

## Abstract

This case study examines the legal actions taken by Cold Stone Creamery and their franchisees in response to the CNBC documentary *Behind the Counter: The Untold Story of Franchising* in 2010 and the Complaint for Declaratory Relief filed by the National Association of Cold Stone Creamery Franchisees (NIACCF) against Cold Stone in 2012. Both cases involve allegations against the franchise for their accounting practices related to vendor rebates ('kickbacks') and the franchisor's gift card program that have led to decreased profit margins for franchisees. In exploring the causes and outcomes of these two cases, there is evidence that the Cold Stone Creamery franchise may not be as strong as it had been in the early 2000s.

## Teaching Objectives

This case study looks at multiple business and ethical issues, allowing the teaching objectives to focus on the complaint filed by the NIACCF against Cold Stone Creamery that remains unsettled. Students are given the opportunity to evaluate the facts of the case without the influence of a known outcome. The discussion below provides teaching objectives that can be used to spark thought and discussion about various aspects of the case study.

1. Ethical Issues
  - a. Impact of an individual's role in representing a company
  - b. Strength of Waiver of Conflict of Interest agreements
  - c. The use of vendor discounts or 'kickbacks'
  - d. Transparency in accounting practices
2. Legal Issues
  - a. Importance of maintaining brand image
  - b. Steps in taking legal actions
  - c. Retaining legal representation prior to taking legal actions
  - d. Impact of legal outcomes on brand image
3. Management Issues
  - a. Steps in preventing a crisis situation before it occurs
  - b. Handling an ongoing crisis situation
  - c. Transparency in operations
  - d. Impact of responding to crisis vs. not responding
4. Franchising Issues
  - a. Importance of reading and understanding the Franchise Disclosure Document (FDD)
  - b. Affect that brand image has on success of individual franchises
  - c. Positive and negative effects of rapid expansion on company success
  - d. How information is shared between franchisors and franchisees

## 5. Information Technology

- a. Affect of blogs and social media on brand image
- b. Positive and negative effects of rapid information transfer through information technology
- c. How access to information affects customer perception
- d. Ability of franchisees to easily and rapidly share business successes and failures

## Teaching Approach

In the discussion of this case study, it is recommended at all areas be considered to maximize the level of student engagement. This case study is based on a current, ongoing situation that will be effective in discussion and learning among undergraduate and postgraduate students. The level of discussion will be influenced by the type of audience that it is presented to. A sample of discussion points associated with this case study are provided below.

### 1. Ethical Issues

Students can discuss the ethical issues of this case study that arise from the multiple roles played by key individuals in both of the major issues discussed in this case. First, do you think that ethical issues arise from Robert Zarco representing the NIACCF and Cold Stone simultaneously? Do you think that the payments received from Cold Stone for his services will affect the legal representation/advice he provides to the franchisees represented by the NIACCF? Do you think that the waiver of conflict of interest signed by both Mr. Zarco and Cold Stone is enough to alleviate all possible ethical issues? Do you think that Mr. Zarco's attack on Mr. Rolle, in response to the CNBC documentary *Behind The Counter: The Untold Story of Franchising*, negatively affected the complaint that was later filed by the NIACCF against Cold Stone?

### 2. Legal Issues

There are a number of legal issues at play in this case study. Students should consider the legal actions that Cold Stone took against CNBC in response to the documentary by referencing the Cease-and-Desist letter sent to the broadcaster by Mr. Zarco. Students can also reference the Complaint filed by Mr. Zarco in response on behalf of the NIACCF against Cold Stone Creamery. When comparing these two documents, what similarities and differences do you notice? Also, research the number of current complaints filed against Cold Stone- what do you find and what can be drawn from the number of complaints filed?

### 3. Management Issues

In the development of this case study, Cold Stone has remained silent on the legal issues and allegations from franchisees that have faced the company. Do you think that not addressing these issues is an effective way to correct the problems they are faced with? Some franchisees have identified rapid expansion as the cause for a major-

ity of their problems. Look at the Cold Stone's FDD to identify any protection the company offers to franchisees against the opening of additional stores near those currently in operation. As a privately held company, do you think that Cold Stone should be required to share their accounting practices with the franchisees? Research other Kahala franchises to identify similar issues experienced by franchisees from their other franchises.

#### 4. Franchising Issues

This case looks at the current issues of one of the well known franchises operated by parent company Kahala and the fundamentals of franchising can be discussed. Students can look at the affect that issues with a single franchise or franchisee can have on all franchises operating under the same brand name and the importance of maintaining the integrity of the brand name. The role of over expansion on the success of a franchise can also be weighed, by looking at the positive and negative effect of opening additional stores. Finally, students can evaluate the relationship between the parent company and the franchisees and how the strength of this relationship affects the company as a whole.

#### 5. Information Technology

Information Technology is a topic that all students are familiar with, through use in their everyday lives. The access to information that is readily assessable to customers can have both positive and negative effects on today's corporations. The reaction that customers had to the CNBC documentary was swift and immediate- with many customers taking to social media sites to voice their opinions on the actions of Cold Stone that hurt their franchisees. Cold Stone was quick to respond to the CNBC documentary to mitigate the risks of negative impact on their brand name. On the other hand, Cold Stone has issued no response to the blogs and articles that have made similar accusations to those made by CNBC. Why do you think that Cold Stone has responded so differently to nearly identical accusations made through different media outlets? What do you think this says about the company?

### *Teaching Strategies*

Depending on the audience, this case study can be used to broach many different subject areas. Examples of how it can be used are provided below to give ideas for further discussions.

1. This case can be used as a teaching tool where students are asked to further research the circumstances leading up to the lawsuit filed by the NIACCF against Cold Stone Creamery. Students will then be asked to present their findings to the class.
2. Following the outcome of the lawsuit filed by the NIACCF, student can be asked to provide an analysis of the court's findings and report on the impact of the case findings on Cold Stone and its franchisees.

3. Also following the outcome of the case, students can develop and analysis of the positive and negative impact that the lawsuit has had on company operations and the strength of the Cold Stone brand following this litigation.

### **Discussion Questions**

1. Consider yourself a member of the NIACCF who is concerned about the Cold Stone business model and the affect that it is having on the success of your franchise. Do you think that Cold Stone should be required to provide accounting data maintained by the parent company?
2. As a top executive from Cold Stone Creamery, do you think that your company should be required to provide accounting data to franchisees or that this information should be kept within the parent company.
3. Again, as a member of the NIACCF, how do you feel about your organization being represented by Robert Zarco? Do you think that his representation has your best interest at heart, or that he is influenced by payments received from Cold Stone Creamery?
4. As a customer of Cold Stone Creamery, do the allegations against the company of mistreatment of franchisees affect your decision to purchase the company's ice cream?
5. As the Chief Operating Officer (COO) of Cold Stone Creamery, would you have chosen to address the lawsuit brought by the NIACCF, or would you have taken a different approach?