

PERKINS



LAW PLLC

THE PERKINS LAW 100-POINT PRUDENT PLANNING TEST FOR PROSPECTIVE FRANCHISEES*

PURPOSE: This exercise will enable you to strategically assess whether buying a franchise might be a wise decision for you and whether you are adequately prepared to embark on the adventurous life of a franchise owner. Determining whether franchising is right for you and selecting a franchise should be the product of careful research and analysis.

FRANCHISING IN VIRGINIA: According to research published by Price Waterhousecoopers in 2008, there are approximately 25,000 franchised businesses operating throughout Virginia, employing nearly 600,000 people and generating millions in annual revenue. Virginia is one of a dozen so-called “registration states,” meaning that franchisors must successfully navigate a formal registration and review process with the State Corporation Commission’s Division of Securities and Retail Franchising before being allowed to sell franchises in Virginia. There are approximately 1,200 registered franchise opportunities available in Virginia. Virginia law also regulates various aspects of the franchisor-franchisee relationship in the spirit of consumer protection and providing some leverage to franchisees that likely would not otherwise exist.

HERE’S WHAT YOU DO: Answer each question either “Yes” or “No,” making notes for clarification or future reference as you go. When finished, go back through your responses. Give yourself one point for every “Yes” answer (as in “Yes” I agree with the statement or “Yes” I have asked the question and/or gotten a satisfactory answer). A perfect score of 100 is unlikely, but the closer your score is to 100, the better prepared you will be for what may prove to be the most important business decision of your life.

	Question	Yes	No	Comments
1	I can explain in practical terms what a franchise is.			
2.	I can describe at least three basic advantages of franchising.			
3.	I can describe at least three potential drawbacks of franchising.			
4.	I know other franchise owners and have discussed their franchise experiences with them.			

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	Question	Yes	No	Comments
5.	I know how much money I can comfortably invest in a new business.			
6.	I am confident that I will be comfortable following a system or set of rules controlled by someone else.			
7.	I would prefer to follow an established set of procedures and systems than create my own.			
8.	I have prior experience managing employees or a project team.			
9.	I consider myself an effective manager.			
10.	I have prior experience as a salesperson and am confident I can effectively market a new business.			
11.	I enjoy working with people.			
12.	I have identified sources of financing in addition to my own investment capital.			
13.	I have prepared a business plan.			

	Question	Yes	No	Comments
14.	I am aware of sources of free local business assistance and mentoring.			
15.	I know my family could live at least one (1) year without me earning a salary.			
16.	I have outlined my top criteria and strategic objectives for what I want to accomplish with this new business (e.g., financial, lifestyle, etc.).			
17.	I am aware that there are approximately 3,000 franchise opportunities for sale at any given moment and I have conducted thorough research to determine what industries and franchise systems might best fit my strategic objectives.			
18.	I have considered the difference between short-term fads and sustainable business models that are more likely to offer long-term success.			
19.	I have compiled a list of professional advisors who can assist me with the process of starting a new franchised business.			
20.	I have a general understanding of federal and state franchise law.			
21.	I know what an FDD is.			

	Question	Yes	No	Comments
22.	I know where I can find sample FDDs for research and comparative analysis.			
23.	I understand that a franchise agreement is a contract for a defined term of years and does not represent an outright purchase of business assets.			
24.	I understand what a “Discovery Day” is.			
25.	I understand there are mandatory waiting periods before signing a franchise agreement or paying money to a franchisor.			
26.	I know that franchise agreements are negotiable (to a degree).			
27.	I know what an Operations Manual is and how it fits into a franchise system.			
28.	I understand the most common types of fees franchisors typically collect from their franchisees.			
29.	I understand what an initial franchise fee generally covers and whether it is ever refundable.			
30.	I have formed a business entity through which to conduct my new business.			

	Question	Yes	No	Comments
31.	I have considered different options for choice of business entity.			
32.	I have obtained advice from both a business attorney and accountant in choosing and forming a business entity.			
33.	I understand who can typically terminate a franchise agreement and under what circumstances.			
34.	I understand the difference between a curable and non-curable default in a franchise agreement.			
35.	I understand what franchise consultants do and how they might help me navigate the franchise research and selection process.			
36.	I have spent at least forty (40) hours learning about franchising (books, articles, seminars, etc.).			
37.	I have consulted with a franchise attorney.			
38.	I understand what skills I currently lack that I need to address in order to be a successful franchise owner.			

