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Jake's Ice Cream melts from retail scene, fights investors

Overexpansion, not financial woes claimed by business associates suing him for \$600,000, caused company to shrink from 10 shops to one, says Jake D. Rothschild.

By Aisha I. Jefferson, Staff Reporter

Known for long lines and funky-named flavors such as Chocolate Slap Yo Mama and Brown Sugah Vanilla, Jake's Ice Creams & Sorbets became one of Atlanta's most popular frozen dessert spots.

But after growing to 10 locations since 1999, Jake's has shrunk to a single, shared space in Decatur while the company's founder and president, Jake D. Rothschild, is being sued by former business associates who claim he failed to repay at least \$600,000 in loans.

The plaintiffs include former Jake's partner Susan Moore Ishmael and Robin Chism, who owns Muriel & Sebastian's Ice Cream and Yum Comforts, which has replaced Jake's in two locations.

Ishmael, Chism and two other people last September sued Rothschild and his company in the Superior Court of Fulton County, claiming Rothschild failed to repay what he borrowed.

That suit states Rothschild "established a pattern of defrauding unsophisticated lenders by convincing them to loan him money for his businesses with no intention to repay those debts."

In addition to Chism and Ishmael, the "unsophisticated lenders" include Ishmael's mother, Jane Moore, and Rhoda Copus, who also are plaintiffs in the suit.

The suit says the plaintiffs were friends with Rothschild before lending him large sums of money, according to their attorney, Kevin L. Ward of Schulten Ward & Turner.

Copus, said Ward, "lost a boatload of money to this guy."

In two interviews, Rothschild said the suits against him and his company are "absolutely without merit and completely false" and that "the amounts are not correct and the natures of the transactions are not correct."

Rothschild's attorney, Aaron B. Chausmer of Berman Fink Van Horn, declined to comment except to note that the plaintiffs are business competitors of Jake's.

Rothschild has filed counterclaims for fraud and defamation, seeking at least \$225,000 in punitive damages, alleging they engaged in "improper and deceptive trade practices."

Rothschild opened his first Jake's in May 1999 on Highland Avenue in the Old Fourth Ward. While it survived 14 burglaries, that location closed four months after experiencing an armed robbery in January 2005, Rothschild said.

Rothschild said overexpansion, not the financial woes asserted in the suits, caused many of the other stores to close.

"We think we grew too fast. [There were] so many ice cream parlors that opened up since we started our business and competition became really fierce," Rothschild said.

Rothschild said he plans to open another location near the now-closed original, but he added that rather than focusing on opening new shops, he will revamp the company's concept and target corporate deals.

Jake's has created ice cream flavors for the Atlanta Thrashers and the Atlanta Hawks, and is in talks to become the official ice cream for the two teams. He said the company also created special deserts for Delta Air Lines Inc. —"Delta's Delight"—and the Atlanta Botanical Garden—"Flower Power."

"We found that the corporate work is a lot more lucrative," Rothschild said, adding the company also will be making a special ice cream for Agnes Scott College.

Rothschild said his corporate dealings, which contribute 20 percent to the overall business, have provided another way for him to "actually stay in the ice cream business and actually grow."

Early combinations

Ishmael said she and Rothschild formed a business relationship after meeting through a mutual friend. The pair opened The Chef's Garden, which combined a restaurant and gift shop, in spring 2001.

The business closed in January 2002. Later that year, Ishmael said she opened a Jake's Ice Creams at 10th Street and Piedmont Avenue.

According to the complaint, Ishmael acted as vice president of Jake's until January 2003. Ishmael said she resigned as a partner with Jake's after opening the Piedmont shop and simply became a shareholder.

Ishmael said she struggled with the ice cream shop for three years, and didn't know that "running a business was so trying."

In September, Ishmael sold the ice cream shop to Chism, who recently changed the name of the shop to Muriel & Sebastian's Ice Cream.

"I sold it for liabilities. I didn't make a dime off of it when I sold it," Ishmael said, adding she still is a shareholder in Rothschild's company. "[I'm] sorry things had to go the way [they did] with the litigation. You have to do what you have to do sometimes."

Both of Chism's ice cream shops (the other is at 2144 North Decatur Road) changed their names at the beginning of this year.

Ward said the Muriel & Sebastian's locations are "making their own ice cream and they are making their own

recipes.”

The suit is Robin Chism et al v. Jake D. Rothschild et al (No. 2005CV106854, Fulton Sup., Sept. 29, 2005).

Second scoop

Rothschild has recently settled a separate, unrelated suit, also in Fulton Superior Court, ALV Enterprises LLC v. Jake’s Franchise LLC et al., (No. 2005CV103882, Fulton Sup., July 22, 2005).

The suit, filed last July, states that ALV Enterprises LLC and Jake’s Franchise LLC entered into a franchise agreement for ALV to operate a Jake’s store within the Tower Records store at 3232 Peachtree Road.

The complaint states ALV paid Jake’s Franchise \$50,000, but that Jake’s Franchise agreed to refund the actual costs incurred by ALV if it failed to generate \$40,000 per month.

ALV claimed it did not hit the \$40,000 per month target, but that Jake’s did not refund the \$50,000.

Rothschild would not discuss the settlement.

Jessica A. Ryan, an attorney with Gambrell & Stolz, said she would not discuss the case beyond confirming the settlement.

Jake’s Ice Creams is a privately held company, with Rothschild possessing 62 percent ownership, with 38 percent divided among 48 shareholders, Rothschild said.

Andrew Burke and his wife, Maura, own 60 percent of the Decatur franchise, which shares space with Little Shop of Stories, a children’s bookstore. Jake’s owns the remaining 40 percent, according to Burke.

Burke said he isn’t worried that the litigation will negatively influence his franchise.

“It’s a known brand here in town, even if there aren’t many stores,” Burke said.

Rothschild, 43, said he closed the Peachtree Hills store and sold it to investors Sharon and Fred Huff, who will open it at the end of April as Haute Chocolat. Rothschild said the Huffs purchased a license agreement and will sell Jake’s Ice Creams.

Rothschild noted the tough Atlanta ice cream market, with major chains such as Bruster’s Real Ice Cream Inc. and Marble Slab Creamery Inc.

“We’re like any small business still struggling to compete,” he said.

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