

HIDDEN FRANCHISES DEFINITION AND CONSEQUENCES

FEDERAL AND STATE LAWS

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I. "FRANCHISE" DEFINITIONS – VARIATIONS

- A. Traditional Concept – Monopoly granted by government
- B. Modern Concept – Singer Sewing Machine – dealer “plus”
- C. Legal Concept – Form over Substance – Labels not determinative

II. FRANCHISING DEFINED

A. Economic Perspective - Principal Benefits to a Franchisee

- 1. Business identity - franchisee enjoys the use of the franchisor's trademark and goodwill
- 2. Technology license - franchisor provides franchisee with the technology and expertise to operate the franchised business, which may or may not include a license to use various intellectual properties
- 3. Service and support infrastructure – franchisor provides franchisee with ongoing support and assistance in variety of operational and marketing area
- 4. Economy of scale - "little equals big" because of relationship with a larger chain, franchisee able to acquire products and services on more cost effective terms

B. Legal Definitions - Multiple Aspects: The Definition of a "Franchise" Contained in Many Different Laws at Both the State and Federal Level

1. Federal Trade Commission's Trade Regulation Rule on Franchising (16 C.F.R. Section 436.1 et. seq. (1983))
2. California Franchise Investment Law (California Corporations Code, Section 31,000 **et seq.**)
3. California Franchise Relations Act (California Business and Professions Code, Section 20,000 **et seq.**) (Generally the same as under the California Franchise Investment Law)
4. Other laws - franchise registration and disclosure laws and relationship laws of other states (approximately 26 states); federal Automobile Dealer Franchise Act (15 U.S.C. 1221 **et seq.**); federal Petroleum Marketing Practices Act (15 U.S.C. 2801); and foreign franchise laws (approximately 14 countries) (See also California Seller Assisted Marketing Plan Act – California Civil Code, Section 1812.200)

III. FEDERAL TRADE COMMISSION'S TRADE REGULATION RULE ON FRANCHISING

A. Introduction

1. The Federal Trade Commission promulgated the trade regulation rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising And Business Opportunity Ventures" (the "FTC Rule") on December 21, 1978 (Effective on October 21, 1979)
2. The FTC Rule scope:
 - a. Package and product franchises
 - b. Business opportunity ventures
3. Disclosure requirement only; no registration

A. Package and Product Franchises

1. Package franchises:
 - a. License from the franchisor to the franchisee
 - b. Use of prepackaged business format developed by the franchisor
 - c. Identified by franchisor's commercial symbol

- d. Examples of package franchises:
 - (1) Fast food restaurants
 - (2) Hotels and motels
 - (3) Tax preparation services
 - (4) Convenience food stores
 - (5) Employment agencies

- 2. Product franchises
 - a. Distribution of goods produced by the franchisor or under its control or direction

 - b. Products bear franchisor's trademark

 - c. Example: Beverage distributors

- 3. Package and product franchises have continuing commercial relationships with following three characteristics:
 - a. Mark, name, symbol
 - (1) Franchisee offers, sells or distributes goods or services identified by a trademark, service mark, trade name, advertising or other commercial symbol designating the franchisee or

 - (2) Franchisee indirectly or directly required or advised to meet quality standards prescribed by the franchisor where the franchisee operates under the trademark, service mark, trade name, advertising or other commercial symbol designating the franchisor

 - (3) **Note:** To avoid this characteristic, the supplier should expressly prohibit the use of its mark by the distributor

 - b. Control or assistance
 - (1) Significant control or assistance by the franchisor

 - (2) Franchisor exerts or has authority to exert a significant degree of control over the franchisee's method of operation, including business organization, promotional activities, management, marketing plan or business affairs

 - (3) Franchisor gives significant assistance to the franchisee in the latter's method of operation, including any of the aspects listed above

- (4) Assistance in promotional activities does not constitute "significant assistance" in the absence of assistance in other areas of the franchisee's method of operation
- (5) Significant types of controls - Checklist under Interpretative Guides
 - (a) Site approval for unestablished businesses
 - (b) Site design or appearance requirements
 - (c) Hours of operation
 - (d) Production techniques
 - (e) Accounting practices
 - (f) Personnel policies and practices
 - (g) Promotional campaigns requiring franchisee participation or financial contribution
 - (h) Restrictions on customers
 - (i) Location or sales area restrictions
- (6) Significant types of promises of assistance - Checklist under Interpretative Guides
 - (a) Formal sales, repair or business training program
 - (b) Establishing accounting systems
 - (c) Furnishing management, marketing or personnel advice
 - (d) Selecting site locations
 - (e) Furnishing a detailed operating manual
- (7) Additional elements to be considered under Interpretative Guides (elements of lesser significance)
 - (a) A requirement that a franchisee service or repair a product (except warranty work)
 - (b) Inventory controls
 - (c) Required display of goods