The Following Questions Relate to Your Short List of Potential Franchise Opportunities

39. I have listed what each franchise system on my list has in common that I find appealing.

	Question	Yes	No	Comments
40.	I have listed the shortcomings of each franchise system on my list.			
41.	I am confident these franchise opportunities offer benefits that I could not replicate by starting my own business.			
42.	I have narrowed my initial short list of franchise opportunities to no more than three franchise systems for more stringent due diligence.			
43.	I understand the nature and scope of initial training I will receive and am confident in the quantity and quality of that training.			
44.	I have spoken to at least five (5) current and former franchisees and gotten meaningful feedback from them (see suggested questions below).			
45.	I am confident my chosen franchise system is a well-respected leader in its industry.			
46.	My chosen franchise system appears to have a collaborative (as opposed to authoritarian) relationship with its franchisees.			
47.	My chosen franchise system has been franchising for at least five (5) years.			
48.	My chosen franchise system is showing positive growth in new franchisees over the past three years.			

	Question	Yes	No	Comments
49.	My chosen franchise system does not report excessive litigation with its franchisees in its FDD.			
50.	My chosen franchise system is managed by experienced executives with at least five years' tenure with the company or significant experience in franchising.			
51.	I understand how the franchisor structures its training and supervision so I know who to contact with questions and concerns.			
52.	I have met senior executives with the franchisor and was impressed with their experience, professionalism, and vision for the future of the franchise system.			
53.	I am satisfied with my due diligence concerning the level of support provided by the franchisor to its franchisees.			
54.	When I spoke with other franchisees, all or virtually all of them said they were happy with their decision to become franchisees and would do so again if given the chance.			
55.	I am satisfied with the franchisor's use of technology and social media in promoting the brand and communicating with its franchisees.			

	Question	Yes	No	Comments
56.	I am confident my chosen franchise system offers a meaningful competitive advantage in the goods and services it offers and/or the way it conducts business.			
57.	I get along well with, and have confidence in, the area representative or other franchisor officials that I will be working with on a regular basis.			
58.	I am confident my chosen franchisor is committed to the success of its franchisees.			
59.	I have researched the customer feedback and media coverage received by my chosen franchise system.			
60.	I know whether my chosen franchise system has a franchise advisory council and what its primary activities are.			
61.	I understand how the franchisor has utilized its national advertising fund in recent years.			
62.	I understand whether and to what extent the franchisor provides site selection assistance.			
63.	I have contacted a local commercial real estate agent to help find a suitable site for my new business.			

	Question	Yes	No	Comments
64.	I understand the typical number of hours per week I will need to work over the next few years to increase my chances for success.			
65.	I understand what restrictive covenants are and how they will impact me both during and after the term of my franchise agreement.			
66.	I understand the extent to which I will be granted an exclusive or protected territory, and the exceptions to any such exclusivity.			

Suggested Questions to Ask Other Franchisees

- 67. Would you make the same choice if you had a chance to do it over again?
- 68. Do you feel you're getting an effective level of support from the franchisor?
- 69. Do you trust the franchisor?
- 70. What are the best attributes of this franchise system?
- 71. What are three areas most in need of improvement with this franchise system?
- 72. Were you able to negotiate any changes to the franchise agreement?

	Question	Yes	No	Comments
73.	Is the franchisor responsive to your concerns?			
74.	Do you intend to renew your franchise agreement?			
75.	How often do you refer to or make use of the Operations Manual?			
76.	Do you recall how realistic the start-up budget and estimated costs in the FDD were when you started your business?			
77.	What costs or expenses were higher than you expected?			
78.	How long were you open for business before you hit break-even? When did you start paying yourself a salary?			
79.	How much do you typically spend each month on marketing and advertising?			
80.	What forms of advertising have proven most successful for you?			
81.	What are your impressions of annual franchisee conferences?			
82.	How often do you interact or communicate with other franchisees?			

	Question	Yes	No	Comments
83.	Have you ever reached out to the franchisor with problems or concerns? If so, how did the franchisor respond?			
84.	What has been your biggest challenge to date as a franchisee?			
85.	Do you find life as a franchisee as satisfying today as when you first started?			
86.	Are you a single-unit or multi-unit operator?			
87.	What did you do before becoming a franchisee?			
88.	What attracted to you to this franchise system when you were looking for franchise opportunities?			
89.	How long have you been in business?			
90.	How did you go about selecting a site for your business?			
91.	Once I get through the start-up phase, what should my revenues and expenses look like?			
92.	How much revenue are the most successful franchisees earning per year?			

	Question	Yes	No	Comments
93.	Does the franchisor strictly enforce the franchise agreement?			
94.	Are you satisfied with your current level of profitability?			
95.	What would you do to improve the franchise system?			
96.	How responsive and accepting is the franchisor to feedback and suggestions from franchisees?			
97.	Who are the most impressive members of the franchisor's executive team? Why?			
98.	On average, how many hours a week do you work?			
99.	What is your employee turnover rate each year?			
100.	How many full and part-time employees do you have?			

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