



INFORMATION FOR PROSPECTIVE FRANCHISEES
REQUIRED BY THE FEDERAL TRADE COMMISSION

To protect you, we've required your franchisor to give you this information. We haven't checked it and don't know if it's correct. It should help you make up your mind. Study it carefully. While it includes some information about your contract, don't rely on it alone to understand your contract. Read all of your contract carefully. Buying a franchise is a complicated investment. Take your time to decide. If possible, show your contract and this information to an advisor like a lawyer or an accountant. If you find anything you think may be wrong or anything important that's been left out, you should let us know about it. It may be against the law.

There may also be laws on franchising in your state. Ask your state agencies about them.

*Federal Trade Commission
Washington, D.C. 20580*

IN ACCORDANCE WITH THE REQUIREMENTS OF THE FEDERAL TRADE COMMISSION, THIS OFFERING CIRCULAR WAS ISSUED ON DECEMBER 20, 2005. CERTAIN STATES REQUIRE FRANCHISORS TO MAKE ADDITIONAL DISCLOSURES RELATED TO THE INFORMATION CONTAINED IN THIS OFFERING CIRCULAR. IF APPLICABLE, THESE ADDITIONAL DISCLOSURES WILL BE FURNISHED TO YOU IN AN ADDENDUM, EFFECTIVE AS OF THE DATE SHOWN IN EXHIBIT A.



FRANCHISE OFFERING CIRCULAR

Einstein and Noah Corp.
A Delaware corporation
1687 Cole Boulevard
Golden, Colorado 80401
(303) 568-8000
www.einsteinbros.com

The franchisee will operate a business (an "Einstein Bros. Restaurant") that specializes in the sale of fresh-baked bagels, cream cheese and other spreads, specialty coffees and teas, and creative soups, salads and sandwiches, among other things.

Development agreements. We offer to enter into area development agreements with qualified parties to establish and operate an agreed-upon number of Einstein Bros. Restaurants at specific locations under the terms of a separate franchise agreement for each location. The development fee will be \$5,000 for each Restaurant to be developed (which means that the development fee will vary depending on the number of Restaurants to be developed), although the fee may be credited toward the franchise fee if the development schedule is satisfied.

Franchise agreements. The initial franchise fee for a single unit franchise is \$35,000. The initial purchase of opening inventory (from our affiliate) is estimated to range from \$3,500 to \$10,000. The initial investment is estimated to range from \$426,500 to \$757,750.

Risk factors:

1. THE FRANCHISE AGREEMENT PERMITS THE FRANCHISEE TO LITIGATE ONLY IN COLORADO. OUT OF STATE LITIGATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST MORE TO LITIGATE WITH THE FRANCHISOR IN COLORADO THAN IN YOUR HOME STATE.
2. THE FRANCHISE AGREEMENT STATES THAT THE LAW OF COLORADO GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.
3. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

LOCAL LAW MAY SUPERSEDE THESE FRANCHISE AGREEMENT PROVISIONS. CERTAIN STATES REQUIRE THE SUPERSEDING PROVISIONS TO APPEAR IN AN ADDENDUM IN THIS OFFERING CIRCULAR.

Information about comparisons of franchisors is available. Call the state administrators listed in Exhibit C or your public library for sources of information.

Registration of this franchise with the state does not mean that the state recommends it or has verified the information in this offering circular. If you learn that anything in this offering circular is untrue, contact the Federal Trade Commission and the state administrators listed in Exhibit C.

In accordance with the requirements of the Federal Trade Commission, this offering circular was issued on December 20, 2005.

**EINSTEIN AND NOAH CORP.
UNIFORM FRANCHISE OFFERING CIRCULAR**

TABLE OF CONTENTS

| | | |
|---------|---|----------------|
| Item 1 | The Franchisor, Its Predecessors and Affiliates..... | 1 |
| Item 2 | Business Experience..... | 5 |
| Item 3 | Litigation | 7 |
| Item 4 | Bankruptcy | 16 |
| Item 5 | Initial Franchise Fee | 17 |
| Item 6 | Other Fees | 18 |
| Item 7 | Initial Investment | 22 |
| Item 8 | Restrictions on Sources of Products and Services | 26 |
| Item 9 | Franchisee's Obligations | 30 |
| Item 10 | Financing | 32 |
| Item 11 | Franchisor's Obligations | 32 |
| Item 12 | Territory | 41 |
| Item 13 | Trademarks, Service Marks, Trade Names, Logotypes, and Commercial Symbols | 42 |
| Item 14 | Patents, Copyrights, and Proprietary Information | 44 |
| Item 15 | Obligation To Participate In the Actual Operation Of the Franchised Business..... | 45 |
| Item 16 | Restrictions On What the Franchisee May Sell | 46 |
| Item 17 | Renewal, Termination, Transfer, and Dispute Resolution | 47 |
| Item 18 | Public Figures | 50 |
| Item 19 | Earnings Claims | 50 |
| Item 20 | List Of Outlets | 54 |
| Item 21 | Financial Statements..... | 59 |
| Item 22 | Contracts..... | 59 |
| Item 23 | Receipt..... | 59, Last Pages |

Exhibits

| | | | |
|---|--|---|---|
| A | Effective Dates | G | NWR's Audited Financial Statements |
| B | Franchise Agreement, Electronic Debit Agreement, Confidentiality Agreement, and Area Development Agreement | H | NWR's Financial Statements for the Period Ending September 27, 2005 |
| C | List of State Administrators | I | Table of Contents for Manual |
| D | Agents for Service of Process | J | State-specific Disclosures |
| E | List of Current and Former Einstein Bros. Franchisees | K | State-specific Agreement Amendments |
| F | List of Company-Owned Einstein Bros. Franchisees | L | Franchise Compliance Certification |
| | | M | General Release Language |
| | | N | Receipts (2 copies) |

ITEM 1
THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES

The Franchisor

Einstein and Noah Corp. (“us”, “our” or “we”) is the franchisor.

We maintain our principal place of business at 1687 Cole Boulevard, Golden, Colorado 80401 (303/568-8000). We do not maintain sales offices at any location other than our principal place of business. We do not use any sales brokers or other sales organizations. We do not conduct business under any other name.

We are a Delaware corporation, and were originally incorporated on May 11, 2001 as “Einstein Acquisition Corp.” We changed our name to Einstein and Noah Corp. on November 2, 2001.

We conduct business under the name and mark “Einstein Bros.”, and under the “Noah’s New York Bagels” and “Noah’s Bagels” names and marks.

We franchise the right to operate an “Einstein Bros.” restaurant (the “Restaurant”). We began to offer such franchises as of the date of this offering circular. Although we also operate “Noah’s New York Bagel” and “Noah’s Bagel” restaurants, we do not offer franchises using the “Noah’s” name. Since June 19, 2001, we have operated “Einstein Bros.” and “Noah’s New York Bagel” restaurants. We do not offer any franchise other than as described in this offering circular, and we do not engage in any business activity other than such franchising activities and the operation of restaurants using the “Einstein Bros.” and “Noah’s” names and marks. As of September 27, 2005, there were 63 licensed and 363 company-owned “Einstein Bros.” retail stores, and 3 licensed and 74 company-owned “Noah’s New York Bagels” and “Noah’s Bagels” retail stores.

Our corporate parent company is New World Restaurant Group, Inc. (“NWR”), a Delaware corporation, whose principal place of business is also at 1687 Cole Boulevard, Golden, Colorado 80401 (303.568.8000). NWR was incorporated on October 21, 1992 as World Coffee, Inc. Later, NWR’s name was changed to New World Coffee, Inc., New World Coffee & Bagels, Inc., then to New World Coffee-Manhattan Bagel, Inc., and, lastly, to New World Restaurant Group, Inc.

Our agents for service of process are listed in Exhibit D to this offering circular.

Predecessors and History of Operations

Einstein/Noah Bagel Corp. (“ENBC”) and its affiliates, Einstein/Noah Bagel Partners, L.P. (“ENBP”) and Einstein/Noah Bagel Partners, Inc. (“ENBPI”), were the predecessor entities that owned the marks and restaurants that operated using the “Einstein Bros.”, “Noah’s New York Bagel” and “Noah’s Bagels” names (together, the “Einstein and Noah Restaurant System”).

NWR formed us (as Einstein Acquisition Corp.) and an affiliated entity, Greenlight New World, LLC, for the purpose of seeking to acquire the Einstein and Noah Restaurant System from ENBC, ENBP and ENBPI. In connection with the Acquisition, described below, Greenlight New World, LLC, assigned to us all of its acquisition-related rights with respect to the Einstein and Noah Restaurant System.

On June 19, 2001, Einstein Acquisition Corp. successfully completed its acquisition of the Einstein and Noah Restaurant System (the "**Acquisition**"). As explained above, we (Einstein Acquisition Corp.) changed our name to "Einstein and Noah Corp." on November 2, 2001.

Before the Acquisition, the Einstein and Noah Restaurant System was operated by ENBC, ENBP and ENBPI, and their respective predecessors, dating back to before 1995. ENBC operated "Einstein Bros." restaurants from August 1995 through June 19, 2001. In 1996, ENBC acquired the rights to operate other restaurants, including those in the States of California and Washington under the name "Noah's New York Bagels". In December 1997, ENBC licensed and granted development rights to ENBP to operate the restaurants which comprised the Einstein and Noah Restaurant System. ENBC offered franchises for Einstein Bros. Restaurants and for Noah's New York Bagel Restaurants from 1995 to 1997, but did not engage in any other line of business.

Among the assets that we acquired in the Acquisition were the rights to the name "Einstein Bros." and the related intellectual property. We also acquired ENBC's rights under a co-existence agreement that it had entered into with the Estate of Albert Einstein, which in turn is owned by the Hebrew University of Jerusalem ("HUU") (the "**HUU Co-Existence Agreement**"). Under the HUU Co-Existence Agreement, ENBC and HUU agreed on the terms under which ENBC (and now, us) could use the name Einstein Bros. and the terms under which HUU could use the name and likenesses associated with the Estate of Albert Einstein (see Item 13 for more details).

We have operated the restaurants comprising the Einstein and Noah Restaurant System since the date of the Acquisition, June 19, 2001.

Our Corporate Parent

In addition to owning our company, our corporate parent, NWR also owns and operates directly and indirectly other bagel and coffee-based manufacturing operations, products and retail restaurants. Its retail locations operate under tradenames and trademarks other than ours, including "Manhattan Bagel Company", "Chesapeake Bagel Bakery", and "New World Coffee".

As of September 27, 2005, there were 121 franchised and no company-owned "Manhattan Bagel" retail stores, 13 franchised and no company-owned "Chesapeake Bagel Bakery" or "Chesapeake Bagel" restaurants, 4 franchised and 2 company-owned "New World Coffee" stores. (This offering circular does not provide for the offer of franchises under those names, marks, and franchise systems. Information about those systems, to the extent that they are currently engaged in the offer and sale of franchises, can be found in other offering circulars for these systems, which we will make available to you upon request.) In addition, NWR may directly and indirectly sell products under the names "Manhattan Bagels", "Chesapeake Bagels", and "New World Coffee" in other settings such as supermarkets and over the internet. Until October 2004, NWR also owned and operated four Willoughby's Coffee & Tea restaurants in Connecticut; NWR discontinued operating those units in October 2004.

Our Affiliates

Our affiliates are described below. All of these affiliates (except for "Noah's New York Bagels, which operates from our offices in Golden, Colorado and through a satellite office in Walnut Creek, California) operate from NWR's corporate offices. We do not offer franchises for our

affiliates' other concepts. Additional information concerning those systems may be available from NWR's corporate offices or through a separate offering circular.

Manhattan Bagel Company, Inc. NWR owns all of the stock of Manhattan Bagel Co., Inc. ("MBC"), a Delaware corporation. MBC in turn owns and franchises restaurants under the "Manhattan Bagel" marks and franchise system. NWR acquired the MBC stock and its assets on November 24, 1998. MBC has operated, and offered franchises to others to operate, "Manhattan Bagel" restaurants since 1987. "Manhattan Bagel" restaurants feature bagels and cream cheese, coffee, and related menu items as part of their core menu offerings.