- (d) On-the-job assistance in sales or repairs
- (8) Elements not deemed significant - as a matter of policy, by the FTC determination of whether a significant control or assistance exists
 - (a) Trademark controls designed solely to protect the trademark owner's legal ownership rights in the mark under state or federal trademark laws (such as display of the mark or right of inspection)
 - (b) Health or safety restrictions required by federal or state laws or regulations
 - (c) Agreements between a retailer and a trading stamp company providing for the distribution of trading stamps in connection with retail sales of merchandise or service
 - (d) Agreements between a bank credit interchange organization and retailers or member banks for the provision of credit cards and credit services
 - (e) Assisting distributors in obtaining financing to be able to transact business
 - (f) In the absence of additional forms of assistance, a supplier's assistance in a franchisee's promotional activities, i.e., furnishing a distributor with point-of-sale advertising displays, sales kits, product samples, other promotional materials intended to assist the distributor in making sales, and assistance in connection with advertising in the media
- (9) Countervailing factors
 - (a) The degree of reliance by a franchisee is upon controls or assistance provided by the franchisor
 - (b) The experience of the franchisee
 - (c) Franchisee's financial risks
 - (d) Typical industry practices
- c. Required payments

1. Payment or a commitment to pay the franchisor or its affiliates
2. Includes all sources of revenue that the franchisee must pay franchisor or its affiliate, including
 - (a) Initial franchise fees
 - (b) Rent
 - (c) Advertising assistance
 - (d) Amounts for required equipment and supplies
 - (e) Training
 - (f) Security deposits
 - (g) Escrow deposits
 - (h) Non-refundable bookkeeping charges
 - (i) Promotional literature
 - (i) Equipment rental
 - (j) Continuing royalties
3. Exceptions
 - (a) Payments of less than \$500 during the period ending six months after the franchisee's business operations commence (see Exemptions above)
 - (b) Payments may be required by the terms of the franchise agreement or may arise in the course of the continuing relationship by practical necessity
 - (c) Bona fide wholesale price for reasonable amounts of merchandise to be used for resale not deemed payment
 - (d) Truly optional payments also not deemed payment

B. Business Opportunity Ventures - Include 3 elements

1. Supplied goods or services – The franchisee must offer, sell or distribute to any person other than a franchisor goods, commodities or services supplied:
 - a. By the franchisor
 - b. By a third person designated directly or indirectly by the franchisor or
 - c. By an affiliate of the franchisor with whom the franchisee is directly or indirectly advised to business by the franchisor

2. Location assistance
 - a. Franchisor must secure for franchisee:
 - (1) Retail outlets or accounts for the goods, commodities or services to be distributed
 - (2) Franchise locations or sites for vending machines, rack displays, or any other product sales display used by the franchisee in the offering, sale or distribution of such goods, commodities or services
 - b. Alternatively, the franchisor must provide to the franchisee the services of a person able to secure the retail outlets, accounts, sites or location referred to above
 - c. FTC position that most business opportunity ventures covered by the FTC Rule

3. Required payment - Same analysis for business opportunity ventures as for product and package franchises

IV. CALIFORNIA STATUTORY AND INTERPRETATIVE DEFINITIONS

- A. **California Franchise Investment Law (California Corporations Code, Section 31,000 et seq.)**
 1. First franchise law in the country (January 1, 1971) - Regulates offer and sale of franchises in California
 2. Summary of statutory requirements
 - a. Registration with Department of Corporations - similar to securities permit process
 - b. Preparation and distribution of comprehensive presale disclosure information regarding the franchisor's business activities, operating history, management qualifications, litigation and bankruptcy histories, cost of franchise

investment, royalty fees, restrictions on business activities, financing arrangements, intellectual property rights, financial condition, etc.

