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Coffee Co. faces lawsuit from former franchisee

Forza owner denies allegations, says claim would be 'business suicide'

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of the Gateway

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A recently filed lawsuit with Pierce County Superior Court could have long-term financial implications for Forza Coffee Company owner and Gig Harbor resident Brad Carpenter.

The lawsuit alleges that Carpenter and his wife, Lucinda, who are named in the suit as "Dugout Brothers, Inc.," used an expired, misleading and deficient Franchise Offering Circular when selling a Forza Coffee franchise to Pierce County resident Sheri Lynn Tanson.

A Franchise Offering Circular is a mandatory document filed annually by franchising corporations, such as Forza, within the state in which the corporation is based. It contains information about the franchisor in 23 categories, including the trademarks of the company and earnings claims, and it's intended to give potential franchisees enough information to decide whether or not to invest in the franchise.

The lawsuit, which was filed in February, said that not only was Forza's Franchise Circular out of date, but it also consisted "almost entirely of marking material and definition, all of which are prohibited ... and failed to disclose required information" about Carpenter's previous experience as a franchisee of Cutters Point, another coffee company based in Gig Harbor.

Howard Bundy, the lawyer representing Tanson, claimed Forza had experienced adverse financial changes — including a high number of franchisees dropping out — that would have required the company to stop selling franchises to investors like Tanson until it amended and reviewed the offering circular.

"I've been practicing in this area, representing franchisees for the past 30 years," Bundy said. "I've seen very few examples of (a company) so blatantly not complying with the Franchise Act."

The expired and incorrect circular could lead to a dissolution of Tanson's contract with Forza.

That contract, the lawsuit alleges, also unfairly set up Tanson's franchise to fail by not providing appropriate training for her employees and placing her store in the "exclusive territory of another franchisee."

The lawsuit is asking for financial damages, since Tanson spent \$25,000 to purchase franchise rights, and another \$300,000 on a store that closed within one year of opening.

The Carpenters have denied all of Tanson's claims and have filed a countersuit against Tanson, claiming breach of contract and "loss of profits to Forza and damages to its franchise system."



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"They deny the claims as being without merit and intend to defend the case vigorously. And we will have no further comment until the case is tried," said Robert S. Hutchins, who is representing the Carpenters.

Carpenter said he attempted to supply all appropriate training and help to Tanson, but she refused it. He also said that Tanson did not complete certain tasks necessary for the business to succeed, such as buying the appropriate Forza signage.

"This is a woman who desired to have a franchise with us and we allowed it, and unfortunately it didn't work out," Carpenter said. "A month or so later, she needs someone to blame, so she blames the franchisor."

Carpenter also co-signed on the lease for Tanson's Forza store, he said, in order to help her get started with her business, because she had trouble getting the startup capital together.

"I really felt at the time, when she first came to us, that she was fully committed and ready to make a go at this," Carpenter said. "I don't normally do that. And I'll never do that again."

Tanson's lawsuit alleges that the Carpenters' actions demonstrate a pattern of setting up their franchises to fail. The lawsuit calls it "a scheme whereby they sell franchises to people, let the franchisees bear the cost of building out the stores, purchasing equipment and developing the market and waiting for the franchisee to fail while providing minimal support."

Once the franchise fails, the lawsuit alleges, the Carpenters "re-take" the store, paying only a small portion of the cost of build-out and equipment, and either operating the store as a company store or re-selling it to a new franchisee and starting the process over again."

Tanson claims Carpenter offered her this deal when her own franchise began to go under.

Carpenter denied that claim and said such a policy would be "business suicide." He said he's already franchised another Forza store in Tanson's location, but added that it was only because he still had his name on the location's lease after Tanson's store folded.

No other defendants have come forward with similar allegations.

Bob Renckly, owner of the Forza franchise store in Gig Harbor, has no complaints about the Carpenters' business.

"My experience with Forza has been excellent. We've had great support from them," he said. "They've done everything they've said they would and more."

Bundy suspects that if Tanson's lawsuit is successful, more franchise owners with similar experiences will begin to come forward with lawsuits of their own.

"In any of these cases," he said, "when we have these kinds of violations of the statute, the first case out ... tends to create a road map that every other franchisee and their attorney can follow."

Next steps in the lawsuit

The case is currently scheduled for trial on Aug. 8. Jury demand is expected to begin this Thursday.

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