Chesapeake Bagel Franchise Corp. NWR owns all of the stock of Chesapeake Bagel Franchise Corp. ("CBFC"), formerly known as CBB Acquisition Corp. CBB Acquisition Corp., a New Jersey corporation, was formed on July 16, 1999 for the purpose of acquiring from AFC Enterprises, Inc. ("AFC") the "Chesapeake Bagel" marks and franchise system. Through CBB Acquisition Corp., now known as CBFC, NWR acquired the Chesapeake Bagel marks and franchise system from AFC on August 31, 1999. AFC operated, and offered franchises to others to operate, "Chesapeake Bagel" restaurants from May 1997 to August 1999. CBFC has operated, and offered franchises to others to operate, "Chesapeake Bagel" restaurants since August 1999. "Chesapeake Bagel" restaurants feature bagels and cream cheese, coffee, and related menu items as part of their core menu offerings.

New World Coffee & Bagel. NWR operates, and has offered franchises to others to operate, "New World Coffee & Bagel" restaurants since 1992. "New World Coffee" and "New World Coffee & Bagel" restaurants feature coffee and related menu items as part of their core menu offerings.

Noah's New York Bagel. As discussed above, we also operate restaurants under the "Noah's New York Bagel" and "Noah's Bagel" marks and system.

The Franchise Offered

We offer franchises for the operation of Restaurants at agreed-upon locations. We principally offer development agreements, which are described below. Under an area development agreement, the developer is offered the chance (and accepts the obligation) to establish multiple Restaurants within a specific area. The developer will sign a Franchise Agreement for each Restaurant, which will set out the area under which that Restaurant will be operated.

Area Development Agreement

We offer to qualified companies (a "Developer" or "you") the right (and they accept the obligation) to develop an agreed-upon number of Restaurants within a specific geographic area ("Development Area") under our area development agreement (the "Area Development Agreement") (a copy can be found at Exhibit B-4 to this UFOC). Under an Area Development Agreement, you will be required to establish an agreed-upon number of Restaurants within the Development Area, at specific locations (to be specified in separate Franchise Agreements) (as explained below). An important part of the Area Development Agreement is a development schedule (the "Development Schedule"), which spells out the number of Restaurants that you agree to have established by certain benchmark dates.

Franchise Agreement

We offer to enter into franchise agreements (“**Franchise Agreements**”) with qualified companies (“**you**”) that wish to establish and operate Restaurants. (In this offering circular, “**you**” means the person or legal entity with whom we enter into an agreement. The term “**you**” also refers to the direct and indirect owners of a corporation, partnership, limited liability company, or limited liability partnership that signs a Franchise Agreement as the “**franchisee**”.)

Under a Franchise Agreement, we will grant you the right (and you will accept the obligation) to operate a Restaurant at an agreed-upon specified location (the “**Approved Location**”).

Einstein Bros. Restaurants

Restaurants are characterized by our system (the “**System**”). Some of the features of our System are a specially-designed building or facility, with specially developed equipment, equipment layouts, signage, distinctive interior and exterior design and accessories, Products, procedures for operations; quality and uniformity of products and services offered; procedures for management and inventory control; training and assistance; and advertising and promotional programs. We may periodically change and improve parts of the System.

Restaurants operate in a building that bears our trade dress (interior, exterior, or both). A Restaurant specializes in the sale of Proprietary Items, including fresh-baked bagels, cream cheese and other spreads, specialty coffees and teas, muffins, and creative soups, salads and sandwiches, and other additional products that we may occasionally specify, as well as non-proprietary Items (like sandwiches, salads, soups, and other beverage items for on-premises and carry-out consumption) (all together, the “**Products**”).

You must operate your Restaurant in accordance with our standards and procedures, as set out in our Confidential Operating Manual (the “**Manual**”). We will lend you a copy of the Manual for the duration of the Franchise Agreement. In addition, we will grant you the right to use our marks, including the mark “Einstein Bros.” and any other trade names and marks that we designate in writing for use with the System (the “**Proprietary Marks**”).

Restaurants will be operated from an indoor structure that need not be free-standing, that is approximately 2,200 to 2,500 square feet in size, and that is decorated to meet our specifications (including the use of our trade dress, trademark, and design).

Industry-Specific Regulations

You must comply with all local, state, and federal laws that apply to your Restaurant operations, including for example health, sanitation, no-smoking, EEOC, OSHA, discrimination, employment, and sexual harassment laws. The Americans with Disability Act of 1990 requires readily accessible accommodation for disabled persons and therefore may affect your building construction, site elements, entrance ramps, doors, seating, bathrooms, drinking facilities, etc. For example, you must obtain real estate permits (e.g., zoning), real estate licenses, and operational licenses. There are also regulations that pertain to sanitation, labeling, food preparation, food handling, and food service. You will be required to comply with all applicable federal, state, and local laws and regulations during the operation of your Restaurant. You should consult with your attorney concerning those and other local laws and ordinances that may affect your Restaurant’s operation.

Competition

You can expect to compete in your market with locally-owned businesses, as well as with national and regional chains that offer bagels, coffee, breads, sandwiches, breakfast items, lunch items, and related products, and which may compete with the products offered at a Restaurant. The market for these items is well-established and very highly competitive. Bagel and coffee restaurants, and breakfast and lunch businesses, compete on the basis of many factors, such as price, service, store location, product quality, and store promotions and marketing programs. These businesses are often affected by other factors as well, such as changes in consumer taste, economic conditions, seasonal population fluctuation, and travel patterns. To the extent that customers may be able to buy "Einstein Bros." brand products from other sources (for example, from other restaurants, our website, supermarkets), and to the extent that other restaurants operating under the System deliver products in your area, you may appear to, or actually, compete with other sellers of those branded products. In addition, to the extent that customers may be able to buy bagels, coffee, and other products under the "Noah's", "Chesapeake Bagels", "Manhattan Bagels", and "New World Coffee" names, you may appear to, or actually, compete with sellers of these products.

ITEM 2 **BUSINESS EXPERIENCE**

The following is a list of directors, principal officers, and other executives who have management responsibility for the operation of our business concerning the franchises described in this offering circular. The principal occupation and business experience of each during the last five years, including the names and location of prior employers, are indicated in the table below.

Unless otherwise indicated, the location of the employer is Golden, Colorado. Also, unless otherwise explained, the individuals listed below also hold the same position and have the same responsibilities for us as they do for our parent, NWR, and for our affiliates CFBC and MBC (starting when NWR acquired us in 2001, CFBC in August 1999 and MBC in December 1998).

Chief Executive Officer: **Paul Murphy III**

Mr. Murphy is our Chief Executive Officer. He joined ENBC in December 1997 and has served us, thru the Acquisition, as our Chief Executive Office (since October 2003), our Chief Operating Officer (June 2002 until October 2003), our Executive Vice President - Operations (June 2001 until May 2002), ENBC's Executive Vice President of Operations (March 1998 through the date of the Acquisition), and as ENBC's Senior Vice President - Operations (December 1997 until March 1998). From July 1996 until December 1997, he was Chief Operating Officer of one of ENBC's former area developers in Boca Raton, Florida.

Chief Financial Officer: **Richard Dutkiewicz**

Mr. Dutkiewicz joined us as our Chief Financial Officer in October 2003. He previously served Sirenza Microdevices, Inc. of Golden, Colorado as its as Vice President-Information Technology from May 2003 to October 2003, as the Chief Financial Officer of Vari-L Company, Inc. of Denver, Colorado from January 2001 to May 2003, and as the Chief Financial Officer of Coleman Natural Products, Inc., also of Denver, from April 1995 to January 2001.

Chief Operating Officer:

Daniel J. Dominguez

Mr. Dominguez was appointed to serve as our Chief Operating Officer in December 2005. He previously served our affiliate, Noah's Bagels, in Walnut Creek, California, from April 1998 to June 2002 as its Vice President of Operations and from June 2002 until December 2005 as its Senior Vice President.

General Counsel and Corporate Secretary:

Jill Sisson

Ms. Sisson joined us as our General Counsel and Corporate Secretary in December 2003. Before joining us, she served as the General Counsel and Corporate Secretary for Graphic Packaging Corporation, also in Golden, Colorado, a position she held from September 1992 to August 2003.

Senior Vice President - Business Development:

Greg Powell

Mr. Powell joined us in January 1996. He has served us as our Senior Director (December 1998 to December 1999), Vice President (December 1999 to October 2003), and Senior Vice President - Business Development (since October 2003). He has served MBC as well since June 2001.

Senior Vice President - Marketing:

Monica Hahn

Ms. Hahn joined us as our Senior Vice President – Marketing in September 2004. From October 2000 to October 2003, she served as Vice President – Marketing at Knowledge Learning Corp. / ARAMARK Educational Resources in Golden, Colorado. Before that, she was Director – Sales & Marketing for the Central Region of Burger King Corporation, having previously served as their Regional Marketing Manager and Manager – Sales Analysis, in Denver, Colorado and Miami, Florida, from October 1990 to September 2000.

Senior Vice President of Franchising:

Paul Carolan

Mr. Carolan has served as our Senior Vice President of Franchising since July 2005. From November 2000 to July 2005, he was a Regional Vice President for Aramark Corporation in Philadelphia, Pennsylvania.

Vice President – Operations:

Brian Wright

Mr. Wright joined us in March 2000 and has served as our Senior Vice President – Operations for the Einstein Bros. Bagel brand since May 2005. He previously served us as a District Manager (from March 2000 to 2002) and as Regional Vice President (2002-2005).

Associate General Counsel:

Darden K. Coors

Ms. Coors join us as our Associate General Counsel in November 2004. Before joining us, she was a self-employed consultant in Arvada, Colorado from September 2003 until November 2004. Ms. Coors was Legal Counsel at Graphic Packaging Corporation (f/k/a ACX Technologies, Inc.) from September 1998 to September 2003, in Golden, Colorado and Bow, New Hampshire.

Vice President – Construction/Facilities:

Keith Isoldi

Mr. Isoldi has been our Vice President – Construction/Facilities since July 2002. He previously served with ENBC (and, after July 2001, ENC) and NWR from November 1998 to April 2002 as Senior Director – Facilities (November 1998 to September 2000) and Senior Director – Construction (September 2000 to April 2002). From April 2002 to June 2002, he was Director of Development for Chicken Out Restaurants in Gaithersburg, Maryland. He has served MBC as well since June 2001.

Vice President – Human Resources:

Masha Schricker

Ms. Schricker joined ENBC in April 1995. She served as Human Resource Manager for its Einstein Bros./Sunbelt Bagels/Progressive Bagel Concepts Incorporated group (in Salt Lake City) from April 1995 to January 2000, as Director of Human Resources from January 2000 to May 2002, Senior Director of Human Resources from May 2002 to November 2003, and since November 2003, as Vice President – Human Resources. She has served MBC as well since June 2001.

Vice President – Information Technology:

Beth Briggs

Ms. Briggs has served as our Vice President – Information Technology since October 2003. From March 1999 to October 2003, she served as ENBC's (and later, ENC's) Director of Information Technology. She previously held the position of Senior Manager, Information Technology Support for Metromedia Restaurants in Plano, Texas, from April 1985 to March 1999.

Vice President – Manufacturing:

Scott Harvey

Mr. Harvey joined MBC in January 1995. He has served as a Manager in Training (January 1995 to April 1995), Store Manager (April 1995 to May 1995), Commissary Manager (May 1995 to April 1996), Director of Commissary (April 1996 to June 1997), Director of HR/Training/Operations Support/Commissary (June 1997 to February 1998), Director of Commissary Operations - Northeast (February 1998 to June 1998), Director of Commissary Operations - National (June 1998 to February 2000), Senior Director of Commissary Operations - National (February 2000 to June 2001), and since June 2001 as its Vice President – Manufacturing. He has served MBC as well in that capacity since June 2001.

Senior Director of Franchise/License Operations:

Richard Guckel

Mr. Guckel has served as our Senior Director of Franchise/License Operations since January 2004, and served as one of our District Managers from December 1997 to January 2004.

Director of Franchise Development:

Craig Garwood

Mr. Garwood has served as our Director of Franchise Development since July 2004, having previously served as a senior franchise consultant (April 2003 to June 2004). From April 2002 to March 2003, he was a supervising partner with Sonic Restaurants, Inc. in Kansas City, Missouri. Before that, Mr. Garwood was a self-employed consultant in Saint Joseph, Missouri, from December 2001 to March 2002. From May 1996 to November 2001, he was a franchise consultant with McDonald's Corporation in Overland Park, Kansas.

