

# The Legal Strategist

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FOURTH QUARTER 2018

TEXAS ESOTERIC FACTS

So you have decided to invest in a franchise opportunity. Is it important that you retain an experienced franchisee attorney to evaluate the franchise documents? The answer is simple—**YES!** An attorney with franchise experience, such as SBPC, can assist in evaluating the terms and conditions of the prospective franchise. Franchise Law is specific. Although the Franchise Disclosure Document (FDD) items are supposed to be written in “plain English”, their importance and implications are often difficult to understand. You need an attorney who knows and understands those specifications.

The city of Austin, TX was terrorized by a serial killer dubbed “The Servant Girl Annihilator” in the late 1800’s and there are people who believe the same killer went on to become Jack the Ripper several years later.

The Feature Topic is a cursory review. If you would like more information on this, or any other topic previously covered in my newsletter, which can be viewed on [The Legal Strategist](#) tab of my web site, please contact my office at 713.526.1883.

Scott Barrett

FEATURE TOPIC: **PROPERLY EVALUATING A FRANCHISE OPPORTUNITY**

Franchisors are required by law to provide potential franchisees with a Franchise Disclosure Document but there are also things you should be doing on your own as part of a good due diligence process, including the following:

**FDD**—Read the Franchise Disclosure Document thoroughly and follow up with the references and contacts provided in the document. This will include a list of existing franchisees in your area. If you can, interview them in person.

**Scrutinize potential earnings promises**—If a franchisor is promising you a certain level of earnings, ask for the basis of these claims in writing. You can usually find earnings information in Item 19 of the Franchise Disclosure Document, but you also need to take time to talk with several existing franchisees to assess if the franchise offers you a reasonable return on your investment.

**Verify success stories**—This is where the rubber meets the road – it is vitally important that you talk to existing franchisees of the franchise you are interested in investing. Seek out former franchisees as well to get their take on why they are no longer involved – but be sure to listen to the company’s side of things as well.

**Shop around**—Don’t fall in love with the first franchise opportunity that you come across; if you like the sector, there are probably others in the same business you should be examining.

**Resist sales pressure**—If you are feeling pressured to invest now, proceed with caution. Incentives to purchase can be signs that a franchise is in trouble, so take your time to properly evaluate the opportunity.

**Compare the contract**—Be sure to compare the franchisor contract with the promises that were made to you in the sales pitch.

**Most importantly, get help**—Having an attorney with franchise law experience, like SBPC, is invaluable when you get to the point where you think you have found the right investment. We may be able to point out obstacles that you would never find on your own. Here are a few more things SBPC can do for you:

- Provide advice on the different corporate structures available, and determine the most appropriate structure for your business’s needs;
- Negotiate or draft the contract of sale, the franchise agreement and business premises lease;
- Liaison with accountants and other professional advisors;
- Conduct a thorough review of the franchisor’s documentation;
- Explain the key terms of the legal documents in easy-to-understand language;
- Alert you as the prospective franchisee of any peculiar or unfair provisions that appear out of the ordinary;
- Manage the contract of sale up to settlement, including post-settlement matters.

If you would like more information on this or any other topic relating to purchasing a franchise, please contact [Scott Barrett](#) to set up a consultation.