

Draft

## Information Sharing Project

Franchise Industry

Ministry of Consumer and Business Services  
Toronto, Canada

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## Draft

# Information Sharing Project

Knowledgeable franchise industry observers have noted the significant imbalance in information and economic power between franchisors and franchisees. The Information Sharing Project (ISP) attempts to equalize the information imbalance.

Many issues in the franchise relationship are win:win. However, the zero-sum issues are (1) the franchisor managing franchisee free riding and (2) the franchisee defending against franchisor opportunism (Hadfield).

One predictive model is the "Tragedy of the Commons". Investor confidence in the industry appears to be following the theory of "The Tipping Point". The pathogen is: don't invest in any franchise because the risk of loss is too high."

### **Fundamental Question**

As an investor, the primary question is: "if I invest my time and money, will the franchisor likely act in an equitable manner so I can achieve an adequate return?" Will they act opportunistically?

Information on historical franchisor behaviour is very difficult to get. Those that know, won't or can't say anything. The evaluation is flawed because the investor does not know what questions to ask let alone is competent to judge the truthfulness of the answers.

Modern franchise agreements have the franchisor retain a great deal of discretionary power during the term of the contract.

### **Purpose**

The purpose of the ISP is to improve franchise investment decision-making. This will be web-based and in layperson's language. Pre-sale disclosure of financial information is useful but misleading if not matched with knowledge of how modern franchising is practiced.

## **Model**

There are 2 main components to the ISP: Reputation Registry and Self-Learning Module

### **A. Reputation Registry**

Interested person can search the database by name:

- franchise system
- executive, trade executive, lawyer, agency
- vertical market (ie. fast-food, coffee, etc.)

The searcher simply types in the word or words and the database is searched. A summary report is generated listing the documents that relate to the enquiry. The subscriber then calls for the documents, reads and prints the relevant ones. The process is repeated.

### **i) Reputation: Market economy versus Franchising**

In a free market, the normal reputation cycle in business is a product or service is offered, tested and the buyers form an opinion as to its relative value. The company develops a reputation for high or low value.

In franchising, that cycle is thwarted. The barriers are: the extensive use of confidentiality agreements (pre-sale, renewal and post-sale), contractual prohibitions on free speech and the media, "any action deemed to damage the system" clauses that triggers termination or litigation, and on and on.

In Canada there are perhaps 12 law firms that do the bulk of franchise law work. It has been estimated that 95 per cent of all legal fees are paid by franchisors. Lawyers know as businesspeople that they will be penalized if they advocate too much for franchisees. The trade

association helps in “drawing the line” also and by not referring new cases to member lawyers who wander from the creed.

### **B. Self-Learning Module**

Franchising is practiced, not only the same way from system to system, but from country to country. Over years, unique and increasingly complex applications of common law and management principles have been developed. Generally, only franchisors and their counsel know where these, if you will, weapons of mass destruction reside.

This component will extend that knowledge to all stakeholders. Perhaps franchisees’ can learn to stop bringing knives to a gunfight.

An interested person can view the Keyword Groupings (see Appendix A.), and click on the phrases (by country, too) to call the documents that relate to that keyword. By reading the document, the examples of that specific issue are revealed.

Investment decisions require an informed assessment of risk.

Franchisee-investors are in an unnecessary high-risk situation if they do not know the “rules of the game”. The relationship has a beginning, middle and end and, as the authors of the game, franchisors can exercise their knowledge in an opportunistic manner.

The ISP allows franchisees to follow a path and learn at their own speed.

### **Database Description**

There are over 1,400 documents derived from newspaper and magazine articles, public hearing testimonials, government documents, correspondence, notes, bulletin board postings, legal documents, etc. Approximately 600 to 700 are added annually and they are from 27 countries.

Almost 600 franchise industry-specific keywords or phrases are applied to each document. On average, each document has between 20 to 30 keywords. Over 80 per cent of the documents are three years old or less.

Appendix B is an example of one document in its pre- and post-coding format.

### **Article Access**

There are two ways to know an article exists on, say, an industry executive. One, the person could subscribe to ISP and search using our internal engine.

