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PHOTO BY EDWARD SMITH | Borzooyeh Taghabi says he has to thaw bread from D.D.'s Bakery in the morning.

BATTLE OVER BREAD

Deli Delicious owners engaged
in litigation with franchisor

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BATTLE OVER BREAD

Deli Delicious owners engaged in litigation with franchisor

Edward Smith – STAFF WRITER

In 2018, Borzooyeh Taghabi was named top operator by Deli Delicious. By 2020, he was being sued by the organization for breaching his franchise agreement.

Sandwich bread has risen to the forefront of a legal fight between franchisee and franchisor of the local sandwich chain some operators say fosters a “toxic relationship” between them and their parent corporation.

In question are the quality of the bread and the definition of “fresh” and “organic.” Three franchisees have been named in lawsuits over bread, with a handful of others anticipating legal action. Taghabi has his own countersuit filed, and now a customer has gotten into the legal fight over ingredients, with both franchisees and franchisor accusing one another of degrading the brand.

Bakery change

In 2018, Deli Delicious President Mohammad Hobab opened D.D.’s Bakery in Fresno to supply the chain with its own bread. By 2019, it became the only approved vendor to the chain.

A handful of franchisees still use bread from Fresno-based French

Basque Bakery, their original bread supplier, violating the terms of the franchise agreement.

Franchisees still using French Basque Bakery claim the bread is superior because it is never frozen. Deli Delicious leadership says it hurts the brand.

“Deli Delicious’ franchise system is successful because of the commitment to the provision of uniform and consistent customer experiences,” a lawsuit filed on behalf of Deli Delicious against franchisee Vahid Misaghi states.

David Schneider and Ross Coker of Fennemore Dowling Aaron represent Deli Delicious.

D.D.’s Bakery bread is made with organic flour. Product from French Basque Bakery is not, prompting the transition, the lawsuit states.

Better quality?

Vice president of Deli Delicious Ali Nekumanesh declined to comment on pending litigation. But he provided a statement insisting the authorized bread is superior in quality and made with organic flour.

“The bread is made with 100% organic flour, wheat bread is 100% whole wheat, and its Dutch Crunch bread

recipes were developed under the supervision of a third-generation Dutch baker,” said Nekumanesh.

D.D.’s Bakery received certification for the handling of the product by the California Certified Organic Farmer’s organization. The flour used in the bread is also certified by the U.S. Department of Agriculture National Organic Program.

But franchisees claim the bread is inferior in quality — in large part due to the fact that it is delivered frozen.

Taghabi says the organic certification is misleading because it’s only the flour that is organic. Other ingredients are added to the bread.

“What is the sense in putting in 100% organic flour?” Taghabi said.

His cross-complaint claims the bread is misrepresented as fresh and is inferior to bread from French Basque Bakery, according to his attorney, H. Ty Kharazi with Yarra Law Group in Fresno.

The lawsuit states that because the organic flour makes up 70% of the prod-



PHOTO BY EDWARD SMITH | Borzooyeh Taghabi (left) and Vahid Misaghi have been named in lawsuits about the usage of bread at their Deli Delicious locations.

uct, Deli Delicious restaurants are lawfully permitted to market its products as being made with organic flour.

That case between Deli Delicious and Taghabi is headed for arbitration.

Customer complaint

A customer has now filed a lawsuit over these very claims. Kharazi is also representing the plaintiff, Letitia Sanches. In November 2020, Sanches purchased two sandwiches for herself and a co-worker. She described the bread as “stale and dry,” according to the lawsuit. After doing her own internet research, she discovered that the bread was frozen. The lawsuit also questions the authenticity of the organic certification. It was in her research

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where she found Kharazi had litigated on behalf of Deli Delicious franchisees, Kharazi said.

She has filed a complaint of false advertising to get Deli Delicious to stop advertising their bread as being fresh as well as for “nominal damages,” said Kharazi.

Misaghi said he is afraid to use D.D.’s Bakery bread for fear of litigation.

On Feb. 10 in a preliminary hearing, a judge issued a temporary restraining order forcing him to use bread from D.D.’s Bakery. He has since switched over to bread from D.D.’s Bakery, but he told the judge he was afraid of false advertising. Part of the lawsuit against him includes failure to display marketing signage. He also posted a sign with a QR Code directing customers to a petition asking Deli Delicious to return to bread from the French Basque Bakery. Attorneys claim Misaghi “purposefully and maliciously” displayed signage “for the purpose of injuring and prejudicing the goodwill associated with [Deli Delicious Franchising Inc.]”

‘Weird’ taste

Misaghi says he used the bread from D.D.’s Bakery for a short time at his location at Ashlan Avenue and Highway

99. He was trying to sell the location, and in order to sell it, he had to become compliant, part of which requires selling approved bread. In the four days he served the bread, he said he received many complaints from customers.

Customers told him they were going to the location at Clinton and Brawley avenues because his sandwiches tasted “weird.” Misaghi said the only difference between his location and that one was the bread.

He ended up selling the location for a fraction of what he bought it for.

The problems extend beyond merely bread, says Taghabi. Deli Delicious also controls many of the leases that franchisees sign with their landlords, he said. Taghabi’s franchise agreement ended in December 2020. Because of these, along with many other problems, he says he wants to leave Deli Delicious. But the lease agreement he signed with his landlord requires that the location remain a Deli Delicious for another five years. Because Deli Delicious has not renewed its Franchise Disclosure Document with the State of California, he says he can’t renew his franchise agreement and is on a month-to-month plan.

In order to break from Deli Delicious, he would have to abandon the invest-

ment he made into the restaurant.

Kharazi said it is not uncommon for franchisees to invest upwards of \$500,000 into their businesses.

“What they have is one of the most oppressive franchisee agreements I’ve ever seen,” Kharazi said.

Feeling targeted

Misaghi also says new Deli Delicious locations sometimes “cannibalize” one another. His first store opened on the Fig Garden Loop. A couple years later, the franchise eyed a space at Herndon and Milburn avenues, just over a mile away. They gave him the opportunity to buy the location, which he did because he felt if he didn’t, it would go to another franchisee. The franchise opened a location at Clinton and Brawley avenues, near his other location at Ashlan Avenue near Highway 99, selling it to another franchisee.

In 2019, franchisees had come together to form Deli Delicious Franchise Association as the negotiating arm of the franchisees for issues regarding transparency, franchise support and marketing. At one time, as many as 80% of franchisees belonged to the association, despite language in their agreements forbidding them from doing so.

Currently, that number has dropped to about a dozen, according to Eric Sha, a franchisee with Deli Delicious. That is about 50% of franchisees. The decline in numbers is largely because of restaurants closing in the time of Covid, Sha said. Misaghi says franchisees who belong to the association have not received relief as others have. A lot of franchisees in the association feel targeted, he said.

“[Deli Delicious Franchising Inc.] has always acted and will continue to act in the interest of all its franchisees and to protect its brand by ensuring that its restaurants are delivering the same quality and experience to our loyal customers,” said Nekumanesh.

Kharazi said because of the issues with Deli Delicious, a lot of potential buyers of franchises are hesitant to buy. A franchisee selling would have to disclose the reasons why or face potential litigation in the future.

Taghabi says he feels stuck.

“How can I work as a franchisee for this kind of franchisor,” he said. “They sued me in the middle of the coronavirus.”

Edward Smith | Writer can be reached at: 490-3448 or e-mail edward@thebusinessjournal.com