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D. 100851353

Attorney Docket No. 616228/53165

100969750

To the Honorable Commissioner of Patents

original documents or copy thereof

1. Name of conveying party(ies):  
Clipper Entertainment, Inc., a general partner of Seawolves Partners

- Individual(s)
- General Partnership
- Corporation-State New York
- Other

- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached?  Yes  No

2. Name and address of receiving party(ies):

Name: Palisades Baseball

Internal Address:

Street Address: 235 21st Street

City Santa Monica State CA ZIP 90402

Individual(s) citizenship

Association

General Partnership

Limited Partnership California

Corporation-State

Other

If assignee is not domiciled in the United States, a domestic representative

designation is attached:

Yes  No

(Designation must be a separate document from Assignment)

Additional name(s) & address(es) attached?

Yes  No

3. Nature of conveyance:

Assignment

Merger

Security Agreement

Change of Name

Other

Execution Date: October 30, 1997

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

2,016,899 1,972,640

B. Trademark Registration No.(s) 1,997,983 2,014,831

Additional numbers attached?  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Gerard T. Gallagher

Internal Address: Barnes & Thornburg

Street Address: 600 1st Source Bank Center

100 North Michigan Street

City South Bend State Indiana ZIP 46601

6. Total number of applications and registrations involved:

4

7. Total fee (37 CFR 3.41): \$160.00 E

Enclosed - previously paid

Authorized to be charged to deposit account

8. Deposit account number:

02-1007/616228/53165 SHORTAGES ONLY

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Gerard T. Gallagher

Name of Person Signing

Signature

February 17, 1999

Date

Total number of pages including cover sheet, attachments and document:

6

## ASSIGNMENT AGREEMENT

This Assignment Agreement is made effective as of 11:59 p.m. the 31st day of October, 1997 (the "Effective Date") by and between CLIPPER ENTERTAINMENT, INC., a New York corporation ("Clipper"), and PALISADES BASEBALL, A California Limited Partnership ("Palisades").

### RECITALS:

A. Clipper and Palisades are the sole General Partners of SEAWOLVES PARTNERS, an Indiana general partnership (the "Partnership").

B. Clipper desires to sell to Palisades, and Palisades desires to purchase from Clipper, all of Clipper's interest in the Partnership on and terms and conditions set forth in this Agreement.

NOW, THEREFORE, For and in consideration of the representations, warranties and mutual covenants of the parties contained herein, the parties hereby agree as follows:

#### I. Sale and Transfer of Partnership Interest.

(a) Conveyance of Partnership Interest. Clipper hereby sells, transfers, assigns and conveys to Palisades, and Palisades hereby purchases and accepts, all of Clipper's right, title and interest in and to Clipper's thirty-seven percent (37%) interest as a general partner in the capital and profits of the Partnership (the "Partnership Interest"), including, without limitation, any and all rights Clipper may have to undistributed net income, if any, relating to any period ending on or prior to the Effective Date.

(b) Dissolution of Partnership. Palisades and Clipper hereby acknowledge that the sale and transfer of the Partnership Interest hereunder (the "Transaction") will constitute a dissolution and termination of the Partnership under the Indiana Uniform Partnership Act, Ind. Code §§ 23-4-1-1 *et seq.* (the "Act"), and under Section 708 of the Internal Revenue Code (the "Code"). Therefore, the parties hereby agree that:

(i) For purposes of the Act and the Code, the Transaction shall constitute a sale and assignment by Clipper, and the purchase by Palisades, of all of Clipper's rights in the Partnership's property, including any and all intangible assets or other rights which are owned by the Partnership as of the Effective Date (collectively, the "Assets");

(ii) For purposes of the Act, Clipper hereby agrees that Palisades shall have the right to continue the business of the Partnership without liquidation of the Partnership's affairs and without any obligation to liquidate and wind up the Partnership's affairs, apply Partnership property to discharge Partnership liabilities or account to Clipper for any surplus, all of which rights are hereby waived by Clipper;

10/30/97 (Ver. 2)

(iii) In connection with the dissolution and termination of the Partnership and the continuation of its business by Palisades, Palisades hereby assumes, and agrees to pay and perform, as and when due, all Partnership obligations and liabilities existing as of the Effective Date and hereby agrees to indemnify and hold Clipper harmless from any and all liabilities, obligations, debts, claims and expenses of any kind, known and unknown, arising out of or relating to the operation of the Partnership prior to or on the Effective Date and to use its best efforts to obtain written releases of any and all obligations of the Partnership, or any guarantees of such obligations, provided to lenders or other third parties by Clipper and/or Kenneth S. Silver and his spouse; and

(iv) For purposes of the Act and the Code, the Partnership shall be terminated, and the winding up of its affairs shall be deemed completed as a result of the Transaction, on the Effective Date.

## 2. Purchase Price.

(a) Price and Payment. Subject to Section 2(b) hereof, the purchase price for the Partnership Interest acquired by Palisades hereunder shall be (the "Purchase Price").

of the Purchase Price shall be paid to Clipper on or before December 31, 1997, and the remaining balance of: shall be paid on or before October 31, 1998. Such payments shall be made in cash or other immediately available funds, without interest. Promptly after the Effective Date, Palisades will execute and deliver to Clipper a promissory note evidencing the payment terms set forth in this Section 2.

(b) Adjustment to Purchase Price. In the event Palisades is required to indemnify or make any payments to the New York-Penn League in connection with moving the "Single A" minor league franchise out of the Erie territory to the Eastern League, Palisades and Clipper will negotiate, in good faith, an appropriate sharing between the parties of the amount Palisades is obligated to pay to the New York Penn League. Clipper's share of such amount shall be deemed a reduction in the Purchase Price of the Partnership Interest, which shall reduce the amount otherwise payable to Clipper on or before October 31, 1998 pursuant to Section 2(a) above.