Two, a person can use any existing internet search function. For example, by typing “Levitt” in the *Google* engine, all of the “Levitt” documents residing on the ISP server will be shown. These fields will appear: media outlet, date, heading and subheading, number of words and 5 line abstract. The article can be retrieved via the media outlet’s archive process or subscription to the ISP.

The articles have been captured, coded and entered into ISP’s database. The author or outlet retains full ownership of the content, with the exception of correspondence. The ISP is fully web-enabled, an important feature.

### **Scope**

Franchise systems are managed using an idiosyncratic set of legal and management techniques. Everyday legal instruments are used in such a unique way so as to surprise even experienced, lawyers. Of course, the vast majority of franchisees are ignorant of these tools.

Since they are rooted in the British common law tradition, these hybrid alternatives can be, and are, used identically, worldwide.

### **Implementation**

Upon completion of the website revisions, an international promotional program will start. The ISP concept has already been acknowledged by four industry experts as being extremely important for the long-term survival of the industry.

## **Targets**

The preliminary users of the ISP are felt to be: potential franchisees, renewing franchisees, lawyers, academics, media, elected officials, civil service, franchisors and trade associations.

## **Open Source**

Visitors to the website will be encouraged to contribute documents. Appropriate information will be added.

## **Business Model**

Subscribers will pay an annual fee to access the resource. Sponsors will be solicited and the website will list who chooses to and who chooses not to support the ISF.

## **Additional Resources**

Ancillary information will support the ISP: franchise term glossary, essays, FAQs, bulletin board, Q&As, probes and links.

## **Public Policy Relevance**

To perform their duty, public servants require independent, reliable and materially complete information. The ISP will assist in determining the veracity of volunteer advice.

# **Benefits**

## **More accurate pre-sale risk assessment**

Potential franchisee investors can better evaluate business risk by seeing the “cradle-to-grave” risks. In the case of pharmaceuticals, it is an accepted consumer standard to disclose risks, however remote. Without risk disclosure, there can be no informed consent.

## **Better legal advice to potential franchisees**

The standard of care would be raised in the quality of advice given. Accountability will be improved. The ISF will become a standard legal reference, in Ontario initially and then internationally. It would be negligent of any of Ontario’s 32,000 lawyers to provide franchise legal advice without searching the ISP. It will take one lawsuit, I understand.

## **Fewer disputes**

Disputes arise from perceived broken promises and unfulfilled expectations. By understanding franchising’s logic or “software”, there should be fewer disputes that are based in ignorance.

## **Fewer lawsuits**

There would be significantly less than the 5,000 lawsuits started in Ontario annually if franchisees had a more accurate understanding of their potential franchise relationship. Stakeholders will adjust their practices to retain and expand Ontario’s 40,000 franchisee investors. Those systems that persist will fall away as their reputation is publicized.

## **Decreased externalities**

Unplanned business cessations are devastating to franchisees and their families. Losing your life savings, your job, your wife’s job (usually), insolvency and bankruptcy are the usual economic and measurable costs. Usually more long-term and effects include: unemployment, divorce, opportunity cost, stigma, welfare and health deterioration. Any of these changes alone are difficult; having them all happen within a 6-month timeframe is catastrophic. Of course, business cessation often occurs after years of degrading economic and emotional trauma, culminating with health issues such as Post Traumatic Stress Disorder. Fewer opportunistic activities help the Ontario economy by decreasing demands on the social safety net.

McLuhan said: “Violence is the quest for identity. When identity disappears with technological innovation, violence is the natural recourse.” Unexpected, extremely rapid, unexplainable financial ruin is a comprehensive stripping of personal identity (eg. owner, employer, provider, independence, competence, etc.). The fully predictable result is significant domestic and self-directed violence.

### **Improved public policy**

The ISF will establish a reference for the unbiased evaluation and formulation of public policy. Better discussions can take place on the micro- and macro-level.

Policy officials who only rely on volunteer experts may be perceived to be biased, incompetent or both. Great care should be taken to make sure conflict of interest guidelines are followed. Franchisee experts that derive substantial cash flow from franchisors should be excluded from policy advice.

### **Broader & more rational education**

Accountability of elected and public officials will also be improved by organizing reliable information. The ISF fulfills the oft-stated desire by all stakeholders that more accurate quantitative analysis and industry statistics are needed.