ITEM 3
LITIGATION

Litigation against us:

Goldstein v. Einstein and Noah Corp. (Superior Court for the State of California, County of San Francisco, Case No. CGC-02-410967A). On July 31, 2002, Tristan Goldstein, a former store manager, and Valerie Bankhordar, a current store manager, filed a putative class action against us. The plaintiffs allege that we failed to pay overtime wages to managers and assistant managers of our California stores, whom it is alleged were improperly designated as exempt employees in violation of California wage and hour laws and Business Profession Code Section 17200. In a mediation conducted on April 7, 2004, the parties agreed to a settlement of \$1

million. Notice will be sent to all class members. At a September 29, 2004 hearing for preliminary approval of the settlement, the court asked for supplemental briefing. Approval by the court is still pending.

Litigation against ENBC or ENBP:

Ron Benit, Simi Weiss and Thomas Griner v. Einstein/Noah Bagel Corp., Mark R. Goldston, Eric Carlborg and Scott A. Beck (U.S. District Court for the District of Colorado, Case No. 97-N-1614). Messrs. Benit, Weiss, and Griner, the plaintiffs in this case, are former ENBC shareholders. The plaintiffs filed this lawsuit on July 25, 1997, alleging that ENBC and the other defendants (former ENBC executives) disseminated or approved press releases and financial reports that contained misrepresentations and material omissions, and also concealed materially adverse financial information. The plaintiffs claimed that ENBC should not have treated its former area developers as separate legal entities and that ENBC should have consolidated its own financial results with those of the area developers. The plaintiffs alleged that the failure to consolidate the financial results made ENBC's financial reports untrue and misleading, violating Sections 11 and 12(2) of the Securities Act of 1933 (because the alleged violations occurred in the context of ENBC's initial public offering.) The plaintiffs asserted an additional claim against defendants Goldston, Carlborg, and Beck on the grounds that they acted as controlling persons of ENBC within the meaning of Section 15 of the Securities Act. The plaintiffs alleged that by reason of their positions as directors or officers of ENBC, these individuals (defendants Goldston, Carlborg, and Beck) had the power and authority to cause ENBC to engage in the wrongful conduct alleged in the complaint. In addition, the complaint alleged violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5, as well as claims arising under the Colorado Securities Act against all defendants. Plaintiffs sought the following relief: (a) certification of the complaint as a class action for all persons who purchased or otherwise acquired the common stock of ENBC between August 2, 1996 and July 15, 1997; (b) an award of compensatory damages, interest and costs to all members of the class; and (c) equitable relief available under federal and state law.

In addition to the Benit case described above, six other complaints were filed in the U.S. District Court for the District of Colorado between August 8-29, 1997. Each of these complaints alleged substantially the same claims and causes of action arising under federal or Colorado state securities laws the plaintiffs in the Benit case. The cases are:

Meduri v. Einstein/Noah Bagel Corp., Mark R. Goldston, Eric Carlborg and Scott A. Beck (U.S. District Court for the District of Colorado, Case No. 97-N-1712). Filed August 8, 1997.

Drake v. Einstein/Noah Bagel Corp., Mark R. Goldston, Eric Carlborg and Scott A. Beck (U.S. District Court for the District of Colorado, Case No. 97-N-1713). Filed August 8, 1997.

Eisenfeld v. Einstein/Noah Bagel Corp., Mark R. Goldston, Eric Carlborg and Scott A. Beck, (U.S. District Court for District of Colorado, Case No. 97-N-1823). Filed August 21, 1997.

Montoya v. Einstein/Noah Bagel Corp., Mark R. Goldston, Eric Carlborg and Scott A. Beck, (U.S. District Court for District of Colorado, Case No. 97-N-2318). Filed August 27, 1997.

Snydman v. Einstein/Noah Bagel Corp., Mark R. Goldston, Eric Carlborg and Scott A. Beck, (U.S. District Court for District of Colorado, Case No. 97-N-1877). Filed August 28, 1997.

Kenneth Naish as custodian for Brian Naish and Jennifer Naish v. Einstein/Noah Bagel Corp., (U.S. District Court for District of Colorado, Case No. 97-N-1894). Filed August 29, 1997.

These actions were consolidated as In re Einstein/Noah Bagel Corp. Securities Litigation (U.S. District Court for District of Colorado, Case No. 97-N-1614). The plaintiffs later amended the complaint to change the alleged class period to the period from August 2, 1996 to October 29, 1997. In addition to the cases described above, Drake v. Einstein/Noah Bagel Corp., Mark R. Goldston, W. Eric Carlborg and Scott A. Beck (Division 5, Jefferson County District Court, State of Colorado, Case No. 97-CV-2697), was filed in Colorado state court on September 19, 1997. The complaint alleged substantially the same claims and causes of action arising under Colorado state securities laws as the plaintiffs in the Benit case, but this case was not consolidated in the others. In February 1999, ENBC and the individual defendants in all of the cases described above entered into a settlement agreement under which ENBC paid (in the aggregate) \$8.5 million and all parties signed mutual releases and dismissed all claims with prejudice. ENBC funded the settlement with proceeds of director and officer liability insurance policies. The U.S. District Court for the District of Colorado approved the settlement in June 1999.

Brownell v. Einstein/Noah Bagel Corp. (Superior Court of the State of California, Alameda County, Case No. 797600-5). Edwin Brownell, the plaintiff, is a former employee of MBC who filed this lawsuit on June 15, 1998. He alleged that ENBC breached an oral promise to employ him in California until his youngest son graduated from high school (which would have been in 2002). The complaint also alleged that ENBC breached a covenant of good faith and fair dealing, that the plaintiff was fraudulently induced to relocate from Kansas City to California, that ENBC made false representations under Section 970 of the California Labor Code, and that Brownell was fraudulently induced to invest \$100,000 in a former area developer of ENBC. Brownell alleged that his damages include lost salary, benefits and bonuses in the amount of \$350,000 per year through 2002, lost stock options, expenses of relocation from Kansas City to California, amounts for promised income tax reimbursement, loss of his \$100,000 investment, loss of reputation and emotional distress. The complaint sought damages, prejudgment interest and costs of suit, as well as punitive damages and a doubling of compensatory damages under Section 970 of the California Labor Code. In December 1999 the court granted ENBC's motion for summary judgment to dismiss the claims for breach of contract and implied covenant of good faith and fair dealing, and certain of the claims for fraud and negligent misrepresentation regarding plaintiff's \$100,000 investment. The court denied ENBC's motion for summary judgment on the other claims. As a consequence of the Chapter 11 bankruptcy filing made by ENBC and ENBP on April 27, 2000, the claims arising under this Complaint became subject to the jurisdiction of the United States Bankruptcy Court, District of Arizona. On March 15, 2002, the Administrator of the ENBC and ENBP bankruptcy estates entered into a settlement with Brownell, allowing the assertion of an unsecured claim against the ENBP bankruptcy estate in the amount of \$400,000.

Butler v. Einstein/Noah Bagel Corp. (Superior Court of the State of Arizona, Maricopa County, Case No. CV-98-16651; case removed to U.S. District Court for the District of Arizona, Case No. CIV-99-239-PHX-EHC). Butler, who filed this lawsuit on January 8, 1999, is a former store general manager for one of ENBC's former area developers. Butler alleges that ENBC

breached an oral contract to make him an "owner/operator" of the Einstein Bros. Bagels restaurants in the Phoenix area, under which he claims he would have earned between \$240,000 and \$400,000 per year. The complaint alleges breach of contract, breach of implied covenant of good faith and fair dealing, promissory estoppel, fraud, negligent misrepresentation and intentional infliction of emotional distress. The complaint sought damages in an unspecified amount, interest and attorney's fees and costs. As a consequence of the Chapter 11 bankruptcy filing made by ENBC and ENBP on April 27, 2000, the claims arising under this complaint became subject to the jurisdiction of the United States Bankruptcy Court, District of Arizona. On June 25, 2002, the Administrator of the ENBC and ENBP bankruptcy estates entered into a settlement with Butler, allowing the assertion of an unsecured claim of \$250,000 against the ENBP bankruptcy estate.

Litigation against MBC:

Overand v. Manhattan Bagel Co., Inc. (U.S. District Court for the District of New Jersey, Case No. CV-96-9597). The named plaintiff (Overand) was a shareholder of MBC, and filed a class action suit claiming various securities laws violations involving the public sale in March 1996 of MBC stock, including failure to disclose material facts and violation of SEC Rule 10b-5. Overand sought damages in an unspecified amount. Overand filed a claim in MBC's Chapter 11 case (the "**MBC Bankruptcy Proceeding**"). The lawsuit and claim were consolidated with Copeland v. Grumet (described below) and was resolved as described below.

Copeland v. Grumet (U.S. District Court for the District of New Jersey, Case No. CV-96-3351). The named plaintiff (Copeland) in this case was a shareholder of MBC, and filed a class action suit claiming various securities laws violations involving the public sale in March 1996 of MBC's stock, including failure to disclose material facts and violation of SEC Rule 10b-5. The plaintiffs sought damages in an unspecified amount. This case was consolidated with Overand v. Manhattan Bagel Co., Inc. (described above), and the claim was asserted in the MBC Bankruptcy Proceeding. The lawsuit and claim were settled on December 22, 2000 by NWR's indemnification obligation to former MBC officers by the issuance of approximately \$200,000 of NWR's common stock.

C.P.R. Fashions, Inc. v. Broadway Chicken, Inc. (Superior Court of New Jersey, Law Division, Monmouth County, Docket No. L-830-96). On February 28, 1996 C.P.R. Fashions, Inc., the plaintiff, a former franchisee of Broadway Chicken, Inc., brought this action for breach of contract and violation of the New Jersey Consumer Fraud Act. The plaintiff claimed that services were not performed under the franchise agreement and sought damages in an unspecified amount. MBC (which had purchased Broadway Chicken, Inc.) counterclaimed for royalties and advertising monies owed and for construction monies due on work performed in building the store. The plaintiff filed a claim in the MBC Bankruptcy Proceeding, to which MBC objected. The plaintiff's lawsuit was dismissed and its claim was denied.

Manhattan Industries, Inc. v. Manhattan Bagel Co., Inc. and Karen Steamer (Superior Court of New Jersey, Law Division, Monmouth County, Docket No. L-644-96). On February 15, 1996, Manhattan Industries, Inc. (the plaintiff), a franchisee of MBC, brought this action against MBC and MBC's Florida Master Franchisee, for breach of contract and misrepresentation. The plaintiff alleged breach of the franchise agreement and various untrue statements during the purchase of the franchise. The plaintiff sought damages in an unspecified amount, punitive damages, and rescission of the franchise agreement. In March 1996, MBC filed an answer that denied the allegations, and counterclaimed for fraud and misrepresentation, and also instituted a third party action against the plaintiff's principals for breach of contract and fraud. The plaintiff

filed a claim in the MBC Bankruptcy Proceeding, to which MBC objected. The lawsuit was resolved through a settlement in the MBC Bankruptcy Proceeding on January 11, 1999, which included a requirement that the master franchisee relinquish its territory to MBC, and granted the plaintiff an unsecured claim of \$125,000.

Manhattan Bagel Co., Inc. v. Fleming Bagel LLC (U.S. District Court of New Jersey, CV-96-3123). In June 1996, MBC filed an action for a declaratory judgment against Fleming Bagel LLC, a former developer, asking the court to declare that defendants' master franchise rights in Texas and Louisiana were terminated, and seeking damages and other relief. The Court entered an order agreeing to terminate the master franchise rights but did not address MBC's other claims. The defendants filed a counterclaim alleging default by MBC under the contract. The defendants later filed a claim in the MBC Bankruptcy Proceeding, to which MBC objected. The lawsuit was resolved through a settlement in the MBC Bankruptcy Proceeding dated June 29, 1999, which included a requirement that the master franchisee relinquish its territory to MBC, and granted the plaintiff an unsecured claim of \$15,000.

HalRob, Inc. v. Manhattan Bagel Co., Inc. (Superior Court of New Jersey, Camden County, Chancery Division, C-16-97). In February 1997, HalRob Inc., the plaintiffs (who were franchisees of Specialty Bakeries, Inc., which MBC acquired in 1996) alleged violation of a restrictive covenant, and sought injunctive relief and other damages. This action was stayed and the plaintiffs were ordered to arbitrate their claims (see description below under Specialty Bakeries, Inc. v. HalRob, Inc.). The plaintiffs filed a claim in the MBC Bankruptcy Proceeding to which MBC objected. The lawsuit and claim was resolved through the MBC Bankruptcy Proceeding on July 17, 2001 by the allowance of an unsecured claim of \$335,000 against the MBC bankruptcy estate, and payment of an administrative claim of \$7,500.

