

---

# News from Attorney General Robert Abrams

---

Department of Law  
Two World Trade Center  
New York, NY 10047

Department of Law  
The State Capitol  
Albany, NY 12224

---

For Further Information Contact  
Timothy Gilles  
212/488-3334--518/474-7330

---

FOR RELEASE: TUESDAY, JANUARY 14, 1986  
AFTER 2:00 P.M.

**ABRAMS SUES FRANCHISE BUSINESS PROMOTER;  
SEEKS TO PERMANENTLY BAR PROMOTER FROM THE FRANCHISE BUSINESS  
IN NEW YORK STATE**

Attorney General Robert Abrams today (Tuesday) announced that a lawsuit has been commenced against the promoters of a Westchester cheese and gourmet food shop franchise charging them with grossly misrepresenting sales and profits to potential franchisees. The suit seeks nearly \$300,000 in restitution for persons who bought franchises which subsequently failed. It also seeks a court order permanently barring the defendants from selling franchises in New York State.

The suit, to be filed in State Supreme Court, Westchester County, charges that Danny's Franchise Systems of Mount Kisco, and Daniel Lieberman, its president, told prospects that if they bought a franchise to operate a Danny's Cheese Shop they could expect annual sales of \$100,000 or more and profits of at least \$30,000. In fact, Mr. Abrams said, four individuals or couples paid between \$64,000 and \$82,000, but all four stores consistently lost money and were closed.

In his suit, the Attorney General charges that the sales and profit projections were illegal and fraudulent.

The suit also alleges that Danny's failed to disclose in its prospectus how much up front money consumers would really need in order to start their business. Moreover, the defendants are accused of failing to provide prospective purchasers a copy of the sales prospectus, as required by the New York Franchise Sales Act, and, in one instance, of selling a franchise before the prospectus had been filed with the Attorney General's office. The suit also names a Mount Kisco attorney, Gerald Matlin, as an officer and director of the company.

According to the court papers, in June, 1981, Phillip and Susan Merritt of Carmel purchased a franchise to operate a Danny's Cheese Shop in Mahopac for \$65,000, based on Mr. Lieberman's projection that the business

(over)

would do \$100,000 a year with a profit of \$30,000. Mr. Merritt was not permitted to thoroughly examine the prospectus. In July, 1981, Mr. Merritt retired from his job of 23 years to run the shop. Neither Mr. nor Mrs. Merritt had any previous experience as proprietors of a retail food business. The Merritts operated the shop for almost three years and at no time during that period did the store show an annual net profit.

Similar misrepresentations were allegedly made to three other purchasers -- Vincent and Martha Nardi of Yorktown Heights; Joseph and Carole Straci of Croton-on-Hudson; Barry Fresenius and Thomas Papa of Somers and Goldens Bridge respectively -- all of whom lost money and ultimately went out of business.

In offering and selling Danny's Cheese Shop franchises, Mr. Abrams alleged that the defendants violated the New York Franchise Sales Act which is administered by the Attorney General. The Act protects prospective franchisees by requiring that the franchisor initially register a prospectus with the Department of Law giving full and fair disclosure of all material facts concerning the franchises and, further, limits representations which go beyond the registered prospectus.

This case is being handled for the Attorney General by Assistant Attorney General William H. Mohr under the supervision of ~~Gregory D. Mahony~~, Chief of the Investor Protection and Securities Bureau.