### **Innovative**

There has never been any model similar to ISP. It requires very little co-operation and has worldwide implications. It is organic, in a sense, as it can grow and become the locus of franchise research.

### **Non-legislative**

Dr. Gillian Hadfield identified the need for a franchise reputation registry during the Bill 33 hearings. The ISF model is an extension of the research that the Standing Committee on Private Bills and Regulations, the Legislative Assembly of Ontario, accepted in 2000.

In summary, the ISF is information-based, pre-sale focussed, creates zero regulation, transparent and affordable. The only barriers are those stakeholders that don't want to share.

## **Costs**

The monetary cost of sponsorship is to be determined. The ISF represents 1,000s of hours of time, significant industry and formal education (materials, lawsuit, MBA, BA, expenses, etc.).

### **Caveat**

The public record shows the industry does not handle perceived criticism well.

Some individuals have as low impulse control and self-esteem as the depths of their pockets. One sued Canada's largest newspaper and journalists. Another is suing an advocate for \$1.5-million because the consultant facsimiled their franchisees. The Ministry has a record of a franchisee receiving death threats. A Peterborough landlord held a pizza executive at knifepoint in 1998. The Just Desserts franchisor perhaps created an environment where anything could, and did, happen.

## **Predictions**

### **Personal**

Not only do I expect to see a continuation of my personal economic and career sanctions, but I expect it to get much worse with the implementation of the ISP.

### **Violence**

It is my opinion that violence attributable to everyday franchise practices will increase. The violence will grow exponentially as more accurate information is accessible. This increase, as well as the baseline of violence, could be militated by government action. The price of supporting the status quo may become untenable.



# Appendix A

## Keyword Groupings

### **Aligned Interests**

Bank alerts franchisor of problem franchisee  
Banks as cheerleaders  
Banks as statistical source  
Big Auto  
Big Food  
Big Grocery  
Big Oil  
Big Tobacco  
Collaborators  
Economic conspiracy  
Economics  
Evils of the system defined in 1971  
Fraudster banker  
Funding for advocacy groups if you toe-the-line  
Government guaranteed loans  
Industry muscle  
Most lucrative form of commercial lending, franchising  
Portrait of a franchisor  
Reserves a veto over any legislation  
State sanction  
Status quo winners  
Tax subsidy  
Tobacco industry-type defence  
Undue influence  
Very low lending loss risk

### **Awareness**

Activists  
Beyond the Tipping Point  
Dissident leaders  
Franchisee revolt  
General counsel, CAFO  
Globalization  
Gripe sites  
Internet, information sharing  
Lawyers threatening franchisee advocates  
Private Members' Bill  
Protest, rally and demonstration  
Sharecropping

### **Blue chip**

I did drugs because I was sad  
Loutish neighbours  
McBooze  
McCertified?, shut it down  
McDonald's not so lily white  
McFat  
McLibel  
McRoll in his grave  
McStumble  
We have no franchisee failures

### **Canadian Perspective**

Canada: An American Perspective  
Canada-U.S. relations

Canada: 1<sup>st</sup> stop internationally  
Canada: least franchise-investor protection in the industrialized world  
Canada: most heavily franchised economy in world  
Civil actions are never heard before a jury in Canada  
Competition Bureau  
Enron-like scandals  
Exempt from Ontario franchise law obligations  
Founder of franchising a Canadian  
Franchise Sector Working Team  
Franchisors push for weak national franchise law  
John Lorinc  
Ministry of Consumer and Business Services, Ontario

### **Confidence**

American Dream  
Appearance of government oversight  
Be your own boss  
Buying a job  
Celebrity endorsement  
Disclosure document: best franchisor selling tool  
Economies of scale promise  
Fairy tales  
Franchise show  
Hefty severance packages  
In business for yourself, not by yourself  
Mask of respectability  
Selling around a disclosure document  
Selling franchises same as stocks, mutual funds, lending, and securities  
Seminar selling  
Siren song  
Trade association hype  
Treat franchisees like family  
Wanted: sheep