Specialty Bakeries, Inc. v. HalRob, Inc. (U.S. District Court for the Eastern District of Pennsylvania, Case No. CV-97-1057). In February 1997, MBC sought an order from the federal court requiring HalRob, Inc., the defendants (franchisees of Specialty Bakeries, Inc.) to arbitrate the claims they asserted in the Superior Court of New Jersey (see description above under HalRob, Inc. v. Manhattan Bagel Co., Inc.). In March 1997, the court ordered the defendants to arbitrate their claims and in April 1997, the court enjoined the defendants from proceeding with the lawsuit filed in the Superior Court of New Jersey. The arbitration proceeding was stayed by the filing by MBC of its Chapter 11 bankruptcy proceeding in November 1997. In November 1997, the U.S. Court of Appeals for the Third Circuit affirmed the District Court's orders. The lawsuit was resolved through the MBC Bankruptcy Proceeding as described above.

Naphtalie Deutsch, as Trustee of the JMB Irrevocable Trust dated June 4, 1979 v. Manhattan Bagel Co., Inc. (U.S. District Court for the District of Central California, Case No. CV97-0276-RAP (ANX)). Naphtalie Deutsch, the plaintiff, filed a claim alleging that MBC failed to comply with contractual obligations under an Agreement and Plan of Merger dated as of May 10, 1995, as amended, which was entered into by MBC, DAB Acquisition Corp., DAB Industries, Inc., and Allen Boren, regarding the obligations to register shares owned by the plaintiffs for public sale by them all as part of MBC's acquisition of the "I'n Joy Bagel" system in 1995. The plaintiffs filed a claim in the MBC Bankruptcy Proceeding, to which MBC objected. The lawsuit and claim were resolved through allowance of an unsecured claim against the MBC bankruptcy estate.

Monticito Market Place Assoc. v. Bay Area Bagel, Inc. (Superior Court of California, Marin County, Docket No. 171501). In August 1997, Monticito Market Place Assoc., the plaintiff, filed a lawsuit alleging breach of contract, conspiracy to induce breach of contract, fraud, breach of

fiduciary duty and other allegations based on a lease agreement with Bay Area Bagel, Inc., a subsidiary of MBC. MBC filed an Answer to the Complaint denying the allegations. The plaintiff dismissed its complaint with prejudice on June 2, 1999.

In re Manhattan Bagel Co., Inc., Wha Dong and Boo Young Kim v. Manhattan Bagel Co., Inc. (U.S. Bankruptcy Court, District of New Jersey, Adversary Proceeding No. 98-3599). In November 1998, Wha Dong and Boo Young Kim, the plaintiffs, started an adversary proceeding in the MBC Bankruptcy Proceeding, alleging breach of contract, breach of covenant not to compete, intentional interference with economic advantage and violations of the New Jersey Unfair Trade Practices and Consumer Protection Law by MBC. The plaintiffs also filed a claim in the MBC Bankruptcy Proceedings. MBC filed an answer and objected to the plaintiffs' claim. The lawsuit and claim were resolved in the MBC Bankruptcy Proceeding on March 20, 2000 by granting them an unsecured claim against the MBC bankruptcy estate.

Q.E.D. Ventures, Inc., Patricia Maher Wangsness, and David S. Wangsness v. Manhattan Bagel Co., Inc. and Sanford Nacht, (Superior Court of New Jersey, Monmouth County, Law Division, Case No. MON-L-5354-99). This complaint was filed November 1999 by a Manhattan Bagel franchisee in Virginia alleging violation of the franchise agreement because NWR acquired the Chesapeake Bagel Bakery chain in August 1999. This lawsuit also named as a defendant Sanford Nacht, in both his individual capacity and as President and Chief Operating Officer of MBC (at the time of filing). MBC filed counterclaims. The matter was settled on November 30, 2000 by the payment of \$22,500 to the plaintiffs.

Manhattan Bagel Co., Inc. v. Osborn, (American Arbitration Association, New Jersey, Case No. 18-E-114-00428-99) This arbitration was begun in July 1999 by MBC against Albert J. and Lisa J. Osborn, franchisees of a Manhattan Bagel franchised store in Williamsville, New York, seeking termination of franchisee's franchise agreement and collection of overdue royalties and other charges in the amount of \$13,090. The Osborns filed a counterclaim seeking rescission of the franchise agreement, damages of \$49,200, and attorneys' fees. After the Bankruptcy Court granted MBC's motion for summary judgment, the matter was settled on December 28, 2000 by the Osborns' payment to MBC in the amount of \$16,471.

Manhattan Bagel Co., Inc. v. Benfante, (American Arbitration Association, New Jersey, Case No. 18-E-114-00015-00). This arbitration was begun in August 1999 by MBC against Patrick Benfante and Rocco Cupolo, franchisees of a Manhattan Bagel franchised store in Rochester, New York, seeking termination of franchisee's franchise agreement and collection of overdue royalties and other charges in the sum of \$13,807. The franchisee counterclaimed, seeking rescission of the franchise agreement. After the Bankruptcy Court granted MBC's motion for summary judgment, the matter was settled on December 28, 2000 by the franchisee's payment to MBC in the amount of \$17,565.

Manhattan Bagel Co., Inc. v. Benfante (Superior Court of New Jersey, Monmouth County, Law Division, Case No. MON-L-4350-99). MBC filed this complaint in August 1999 against Patrick Benfante and Rocco Cupolo, who were also franchisees of a Manhattan Bagel franchised store in Rochester, New York, seeking termination of franchisee's franchise agreement and collection of overdue royalties and other charges in the sum of \$12,250. After the Bankruptcy Court granted MBC's motion for summary judgment, the matter was settled on December 28, 2000 by the franchisee's payment to MBC in the amount of \$15,792.

Manhattan Bagel Co., Inc. v. W.I.P.P. Enterprises, Inc. (Superior Court of New Jersey, Monmouth County, Law Division, Case No. MON-L-3477099). MBC filed this complaint in July

1999 against W.I.P.P. Enterprises, Inc., the franchisee of a Manhattan Bagel franchised store in West Seneca, New York, seeking termination of the franchisee's franchise agreement and collection of royalty arrearages and other charges in the sum of \$12,503.37. The franchisee counterclaimed, seeking rescission of the franchise agreement, attorneys' fees, and \$50,000 in damages. After the Bankruptcy Court granted MBC's motion for summary judgment, the matter was settled on December 28, 2000 by the franchisee's payment to MBC in the amount of \$18,315.

Manhattan Bagel Co., Inc. v. Klein (Superior Court of New Jersey, Monmouth County, Law Division, Case No. MON-L-3478-99). MBC filed this complaint in July 1999 against Kevin and Susan Klein, who were franchisees of a Manhattan Bagel franchised store in Hamburg, New York, seeking termination of the Klein's franchise agreement and collection of overdue royalties and other charges in the sum of \$9,236. The Kleins counterclaimed, seeking rescission of the franchise agreement, attorneys' fees, and \$50,000 in damages. The Kleins have appealed the final order entered in March 2002, denying franchisee's cross-motion for summary judgment. MBC will continue pursuit of its claims against these franchisees.

John W. Mangan, III, and The Mangan Group f/k/a MBSE, Inc., v. Manhattan Bagel Co., Inc., and New World Coffee-Manhattan Bagel, Inc. (North Carolina Superior Court, Mecklenburg County, No. 01-CVSA-13874). The plaintiff in this action (which was filed on July 16, 2001) was a former Manhattan Bagel master franchisee and its principal owner. The plaintiffs sought payment on a consulting agreement and other amounts due as part of a settlement agreement involving MBC's recapture of the master franchise territory. The action was settled through MBC's completion of its compliance under the October 24, 2001 settlement agreement, under which MBC agreed to pay approximately \$314,000 in damages and fees.

Higgs v. Manhattan Bagel Co., Inc., John/Jane Does # 1-10; and ABC Corporations #1-10 (Superior Court of New Jersey, Case No. MON-C-40-02). In February 2001, Robert Higgs, a franchisee of Manhattan Bagel stores at Route 37 East, Toms River, New Jersey and Eric Plaza Shopping Center, Forked River, New Jersey, filed a complaint against MBC and its officers, agents and related corporations for breach of contract, breach of fiduciary duties, tortious interference, and violations of the New Jersey franchise law. Higgs did not seek any specified amount of damages, but requested punitive damages, costs, and attorneys' fees. The matter was settled on July 23, 2003 by the payment of \$40,000 to the plaintiff.

Litigation Against NWR:

Sargente v. New World Coffee & Bagels, Inc., Ramin Kamfar and Jerold Novack, (American Arbitration Association, New York, Case No. 13-114-01091-99) This arbitration was initiated in December 1999 by Valerie Sargente, the franchisee of a New World Coffee store located at 1159 Third Avenue, New York, New York, alleging fraudulent inducement, violations of the New York franchise law, and breach of contract, and also seeking rescission of the Franchise Agreement, damages of \$500,000, and attorneys' fees against NWR. The New York franchise law claims were also asserted against R. Ramin Kamfar and Jerold E. Novack in their individual capacities (Messrs. Kamfar and Novack are former officers of our company and of NWR). NWR filed a counterclaim against the franchisee for amounts owed for royalties, product purchases, rent obligations, and loan obligations in the sum of \$275,000. After completion of the plaintiff's case in the arbitration, all of the defendants moved to dismiss the demand for arbitration. The Arbitrator granted the motion to dismiss filed by Messrs. Kamfar and Novack, and substantially

granted NWR's motion to dismiss. This case was settled on November 30, 2001. Under the settlement, NWR is to pay Sargente approximately \$90,000 over time. In addition, NWR paid a \$50,000 guaranty NWR executed for a loan given to Sargente (see the Commercial Capital Corp. case below).

Commercial Capital Corp. v. VM Sargente, Inc., Valerie Sargente and New World Coffee—Manhattan Bagel, Inc. (N.Y. Supreme Court, New York County, No. 601421/00). This action was filed in May 2000 against NWR by Commercial Capital Corp., the bank that issued a loan to former franchisee Valerie Sargente (see Valerie Sargente v. New World Coffee & Bagels, Inc., et al. above) in an effort to collect on NWR's \$50,000 guaranty of the franchisee's loan. The bank also asserted a claim that NWR fraudulently procured the loan and Sargente asserted a cross-claim against NWR for contribution and indemnification. This matter was settled in October 2001. Under the settlement, NWR paid its \$50,000 guaranty of Sargente's loan, as was already required under NWR's guaranty of the bank loan.

New World Coffee & Bagels, Inc. v. Abrams (American Arbitration Association, New York, Case No. 13-114-00854-99). This arbitration was begun by NWR in September 1999 against Lidia Abrams, the former franchisee of a New World Coffee store in Chatham, New Jersey, seeking damages for breach of the franchise agreement, as well as recovery from Abrams of unpaid fees and other charges in the sum of \$166,954. Abrams filed a counterclaim alleging fraudulent inducement, breach of contract and violations of the New York franchise law, and also seeking rescission of the franchise agreement, damages of \$1.0 million, and attorneys' fees. The New York franchise law claims were also asserted against Ramin Kamfar and Jerold Novack in their individual capacities. Upon a motion filed by NWR and Messrs. Kamfar and Novack, the arbitrator issued an Order dismissing most of Abrams' claims. The arbitrator later denied Abrams' motion for reconsideration. This matter was settled on December 8, 2001. Under the settlement, NWR paid Abrams approximately \$10,000.

Benjamin A. Allen and Allen Foods, Inc. v. New World Coffee, Inc., et al. (U.S. District Court for the Southern District of New York, Case No. 00-CIV-2610). In April 2000, the plaintiffs, the former franchisee of a New World Coffee store in New Brunswick, New Jersey, and its principal owner, filed a complaint alleging fraudulent inducement and violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"). The plaintiffs also sought injunctive relief, declaratory relief, damages in the amount of \$750,000, and attorneys' fees. The plaintiffs' claims were also asserted against Ramin Kamfar, Jerold Novack and Collin Gaffney in their individual capacities. The defendants filed a motion to dismiss the RICO claims and the court granted that motion. The plaintiffs later filed an amended complaint. The defendants moved to dismiss all of the claims in the amended complaint. The court granted defendants' motion, dismissing the plaintiffs' RICO claims with prejudice and the plaintiffs' other claims without prejudice.

