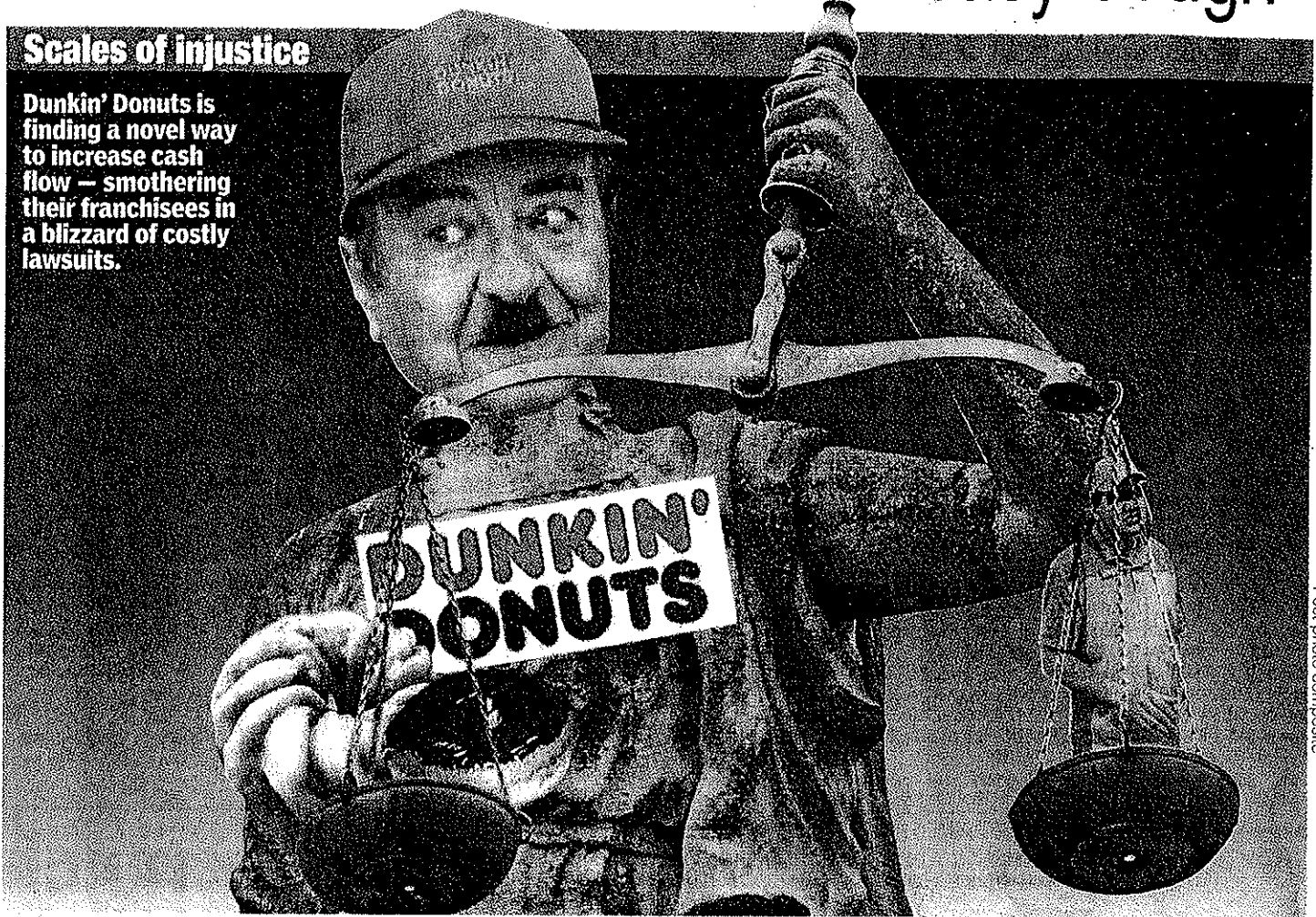


Dunkin' sues franchisees for 'easy dough'

Scales of injustice

Dunkin' Donuts is finding a novel way to increase cash flow — smothering their franchisees in a blizzard of costly lawsuits.



Post photo composite

FLUNKIN' DONUTS

By HOLLY SANDERS WARE
and JOSH KOSMAN

Dunkin' runs on lawsuits.

Beyond coffee and pastries, critics say Dunkin' Donuts has come up with another way to make a profit: Pressure franchise owners into paying hefty penalties and legal fees.

In an unusual tactic for the franchise industry, Dunkin' pushes operators to pay penalties and sell their stores or face losing their franchise rights. The fines can run into the hundreds of thousands of dollars and include the cost to pay for Dunkin's lawyers.

Between Jan. 1, 2006, and Aug. 21, 2009, Dunkin' was involved in 356 cases against its franchisees, the vast majority of which were filed by the company. At the end of 2008, the company had 2,250 US franchisees.

Dunkin' in a recent settlement proposal with one franchisee called for the small operator to pay more than \$500,000 in penalties, including a "transfer fee" that Dunkin' would pocket when the franchise rights are sold.

Robert Zarco, a partner at law firm Zarco Einhorn Salkowski & Brito who has represented Dunkin' franchisees, calls the company's litigation tactics "legalized extortion."

"Dunkin has decided that there's a smarter, more efficient way to increase revenues and that is to find and target franchisees that are vulnerable," he said.

Last year, the largest association of Dunkin' franchise owners, the DD Independent Franchise Owners, called Dunkin' "the most litigious" franchise system in the country.

Jonathan Maze, an associate editor at industry trade publication Franchise Times, said, "I do not know of any other chain like it."

A Dunkin' spokeswoman said, "We conduct our business with uncompromising integrity, with no tolerance for unlawful behavior. As a 100 percent franchised company, everything we do is always with great respect for our relationship with our franchisees."

"For anyone to suggest or imply that our actions are taken for any reason other than to protect our

franchisees and insure that our customers have a consistently outstanding experience in our shops is both wrong and irresponsible."

The coffee chain has long had a reputation for hauling franchisees into court over everything from employing illegal immigrants to underreporting royalties.

In the last year, however, sources said Dunkin has pushed to settle more cases out of court, which has some critics questioning whether the goal of the litigation is to improve operations.

Indeed, franchise operators and attorneys that have tangled with Dunkin' argue the legal squabbling is less about protecting the brand and more about making a profit.

Although Dunkin' and other franchise owners are required to disclose significant legal matters to potential buyers, Dunkin' considers the settlements immaterial and doesn't discuss them or the number in disclosure documents.

Franchisee attorneys note that the company's scrutiny has inten-

sified ever since a trio of private-equity firms — Bain Capital, Carlyle Group and THL Partners — bought Dunkin' in 2006 in a \$2.4 billion leveraged buyout. Measures have included ramping up its loss-prevention unit to find violations, attorneys and franchise operators said.

Zarco and other franchisee lawyers say Dunkin' targets a franchisee through either a "random" audit or some kind of violation—sometimes a more trivial matter such as failure to buy new equipment.

Franchisees have described the process as humiliating and intimidating, with no way to fight back other than hiring a lawyer.

The company has also confronted accusations that it conducts personal surveillance on its franchise operators to uncover grounds for an investigation.

The Dunkin' spokeswoman said, "We have never conducted surveillance on any of our franchisees' or employees' personal property, nor would we condone such actions."