### **Contracts**

95 per cent of legal fees are paid by franchisors  
American Bar Association, Forum on Franchising  
Contracts across systems are virtually the same  
Controlling, trapping or defeating the franchisee  
Indemnification provisions  
I own the assets but the franchisor controls them  
Lawsuits, individual  
Lawsuits, group  
Lawsuits, class-action  
Masterpieces of deceptive wording and artful omission  
New buyer must sign current, often less favourable, contract  
Performance-based exit clauses  
Protect gross negligence, wanton recklessness and intentional misconduct  
Renewing contract much tougher  
Sign away human rights and legal remedies

### **Corporatism**

20 terminations turn into 200  
Conflict of interest, trustee/consultant  
Corporate accountability  
Corporate governance  
Franchisees are pawns in insolvency flip  
Income trusts  
Initial public offering, IPO  
Intentional franchisor insolvency  
Mergers and acquisitions  
Opposed bankruptcy discharge



Opposition to fake franchisor insolvency and ownership flip  
Related company transactions  
Relative of franchisor buys assets from Trustee  
Re-sales as a profit centre  
Secret offshore accounts  
Shell companies  
Stock manipulation  
Structured finance deals  
Trustee/consultant does mass terminations during protection to flip to new owner

### **Criminal Behavior**

Advance-fee fraud  
Bait advertising  
Cheque-kiting  
Conspiracy to commit fraud  
Convicted fraud artist  
Convicted of spousal assault  
Embezzlement  
Extortion  
Forcible confinement  
Forgery  
Fraud  
Fraudster accountant  
Fraudster broker  
Fraudster finance expert  
Fraudster franchisor  
Fraudster, real estate  
Insider trading  
Loan-sharking  
Mail fraud  
Manipulate stock prices  
Money laundering  
Obstruction of justice  
Organized crime  
Outright scam  
Ponzi scheme  
Prime bank fraud  
Professional hit  
Pump-and-dump  
Pyramid scheme  
Racketeering  
Russian mafia  
Securities fraud  
Tax evasion  
Telemarketing fraud  
Theft  
Uttering threats  
Wire fraud  
Wiretaps

### **Current Practice**

1,001 ways to make your life miserable  
Abuse inherent in modern franchising  
Cannon fodder  
Expropriation without compensation  
Feudal relationships  
Franchising practiced the same, worldwide  
Gag order (confidentiality agreement)  
Imbalance of information and power  
Indentured servants  
Renting a business  
Robber baron

Sweat-shops  
The game is rigged  
Tied buying  
Trap for the trusting  
Unsophisticated tyranny

### **Diversity**

Discrimination  
Immigrants as prey  
Immigrants as unacceptable ethnics  
Insider betrayal  
Racial discrimination

### **External Costs**

Anticipatory grieving  
Bankruptcy  
Bargaining  
Blame themselves  
Broken relationships, ruined lives and alienated children  
Childhood obesity  
Child labour  
Clinical depression  
Diabetes  
Divorce  
Drive-through  
Drug distribution  
Fraud on the public purse  
Life savings gone  
Local suppliers with no shelf space  
Lost homes  
Love money  
Mad cow disease  
Miscarriage of justice trauma  
Monopoly  
Obesity  
Oligopsony  
Opportunism  
Physical health deterioration  
Police intervention  
Psychological denial  
Unpaid government remittances  
Usury  
Welfare

### **Franchisee Behavior**

Award-winning franchisees  
Charity without hustling customers and franchisees  
Company man  
Current franchisees can't talk freely  
Disgruntled  
Dispute resolution  
Dispute resolution means franchisee goes broke  
Disputes heard on franchisor's home turf  
Due diligence  
Forensic accounting  
Franchisee on short leash  
Franchisee who doesn't want relationship protection  
Franchisees viewed as employees  
Happy serfs  
Philanthropy  
Sales, overstating  
Sales, understating

### **Franchisee Groups**

American Franchisee Association, AFA  
American Association of Franchisees and Dealers, AAFD  
Canadian Alliance of Franchise Operators, CAFO  
Franchisee advisory group (lap-dog)  
Franchisee association, independent  
Ignore, gag, belittle and post head on pole  
Refusal to acknowledge franchisee association  
Right to associate  
Right to associate but refuses to acknowledge  
Scum  
Terminate or buy off leaders