New World Coffee of Forest Hills, Inc. v. New World Coffee & Bagels, Inc., (American Arbitration Association, New York, Case No. 13-114-00237-00). This arbitration was begun in February 2000 by New World Coffee of Forest Hills, Inc., the former franchisee of a New World Coffee store located at 107-24 Continental Avenue, Forest Hills, New York, alleging fraudulent inducement, violations of the New York franchise law, and seeking damages of \$750,000 plus interest and costs. NWR asserted a counterclaim seeking unpaid rent and overdue amounts for royalties, product purchases, and advertising fees in an amount of approximately \$200,000. The parties settled all disputes in the arbitration, and to settle the matter, NWR agreed not to enforce its judgment for \$222,981 against Forest Hills, and NWR reimbursed Forest Hills \$15,000.

Three Beans & Bagel Corp. v. New World Coffee & Bagels, Inc., Ramin Kamfar and Jerold Novack, (American Arbitration Association, New York, Case No. 13-114-00389-00). This arbitration was begun in April 2000 by Three Beans & Bagel Corp., the franchisee of a New World Coffee store at 102 Westwood Avenue, Westwood, New Jersey, alleging fraudulent inducement, violations of the New York franchise law, and breach of contract, and also seeking rescission of the franchise agreement, damages of \$500,000, and attorneys' fees against NWR. The New York franchise law claims were also asserted against Ramin Kamfar and Jerold Novack in their individual capacities. NWR asserted a counterclaim for collection of royalties and other overdue charges in an amount of approximately \$12,000. This matter was settled in June 2001. Under the settlement, NWR is to pay the franchisee approximately \$60,000, over time, including stock and royalty and product discounts.

Noureddine Solhi and Hadria, Inc. v. New World Coffee & Bagels, Inc., Ramin Kamfar and Jerold Novack (American Arbitration Association, New York, Case No. 13-114-00389-00). This arbitration was begun in September 2000 by Noureddine Solhi and Hadria, Inc., the franchisees of a New World Coffee store at 126 Rockland Plaza, Nanuet, New York, alleging fraudulent inducement, violations of the New York franchise law, and breach of contract, and also seeking rescission of the franchise agreement, damages of \$140,000, and attorneys' fees against NWR. The New York franchise law claims were also asserted against Ramin Kamfar and Jerold Novack in their individual capacities. NWR asserted a counterclaim for unpaid royalties, payment for product purchases, and rent in an amount equal to approximately \$40,000. This matter was settled on July 24, 2001. Under the settlement, NWR is to pay the franchisee \$35,000 over time.

Jason Gennusa, Andrew Gennusa, and Zebu Forno Enters., LLC v. New World Restaurant Group, Inc. (Superior Court of New Jersey, Law Division, Monmouth County, Docket No. L-1164-03, filed March 17, 2003). In this matter, the plaintiffs were the two original owners of the Manhattan Bagel system and their new company. They brought an action seeking a declaratory judgment that they: (a) had not actually sold us the recipes when they sold us the Manhattan Bagel system and the stock of our company in 1998; (b) were free to solicit business from Manhattan Bagel franchisees; and (c) were entitled to use the original Manhattan Bagel recipe to produce bagels and sell them to Manhattan Bagel franchisees. We filed a counterclaim, asserting that the Gennusas had violated their confidentiality agreement by producing bagels using the recipes that they sold to us (along with the sale of the company) in 1998, and that the Gennusas were also tortiously interfering in our contractual relationships with our franchisees. In July 2003, we reached a settlement under which the Gennusas and their company abandoned all of their claims, agreed to do all of the things that we asked for in our counterclaim, and in which we compensated the Gennusas a certain amount to defray some of the cost of transitioning their company's business so that it no longer sold bagels to our franchisees.

Related to the Gennusa action, above, was another action encaptioned Kaufman v. New World Restaurant Group, Inc. (Superior Court of New Jersey, Monmouth County, Chancery Division, No. MON-C-158-03, filed June 2, 2003). This action was joined with the Gennusa lawsuit, noted above. This action was filed by four franchisees seeking the right to buy bagels from the Gennusas' company, and alleged breach of contract, fraud, violation of the New Jersey Franchise Practices Act, and constructive termination. We responded and sought a dismissal of the complaints. Before the court could hold a hearing, the plaintiffs dismissed all of their claims with prejudice.

Manhattan Bagel of Northeast, Inc. and Ellen Fishlevich v. Manhattan Bagel Company, Inc. and New World Restaurant Group, Inc. (Superior Court of New Jersey, Law Division, Monmouth County, Docket No. L-3166-04, filed August 11, 2004). This is a lawsuit filed by former franchisee (who was a plaintiff in the Kaufman case, above, and whose claims were dismissed with prejudice in that action) who later claimed that MBC engaged in fraud by not disclosing changes to its product formulation. We filed a motion to stay their action pending arbitration, and the plaintiff's counsel consented. Although the case (including our claims seeking to recover \$150,000 that the plaintiff owes to us) is pending in the arbitration proceeding, the plaintiffs have since sought protection under the U.S. Bankruptcy Code, and the arbitration proceeding has been stayed pending the outcome of those bankruptcy proceedings.

Industrial Way, LLC, v. New World Restaurant Group, Inc., and Manhattan Bagel Company, Inc. (Superior Court of New Jersey, Law Division, Monmouth County, Docket No. L-1202-03). Industrial Way, LLC, the owner of premises leased by MBC, filed this lawsuit against NWR and MBC on March 18, 2003. In its amended complaint dated May 5, 2003, the plaintiff alleged causes of action for related to the lease of an office and manufacturing facility in New Jersey. The landlord's claims included wrongful conversion of personal property (consisting of fixtures and equipment), damage to leasehold property, and breach of the lease. The landlord sought compensatory damages in an unspecified amount, amounts relating to rent the landlord claimed were outstanding, acceleration of rent through the balance of the term, interest, costs to repair the premises, and related expenses. The landlord also raised an alternative theory of damages based on diminution in value of the building in which the premises are located. On June 19, 2003, NWR and MBC filed their answer to the amended complaint and counterclaim. On August 15, 2003, the court disqualified the plaintiff's attorney from this matter ruling that a conflict of interest existed because of that attorney's prior representation of NWR. On April 22, 2004, a settlement agreement was signed in which NWR agreed to pay the landlord \$3 million to cover the remaining rents and other costs.

New World Restaurant Group, Inc. v. Jasbir Jassal. (Civil Court, New York City and County: Housing Division, Index No. L&T 078354/05, filed June 28, 2005). NWR filed an action against a former New World Coffee franchisee (who is also a subtenant of certain retail space) seeking possession of the sublet premises and a money judgment against the respondent for \$425,353.01. Shortly after NWR filed this action, the defendant filed a separate lawsuit, alleging that in 1998, NWR committed fraud and misrepresentation in his original purchase of the franchise (that lawsuit is captioned Jasbir Jassal v. New World Coffee and Bagels, Inc., and is now pending in the U.S. District Court for the Eastern District of New York, Docket No. 1:05-cv-03803 (FB)(RML) (the case was originally filed on August 4, 2005 in the Supreme Court of New York, County of Queens, Index No. 16412/05, and removed to U.S. District Court on August 10, 2005). Both of these cases remain pending.

Other than these 36 actions, no litigation is required to be disclosed in this offering circular.

ITEM 4 **BANKRUPTCY**

Before we acquired the Einstein system, our predecessor, ENBC, filed a Chapter 11 bankruptcy petition on April 27, 2000. Einstein/Noah Bagel Partners, L.P. ("ENBP") also filed a Chapter 11 bankruptcy petition. Both cases were filed in the U.S. Bankruptcy Court, District of Arizona. (U.S. Bankr. Court for the District of Arizona, jointly administered Case Nos. 00-04447-ECF-

CGC and 00-4448-ECF-CGC). ENBC and ENBP remained in possession of their respective assets as Debtors in Possession. In February 2001, ENBC and ENBP filed a joint motion in their bankruptcy cases to sell substantially all of their assets, including the Einstein and Noah Restaurant System. On June 1, 2001, the Bankruptcy Court approved and entered an Order approving the sale to us of the Einstein and Noah Restaurant System and related assets that MBC and ENBP were selling through these proceedings. On June 19, 2001, ENBC and ENBP consummated a sale of substantially all of their assets (including 100% ownership of ENBPI) to ENC. On August 5, 2003, the U.S. Bankruptcy Court in Arizona granted the motion for entry of final decree closing the bankruptcy cases filed by ENBC and ENBP. The Chapter 11 cases were closed on August 20, 2003.

On November 19, 1997, MBC filed a Chapter 11 bankruptcy petition (U.S. Bankr. Court for the District of New Jersey, Case 97-53360) and remained in possession of its assets as a Debtor in Possession. On November 20, 1998, the court confirmed MBC's First Amended Joint Plan of Reorganization. Under the terms of the First Amended Joint Plan of Reorganization, NWR purchased us and our assets. Since then, NWR has owned and operated MBC as a wholly-owned subsidiary.

Other than these actions, no person previously identified in Item 1, or officer identified in Item 2, of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

ITEM 5 **INITIAL FRANCHISE FEE**

Area Development Fee

If you are going to be a Developer, then you will sign an Area Development Agreement and pay us a non-refundable area development fee in the amount of \$5,000 for each Restaurant to be opened under the Area Development Agreement. The number of Restaurants that you will develop under the Area Development Agreement is determined by a mutual agreement between you and us, and will vary depending on a number of factors, such as: (1) the existing population and anticipated population growth within the Development Area; (2) competition within the Development Area; (3) the availability of acceptable locations within the Development Area; and (4) the number of Restaurants we estimate can be developed within the Development Area.

The area development fee will be due in a lump sum upon the signing of an Area Development Agreement. Payment of the area development fee will be in addition to the payment of initial franchise fees upon the execution of Franchise Agreements for the Restaurants developed under the Area Development Agreement and, as described below, we will credit you \$5,000 from the area development fee toward the initial franchise fee required under the Franchise Agreement for each Restaurant that you timely open according to the Development Schedule (so long as you have met your obligations under the Area Development Agreement and any Franchise Agreements already in effect). The total of the credits available to be applied to your initial franchise fees will be the total that you have paid to us in area development fees.

The area development fee is calculated in a uniform manner, but may not be the same absolute number for all developers, because of differences in how many Restaurants a developer may agree to develop in a particular Development Area.

Initial Franchise Fee

The initial franchise fee under a Franchise Agreement is \$35,000, and must be paid in full when the Franchise Agreement is signed. If there is a credit available from your area development fee (as described above), then that credit will be applied to reduce your payment. The initial franchise fee will be fully earned when paid, must be paid in one lump-sum amount, excluding any required deposits, and will not be refundable. The initial fee is uniform.

Product Purchases

In addition to the fees described above, you may also choose to buy some items from us or from our affiliates, directly or indirectly (for example, through distributors). These may include equipment, your opening inventory of proprietary products, and marketing materials. Your purchases of these items are likely to total approximately \$3,500 to \$10,000. There are additional items that you will have to buy as part of your initial outlays, as described in Item 7 below.

Application of Payments

Proceeds from the initial franchise fees and development fees go into our general fund and, in part, compensate us for the lost or deferred opportunity to franchise others and, in part, is used to pay or defray some of the costs we may incur as a result of: (1) screening and approving prospective franchisees; (2) providing advice and assistance to franchisees; (3) incurring legal fees, accounting fees, and other costs to comply with the federal and state laws governing this offering; (4) developing, registering, and protecting the Proprietary Marks; (5) prior research and development relating to the System; (6) prior development of our training programs, new restaurant training, or on-going training; and (7) marketing and general administrative expenses.

