DQOA

NEWS ALERT

March 3, 2005

This is the final issue in a series of four News Alerts.

The legal meeting was held in Chicago on January 14, 2005. In attendance were Lee Abrams of Mayer, Brown, Rowe & Maw, counsel to the DQOA/ DQOC; Rupert Barkoff of Kilpatrick Stockton, counsel to the DQOA/ DQOC; Scott Korzenowski of Dady & Garner, counsel; Kevin Allen, President; Mike Leeper; Gary Ignasiak; and DQOA Executive Director Harris Cooper. The matters reviewed are "works in progress" and will be reported on in the future.

The Board of Directors reviewed the Gainor proposal and concluded the following:

Analysis of the "Gainor proposal". The DQOA/Directors first reviewed Mr. Gainor's "impeccable" credentials. Mr. Mooty had stated that Mr. Gainor's previous experience had been with "Pro Source", an industry purchasing and consulting firm. The following is quoted from IDQ's November UFOC:

"John Gainor has been Executive Vice President- Supply Chain of IDQ since September 2003. Effective January 1, 2005, Mr. Gainor will become Chief Supply Chain Officer of IDQ, and will cease to be Executive Vice President-Supply Chain of IDQ. Since September 2000, he has been President and owner of Supply Solutions, a consulting firm and logistics provider based in Coral Gables, Florida. Historically, Supply Solutions has provided consulting and logistic services to chain restaurant operators. Supply Solutions provided consulting services to IDQ prior to and during 2003, but completed all work for IDQ before Mr. Gainor joined the company. Mr. Gainor was Executive Vice President of Consolidated Distribution Corporation from November 2000 to August 2003. He will continue to have an ownership interest in Consolidated Distribution Corporation, which is based in Lemont, Illinois and provides redistribution services to major chain restaurant companies, including IDQ. From May 1998 to May 2000, Mr. Gainor held a number of senior management positions with AmeriServe Food Distribution, Inc. ("AmeriServe"), a food distributor based in Addison, Texas, and several of its subsidiaries, including, President, Purchasing, Logistics and Redistribution of AmeriServe, President and Director of North American Vantix Corporation ("N.A. Vantix"), and President of Vantix Logistics, Ltd. ("Vantix Logistics"). During his employment, these entities provided distribution and logistics services to major restaurant chains and other food distributors, and AmeriServe and N.A. Vantix specifically provided distribution and logistics services to IDQ."

Excerpted from UFOC

"As further described in Item 2, John Gainor formerly served as President, Purchasing, Logistics and Redistribution of AmeriServe, and President and Director of N.A. Vantix, and President of Vantix Logistics, both wholly-owned subsidiaries of AmeriServe. AmeriServe, N. A. Vantix and Vantix Logistics were all formerly located at 15305 Dallas Parkway, Suite 1600, Addison, Texas 75001. On January 31, 2000, AmeriServe filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court for the District of Delaware, Case No. 00-00358-PJW. A day later, on February 1, 2000, N. A. Vantix and Vantix Logistics also filed voluntary petitions under Chapter 11 in the U. S. Bankruptcy Court for the District of Delaware, Case Nos. 00-00378-PJW and 00-00380-PJW). These bankruptcy cases were procedurally consolidated, along with certain other related bankruptcy cases, on February 2, 2000. On November 28, 2000, the bankruptcy court issued an order confirming the liquidating plan of reorganization for these entities. Post-confirmation activities are ongoing."

Why is the DQOA/DQOC rejecting Mr. Gainor's Counter Proposal? We will never accept a "market basket" approach toward establishing margins for our franchisees. The purpose of a market basket is to deceive franchisees and hide margins, markups or fees of some kind. We explained this clearly in our November 10, 2004 News Alert. The DQOC has, since its inception, operated on a cost plus arrangement with your vendors, easily verifiable and easily audited.