3. Definition of franchise under California Franchise Investment Law (California Corporations Code Section 31,005); three (3) principal elements
 - a. Franchisee granted the right to engage in a business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by the franchisor
 - b. The operation of Franchisee's business under such plan or system substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising or other commercial symbol
 - c. Franchisee required to pay, directly or indirectly, a franchise fee

B. Release No. 3-F (Revised of the California Department of Corporations: "Guidelines for Determining Whether an Agreement Constitutes a Franchise;")

According to this Release, the four (4) following elements must be present for an agreement to be a "franchise"

1. Franchisee engaged in business - franchisee must be granted the right to engage in the business of offering, selling or distributing goods or services
 - a. Requirement not limited to new or start up operations
 - b. Also applies to conversion or ongoing franchise arrangements
 - c. Person not "engaged in business" if granted the right to participate in the profits, but not granted the right to operate the business (however, arrangement may be an investment agreement under relevant federal and state securities laws)
2. Franchisee's business operated under a marketing plan or system prescribed in substantial part by the franchisor – franchisee must be granted the right to engage in business under a marketing plan or system prescribed in substantial part by the franchisor; see below for a checklist of weight factors as to whether or not the marketing plan or system element is present (the presence or absence of any one factor is not necessarily dispositive as to whether or not the marketing plan or system element is present in the relationship)

- a. General - Claims that a successful marketing plan is available
- b. Territory
 - (1) Provisions contemplating a distribution grid over a geographic area
 - (2) Provisions granting an exclusive territory
- c. Location assistance
 - (1) Controls over site location
 - (2) Suggestions or provisions for obtaining locations for the dealer's sales
 - (3) Providing the identity of retailers who will purchase from the dealer
- d. Appearance of the premises
 - (1) Requirements pertaining to construction, remodeling, decorating, and appearance of premises
 - (2) Requirements pertaining to fixtures, equipment, and signage
 - (3) Furnishing of set-up assistance
 - (4) Offers of architectural design planning, store layout, and merchandising consultation
- e. Training
 - (1) Requirements pertaining to training programs or instructional seminars
 - (2) Furnishing of a training manual or other training materials
 - (3) Provision of professional and technical personnel
- f. Operations
 - (1) Suggestions of administrative procedures. Seller-provided dealer policies and procedures.
 - (2) Control over trade name usage

- (3) Control over hours of operation
 - (4) Restrictions on the use of equipment
 - (5) Arrangements designed to establish uniform prices
 - (6) Suggestions of retail prices
 - (7) Provision of pricing methods
 - (8) Provision of a bookkeeping system
 - (9) Limitations on persons or accounts to whom the dealer may sell
 - (10) Reserved controls over payment terms, credit practices, warranties, and customer dealings
 - (11) Requirements pertaining to business standards, dress codes, and programs
 - (12) Provision of telephone advice
 - (13) Provision of public relations advice
 - (14) Furnishing of the manual, brochures, samples, business cards and forms
- g. Goods and services
- (1) Limitation on, or requirements for, the offering of certain goods and services
 - (2) Controls over sources of supply or other restrictions on dealer purchasing
 - (3) Agreements to repurchase unsold inventory
 - (4) Obligations to provide service in accordance with the seller's requests or instructions
 - (5) Requirements for quality and uniformity of goods and services
 - (6) Controls over sales presentations.
- h. Advertising/Promotion
- (1) Limitations on, or requirements for, advertising and promotions

- (2) Professed ability of the seller to conduct comprehensive advertising and promotional programs
 - (3) Assistance in preparation of advertisements
 - (4) Seller-sponsored incentive programs, such as gift certificate programs
- i. Marketing
- (1) Arrangements designed to establish uniform marketing terms
 - (2) Assistance in marketing the seller's products or services
 - (3) Restrictions on the use of merchandising devices and marketing techniques.
- j. Inspections
- (1) Use of inspection and reporting procedures
 - (2) Quality control inspections
 - (3) Audits or accounting inspections
- k. Enforcement
- (1) Provisions for termination, buy back, or non-renewal at the seller's option
 - (2) Enforced compliance by termination or other means
- l. Other Factors
- (1) A marketing plan may be either express or implied
 - (2) A marketing plan or system may exist even though not expressly made mandatory
 - (3) A marketing plan need not be fully developed at the time the relationship is created (see **State of California vs. Kline** 110 C.A. 3d 587 (1980); in the **Kline** case, the court found the presence of a marketing plan even though it was not completed at the time the franchise agreement was signed)
 - (4) Manufacturer's requirements that reflect the prevailing industry standards not necessarily indicative of the presence of a marketing plan;