ITEM 6 **OTHER FEES**

(Please review this table together with the notes that follow.)

| Fee (Note 1) | Amount | Date Due | Remarks |
|-----------------------|----------------------------------|--|---|
| Royalty | 5% of Gross Sales | Each week, on or before the third business day, calculated on the Gross Sales for the prior week | Gross Sales means all revenue related to the Restaurant (excluding customer refunds, discounts, and sales taxes collected and remitted to the proper authorities). (Note 2) |
| Advertising Contrib'n | Up to 5% of Gross Sales (Note 3) | Same as Royalty | See the description of "Gross Sales" above. |

| Fee (Note 1) | Amount | Date Due | Remarks |
|-----------------------------------|--|--|--|
| Grand Opening Advertising Program | \$5,000 | Within 6 months after you open your Restaurant | Spent to promote the grand opening of your restaurant. You must submit a marketing plan for our review and approval. We may require you to deposit the funds with us to distribute as needed to conduct the Grand Opening Advertising Program. |
| Transfer Fee | Lesser of \$10,000 or 2% of the total selling price paid by transferee | At time of transfer | Payable only if you make a transfer (as defined in the agreement), which includes the sale of your franchise or your company. |
| Interest on Overdue Amounts | 1.5% per month on the underpayment (Note 4) | Upon demand | Only due if you don't pay us the amounts you owe on time. Interest will be charged only on overdue amounts and will start to accrue on the date when the payment was originally due. |
| Costs and Attorneys' Fees | Will vary under circumstances | Upon demand | Only if you are in default under the Franchise Agreement, in which case you must reimburse us for the expenses we incur (including reasonable attorneys' fees) as a result of your default and to enforce and terminate the agreement. |
| Site Evaluation | Will vary | Upon demand, if incurred | Under the Area Development Agreement, we will conduct an on-site evaluation for each proposed Restaurant. If there are any additional on-site evaluations needed, you will have to reimburse us for our reasonable out-of-pocket expenses incurred in connection with those additional on-site evaluations (including for example the costs of travel, lodging, wages, and meals). |
| Supplier Testing | Will vary | Upon demand, if incurred | If you propose a new supplier of products, and we inspect the supplier or test the supplier's products, we may charge you or the supplier for our costs in conducting those inspections or running those tests. |
| Audit Costs | All costs and expenses associated with the audit, reasonable accounting and legal costs. | Upon demand | Payable only if we audit because you did not submit sales statements or keep books and records, or if you underreport your sales or underpay your royalties by 2% or more. (You will also have to pay interest on the underpayment (see "interest" above and Note 4).) |

| Fee (Note 1) | Amount | Date Due | Remarks |
|------------------------------|--|------------------------|--|
| Indemnity | Will vary under circumstances | As incurred | You must indemnify us, and reimburse us for our costs (including our attorneys' fees): (a) if we are sued or held liable in any case having anything to do with your business operations; (b) for any securities offering you propose or undertake; or (c) if we have to defend against a claim or pay damages because you made unauthorized or improper use of the Proprietary Marks. |
| Securities Offering Fee | \$7,500 or our actual expenses, whichever is more | Upon demand | If you make a public or private securities offering, you must reimburse us for our reasonable costs and expenses (including legal and accounting fees) to evaluate your proposed offering and you also must indemnify us (see above). |
| Additional training (Note 5) | Our per-diem charges, plus our out-of-pocket costs | Upon demand | If you ask that we send trainers to your restaurant for additional training, and we do so, then you will have to pay our trainers' expenses and our then-current per diem charge for extra training. Our current per diem charge is \$250 per trainer per day (we reserve the right to change our per diem rate in the future). |
| Systems Support Fee | \$300-\$500 per accounting period | Each accounting period | See Note 6 |
| Renewal Fee | 50% of the then-current initial franchise fee or \$17,500, whichever is more | Before renewal | Due only if you decide to renew the franchise on the terms that are described in the agreement. The renewal fee is instead of a new initial franchise fee. |
| Mystery Shopper | The per-visit charge that we incur | Upon demand | Our current policy is not to ask you to pay more than \$500 in any calendar year for mystery shoppers' services and reports. We reserve the right to change this policy. |

Notes:

- All fees are non-refundable and are payable to us.
- You must pay your royalties, advertising fund contributions, and system support fees by EFT (electronic fund transfer) by the third business day of each week. For this purpose, the term "week" means the period beginning with the start of business on Wednesday and ending at the close of business on the following Tuesday (or, if the Store is not open on a Tuesday, the immediately preceding business day). We have the right to designate in writing any other period of not less than seven days to be a "week" under the Franchise Agreement.

3. We require different kinds of advertising and promotional efforts depending upon where you will operate your Restaurant (for example, in a city, a suburban area, or in a resort community). Currently, there are no market ad funds ("MAFs") in our System. Additional details about the applicable advertising and promotional requirements can be found in Item 11, under the subheading "Advertising."
4. Interest starts to accrue when your payment was initially due. Interest rates will not exceed any maximum rate that may be imposed under applicable law.
5. This fee will be charged if, after we trained you and your original Restaurant Manager, you are unable to train replacement Restaurant Managers and other Restaurant personnel on your own. If that occurs, we will retrain you and train your new Restaurant Manager (or other Restaurant personnel), and you will have to pay us the fee indicated.
6. The systems support fee presently range from \$300-\$500 for an "accounting period" (see below). The cost per Restaurant may fluctuate based on the number of Restaurants open and operating under the System. Our present policy is to have the systems support fee cover the cost of our software, support desk (which presently operates 7 days a week, 16 hours a day), as well as remote installation of software upgrades that are provided by the vendor (provided your computer conforms to our standards and communication specifications). We currently make the same systems support fee payments for each of our company-owned Restaurants as our franchisees will do for each of their Restaurants, but we are not contractually obligated to do so. An "accounting period" will be a four or five week period (or calendar month), as long as there are not more than 13 accounting periods in a given calendar year or 26 accounting periods over a two-year stretch.

ITEM 7
INITIAL INVESTMENT

(Please review this table together with the notes that follow.)

| Item | Estimated Amount/ (Low-High Range) | Method Of Payment | When Due | Whether Refundable | To Whom Paid |
|---|---------------------------------------|-------------------|--|--------------------|---|
| Development Costs | | | | | |
| Construction Costs (Note 1) | \$140,000 to \$220,000 | As incurred | Progress payments during construction | No | General Contractors and suppliers |
| Kitchen/Computer Equipment & Lighting (Note 2) | \$125,000 to \$165,000 | Lump sum | Payment terms with suppliers | No | Us and suppliers |
| Furniture, Fixtures & Millwork (Note 3) | \$50,000 to \$75,000 | Lump sum | Payment terms with suppliers | No | Us and suppliers |
| Signage & Graphics (Note 4) | \$12,000 to \$25,000 | Lump sum | Payment terms with suppliers | No | Us and suppliers |
| Professional Fees (incl. architectural or engineering fees and permit and impact fees) (Note 5) | \$25,000 to \$60,000 | As Incurred | Monthly billing cycle | As Negotiated | Service Providers; Architects or Engineers; Government Agencies |
| Sub-Total Development Costs | \$352,000 to \$545,000 | | | | |
| Pre-Opening Costs | | | | | |
| Initial Franchise Fee (Note 6) | \$35,000 | Lump sum | Upon signing Franchise Agreement | No | Us |
| Real Estate Leasing (Note 7) | \$-0- to \$60,750 | As Incurred | As agreed | As negotiated | Landlord or land owner |
| Opening Inventory, Smallwares and Supplies (Note 8) | \$10,000 to \$20,000 | Lump sum | Payment terms with suppliers | No | Us and suppliers |
| Initial Advertising and Promotion (Note 9) | \$5,000 | As incurred | As incurred | No | Suppliers |
| Insurance (Note 10) | \$7,500 to \$15,000 | As incurred | As incurred | As negotiated | Insurance Providers |
| Training Expenses (Note 11) | \$1,000 to \$14,000 | As incurred | Payment terms with suppliers and employees | No | Suppliers and employees |

| Item | Estimated Amount/ (Low-High Range) | Method Of Payment | When Due | Whether Refundable | To Whom Paid |
|---|------------------------------------|-------------------|--|----------------------------|--|
| Miscellaneous Opening Costs (Note 12) | \$1,000 to \$3,000 | As incurred | Payment terms with suppliers and employees | No | Suppliers and employees |
| Business Licenses (Note 13) | \$500 to \$5,000 | As incurred | As Incurred | As Negotiated | Government Agencies |
| Security Deposits (Note 14) | \$2,500 to \$5,000 | As Arranged | As Arranged | Lender, Approved Suppliers | As Negotiated |
| Additional Funds (three months) (Note 15) | \$12,000 to \$50,000 | As incurred | As incurred | See note 13 | Us, suppliers, employees and other creditors |
| Sub-Total Pre-Opening Costs | \$74,500 to \$212,750 | | | | |
| TOTAL ESTIMATED INITIAL INVESTMENT (Note 16) | \$426,500 to \$757,750 | | | | |

Notes:

Please note that we do not offer direct or indirect financing to you for any items. The availability and terms of financing from other sources will likely depend on factors such as the availability of financing generally, your creditworthiness, and the policies of lending institutions.

1. **CONSTRUCTION.** You will need to construct improvements, or "build out," the premises at which you will operate the Restaurant. Generally, you will take the premises in "vanilla box" condition (that is, primed drywall ready to be painted, but without improvements). Among other things, you will need to arrange for proper wiring and plumbing, floor covering, wall covering, partitions, heat, air conditioning, lighting installation, storefront modifications, painting, cabinetry, bathroom facilities, etc. You may need to hire an architect and licensed builder. Costs are likely to vary and may be much higher if you wish to establish your Restaurant in an area where special requirements of any kind will apply (such as historical, architectural, or preservation requirements). Landlords sometimes provide tenant improvement allowances. Tenant improvement allowances are not included in the Item 7 chart because if they are offered, the terms vary widely.

2. **KITCHEN/COMPUTER EQUIPMENT AND LIGHTING.** The estimate is for the equipment you will need to operate the Restaurant, such as baking equipment, proofers, refrigeration, freezers, sandwich lines, a point-of-sale (POS) system, software and lighting. You will need to obtain these items of equipment and other fixed assets from sources of your own choosing, so long as the items you purchase meet our specifications and are from approved or designated vendors (where there are approved or designated vendors). The amount spent for equipment and other fixed assets will vary for each Restaurant depending upon the

Restaurant's size, style, and the volume of products to be offered in the Restaurant. You will pay suppliers directly for equipment and other fixed assets.

3. FURNITURE, FIXTURES & MILLWORK. The estimate is for the furniture, fixtures and millwork you will need to operate the Restaurant. You will need to obtain these items and other fixed assets from sources of your own choosing, so long as the items you purchase meet our specifications and are from approved vendors or designated vendors (where there are designated vendors). The amount spent for furniture, fixtures and millwork will vary for each Restaurant depending upon the Restaurant's size, style, and the volume of products to be offered in the Restaurant. You will pay suppliers directly for these items.

4. SIGNAGE & GRAPHICS. The cost of signage and graphics will vary from location to location depending on lease requirements, local ordinances and restrictions, store frontage, and related factors. In addition, other considerations – such as zoning ordinances, as well as historical and architectural design standards – may affect your costs (both in terms of materials as well as professional fees that you will incur to get approval of your proposed signs). We will assist you in designing your signs, and the final proposed design must be submitted to us for our review and prior written approval. You will pay suppliers directly for these items.

5. PROFESSIONAL FEES. The estimate is for legal, accounting, administrative, permitting, traffic studies, demographic studies, brokerage and miscellaneous other professional fees that you may incur before you open for business, including (among other things) to assist you in reviewing the Franchise Agreement. Your actual costs may vary, for example, depending on the degree to which you rely upon your advisors.

6. INITIAL FRANCHISE FEE. These amounts are discussed in detail in Item 5. The franchise fee must be paid when the Franchise Agreement is signed. If you have also signed a Development Agreement, and you are in compliance with your obligations under the Development Agreement and all of your Franchise Agreements, then we will apply a credit from your development fee toward the initial franchise fee. The amount of the credit will be \$5,000 for each Restaurant, so long as the aggregate amount of the credits that we extend to you does not exceed the amount that you paid us as a development fee under the Development Agreement. See Item 5 for more details.

7. REAL ESTATE LEASING. If you do not own a location for your Restaurant, you must purchase or lease a space approved by us. You will probably need to lease a space at least four months in advance; however, you may attempt to negotiate an abatement from the landlord. In general, we attempt to negotiate the payment of our leases to coincide with the start of operations so no material pre-opening occupancy expenses are incurred. However, in some cases it may be necessary to begin lease payments before opening in order to secure a particular location, or to accommodate the optimal timing of a new store opening. Restaurant locations and sizes vary. Locations for a Restaurant are those that are typically described as "prime retail." While Restaurant sizes vary from 2,300 square feet to 2,700 square feet, 2,500 square feet is optimal. The estimate provided assumes that you pay in a range from no security deposit, to a security deposit equal to 6 months of rent. The rent that we have used in preparing the estimates in the chart ranges from \$20 to \$45 per square foot per year.