We reject IDQ's definition of cost. IDQ wants a profit margin on top of product cost, and in addition, a profit margin on freight, tooling, obsolescence and the cost of the Instill program. IDQ also wants to keep its kick backs from the warehouses, dairies and meat manufacturers. This is unacceptable.

We would never abandon a highly successful co-op for the "advisory" role of the Supply Chain Advisory Council. The DQOA's original proposal was a board of 6 directors (4 DQOA/2 IDQ) to write and endorse policy for purchasing and distribution of product at the lowest sustainable delivered cost of goods to the franchisee. The president of IDQ would direct the IDQ purchasing and distribution departments in accordance with these endorsements and would have sole control of this division. In other words, this board mandates supply chain policies, not just advises or reviews. This board audits because a transparent cost plus is easily audited. This board would utilize the services and resources of IDQ's purchasing and distribution departments and in return IDQ would receive a reasonable profit. Again, you don't abandon a successful co-op for a promise that your "advice" and "review" will be considered.

We insist on assurance that this program will be permanent. We also insist that the defaulting party, as determined by an arbitrator, will be assessed appropriate damages. In addition, the penalty for default by IDQ causing termination of the arrangement without cause would be the payment of $10 million to the DQOA/DQOC. Why? Once the DQOC is dissolved to join the supply chain, it will never be resurrected without a major capital infusion. Not worried about the future of the supply chain? Read on: The following is a verbatim excerpt from an email, February 9, 2004, between a franchisee and Chuck Mooty: Franchisee – "My bottom line question to you Mr. Mooty is how do I know that once we get behind IDQ and weaken the DQOA co-op (if not put it out of business) you won't go back to the old way of doing business. Chuck – "IDQ has no desire to go backwards. We have committed to stay to our margin percentage until 2015. We will not go above the 2.5% thereafter as long as IDQ is in the business. That is as big of a commitment as I can make considering that it's possible that IDQ may not always be in the business. It's possible some other third party entity could eventually be the supply chain provider and IDQ has totally weaned itself from this part of the business. It's difficult to project." (Mr. Mooty then goes on to mention building trust.) Does the sell off of the equipment department, supply department and uniform business ring a bell? Do you think there's a chance that IDQ could sell off the Supply Chain? (to John Gainor?) This is why we insist on control, transparency and permanency. The franchisees in this system deserve that much from the DQOA/DQOC.

These are our major concerns. Are there others? You bet there are. We are not comfortable with John Gainor having an ownership interest in Consolidated Distribution Corporation, which IDQ uses for redistribution and from which IDQ receives “fees”. Perhaps the Supply Chain Advisory Council should investigate this obvious conflict of interest. We have never been satisfied with IDQ’s lack of commitment to funding for the DQOA. We will not accept “incremental margin dollars” and “membership dues” as adequate funding for the DQOA. Why is this important? In our previous News Alert you were made aware of the global issues. Once we give up our co-op to join the Supply Chain, without proper funding, how will we be able to defend your rights? Do you have any concerns about your rights? Are you a brazier store? Have you heard about Concept Evolution? Are you a non system food store? You won’t be for long. Are you a straight soft serve or limited? Have you heard about Treatworks? (Got a million dollars?) This is just the tip of the iceberg. The franchisees that built this system, the so called mom & pops, are being “evolved” out of the system. You need a strong DQOA.

So where do we go from here?

We are going to continue to compete. We will continue to do what we have done best since 1991, that is, get you the lowest cost of goods on food, dairy and distribution. When the new Supply Chain eliminates your local warehouse to “save you money”, we will be there with a DQOC warehouse. When the Supply Chain eliminates your dairy to “save you money”, we will be there with a DQOC dairy. We will do it with minimum overhead, maximum transparency and the same dedication to the mom & pop franchisee that has been our mission from the beginning.

The franchisees of this great system now have two entities competing for their business, the DQOA/DQOC and the USCI. Enjoy the competition. As we have said for many years, “Competition is a wonderful thing”.

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