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January 24, 2014

**VIA EMAIL: [unhappyfranchisee@gmail.com](mailto:unhappyfranchisee@gmail.com)**

UnhappyFranchisee.com

**RE: UnhappyFranchisee.com's Unlawful Use of Legacy Academy, Inc's Registered Service Mark**

To Whom it May Concern:

This law firm represents Legacy Academy, Inc. ("Legacy"), the owner of a federal registration for the "Legacy Academy For Children" service mark, USPTO Registration Number 2686283 (the "Mark"), which registration has become incontestable. It has come to our attention that you are violating Legacy's protected rights in the Mark by displaying a logo substantially similar to the Mark (the "Derivative Mark") on the webpage <http://www.unhappyfranchisee.com/index.php?s=legacy> (the "Webpage"); a copy of the Webpage is enclosed with this letter.

Since at least 2003, Legacy and its licensed franchisees have used the Mark (and more recently, the Derivative Mark) throughout the United States in connection with the advertisement, promotion and provision of child care and early child education services for children. As a result of such use, advertisement, and promotion of the Mark, the Mark has become highly distinctive, has developed significant goodwill and has become well and favorably known throughout the world as identifying Legacy and its services.

The Webpage displays an article discussing a recent decision in a lawsuit involving Legacy. Instead of referring merely to Legacy's corporate name in the article, however, you have displayed the Derivative Mark prominently in the middle of the article and superimposed your domain name on top of the Derivative Mark. Such use of the Derivative Mark cannot reasonably be considered nominative fair use of the Derivative Mark. Notably, your display and use of the adulterated Derivative Mark on the Webpage results in the adulterated Derivative Mark, and a link to the Webpage, to be displayed as a result in Google's "Images" search feature, based on a search for Legacy Academy. We can only assume that in using the Derivative Mark in this fashion, you intend to capture the attention of consumers searching for Legacy and its services via the Internet, and divert them, at least temporarily, to the Webpage and your website, where they will encounter "news" articles that are designed to disparage the name and reputation of Legacy, its owners and franchisees. Thus, your use of the

Derivative Mark is a clear attempt to trade on the goodwill of the Mark and the Derivative Mark for your own purposes and, at least initially, could create confusion in the minds of consumers as to whether the Webpage and the unhappyfranchisee.com website (the "Website") in general is sponsored by or affiliated with Legacy, or whether Legacy has consented to the use of its Mark in this fashion. The design elements of the Mark and the Derivative Mark are further protected by U.S. copyright law, and your unauthorized public display of the Derivative Mark further violates Legacy's proprietary copyrights in the Mark and Derivative Mark.

We would, of course, prefer to resolve this situation amicably and without the need for further action. To that end, Legacy hereby directs that you: (1) immediately ceases and desist your use of the Derivative Mark on the Webpage and Website; and (2) within five (5) days from the date of this letter, provide the undersigned with a writing in which you attests that you have ceased all use of the Mark, the Derivative Mark or any confusingly similar mark.

The demands made in this letter are serious in nature and must be complied with immediately. Should you refuse to honor the demands made in this letter, Legacy will seek legal intervention in the form of preliminary and permanent injunctive relief restraining the Website its operators from further improper and unlawful use Legacy's service marks, damages as the direct and proximate result of such unlawful use, and related relief. Legacy takes violation of its valuable mark seriously and will take all lawful measures to protect itself and its marks against wrongful acts.

We would also like to take this opportunity to caution you regarding the content of the articles posted on the Website regarding Legacy, as several of the articles come perilously close to constituting libel by suggesting that Legacy "continues" to violate applicable state and federal law regarding its franchise sales activities and that Legacy and its owners are "irreputable," all in the guise of a recounting of the facts of various legal actions against my client, some of which remain on appeal. To the extent the Website publishes statements regarding Legacy or its owners that are false or otherwise misleading, further action may be warranted.

Please direct all future correspondence to the undersigned. We appreciate your prompt attention to this important matter and look forward to your response.

Sincerely,



M. Kathleen Hart, Esq.  
for Andersen, Tate & Carr, P.C.

cc: Mr. Frank Turner (via email)  
Mrs. Melissa Turner (via email)

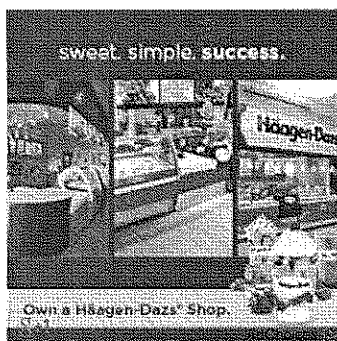
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## ICHTER THOMAS Another Win Against Legacy Academy Franchise

December 18, 2013

The law firm of Ichter Thomas has racked up another franchisee win against controversial childcare franchisor Legacy Academy.