3. Operation of franchisee's business substantially associated with franchisor's commercial symbol - the operation of the franchisee's business must be substantially associated with the franchisor's commercial symbol, such as a trademark, service mark, trade name or logotype; the element is satisfied if the franchisee permitted the right to use the franchisor's symbol, even though the franchisee may not be obligated to display the symbol (see Commissioner's Opinion 73/20F); however, if the party not permitted to display the commercial symbol in that party's dealings with customers, then element not met; see below for a checklist of weight factors as to whether or not the trademark element is present (the presence or absence of any one factor is not necessarily dispositive as to whether or not the trademark element is present in the relationship):

a. General

- (1) Mandatory use of the seller's mark
- (2) Permissive use of the seller's mark
- (3) Dealer holds himself out as an outlet of the seller
- (4) Seller's display rack has such distinctive shape, size, and other features as to constitute a commercial symbol of the seller

b. Use in business

- (1) Dealer carries display racks bearing the seller's marks
- (2) Seller's name appears on dealer's vending machines
- (3) Seller's name appears on agreement signed by dealer's customers
- (4) Seller gives dealer permission to use seller's mark on letterhead and business cards
- (5) Dealer uses forms, brochures, literature, signs and advertising bearing the seller's marks
- (6) Contests conducted by dealer under seller's name
- (7) Seller's name on small sign attached to dealer's business
- (8) Dealer's offer, by advertising and solicitation, of seller's credit service

- (9) Display of seller's signs
- c. Use on products
 - (1) Dealer will sell products bearing seller's label
 - (2) Products sold by dealer under seller's mark
- d. Advertising use
 - (1) Dealer must contribute to seller for advertising
 - (2) Seller's name used in cooperative advertising mailings
 - (3) Dealer's use of advertising containing seller's symbols

Franchisor's commercial symbol be communicated to the franchisee's customers in a meaningful way (if the franchisor's commercial symbol is not communicated to the franchisee's customers, then the trademark element is not met) (see **American Tool & Grinding Company, Inc., Commissioner's Opinion 78/1F**)

- 4. Franchise fee - Franchisee must be required to pay a franchise fee; Section 31,011 of the California Franchise Investment Law defines a "franchise fee" to mean:

"Any fee or charge that a franchisee or subfranchisor is required to pay or agrees to pay for the right to enter into a business under a franchise agreement, including, but not limited to, any such payment for such goods or services."

Franchise fees may be payable in installments or in a single payment and may be a fixed rate or a percent of gross revenues or net income; fees or charges for goods or services provided to franchisee may be a franchise fee (note bona fide wholesale price exemption discussed below); optional payments not a franchise fee, but payments to an affiliate of franchisor may be a franchise fee; see below for a checklist of weight factors as to whether or not the franchise fee element is present (the presence or absence of any one factor is not necessarily dispositive as to whether or not the franchise fee element is present in the relationship):

- a. Initial fees
 - (1) Any agreement to pay for the right to enter into a business

- (2) Initial fee required to be paid
- (3) Payments for the right to use a trade name

b. Royalty payments

- (1) Any fee or charge based upon a percentage of gross or net sales
- (2) Continuing royalty payments
- (3) Agreement to pay an annual royalty in future years
- (4) Monthly royalty based on a percentage of gross billings
- (5) Franchise fee not found where payments by broker to company were recognized as only the standard industry split between brokers and associated brokers
- (6) Franchise fee not found where customers of the dealer, rather than the dealer itself, make payments to the seller

c. Other payments

- (1) Any fee or charge for purchases of goods or products from the seller
- (2) Any fees charged for training
- (3) Payments by a dealer for advertising, which will enhance the goodwill of the seller and which are deemed to be made for the account of the seller
- (4) Consulting fees paid during the term of the franchise
- (5) Payments for inventory purchases
- (6) An agreement (express or implied) to place subsequent orders for inventory
- (7) Initial payments to the seller for rental of equipment
- (8) Refundable security deposit which deprives the dealer of the use of the funds for a period of time