Rent varies considerably from market to market, and from location to location within each market. Rents may vary beyond the range that we have provided, based on factors such as market conditions in the relevant area, the type and nature of improvements needed to the premises, the size of the Restaurant, the terms of the lease, and the desirability of the location.

If you decide to purchase the property for the location of your Restaurant, you will incur additional costs that we cannot estimate.

8. **OPENING INVENTORY, SMALLWARES & SUPPLIES.** Items of inventory, smallwares and supplies which you are required to obtain from us or from our designated sources of supply are paid for at standard prices and terms. All items of inventory which you obtain from sources of your own choosing are paid for directly to the supplier of those inventory items at prices agreed upon by you and the supplier. Start-up inventory of products, smallwares and supplies will vary based on expected volume of business and size of storage areas in the building. This estimate is for the initial inventory only.

9. **INITIAL ADVERTISING AND PROMOTION.** We will assist you in tailoring an advertising plan appropriate to your market. The amount in the table is for the initial promotion and advertising efforts you are required to make under the Franchise Agreement. Additional details regarding advertising and promotion can be found in Item 11, under the subheading "Advertising."

10. **INSURANCE.** The estimate is for the annual premium for the policies required under the Franchise Agreement. Insurance costs will vary depending upon factors such as the size and location of the Restaurant. You must obtain general liability insurance and product liability insurance with minimum limits of \$1 million per occurrence, and an umbrella liability policy with minimum limits of \$5 million per occurrence, which you will have to obtain through third parties, such as your own insurance agent. Your obligations with respect to insurance are more fully described in Item 8.

11. **TRAINING EXPENSES.** For the initial training period, the "low" estimate assumes that you are located within commuting distance of our training facilities and that you do not incur *per diem* expenses. The "high" estimate assumes travel, meals, auto and lodging for two individuals, for eight weeks. The cost you incur will vary depending upon factors such as the distance traveled, mode of transportation, travel preferences (such as air travel or ground transportation), nature of accommodations, *per diem* expenses actually incurred, and the number of persons who will attend training. If you send more than two persons to attend training, we estimate that the additional cost, on a per person basis, will range from \$400 to \$7,000 per person.

12. **MISCELLANEOUS OPENING COSTS.** These include things such as office supplies, first aid kits, fire extinguishers, and similar items.

13. **BUSINESS LICENSES.** Local, municipal, county, and state regulations vary on what licenses and permits are required by you to operate. These fees are paid to governmental authorities before starting business.

14. **SECURITY DEPOSITS.** The figure is the estimated cost of telephone and utility deposits.

15. **ADDITIONAL FUNDS.** You will need additional capital to support on-going expenses, such as payroll and utilities, to the extent that these costs are not covered by sales revenue. New businesses often generate a negative cash flow. We estimate that the amount given will be sufficient to cover on-going expenses for the start-up phase of the business, which we calculate to be three months. This is only an estimate, however, and there is no assurance that

additional working capital will not be necessary during this start-up phase or after. Our estimate is based on our experience with company-owned Restaurants.

Your credit history could impact the amount (and cost) of funds needed during the start-up phase. If you have no credit history or a weak credit history suppliers may give you less favorable lending and payment terms, which might increase the amount of funds you will need during this period. You will need to have staff on-hand before opening to prepare the Restaurant for opening, for training, orientation, and related purposes. The estimate assumes that you will need approximately 500 hours of staff time, at \$7.00 per hour (or more, if the minimum wage is higher in your state), to get ready for your opening.

The figures in the chart and the explanatory notes are only estimates. Your actual costs may vary considerably, depending, for example, on factors such as: local economic conditions; the local market for the Restaurant; the prevailing wage rate; competition; the sales level achieved during the initial period of operation; and your management and training experience, skill, and business acumen.

You should review these figures carefully on your own with a business advisor of your choosing before making any decision to purchase the franchise. You should take into account the cash outlays and probable losses that you may incur while you are trying to get established. Extensive start-up costs may be involved, depending upon your circumstances.

16. TOTAL. We relied on our own experience when preparing these figures.

ITEM 8

RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

General

To insure that the highest degree of quality and service is maintained, you must operate the Restaurant in strict conformity with the methods, standards, and specifications as we may periodically prescribe in the Manual or otherwise in writing.

At all times during the term of the Franchise Agreement, you must:

- offer for sale only those Products for which we have given our written approval;
- sell or offer for sale all of the Products that we require;
- use the ingredients and employ only the preparation standards and techniques that we specify;
- not deviate from our standards and specifications, including our requirements concerning Product preparation, unless you have received our prior written consent; and
- stop selling and offering for sale any Products that we have later disapproved.

If you deviate (or propose to deviate) from our standards and specifications, whether or not we have approved, the deviation will become our exclusive property.

You must buy all Proprietary Items, Products, ingredients, supplies, materials, and other products used or offered for sale at the Restaurant only from suppliers (including manufacturers, distributors, and other sources) that we have approved in writing. When considering whether to approve any particular possible supplier, we will consider (among others) the following factors: whether the supplier can show, to our reasonable satisfaction, the ability to meet our then-current standards and specifications; whether the supplier has adequate quality controls and capacity to supply the System's needs promptly and reliably; and whether the supplier's approval would enable the System, in our sole opinion, to take advantage of marketplace efficiencies. You may not buy items from any supplier that we have not yet approved in writing, and you must stop buying items from any supplier who we approve, but later disapprove. As explained above, we have the right to designate only one supplier for certain items (such as distribution of products, soft drinks, etc.) in order to take advantage of marketplace efficiencies.

If you want to buy any Products or any other items (except for Proprietary Items, which are discussed below) from an unapproved supplier, you first must submit to us a written request asking for our approval to do so. You may not purchase from any proposed new supplier until we have reviewed and, if we think it is appropriate, approved in writing the proposed new supplier. Among other things, we will have the right to require that our representatives be permitted to inspect the proposed new supplier's facilities, and that samples from that supplier be delivered either to us or to an independent laboratory that we designate for testing. Either you or the proposed new supplier must pay us a charge (which will not exceed the reasonable cost of the inspection and the actual cost of the tests). We also may require that the proposed new supplier comply with certain other requirements that we may deem appropriate, including for example payment of reasonable continuing inspection fees and administrative costs, or other payment to us by the supplier on account of their dealings with you or other franchisees, for use, without restriction (unless otherwise instructed by the supplier) and for services that we may render to our suppliers. We reserve the right, at our option, to periodically re-inspect the facilities and products of any approved supplier and to revoke our approval if the supplier does not continue to meet any of our then-current criteria.

Although the Franchise Agreement does not require that we notify you of our approval or disapproval of a supplier within a specified time, we estimate that we will be able to notify you of approval or disapproval within 30 days after receipt of your written request. This is only an estimate and the actual approval time may be shorter or longer than 30 days; in any event, we will notify you of supplier approval or disapproval within 90 days from our receipt of your written request. Similarly, we estimate that the charge associated with our approval of a typical proposed supplier will range from \$1,000 to \$5,000.

The Franchise Agreement also provides that you may not use any item bearing our trademarks without our prior written approval as to those items.

We may periodically establish food commissaries and distribution facilities, and we may designate these as approved (or required) manufacturers, suppliers, or distributors.

We estimate that your purchases from approved suppliers and in accordance with our specifications will represent approximately 100% of your total purchases in establishing the Restaurant, and approximately 100% in the continuing operation of the Restaurant. We also estimate that your purchases from designated suppliers will represent approximately 100% of your total purchases in establishing the Restaurant, and approximately 100% of your total purchases in the continuing operation of the Restaurant.

You must allow us or our agents, at any reasonable time, to remove samples of Products offered in your Restaurant, without payment, in amounts reasonably necessary for testing by us or an independent laboratory to determine whether those samples meet our then-current standards and specifications. We may require you to bear the cost of that testing if we did not previously approve in writing the supplier of the item or if the sample that we take from your Restaurant fails to conform to our specifications.

We also may designate an independent evaluation service to conduct a "mystery shopper" quality control and evaluation program for Restaurants that we, our affiliates, or franchisees own. You must participate in the mystery shopper program as we may require. We will have the right to require you to pay the then-current charges imposed by the evaluation service for Restaurant inspections, and you must promptly pay these charges. (See Item 6 for more details.)

You will not be permitted to offer or sell, or allow anyone else to offer or sell, beer, wine, or any form of liquor, unless we have given you our advance written approval (which we will have the right to withhold).

We may establish strategic alliances or preferred vendor programs with suppliers that are willing to supply some products or services to some or all of the Restaurants in our system. If we do establish those types of alliances or programs, we may limit the number of approved suppliers with whom you may deal, we may designate sources that you must use for some or all Products and other products and services, and we may refuse to approve proposals from franchisees to add new suppliers if we believe that action would be in the best interests of the System or the franchised network of Restaurants.

We reserve the right to collect and retain certain manufacturing allowances, marketing allowances, rebates, credits, monies, payments and benefits (collectively, "Allowances") offered to us or to our affiliates by manufacturers, suppliers and distributors based upon your purchases of Products and other goods and services. These Allowances are based on System-wide purchases of meats, paper goods, and other items. Because we do not currently have franchisees in our System, we have not collected Allowances based on franchisee purchases in our last fiscal year.

Proprietary Items

You must buy all of your requirements for bagels, muffins, cookies, cream cheese, cream cheese spreads, coffee, coffee beans, and paper goods bearing the Proprietary Marks ("**Proprietary Items**") only from us, our affiliate, our parent company, or from our designee(s), as described below. We will have the right to periodically introduce additional Proprietary Items. Proprietary Items are considered integral components of the Einstein Bros. franchise and are inextricably interrelated with the Proprietary Marks and the System.

The Proprietary Items that are offered and sold in Restaurants are manufactured in accordance with the secret blends, standards, and specifications that we or our affiliates own. In order to maintain the high standards of quality, taste, and uniformity associated with Proprietary Items sold at all Restaurants in the System, you must purchase Proprietary Items only from us, our affiliate, our parent company, or our designees, and you may not offer or sell any Proprietary Item that has not been purchased from us, our affiliate, our parent company, or our designated supplier at or from the Restaurant. We estimate that your purchases of Proprietary Items will represent approximately 1.0% percent of your total purchases in establishing the Restaurant,

and approximately 25% of your total purchases in the continuing operation of the Restaurant (on an average weekly basis). The prices charged for Proprietary Items may vary by geographic area.

During our fiscal year ended December 28, 2004, we did not receive any revenue from the sale of Proprietary Items and Products to franchisees (as we did not have any franchisees).

Except as described in this Item 8, we do not provide any material benefits to you based on your use of designated or approved suppliers.

Insurance

Under the Franchise Agreement, you must obtain and maintain the following insurance:

- coverage against business interruption and/or time element, and direct physical loss or damage to real and personal property, including improvements and betterments, for all-risk perils, including flood and earthquake, if the relevant property is situated in a flood or earthquake zone;
- comprehensive general liability insurance, written on an occurrence basis, extended to include contractual liability, products and completed operations, and personal and advertising injury, with a combined bodily injury and property damage limit of at least \$1,000,000 per occurrence;
- statutory workers' compensation insurance and employers' liability insurance as required by the law of the state in which the Restaurant is located, including statutory workers' compensation limits and employers' liability limits of at least \$1,000,000;
- business automobile insurance with a combined single bodily injury and property damage limit of at least \$1,000,000 per occurrence;
- business interruption insurance to cover at least your obligations for leases, royalties, advertising fund obligations, fixed costs, and other recurring expenses for a period at least six months after an interruption of business operations.
- commercial umbrella liability insurance with total liability limit of at least \$5,000,000;
- products liability insurance with a limit of at least \$1,000,000, which policy must be considered primary; and
- all other insurance that we require in the Manual or that is required by law or by the lease or sublease for the Restaurant.

Each insurance policy required under the Franchise Agreement must be primary and noncontributory and must be issued by an issuer we approve, who must have a rating of at least "A" in the most recent *Key Rating Guide* published by the A.M. Best Company (or another rating that we reasonably designate if A.M. Best Company no longer publishes the *Key Rating Guide*) and must be licensed to do business in the state in which the Restaurant is located. All liability and property damage policies must name us as additional insureds and must provide that each policy cannot be cancelled unless we are given thirty days' prior written notice. We may periodically increase required coverage limits or require additional or different coverage to

reflect inflation, identification of new risks, changes in the law or standards of liability, higher damage awards and other relevant changes in circumstances. You must deliver to us (and in the future maintain on file with us) valid and current certificates of insurance showing that all required insurance is in full force and effect.

