

The Honorable Sam Graves
Chair
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your most recent letter requesting clarification of the processes in place for determining whether a franchised business may be eligible for SBA loan assistance. We regret that you and your staff did not find our response to your initial letter helpful.

SBA understands that transparency is critical to our mission. As we have communicated to your staff, we believe that the most efficient and effective way to explain the franchise review process and franchise eligibility in general is through an open and ongoing dialogue with you and your staff. Through such conversations, along with any tailored document requests that your staff may find necessary as a result, we believe SBA could best clarify the eligibility review process and address any questions you may have.

While we hope that this dialogue can take place in the near future, we understand that you and your staff believe a more formal process is necessary. Therefore, set forth below are SBA's written responses to the six (6) enumerated requests included in that letter.

1. As we have indicated to your staff, SBA does not communicate directly with a franchisor for listing on the Franchise Registry. Therefore, we are unable to provide letters to franchisors from SBA approving a franchisor for such listing.

The Registry belongs to Frandata but reflects determinations made by SBA. We note that listing on the Registry is not required in order for a franchisee to be considered eligible for SBA financing; franchisors may contact SBA directly to discuss their franchise agreements and whether they contain any eligibility issues. On a case by case basis (typically in connection with a loan application), SBA reviews franchise agreements and communicates directly

with franchisors regarding eligibility of their franchisees for SBA financing. SBA is usually able to work with the franchisor to favorably address any eligibility issues.

2. We have had several conversations with the Committee's Chief Counsel regarding the difficulty SBA has in fulfilling the document requests in your letter. For example, in connection with request #2 from your letter, we conducted a search of all emails sent or received between October 1, 2008 and July 1, 2013, involving an SBA employee and an email account that includes the domain "frandata.com." That search yielded over 25,000 hits. We ran a similar search in connection with request #3 in your letter for incoming or outgoing SBA emails that included the term "franchise agreement," which produced over 16,000 hits.

After discussing these results with your Chief Counsel, he suggested that we narrow the searches by querying: (i) the number of *outgoing* SBA emails to an email account that include the domain "frandata.com"; and (ii) the number of outgoing emails from an SBA *Office of General Counsel employee* that include the term "franchise agreement". The first category yielded over 15,000 hits, while the second category produced almost 3,000 hits. Even though this refined search produced fewer hits, a review of each of the 18,000-plus documents would still require significant time and resources.

As we have indicated over the past several weeks, SBA would be happy to provide your staff with further information on our franchise review process; however, we ask that we be permitted to do so through meetings and dialogue. To that end, we would like to speak with you or your staff to see whether we can satisfy your request through alternative means.

3. See #2, above.
4. The franchise registry process began in 1998 as a collaborative effort between the franchising community and SBA. A contract dated February 20, 1998, between Frandata and SBA (a copy of which is attached) governed the terms of this arrangement. The contract did not address procedures for communication with franchisors concerning listing on the Registry. The contract was for one year, with two one-year options. Thereafter, Frandata

continued the Registry using the same basic framework from the original agreement.

5. The original (1998) agreement with Frandata contemplated that the Registry would be hosted by Frandata, not SBA. Thus, the Registry was not on SBA's website. The individuals who we believe were involved in that decision have since retired or left the Agency. SBA understands from representatives of the franchisor community that the Registry process functions well and continues to be successful. We, of course, would be interested in knowing whether you believe our understanding is incorrect.

6. SBA's Business Loan Program Standard Operating Procedures (SOPs) are typically directed to participating lenders in our lending programs. However, in an effort to address a concern expressed by your Chief Counsel, SBA recently amended SOP 50 10 5 (F) to include an appeals process for franchisors that SBA has deemed ineligible for SBA financial assistance. We do not presently anticipate any additional changes directed to franchisors.

We look forward to sitting down and working with your staff to improve the franchise review process to ensure that the Nation's small businesses continue to get the financing they need to create and retain jobs. We appreciate your support as we continue to refine our processes. If you or your staff have any questions, please contact Nick Coutsos at (202) 205-6700.

Sincerely,

Jeanne A. Hult
Acting Administrator