- (9) Payments to the seller for forms and advertising material
- (10) Deposit on minimum quota of inventory that deprives the dealer of the use of its funds for an indefinite period
- (11) Payments for presentation manuals, product brochures or a training seminar
- (12) Contract provision requiring purchase of a dealer's manual, brochures, business cards, order forms, promotional materials, training materials and a display sign
- (13) Payments for services, including the furnishing of ideas, instruction and training
- (14) Purchase of supplies from the dealer
- (15) Required purchase of inventory as determined by minimum monthly and yearly quota
- (16) Payment for right to sell the seller's services
- (17) Payment for the seller's service of outfitting a complete retail store, including initial inventory, store supplies, fixtures, training and a grand opening training program
- (18) Single payment for a dealership, equipment, materials and training
- (19) Payment required to be made upon renewal
- (20) Payment for the seller's optional services of securing retail accounts
- (21) Payment for seller's optional training program
- (22) Payments for vending machines at retail prices
- (23) Payments for purchase of display racks
- (24) Franchise fee is not found where purchases by dealers were on open account and no minimum purchase or inventory level requirement was imposed

V. EXEMPTIONS UNDER FTC RULE

The following types of relationships are exempt from registration under the FTC Rule:

- A. **Employment Relationships**
- B. **General Partnerships**
- C. **Bona Fide Retailer-Owned Cooperatives**
- D. **Certification Mark Agreements** (e.g., “Underwriter’s Laboratory”)
- E. **Unique Licenses of a Mark**
- F. **Fractional Franchises** (i.e., the offer of an ancillary line of business to established business operator)

This exemption requires that:

- 1. Parties reasonably anticipate that franchise will generate 20% or less of franchisee’s sales from the new line
- 2. Franchisee has at least 24 months experience in type of business franchised

G. **Leased Departments**

This exemption requires that:

- 1. Independent retailer sells its own goods and services from premises leased from larger retailer (e.g., shoe department in a department store)
- 2. Department lessee must have the right to determine its own sources of supply

H. **Franchises with Minimal Payments**

This exemption requires that the total amount paid prior to or within 6 months of the execution of the franchise agreement is less than \$500

I. **Oral Agreements**

This exemption requires that:

- 1. No aspect or material term in writing
- 2. Correspondence or handwritten notes invalidates the exemption

VI. EXEMPTIONS UNDER CALIFORNIA FRANCHISE INVESTMENT LAW

A. Exemptions for Related Payments

1. Bona fide wholesale price exemption - This exemption provides that:
 - a. Payments of bona fide wholesale prices for goods purchased for resale are not franchise fees
 - b. Exemption applies to sale of “goods” only, not to sale of services or intangible property
 - c. Exemption requires independent market pricing mechanism
2. De minimus fee exemption – Exemption applies where fee does not exceed \$500 per year
3. De minimus rental or lease fees – Exemption applies to purchase or lease of fixtures or equipment (non-inventory items) to be used in franchised business; payments are not considered franchise fees, if reasonable, competitive and less than \$1,000 per year

B. Experienced Franchisor Exemption

This exemption requires that all four of the following conditions are met:

1. Net worth – Franchisor meets one of several alternative requirements:
 - a. Franchisor and subsidiaries have net worth of at least \$5 million, based on current audited financial statements
 - b. Franchisor has net worth of at least \$1 million and parent has net worth of at least \$5 million, based on current audited financial statements; or
 - c. Franchisor has net worth of at least \$1 million, based on current unaudited financial statements and parent has net worth of at least \$5 million, based on current audited financial statements; parent company must guarantee franchisor’s performance under the franchise agreement
2. Experience – For period of five years immediately prior to sale of franchise, franchisor or parent must satisfy at least one of the following criteria:
 - a. Franchisor (or affiliates) has had at least 25 franchisees conducting franchised business; or
 - b. Franchisor (or affiliates) has conducted business of same type as franchised business as being franchised

3. Disclosure – Franchisor provides a disclosure document to franchisee
4. Filing of notice of exemption and fee – Franchisor files notices and pays fees to the Department of Corporations

C. Assignment of Existing Franchise

This exemption provides that:

1. Sale by or for the account of the franchisee that is not conducted by or through a franchisor
2. Exemption may be lost if a substantial portion of purchase price is payable to franchisor
3. Exemption may be invalidated if transferee is required to sign new form of agreement that is materially different than the original version
4. Exemption applies only to sale of the entire franchise (not available for partial assignment or subfranchising)

