



CONTINENTAL FRANCHISE REVIEW

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LEGAL

Burger King Agrees to Pay Franchisee a Reported \$4 million

MIAMI - Burger King Corp. has settled a dispute with a Massachusetts franchisee who claimed the company damaged his business by allowing a second Burger King to locate within a two-mile radius of his restaurant.

Although neither side would comment on the exact terms or dollar amount of the out of court settlement, sources put it at \$4 million.

Franchisee Steven A. Scheck claimed the corporation failed to act in good faith when it allowed Marriott Corp., another fast-food franchisee, to buy a site on the Massachusetts Turnpike. Scheck bought his restaurant outright from the company based on their assurances that the new restaurant would not be a Burger King. (*CFR, Vol 25, No. 1*)

Although the contract with Scheck states that the franchisee has no rights to exact territory, a U.S. District Court judge decided the case has merit on the issue of whether Burger King breached an implied covenant of good faith.

"The size and terms of the settlement sends a message to franchisors that they must now tread cautiously and fairly and deal in good faith in their dealings and relationships with franchisees," said Robert Zarco of Zarco & Associates, Scheck's attorney.

About \$2.63 million is for the settlement of the lawsuit and \$1.36 million will buy back three stores Scheck owns, sources say. Scheck will retain his North Adams franchise, Kim Miller, a Burger King spokeswoman said.

"The successful resolution of this dispute demonstrates and strengthens Burger King Corp.'s commitment to positive franchisee relationships," Mark Giresi, senior vice president and general counsel, said in a prepared statement.