelled to supply financial statements**
- **Give franchisees the same legal protection against bullying and intimidation afforded everyone else in the workplace.**
- **A more competent body than the ACCC for dispute resolution.**
- **Franchisees to be made aware of the risk of failure.**

Prospective franchisees have every area of their of their life scrutinised and judged for suitability. It's a shame the same is not done with franchisors.

I wish to thank the committee for the opportunity to enter this submission.

I am hopeful that the hardships suffered by many franchise owners will be recognized and recommendations acted upon. We look forward to the Committee making recommendations that assist franchisees when faced with unscrupulous and unethical franchisors

Please do not hesitate to contact me if I can provide the Committee with any additional information or comments.

Thank you,

Mrs Gracie Clift