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FEDERAL DISTRICT COURT VACATES DEFAULT JUDGMENT, PERMITS HOTEL FRANCHISEE TO MOUNT DEFENSE

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On October 21, 2003, a Federal Court in New Jersey ruled that former Howard Johnson International ("HJI") franchisees could not be subjected to penalties, including liquidated damages, without the opportunity to mount a defense.

The court, in vacating a default judgment against the former HJI franchisees Thakordhawar, Inc. and Gamanbhai Patel ("Thakordhawar"), found that Thakordhawar had stated meritorious defenses to Howard Johnson's action and was entitled to the opportunity for those defenses and counterclaims to be heard. Jeffrey M. Goldstein, Esq., Founding Partner of The Goldstein Law Group, PC, who represented Thakordhawar, stated that "this decision shows that while franchisees should act quickly to protect their rights, it is never too late to seek the assistance of a competent franchise law firm."

In October 1999, Thakordhawar entered into a License Agreement with HJI for the operation of a 100-room guest lodging facility in Brunswick, Georgia (the "Hotel"). Thakordhawar alleges that HJI unlawfully coerced it into signing the License Agreement by promising to provide Thakordhawar with a reservation system that would supply the Hotel with sufficient reservations to enable Thakordhawar to maintain an occupancy level of more than 50 percent. However, once HJI obtained Thakordhawar's signature on the License Agreement, Thakordhawar alleges that HJI failed to provide the promised reservations and other necessary support. The dearth of reservations for the Hotel resulted in such a poor cash flow that Thakordhawar's bank was forced to foreclose on the property.

HJI terminated the franchise agreement on or about March 5, 2002, claiming that Thakordhawar had abandoned the Hotel. Shortly thereafter, HJI filed a complaint seeking money allegedly owed HJI as well as liquidated damages. Because Thakordhawar was unsuccessful in finding experienced litigation counsel to defend him against HJI's claims, the Court entered default judgment against Thakordhawar.

Immediately after default judgment was entered, The Goldstein Law Group filed a motion on behalf of Thakordhawar to vacate the default judgment and to allow Thakordhawar to answer the complaint, which the Court granted. Mr. Goldstein stated that "we are pleased that we were able to secure for Thakordhawar the opportunity to 'have its day in court' by asserting its defenses and claims against HJI."

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