

The Palm Beach Post

West Palm Beach, Florida • February 17, 2015

Try Not to Add to Minority Economic Struggles

By *Alfredo Ortiz and Allen Gutierrez*

Income mobility is shaping up to be the major focus among presidential hopefuls in both political parties this primary season. That is welcome news, especially for minorities, many of whom have been bypassed by the economic recovery and underrepresented in many business sectors, especially in senior and management positions.

There is one area of the economy, however, that has bucked this trend: franchises. In fact, more than one in five franchises in the country — around 200,000 in total — are minority-owned; more than one in 20 are Hispanic-owned. The franchise model gives almost anyone the opportunity to buy into an established brand at a reasonable cost, overcoming the barriers to financing that minorities often face.

Unfortunately, the franchise model is under threat from a recent recommendation made by the National Labor Relations Board (NLRB) general counsel that would redefine franchisors as “joint employers” with their franchisees. This seemingly obscure recommendation would have an outsized impact on franchises and minorities if it becomes a rule.

Treating both the franchisor and franchisee as one employer undercuts the mutually beneficial independence of the franchise model, in which franchisees get to own a name-brand business at a reasonable cost and the franchisor gets to expand his or her business at a much faster rate.

The numbers indicate the franchise model’s success. It has created 770,000 small businesses in the country, supports 18 million direct and indirect jobs, and accounts for \$2.1 trillion of our economy.

Franchises are the household names that Americans take for granted in their day-to-day lives — the Home Hardwares, Subways, and Gold’s Gyms. Franchisees must follow certain basic standards in product quality and branding, but have pretty much free-reign when it comes to staffing, wages, and general operations decisions.

One of these decisions — where to locate — is particularly important for minorities. Minority-owned franchisees often open in minority-dense neighborhoods, employing its residents who may otherwise have limited employment prospects. Such franchises often help revitalize blighted communities, as has been the case in West Palm Beach and numerous other South Florida neighborhoods in recent years.

If the joint employer recommendation becomes a rule, such freedom and independence would end because the franchisor would suddenly become liable for the millions of daily decisions made by their franchisees, which are essentially independent small businesses.

This means that the cost of one local mistake or lawsuit may be spread across all the other franchisees, further increasing the costs and barriers for entrepreneurs

to own a piece of the American dream.

As a result, liability insurance would skyrocket. These costs would be passed on to franchisees, disproportionately affecting minority-owned ones, who often lack access to capital. Franchisors would also have to become much more picky in whom they franchise to, reluctant to take a risk on those without a proven track record of business success, again disproportionately hurting minorities.

Meanwhile potential franchisees who seek independence or want to open in an underserved community not approved by the franchisor would be pushed into going the much more risky mom-and-pop entrepreneurship route or giving up on entrepreneurship altogether.

The NLRB shouldn’t aggravate this stagnation by erecting additional barriers to the well-worn path of franchising that minorities have taken to achieve the American dream.

Allen Gutierrez is the National Executive Director of The Latino Coalition, one of the largest membership and advocacy organizations for Latino-owned small and midsize businesses.

Alfredo Ortiz is the CEO of Job Creators Network, the voice of real job creators who talk about paychecks, not politics, helping the public and policymakers understand how to create jobs.