ITEM 9
FRANCHISEE'S OBLIGATIONS

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

| Obligation | Section in Agreement | Item(s) in Offering Circular |
|--|--|-------------------------------------|
| a. Site selection and acquisition/lease | § 1 in Franchise Agreement; §§ 5.1.1 and 5.1.2 in Area Development Agreement | 8 and 11 |
| b. Pre-opening purchases/leases | § 5 in Franchise Agreement; none in Area Development Agreement | 5, 7, and 8 |
| c. Site development and other pre-opening requirements | §§ 3.2, 3.3, 5.2, 5.3, 5.4, 5.5, and 10.9 in Franchise Agreement; §§ 3, 5.1.2, and Ex. A in Area Development Agreement | 8 and 11 |
| d. Initial and ongoing training | §§ 3.1, 5.5 and 12.5.7 in Franchise Agreement; none in Area Development Agreement | 11 |
| e. Opening | §§ 5.3 and 5.4 in Franchise Agreement; none in Area Development Agreement | 11 |
| f. Fees | §§ 2.2.6, 4, 10.2, and 12.5.8 in Franchise Agreement; §§ 2 and 3.1.1 in Area Development Agreement | 5 and 6 |
| g. Compliance with standards and policies/Operating Manual | §§ 1.4, 3.5, 5, 7, and 9 in Franchise Agreement; § 6.3 in Area Development Agreement | 8, 11, and 14 |
| h. Trademarks and proprietary information | §§ 1.1 and 6 in Franchise Agreement; § 1.6 in Area Development Agreement | 13 and 14 |
| i. Restrictions on products/services offered | §§ 1.4, 5.1 and 5.11 in Franchise Agreement; none in Area Development Agreement | 5, 8, and 16 |

| Obligation | Section in Agreement | Item(s) in Offering Circular |
|--|--|-------------------------------------|
| j. Warranty and customer service requirements | § 5.7 in Franchise Agreement; none in Area Development Agreement | 16 |
| k. Territorial development | § 1.3, 1.4, and 1.6 in Franchise Agreement; § 1.1 in Area Development Agreement | 12 |
| l. Ongoing product/service purchases | § 5 in Franchise Agreement; none in Area Development Agreement | 8 |
| m. Maintenance, appearance and remodeling requirements | §§ 2.2.2, 5, and 12.5.5 in Franchise Agreement; none in Area Development Agreement | 8 |
| n. Insurance | § 11 in Franchise Agreement; none in Area Development Agreement | 7 and 8 |
| o. Advertising | §§ 5 and 10 in Franchise Agreement; none in Area Development Agreement | 6, 8, and 11 |
| p. Indemnification | § 17 and Ex. A in Franchise Agreement; § 11 in Area Development Agreement | None |
| q. Owner's participation/management/staffing | §§ 5 and 15 in Franchise Agreement; § 5.2.5 in Area Development Agreement | 15 |
| r. Records/reports | §§ 4.2, 5 and 9 in Franchise Agreement; § 3.2 in Area Development Agreement | 6 |
| s. Inspection/audits | §§ 5 and 9 in Franchise Agreement; none in Area Development Agreement | 6 and 11 |
| t. Transfer | §§ 5.17.3 and 12 in Franchise Agreement; § 7 in Area Development Agreement | 17 |
| u. Renewal | § 2.2 in Franchise Agreement; none in Area Development Agreement | 17 |
| v. Post-termination obligations | § 14 in Franchise Agreement; § 6.4 in Area Development Agreement | 17 |
| w. Non-competition covenants | § 15 in Franchise Agreement; § 8 in Area Development Agreement | 17 |
| x. Dispute resolution | § 22 in Franchise Agreement; § 15.2 in Area Development Agreement | 17 |
| y. Taxes/permits | §§ 5.2.1 and 16 in Franchise Agreement; § 10 in Area Development Agreement | 1 |

ITEM 10
FINANCING

We do not offer direct or indirect financing. We will not guarantee your note, lease, or other obligations.

ITEM 11
FRANCHISOR'S OBLIGATIONS

Except as listed below, we need not provide any assistance to you.

Pre-opening Obligations

We are required by the Franchise Agreement to provide certain assistance and service to you.

Franchise Agreement. Before you open your Restaurant:

(1) Before your Restaurant opens, we will provide to you (or to your designated principal), as well as the Restaurant's general manager, our standard initial training program at a location that we designate. We will also make this training available for up to an additional two Restaurant managers, if you want to send those persons to training. (Training is also discussed below in this Item 11 under the subheading "Training.") We will provide ongoing training as we may periodically deem appropriate. We will be responsible for the cost of instruction and materials, subject to the terms stated in the Franchise Agreement. (Franchise Agreement, Sections 3.1, 5.5)

(2) We will provide, at no charge to you, prototype plans and specifications for the construction of the Restaurant and for the exterior and interior design and layout, fixtures, equipment, furnishings, and signs. You will be responsible for hiring your own architect to adapt the plans to your site, with our approval, and for hiring a contractor to build the Restaurant in accordance with those approved plans. You are also responsible for compliance with all local and other requirements for the plans, including for example, zoning, code, and compliance with the Americans with Disabilities Act. (Franchise Agreement, Section 3.2)

(3) We have the right to inspect and approve the Restaurant for opening before the initial opening. You may not start operation of your Restaurant until receiving our approval to do so. (Franchise Agreement, Section 3.8)

(4) We may provide a representative to be present at the Restaurant's initial opening. If we elect to do so, then you may not conduct the initial opening unless our representative is present. We will provide additional on-site pre-opening and opening supervision and assistance as we deem it advisable to do so. (Franchise Agreement, Section 3.3)

(5) We will lend you, for the duration of the Franchise Agreement, one copy of the Manual (which is more fully described in Item 14 below). (Franchise Agreement, Section 3.4)

(6) We will assist you in developing the Grand Opening Advertising Program (which is more fully described in Item 6 of this offering circular); you will be responsible for the cost of this program. (Franchise Agreement, Section 3.7)

We are not required by the Franchise Agreement to furnish any other service or assistance to you before the opening of your Franchised Business.

Continuing Obligations

We are required by the Franchise Agreement to provide certain assistance and service to you. During the operation of your Franchised Business:

- (1) We will make available additional training programs, as we deem appropriate. (Franchise Agreement, Section 5.5)
- (2) We will give you periodic and continuing advisory assistance as to the operation and promotion of the Restaurant, as we deem advisable. (Franchise Agreement, Section 3.9)
- (3) We will administer the national advertising fund (the "NAF") as stated in the Franchise Agreement and as described below in this Item 11. (Franchise Agreement, Section 3.6)

Neither the Franchise Agreement, nor any other agreement, requires us to provide any other assistance or services to you during the operation of the Restaurant.

Site Selection

There are no site selection requirements under a Franchise Agreement because the Franchise Agreement will be signed only after you have found a location for the Restaurant. We will approve a proposed location only if it meets our standards and is otherwise acceptable to us. However, you will be solely responsible for the choice of a location, and the fact that we approve a location will not mean that we have made any direct or implied promise or guarantee of your success at the location.

We estimate that the time period between the signing of the Franchise Agreement and the start of operations will be approximately three to six months. You must open the Restaurant within six months after securing the necessary authorization and approval for permits and certificates.

The factors we will evaluate in considering whether to approve a site include: general location and neighborhood; pedestrian traffic volume and patterns; demographic and automobile traffic patterns, volume, and speed; size and ease of access to the proposed site; the proposed lease or sublease; utilities; and zoning issues.

Training

Before your Restaurant opens, you (or, if you are a corporation, partnership, limited liability company, or limited liability partnership, one of your principals who you designate to supervise the operation of the Restaurant, and who we have previously approved (the "Operating Partner")), one full-time general manager (the "Restaurant Manager"), and one full-time assistant restaurant manager (the "Assistant Manager") must attend and successfully complete, to our satisfaction, the initial training program that we offer. In addition, one full-time baker employed in your Restaurant (the "Baker") must attend and successfully complete (to our satisfaction) our "Baker Certification" training program. For the purpose of the training paragraph, the "Operating Partner" must be a person who has an ownership interest in Franchisee, and who has signed the Guarantee, Indemnification and Acknowledgement that is attached to the Franchise Agreement.

The Restaurant must be under the active full-time management of either you or the Operating Partner who successfully completed (to our satisfaction) our initial training program.

If any of you (or the Operating Partner), the Restaurant Manager, Assistant Manager, or the Baker (collectively, the "Highly Trained Personnel") cease active management or employment at the Restaurant, then you must enroll a qualified replacement (who must be reasonably acceptable to us) in our initial training program not more than 30 days after the end of the former person's full-time employment or management responsibilities. The replacement must attend and successfully complete the basic management training program, to our reasonable satisfaction, as soon as it is practical to do so.

We may require that any or all of the Highly Trained Personnel attend refresher courses, seminars, and other training programs periodically.

We will bear the cost of all training (instruction and required materials). You will bear all other expenses incurred in attending training, such as the costs of transportation, lodging, meals, wages, and worker's compensation insurance (see Items 6 and 7 of this offering circular).

If you ask that we provide additional on-site training, and we are able to do so, then you will pay us our then-current per diem charges and out-of-pocket expenses. Our per diem charges will be specified in our Manual, and the current amount is described in Item 6 of this offering circular.

The subjects covered in the initial training program are described below.

| Subject | Materials | Classroom Hours | OJT Hours |
|-----------------------------|---|-----------------|-----------|
| Orientation | Orientation Flipchart | 4 | 5 |
| Counter Position Training | Counter Module Job Aids Nutritional Guide | | 40 |
| Baker Position Training | Baker Module Product Manual Resource Library Baking Spiral | | 90 |
| Frontier Position Training | Frontier Module | | 5 |
| Cashier Position Training | Cashier Module | | 10 |
| Prep Position Training | Prep Module Product Manual | | 10 |
| Shift Management | Ops Manual System Reference Guide Standards of Execution 10 Pt. Checklists | 2 | 70 |
| Close Management | Ops Manual | | 30 |
| Ordering/ Receiving/Pars | Systems Reference Guide Supply Chain Flowchart | 3 | 22 |
| Inventory | Systems Reference Guide | | 35 |

| Subject | Materials | Classroom Hours | OJT Hours |
|------------------------------|--|------------------------|------------------|
| Cash Management | Systems Reference Guide | 1 | 10 |
| Scheduling | Systems Reference Guide | 1 | 5 |
| Payroll | Systems Reference Guide | 1 | 5 |
| Sales & Profit | Systems Reference Guide | 2 | 5 |
| P & L Reconciliation | Ops Manual | 2 | 5 |
| Equipment | Equipment Manual | | 5 |
| Marketing /Merchandising | Merchandising Manual Ops Manual Restaurant Design Manual Catering Training Manual | 8 | 10 |
| Risk Management | Ops Manual Recruiting Presentation Federal and State Posters | 2 | 5 |
| Guest Experience | Standards of Execution Book Guest Experience Video | 2 | 5 |
| Crew Development | Ops Manual Hourly Training-Materials | 1 | 10 |
| Transfer Checklist | Transfer Checklist | | 10 |
| Quality Assurance Inspection | Quality Assurance Inspections | 2 | 8 |
| Research and Development | Birth of a Bagel Video Nutritional Guide Product Innovation Flowchart | 2 | |
| Legal | Legal Presentation | 2 | |
| Totals | | 40 | 400 |

Training will be conducted over a eight-week period at locations of our choosing (typically, but not always, this includes five days at our headquarters in Golden, Colorado and then 40 days at one of our approved training facilities across the U.S. (where possible, the facility that is nearest to your location)) for a minimum of 45 days (Session 1), plus a minimum of three days in your Restaurant before you open (Session 2). Training is conducted as frequently as we determine it necessary in order to hold a training class.

Our principal trainer will be Stacie Homan, who has served as our national Franchise and License Training Director since our inception. She joined ENBC in April 1997 and served ENBC as a District Manager, Training Manager, and as Manager of Operations Services before assuming the position of Manager (and, now, Director) of Franchise and License Training.

Advertising

As described in Item 6 above, for each week during the term of the Franchise Agreement, you will be required to make an Advertising Contribution. The Advertising Contribution will be in an amount not to exceed 5% of the Gross Sales of your Restaurant during the preceding week. (See Item 6, note 2, for the definition of the term "week.") We occasionally may lower the Advertising Contribution by giving you written notice of the amount and length of the reduction.