### **Franchisor Behavior**

101 ways to terminate a contract  
30 different programs of kickbacks, shelf allowances and inside money  
Advertising fund paid to executives  
Advertising fund buys franchisor's assets  
Advertising slush fund  
Bankruptcies, several  
Blame 9/11  
Blame the franchisee  
Brand hype  
Bribery  
Cash grab  
Cocaine  
Cockroach infestation  
Cost of doing business  
Dead-beat dads  
Death-spiral financing  
Development agents  
Expands too quickly  
Franchisor abandonment  
Franchisor bankruptcy  
Franchisor sells out  
Head lease advantage  
Ignores court orders  
Ineffective marketing  
Intentional interference with economic relations  
Internet franchise-sales hype  
Insolvency  
Labour unrest  
Landlord betrayal  
Listing fees and inside money  
Mean drunk  
Pooled money  
Refusal to renew contract  
Refusing franchisee re-sale  
Religion as sheep's clothing  
Secret kickbacks and rebates  
Stay out of group lawsuit and I'll pay you  
Suspiciously high earnings growth  
Termination of franchisee, single  
Termination of franchisee, mass  
Trademark  
Zero qualifications needed

### **Franchisor Groups**

Academic scorn  
Accurate and unfavourable industry trends  
Agree with proposed law or you get nothing

Call to investigate refusal to enforce their code of ethics  
Call to investigate their undue influence  
Canadian Franchise Association, CFA  
Chicken Little, no numbers  
Close ties: IFA & CFA  
Code of ethics, a joke  
Endorsed mediation program  
Endorsed mediation program, in 5 years used zero times  
Foghorn Leghorn  
Frenzied lobbying  
General counsel, CFA  
General counsel, IFA  
Horror stories are merely anecdotal  
Ignore advocates and they'll go away  
International Franchise Association, IFA  
Ludicrous demands  
Need more statistics  
No duty of care to public  
Pinocchio  
Refused to answer politician's question  
Refuses to accept complaint  
Refuses to investigate complaints  
Success rates fudged  
Uniform national franchise law  
Uniform international franchise law  
World Franchise Council, WFC

### **Ignorance**

Academic research  
Books  
Edgar Allan Poe  
Free academic materials  
Francine LaFontaine  
Gillian K. Hadfield  
Grange Report  
John Kenneth Galbraith  
Marshall McLuhan  
Timothy Bates

### **Justice**

44 charges of professional misconduct  
Access to justice  
Alan Eagleson  
Anti-trust provisions not applied to franchising  
Basic legal standards inapplicable to franchisees  
Conflict of interest  
Contingency fees  
Corporatist puppets  
David & Goliath  
Disbarment  
Drop the lawsuit and we'll give you what you want  
Fee surprises at settlement time  
Gag order, court-mandated  
Jealously guarded monopoly on the provision of legal services  
Justice only for the rich  
Lawyerless litigants  
Lawyers being threatened with lawsuits for speaking out  
Lawyers getting religion  
Lawyers sued by franchisor  
Lawyers threaten to get Code of Ethics complaint letter withdrawn  
Queen's Counsel  
Rules of Professional Conduct

Run the billable hour clock  
Serve franchisors or franchisees, never both  
Settlement just covers fees  
Solicitor-client privilege waived  
Subservient intellectual class  
Sue your lawyer  
Tier 2 lawyers  
War of attrition  
Within the four corners of the contract

### **Law**

Able to put kids through graduate school  
Alberta Franchise Act, Canada  
Alternate dispute resolution, ADR  
Arbitration, secret  
Arthur Wishart Act (Franchise Disclosure), 2000, Canada  
Australia Franchise Act  
Call for franchise law  
Caveat emptor - let the buyer beware  
Class-action dead end  
Congressional Hearings, United States, 1997  
Disclosure laws: 10 per cent solution  
Disclosure laws: False sense of security  
Fox to guard henhouse, self-regulation  
Franchisors want the minimum regulation they can get away with  
F.T.C. Public Comments, United States, 1997  
General disclosure worse than no disclosure  
Intimidation through lawyers  
Iowa Franchise Investment Act, United States  
McPuppetry  
Mediation  
Mediation as information gathering  
Ombudsman  
Ombudsman, franchisee must sign gag order 1st  
Ombudsman, no franchisee accountability  
Ombudsman, risk of information going to franchisor  
Ontario Public Hearings, Canada, 2000  
Prince Edward Island Public Hearings, Canada, 2001  
Perception is that it's a franchisor program  
Reform school  
Relationship legislation  
Sham of self-regulation  
Toothless law  
Weak law worse than no law

