

Log In

Sign Up



Membership

- [Member Log In](#)
- [Member Benefits](#)
- [E-News Sample](#)
- [Sign Up - Free](#)

Features

- [Home Page](#)
- [Article Library](#)
- [Member Polls](#)
- [Event Calendar](#)
- [Member Feedback](#)
- [Contact Us](#)

Channels

- [Buyer Interactive](#)
- [Manage & Develop](#)
- [BITAC](#)



[Print Version](#)

Keeping Score: Budgetel Inn & Suites

Stanley Turkel examines how Budgetel Inn & Suites promotes its compliance with AAHOA's 12 Points of Fair Franchising.
 Monday, December 01, 2008
 Stanley Turkel

Earlier this year, I reported on the AAHOA Performance Appraisal Reports of Accor, Carlson, Choice, La Quinta and Wyndham. Last month, I began a series of reports about hotel franchise companies who promote their compliance with AAHOA's 12 Points of Fair Franchising in detail. These reports are based on self-evaluation by each of these companies.

Budgetel Franchise System, LLC
Franchisor



Last month I reported on Vantage Hospitality, which offers franchises for Americans Best Value Inns (ABVI) and the Lexington Collection of Hotels.

According to my rating system, the seven franchise companies scored as follows:

	% Compliance
Budgetel	93.0
Vantage	93.0
Accor	57.6
Wyndham	50.3
La Quinta	47.3
Choice	40.9
Carlson	34.3

This month, I will focus on Budgetel Inn & Suites and their self-evaluation in assessing their compliance with AAHOA's 12 Points of Fair Franchising:

Point 1: Early Termination and Liquidated Damages

AAHOA Position: 1(a) Most franchisors assess liquidated damages at unfair and punitive rates, often 36 to 60 months of royalty fees. AAHOA states that franchisees should only have to pay 6 months of royalty fees.
Budgetel Position: We insert annual reciprocal windows in our agreement that provides our franchisees the opportunity to leave the system on their anniversary date without any financial penalty, i.e., liquidated damages.

Point 2: Impact/Encroachment/Cross Brand Protection

AAHOA Position: All Franchisors should establish a fair and reasonable formula to protect a franchisee's assets and the formula should be included as a contractual provision in their franchise agreements, including a geographic "area of protection" (AOP).

Budgetel Position: We insert a guaranteed area of protection for each franchisee. We're not operating multiple brands, so there is no need for cross-brand protection. We will, however, implement it if the need arises.

Point 3: Minimum Performance & Quality Guarantees

AAHOA Position: If a franchisee's hotel is not able to maintain certain occupancy levels over a designated period and has not received a minimum level of reservations, franchisee should be able to terminate the agreement without penalty.

Budgetel Position: We do have minimum quality standards. We don't have minimum performance guarantees due to FTC requirements; however, our reciprocal windows allow for the early exit of franchisees if they are not happy with Budgetel's performance.

Point 4: Quality Assurance Inspections/ Guest Surveys

AAHOA Position: All Franchisors should have the same standards for each of their facilities operating under a specific brand name in the franchise system. All Franchisors should conduct their Quality Assurance (QA) inspections in a fair, reasonable and unbiased manner, and use their best efforts to prepare QA reports that are accurate and complete.



Budgetel Position: We are conducting fair and timely quality assurance inspections that allow for adequate cure periods assuming default.

Point 5: Vendor Exclusivity

AAHOA Position: In general, all Franchisees should be free to buy conforming goods from any vendor, not just those mandated by the Franchisor.

Budgetel Position: We have a "preferred vendor" program but not an "exclusive vendor program." Our franchisees are free to buy from whomever they like, providing minimum specifications are met relative to certain items (i.e., towels, etc.).

SoftBrands
SoftBrands

Agilysys
Agilysys, Inc.

Point 6: Disclosure and Accountability

AAHOA Position: There should be greater disclosure and accountability on the part of the Franchisors concerning the expenditure of marketing and reservation fees collected from their Franchisees. On an annual basis, all Franchisors should disclose how the marketing and reservation fees are spent, including identifying the specific products and services that are paid for with the fees. A Franchisor should not profit directly from the marketing and reservation fees it collects from the Franchisees, or use such fees to pay for marketing and advertising related to a Franchisor's sale of hotels.

All Franchisors should have their books and records audited on an annual basis concerning the collection and disbursement of marketing and reservation fees, and should share the results of the audits with the Franchise Advisory Councils (FACs), or the designated audit committee of the FACs.

Budgetel Position: Our program is completely transparent. We have a disclosure program in place for franchisees and shareholders.

Point 7: Maintaining Relationships with Franchisees

AAHOA Position: All Franchisors should strive to maintain and build on their relationships with the Franchisees by actively seeking feedback from the Franchisees themselves, and by working with the various councils and associations that represent the Franchisees, including the Franchise Advisory Councils (FACs) and AAHOA.

Budgetel Position: Our franchise committees are not a "political body." We encourage shareholders and franchisees to participate in the program. The decisions generated from these committees become policy, not eloquent conversation.

Point 8: Dispute Resolution

AAHOA Position: In all franchise agreements, the Franchisors and their Franchisees should commit to establishing an independent and fair process for the resolution of any disputes concerning the terms of the franchise agreement itself, or the relationship between the parties. Specifically, the Franchisors and their Franchisees should agree to participate in good faith in an informal, in-person meeting between the authorized representatives of the parties in an attempt to resolve their disputes.

If the informal meeting is unsuccessful, the parties should agree to participate in a non-binding mediation, before a mediator who is neutral and mutually acceptable to the parties, including a mediator associated with the National Franchise Mediation Program.