*Are you familiar with the Legacy Academy franchise? Please share your opinion or insight – positive or negative – as a comment below.*



([UnhappyFranchisee.Com](#)) This time, the Ichter Thomas client was a *successful* Legacy Academy owner who de-branded and left the system after the Legacy Academy brand was publicly tarnished through scandals, franchise lawsuits and allegations of franchise fraud.

Legacy Academy sued the franchisee for future royalty fees and advertising fees through the end of the franchise agreement period, which they contended amounted to \$836,833.51 (exclusive of attorneys' fees).

In a two day bench trial, Ichter Thomas mobilized "every possible defense" and obtained a judgement that was less than 3% of what Legacy Academy was seeking.

Ichter Thomas attorney [Dan Davis](#) provided this overview:

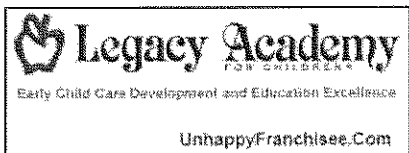
One of the first items in any franchise agreement is the "term." This is the duration of the franchise agreement.

Here's an example:

*This Agreement shall take effect as of the date of this Agreement (the "Effective Date"), and, unless previously terminated, its term shall extend for a period of twenty years from the Effective Date.*

Not very complicated, right? But think about it: the term determines how long a person is agreeing to be a franchisee. Plenty of marriages do not even last ten years. Many franchisees apparently think that if things don't work out, they'll just get a divorce.

Now, a franchisee can simply "stop" being a franchisee during the term of the franchise agreement or can attempt to formally terminate the franchise relationship. Like a divorce, however, this can be a very expensive proposition. Believe it or not, some franchisors will take the position that a franchisee is obligated to pay royalty fees for the entire term even if it is not using the franchise system.



We recently encountered such a scenario. We represented "XYZ, Inc." (a pseudonym), a former franchisee of Legacy Academy, Inc. ("Legacy"). Legacy sells "childhood education" (daycare) centers. In 2002, XYZ entered into a Legacy franchise agreement with a twenty year term. Under the terms of that franchise agreement, XYZ promised to pay Legacy six percent of its gross revenue as royalty and advertising fees to use Legacy's trademarks and the franchise system. XYZ did so, and was fortunate enough to do well.

In 2010, however, the Superior Court of Gwinnett County confirmed an arbitration award finding Legacy had given "misleading financial information in the [Federal Trade Commission's ("FTC")-required Uniform Franchise Offering Circular ("UFOC")] and outside the UFOC to [five (5) other franchisees] and [in doing so] violated the disclosure requirements of [16 C.F.R. § 436.1]." As a result, five (5) former

Legacy franchisees were awarded more than \$1 million in damages and had both their promissory notes (totaling about \$1 million in principal obligations) and their franchise agreements rescinded.

In connection with this arbitration and thereafter, the size of the Legacy franchise system shrunk drastically, as did the goodwill associated with the brand name which XYZ was paying royalties for. In other words, the momentum that Legacy had enjoyed previously and that franchisees relied upon in joining the system ground to a halt. As a result, XYZ had no choice but to de-identify and leave the franchise system, and did so at the end of 2010. When Legacy sued XYZ (apparently for having the temerity to acknowledge unavoidable business realities), Legacy took the position that XYZ was obligated to pay royalty fees and advertising fees from 2011 through 2022, which they contended amounted to \$836,833.51 (exclusive of attorneys' fees).

Ichter Thomas defended XYZ on this claim in a two day bench trial. The result was a judgment for only \$23,841.80, which included Legacy's attorneys' fees after almost three years of litigation. How is this possible? Because Ichter Thomas mobilized every possible defense available in the most forceful way possible, particularly with respect to the murky and often convoluted law of future lost profits.

Read more about the Legacy Academy franchise:

[LEGACY ACADEMY Franchise Complaints](#)

[LEGACY ACADEMY Ichter Thomas Wins Suit for Legacy Academy Franchise Owners](#)

Disclosure: Cary Ichter and Ichter Thomas law firm are featured in the *UnhappyFranchisee.Com Franchise Attorney Directory*.

ARE YOU FAMILIAR WITH LEGACY ACADEMY CHILD CARE OR THE LEGACY ACADEMY FRANCHISE OPPORTUNITY?  
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TAGS: Legacy Academy, Legacy Academy franchise, Legacy Academy child care, Legacy Academy lawsuit, Legacy Academy franchise complaints, Legacy Academy franchise lawsuits, Cary Ichter, Cary Ichter attorney, Dan Davis attorney, Ichter Thomas, IchterThomas, Ichter Thomas law firm, Atlanta franchise lawyer, Atlanta franchise attorney, Frank Turner, Melissa Turner, Unhappy Franchisee

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