### **Limits**

Abuse of dominant position  
Futility of taking legal action  
Model capitalists  
Personal guarantees  
Right to associate and right to harass  
Slap on the wrist for white-collar crime  
Unbridled corporate power  
Without conscience

### **Media**

Advertorial  
Ban junk food advertising  
Hates publicity  
Franchisees more willing to speak up

Media informs trade association their member is a convicted fraud artist  
Media sued by franchisor  
Negative publicity  
Only one side presented  
Press conference  
Punished for talking to press  
Refuses interview  
Sends disciples into public forum  
Stock price falls

### **Outcomes**

1 per cent of population are psychopaths  
1/3 franchises do well, 1/3 break even & 1/3 lose money  
55 per cent of franchisees would not advise others to join their system  
75 per cent of new franchise systems die within 10 years  
Abandonment  
Buying an existing outlet even riskier than a new one  
Cancer  
Death  
Emotional collapse  
Entrepreneurs flee away  
Franchisee decision, independence  
Franchisee decision, transfer (resale)  
Gangland-style execution  
Health consequences  
Hepatitis  
Imminent death  
Incapable of empathy  
Independence  
Independent businesses survive longer than franchised ones  
Independent businesses much higher profit than franchised ones  
Lower quality franchisees  
Myth of success  
Narcissists  
Personality disorders  
Psychopath  
Success rate, 95 per cent  
Success rate, Timothy Bates' study  
Success rate, we don't know  
Survivability (franchisee and franchisor)  
When the franchisor dies, so does the franchisee  
Wild West of the business world

### **Perceived Risk**

5,000 new lawsuits per year  
Air of desperation  
Attempts to rehabilitate image  
Credibility  
Declaration of war  
Defaults quadrupled  
Don't buy any franchise  
Franchises aren't selling  
Free-fall in fast-food industry worth  
Greed  
Industry in disrepute  
Massive defaults  
Price wars  
Public perception of sleaze and greed  
Raining litigation  
Rate of return on investment  
Return on investment  
Signs that potential franchisees are nervous and aren't buying

Tougher to sell franchises  
Unfavourable

### **Rules of the Game**

Advertising fund misappropriation  
Bank account access by franchisor  
Cannibalization of sales  
Can't talk to media  
Can't talk to member of parliament  
Centralized order taking system  
Churning (serial reselling)  
Coerced waiver of legal rights, self  
Coerced waiver of legal rights, self & descendants  
Corporate stores competing with franchisees  
Credit note system  
Cross-default provisions  
Deny expansion because of media, political or association involvement  
Encroachment (too many outlets in area)  
Eviction cheaper and faster than termination  
False earnings claims  
Franchisor controls retail prices  
Franchisor has right to buy outlet before anyone else  
Franchisor takes franchisee stores  
Franchisor takes franchisee store, gives to relative  
Franchisor takes franchisee store, resells to new dealer  
Gag order muzzles self & descendants  
Gouging on rent and equipment  
Gouging on supplies  
Lease controlled by franchisor  
Location chosen by franchisor  
Must lease, not buy, land and/or building  
Must work only as a franchisee  
No franchisor support  
Non-compete restrictions  
Non-compete restrictions defeated  
Non-compete restrictions not enforced in California  
Price discrimination  
Re-sale permission unreasonably withheld  
Retaliation  
Self-help  
Short- or forced-shipping  
Tied contracting  
Unilateral fines  
Variable rate royalty fees

### **State**

Anti-small business  
Charade of public consultations  
Competition rules a farce  
Feet of clay  
Freedom-of-information legislation  
Government as system's ultimate liar  
Political contributions by franchisees  
Political contributions by franchisors  
Protection from monopolies, price gouging  
Sue regulators  
Thin-skinned politicians not doing their duty

### **Sustainability**

Access to knowledge is a right  
Affordable, early and non-legal dispute resolution mechanism  
Appropriate franchise law