If the mediation is unsuccessful, the dispute should not be submitted to binding arbitration unless and until all of the parties agree to do so, including mutually agreeing on the arbitrator who will hear the dispute, the location of the arbitration proceedings and the corresponding rules and procedures for the arbitration.

Absent an agreement by the Franchisor and Franchisee to use binding arbitration to resolve their dispute, any party should be entitled to pursue its claims against the other party in a court of law. There should be no waiver of the right of jury trial by any party. There also should be no caps or limits on the amount of damages that a party can seek or recover against another party, including a cap or limit on the amount of punitive damages that can be recovered against a party as allowed by law.

Budgetel Position: We have a very reasonable dispute resolution clause in our agreement which starts with negotiation and mediation.

Point 9: Venue and Choice of Laws Clauses

AAHOA Position: In the event a dispute between a Franchisor and Franchisee has not been resolved by participating in an informal, in-person meeting with authorized representatives from the parties, or by participating in mediation proceedings, the party pursuing its claims in a court of law should do so in the country and state in which the subject Facility is located. Further, any lawsuit or claims should be governed by the laws of the country or state in which the lawsuit or claims are filed.

Budgetel Position: We do require dispute resolution in the Superior Court of Dekalb County, but quite frankly, the reciprocal window will be exercised before any formal legal action will take place; that is, if negotiations and mediation are not effective.

Point 10: Franchise Sales Ethics and Practices

AAHOA Position: All Franchisors should mandate fair and honest selling practices among their salespersons and agents.

Budgetel Position: We have a fully transparent program and are in complete compliance with all disclosure laws.

Point 11: Transferability

AAHOA Position: In situations in which a Franchisee seeks to transfer its property to an unrelated third party, the Franchisor should not delay, withhold its consent, or impose conditions on the transfer in an unreasonable, arbitrary or capricious manner. Transfer fees should be fair and reasonable (i.e., generally no more than \$1,500), and based solely on the estimated administrative costs to process the transfer.

There should be no fees for a Franchisee's transfer to a spouse, child, parent, sibling, niece, nephew, descendant, spouse's descendant, or other family member, if the transferee is legally competent to assume the Franchisee's obligations under the franchise agreement.

There also should be no transfer fee for a Franchisee's buyout of other shareholders or partners who have an interest in the Facility, or for the addition of any shareholders or partners who will gain an interest in the Facility.

In the event of a requested transfer, the Franchisors should not condition the granting of the request on a requirement that the Franchisee or new owner adopt an extensive renovation or modernization plan for the subject property. Any required renovations for the subject property in connection with a transfer should be limited to only those specific items identified in the last two (2) quality assurance (QA) inspection reports for the subject Facility that were issued prior to the requested transfer.

To the extent a Franchisor approves a requested transfer, the Franchisor should not seek liquidated damages (LDs) from the prior Franchisee, or seek any increased fees from the new Franchisee owner of the subject Facility because the Franchisee sought to transfer its Facility prior to the scheduled termination date of its franchise agreement.

Within ten (10) days of the completion of an approved transfer of a subject Facility, the Franchisors should automatically release the prior Franchisee from any and all obligations it had under the terminated franchise agreement, and provide it with a written letter to release in connection therewith.

Budgetel Position: We have a \$1500 transfer fee. There are no penalties for early termination providing the franchisee transfers on his window date.

Point 12: Sale of the Franchise System Hotel Brand(s)

AAHOA Position: The new franchise company should maintain the same or higher level of quality as the prior franchisor and strive to ensure that the transition is a smooth one. The new franchisor should work closely with the existing Franchisee Advisory Councils and honor existing guest loyalty programs.

Budgetel Position: We comply with all except "guest points." We don't offer any at the moment.

Stanley Turkel, MHS, ISHC operates his hotel consulting office as a sole practitioner specializing in franchising issues, asset management and litigation support services. Turkel's clients are hotel owners and franchisees, investors and lending institutions. Turkel serves on the Board of Advisors and lectures at the NYU Tisch Center for Hospitality, Tourism and Sports Management. He is a member of the prestigious International Society of Hospitality Consultants. His provocative articles on various hotels subjects have been published in the Cornell Quarterly, Lodging Hospitality, Hotel Interactive, Hotel-Online, AAHOA Lodging Business, etc. If you need help in negotiating a franchise agreement or with a problem such as encroachment/impact, termination/liquidated damages or litigation support, call Stanley at 917-628-8549 or email stanturkel@aol.com.

Stanley Turkel is available as a featured speaker at on the following subjects:

- From Ragas to Riches: The Origin and Growth of the Asian American Hotel Owners Association
- Great American Hoteliers: Pioneers of the Hotel Industry
- Franchise Advisory Councils: Powerhouses or Powderpuffs?
- Henry Morrison Flagler: The Robber Baron Who Invented Florida
- Fred Harvey: Great Food, Unique Hotels and the Harvey Girls

Guest Columnists | Legal News

Credit

Stanley Turkel
Hotel Interactive, Inc.

Bio: Stanley Turkel, MHS, ISHC operates his hotel consulting office as a sole practitioner specializing in franchising issues, asset management and litigation support services. Turkel's clients are hotel owners and franchisees, investors and lending institutions. Turkel serves on the Board of Advisors and lectures at the NYU Tisch Center for Hospitality, ...

[More Information](#)



Already a member? Not yet registered? Need More Information?

Messaging & Feedback
[Log In](#) to send feedback.

 [Log In](#)

 [Sign Up](#)

 [Benefits](#)

 [RSS 2.0](#)

[RSS Feed](#)
[Policies](#)
[Contact Us](#)