D. Out-of-State Sales

This exemption requires that:

1. Franchisee must be a nonresident of California
2. Franchised business must be conducted out of state

E. Sophisticated Franchisee

Three potential exemptions include:

1. Franchisee or 50% owner has at least 24 months' experience operating similar business within past seven years and is not controlled by franchisor
2. Franchisee or 50% owner has been, within past 60 days, an officer, director, managing agent or owner of at least 25% interest in the franchisor for at least 24 months and is not controlled by franchisor
3. Franchisee has at least 24 months' experience operating similar business and is current franchisee

F. Offers During Application Process

Exemption is effective while post-effective amendment or renewal application pending before the Department of Corporations, subject to following conditions:

1. Only offer, not sale, exempted
2. Prospective purchasers must be given all of following:
 - a. Pending uniform franchise offering circular ("UFOC") and exhibits
 - b. Written statement that (1) filing not yet effective, (2) Department of Corporations has not reviewed, (3) franchisor will give "redlined" copy of new effective UFOC to prospect 10 business days before closing
 - c. After approval by the Department of Corporations, a copy of the new, approved UFOC

G. Negotiated Sales

Special requirements imposed if sale in California consummated on terms different from those registered with the Department of Corporations, subject to the following requirements:

1. Franchisor must offer the franchise as registered with the Department of Corporations
2. Within 15 business days of negotiated sale, franchisor must file amendment and notice
3. All negotiated sale notices for past 12 months must be attached to California UFOC
4. Renewal application must include franchisor's certification that all required negotiated sales notices have been filed

VI. MISCELLANEOUS EXEMPTIONS

A. Fractional Franchise Exemption

This exemption applies when the following conditions are met:

1. Franchisee is adding on a new line of products or services at the Franchisee's current location;
2. The Franchisee has for at least the 24 months prior been engaged in a business that is substantially similar or related to the new business;

3. The Franchisee and Franchisor reasonably anticipate the new line of business will represent less than 20% of the Franchisor's total sales; and
4. The Franchisor files a notice of exemption.

B. Internet Offer Exemption

This exemption applies to internet exemptions when the following conditions are met:

1. The internet offer indicates that it is not made to California residents;
2. The internet officer is not directed to California residents; and
3. No Franchises are sold in California under the Franchisor complies with the California Franchise Investment Law.

C. Bank Credit Card Plan Exemption

This exemption applies to merchant credit card programs (MasterCard, Visa, American Express, etc.).

VII. CAVEATS

A. Inconsistencies in Exemptions

There is not necessarily a corresponding exemption under state law for each exemption under the FTC Rule, and vice versa. The FTC Rule provides that it only selectively pre-empts state laws to the extent that in every case the more rigorous legal requirement is imposed on a franchisor.

B. Out of State Offer

Numerous states have franchise and/or business opportunity laws governing the offer and sale of franchises and business opportunities.

C. Franchise Relationships

Ongoing aspects of a franchise relationship, including termination and nonrenewal, are governed by the California Franchise Relations Act (California Business and Professions Code, Section 20,000 et seq.).

Gerard P. Davey, Business and Franchise Attorney Biography

Mr. Davey has been practicing law for more than 30 years, specializing in business law, franchising and commercial leasing. In his practice in Costa Mesa, he has represented both publicly-held corporations and private entrepreneurs, as well as numerous franchisors and franchisees, involving creation and development of franchise programs and agreements, franchise registrations, business sales and mergers, business and franchise disputes, employment issues and various other franchise and distribution issues. He has also served as a mediator, arbitrator and expert witness in numerous franchised related legal proceedings.

Mr. Davey formerly served as Vice President/Corporate Counsel for both Century 21 Real Estate and Coldwell Banker Real Estate.

He is active in business law education and legislative issues. He has lectured on numerous franchise and business law topics for the CEB, the International Franchise Association, the State Bar of California and other business groups. He is former Co-Chairman of the Franchise Law Committee of the California Bar Association, and he is the author of several California laws regarding franchising and lending matters, including California Corporations Code, Section 31108 and California Financial Code, Section 22063.

Mr. Davey currently is the Chairman of the Franchising and Distribution Law Advisory Commission of the Board of Legal Specialization, which has been established to create the first certified specialization program for franchise specialization in the nation.