Arbitration, transparent  
Architectural conservation  
Boycott  
Boycott fast-food  
Buying co-operatives  
Commission with investigation, publication and enforcement powers  
Fair dealings: treat assets as if they were their own  
Hope  
Humour  
Industry "Better Business Bureau"  
Mandatory membership in associations  
National Franchise Council of Canada  
Old-fashioned idea that politicians are relevant  
Power to publish offenders name  
Private right of action  
Register franchisees and franchisors  
Reparations  
Restoring investor confidence  
Reverse onus on good faith and fair dealing  
RICO  
Sympathy for the franchisor  
Unionization

### **Trust**

40 per cent of franchisees have unsuccessful relationship with franchisor  
Bad faith and unfair dealings  
Bully  
Code of ethics, almost never enforced  
Condescending view of community  
Courts misunderstand relationship  
Different deals for different dealers  
Don't owe your lawyer money  
Franchisor association not trusted by franchisees  
Gosh, you're the first franchisee with that problem  
Government refuses to answer request for information  
Intimidation  
Investor confidence crushed, no trust or buying  
Investors see public scandals as just the tip of the iceberg  
Lawyers issue threatening letters  
Low investor confidence  
McDonald's of...  
One of us  
Opinions at odds with the Minister  
Paid informers  
Political champions  
Predatory actions  
Sold during time of personal transition  
State refuses to listen  
Targeting children  
Termination threats  
Terrorizing franchisees  
Threatening letters  
Threatening staff  
Threats of lawsuits  
Threats toward politicians by franchisors  
Trust  
Work will set you free

### **Truth**

A half-truth is a full lie  
Ban gag orders  
Behind closed doors



Cruellest lies are often told in silence  
Defrauding the public  
Fear of poverty  
Hubris  
Lies, misrepresentations & half-truths  
Rain-forest chic  
Veil of secrecy  
Would you advise anyone to buy into your system?  
Would you do it over again?

### **Violence**

Assault  
Death threats  
De-humanization  
Fear, distrust, hate and contempt  
Murder  
Rage  
Restraining order  
Sabotage  
Suicide attempt  
Talk to former franchisees  
Threats of physical violence  
Violence

### **Witnesses**

Darrell Dunafon  
Dave Michael & Tony Fammartino  
Les Stewart  
S. G. M. Grange, Q.C.  
Samuel Crawford  
Susan Kezios  
The Toronto Star  
Tony Martin  
Unfaithful servants

Aligned Interests 26  
Awareness 12  
Blue Chip 10  
Canadian Perspective 14  
Confidence 19  
Contracts 15  
Corporatism 18  
Criminal Behavior 38  
Current Practice 16  
Diversity 5  
External Costs 29  
Franchisee Behavior 17  
Franchisee Groups 11

Franchisor Behavior 42  
Franchisor Groups 29  
Ignorance 10  
Justice 31  
Law 33  
Limits 8  
Media 13  
Outcomes 31  
Perceived Risk 20  
Rules of the Game 40  
State 11  
Sustainability 25  
Trust 33  
Truth 12  
Violence 12  
Witnesses 9

TOTAL = 588

Groups = 29

Les Stewart  
Jan 24, 2002

### **Vertical Markets**

Accounting  
Automotive  
Big auto  
Big grocery  
Big oil  
Coffee  
Convenience store  
Crown corporation  
Doughnut  
Drug stores  
Education  
Fast-food  
Financial  
Grocery  
Health  
Home services  
Hotel  
Liquor  
Office  
Payday advance  
Petroleum  
Pizza  
Postal services  
Real estate  
Restaurant  
Retail  
Sports  
Tax-preparation  
Travel  
Video  
Weight-loss  
Miscellaneous

**Country**

Australia, Bahrain, Bolivia, Brazil, Canada, China, Denmark, Egypt, India, Ireland, France, Japan, New Zealand, Norway, Russia, Saudi Arabia, Scotland, South Africa, Switzerland, Syria, Tanzania, Thailand, United Arab Emirate, United Kingdom, United States

Les Stewart

January 20, 2003

## Appendix B

20020114 Levitt letter

Levitt, Beber, Threatening letters, Threats of lawsuits, Lawyers can only serve franchisors or franchisees, never both, Lawyers issue threatening letters Lawyers threatening franchisee advocates, Intimidation through lawyers, Ludicrous demands, Ned Levitt, General Counsel, CFA, Canadian Franchise Association, Les Stewart, CAFO, Country Style Donuts, Right to associate and right to harass, Bad faith and unfair dealings, Right to associate, Independence, Unfavourable, Franchisor insolvency, intentional, 20 terminations turn into 200, Termination of franchisee, mass, Gouging on rent and equipment, Gouging on supplies, Tied buying, Doughnut, Lease controlled by franchisor, Industry in disrepute, Public perception of sleaze and greed, Rules of Professional Conduct

Canada

Country Style Donuts

Les Stewart

Specifically, you have implied in your remarks that I am not acting in the best interests of my clients, that I am acting in a conflict of interest, that I have breached the Rules of Professional Conduct and that I am or may be giving advice that is not in the best interests of my clients.

I also demand that you immediately provide me with a list of those persons to whom you have circulated such false and defamatory statements; immediately retract those statements and apologize to me for making such statements and for any harm that such statements may have caused. I am reserving my right to commence an action against you for damages and an injunction restraining you from conducting yourself in this most reprehensible fashion

Letter from Levitt, Beber

January 14, 2002

Barristers & Solicitors

### Letter from Levitt, Beber Barristers & Solicitors

Reply to: Edward N. Levitt  
Direct Dial: 865-6701  
e-mail: [nlevitt@levittbeber.com](mailto:nlevitt@levittbeber.com)

January 14, 2002

VIA REGISTERED MAILA AND ORDINARY MAIL

Les Stewart

C/o Canadian Alliance of Franchise Operators

1201 Bayfield Street North

Midhurst, ON L0L 1X1

-and-

CAFO

1201 Bayfield Street Noth (*sic*)

Midhurst, ON L0L 1X1

Attention: Les Stewart

- President

RE: Country Style Donuts

It has come to my attention that you have made statements in writing that are untrue, inaccurate and defamatory to me. I also have information that you have broadcast these defamatory remarks over the internet or otherwise published them.

Specifically, you have implied in your remarks that I am not acting in the best interests of my clients, that I am acting in a conflict of interest, that I have breached the Rules of Professional Conduct and that I am or may be giving advice that is not in the best interests of my clients.

These remarks are damaging to my name and reputation as a barrister and solicitor. I am writing to you to demand that you immediately cease making any remarks or utterances, orally or in writing, that are defamatory in nature and which tend to negatively affect my reputation in my profession.

I also demand that you immediately provide me with a list of those persons to whom you have circulated such false and defamatory statements; immediately retract those statements and apologize to me for making such statements and for any harm that such statements may have caused.

I am reserving my right to commence an action against you for damages and an injunction restraining you from conducting yourself in this most reprehensible fashion.

Yours very truly,

LEVITT, BEBER

Edward N. Levitt  
JPH/sm

SCOTIA PLAZA, 40 KING STREET WEST, SUITE 3001  
TORONTO, ONTARIO, CANADA M5H 3Y2  
TELEPHONE: (416) 865-6700 FAX: (416) 865-6720  
[www.levittbeber.com](http://www.levittbeber.com)

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Mr. Les Stewart  
1201 Bayfield Street North  
Midhurst, Ontario  
L0L 1X1

January 29, 2003

Mr. Allan MacDermid  
Senior Policy Advisor  
Ministry of Consumer and  
Business Services  
35<sup>th</sup> Floor, 250 Yonge Street  
Toronto, Ontario M5B 2N5

**REGARDING: Franchise Industry Reputation Registry**

Dear Mr. MacDermid,

Please accept a draft copy of the Information Sharing Project (ISP).

In my opinion, the ISP is a significant development. It is a low-cost, non-legislative opportunity to resolving some of the concerns as defined in the Ministry's 1998 white paper, the 2000 public hearings and the Grange Report.

I would be happy to assist the Ministry in selecting experts to evaluate the ISP. There could be substantial economic conflict of interest considerations in the evaluation process.

I ask the Ministry of Consumer and Business Services to support this project and accept it in the spirit it was intended.

Sincerely,

Les Stewart  
Enclosures