(c) Allocations for Tax Purposes. The Purchase Price shall be allocated among the Assets as the parties shall agree in writing on or before December 31, 1997. The parties agree to furnish each other and the Internal Revenue Service with such applicable information as may be required under Section 1060 of the Internal Revenue Code, as amended, and to cooperate in the completion and timely filing of IRS Form 8594 (Asset Acquisition Statement). A party may change the agreed-upon allocations only in order to be consistent with any finally-adjudicated adjustments made on the income tax returns of the other party.

### 3. Representations and Warranties.

(a) Of Clipper. Clipper hereby represents and warrants to Palisades the following:

(i) Clipper is a corporation duly organized, validly existing and in good standing under the laws of the State of New York, is qualified to do business in the State of Indiana, and has all corporate power and authority necessary to make, execute, deliver, and perform this Agreement and the other documents and instruments contemplated hereby.

(ii) The execution and delivery of this Agreement by Clipper and the consummation of the Transaction have been duly authorized by all requisite corporate action. This Agreement has been duly and validly executed and delivered by Clipper, and constitutes the legal, valid and binding obligation of Clipper, enforceable against Clipper in accordance with its terms. The execution and delivery of this Agreement and the consummation of the Transaction do not and will not: (A) conflict with or result in a breach of any of the provisions of the Articles of Incorporation or By-Laws of Clipper; (B) contravene any law, rule or regulation or any order, writ, award, judgment, decree or other determination which affects or binds Clipper or any of its properties; or (C) require the approval, consent or authorization of any third party or any court, governmental authority or regulatory body.

(iii) The Partnership Interest constitutes all ownership or other rights Clipper may have with respect to the Partnership.

(iv) Clipper has good and marketable title to the Partnership Interest, and the absolute right to sell and transfer the Partnership Interest to Palisades hereunder, free and clear of all claims, liens, pledges, security interests, restrictions or encumbrances of any nature whatsoever.

(b) Of Palisades. Palisades hereby represents and warrants to Clipper the following:

(i) Palisades is a limited partnership duly formed, validly existing and in good standing under the laws of the State of California, is qualified to do business in the State of Indiana, and has all partnership power and authority necessary to make, execute, deliver, and perform this Agreement and the other documents and instruments contemplated hereby.

(ii) The execution and delivery of this Agreement by Palisades and the consummation of the Transaction have been duly authorized by all requisite partnership action. This Agreement has been duly and validly executed and delivered by Palisades, and constitutes the legal, valid and binding obligation of Palisades, enforceable against Palisades in accordance with its terms. The execution and

delivery of this Agreement and the consummation of the Transaction do not and will not: (A) conflict with or result in a breach of any of the provisions of the Certificate of Limited Partnership or the Limited Partnership Agreement of Palisades; (B) contravene any law, rule or regulation or any order, writ, award, judgment, decree or other determination which affects or binds Palisades or any of its properties; or (C) require the approval, consent or authorization of any third party or any court, governmental authority or regulatory body.

4. **Additional Assurances.** Clipper hereby agrees that, from and after the Effective Date, Clipper will execute and deliver, from time to time at the reasonable request of Palisades, such bills of sale, deeds, and other instruments of transfer, assignment and further assurances as may reasonably be requested in order to vest in and confirm to Palisades full and complete title to all of the Assets, as the successor to the Partnership, including, without limitation, an instrument assigning any and all rights Clipper may have in and to the service mark "Erie SeaWolves," and all goodwill relating thereto. Clipper further agrees to execute and file such certificates and other documents as may be reasonably requested by Palisades to amend or terminate such assumed or fictitious name certificates, partnership certificates or other certificates and documents as may have been filed with any state or local government office with respect to the operation of the business of the Partnership under the Erie SeaWolves trade name.

5. **Miscellaneous.**

(a) **Survival.** All representations and warranties contained in this Agreement shall survive the consummation of the Transaction, shall be continuing warranties, and shall not be merged.

(b) **Entire Agreement.** This Agreement, including all exhibits and schedules referenced herein, sets forth the entire understanding of the parties, there being no oral or other written agreements or understandings among them relating to the Partnership or the subject matter of this Agreement, and supersedes all previous oral or written agreements with regard thereto. This Agreement shall not be modified or amended, nor shall any of its provisions be waived, except in a writing signed by the party to be charged.

(c) **No Waiver.** The failure of either party to enforce at any time or for any period of time any of the provisions of this Agreement shall not be construed as a waiver of such provision or of the right of the party to enforce such provision. The waiver of any default or the failure to exercise any right shall not be deemed a waiver of any subsequent default or waiver of the right to exercise any other right.

(d) **Transfer Taxes.** Clipper agrees that any sales or transfer tax, charge or fee in the nature of a tax, imposed by any governmental authority in connection with or resulting from the sale or conveyance of the Partnership Interest will be the obligation solely of Clipper.

(e) **Remedies for Breach.** All rights and remedies provided by this Agreement or existing at law or in equity shall be cumulative of all other rights and remedies, and the pursuit of one

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right or remedy shall in no way operate as an exclusive election or otherwise preclude or limit a party from pursuing any other additional right or remedy. If any legal action, arbitration or other proceeding is brought to enforce this Agreement, or because of an alleged breach of any provision of this Agreement, the party substantially prevailing in such action or proceeding shall be entitled to recover all attorneys' fees and other costs actually and reasonably incurred by such party in connection with such action or proceeding in addition to any other relief to which it may be entitled.

(f) Binding Effect. This Agreement and all the terms and provisions hereof shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective legal representatives, successors and assigns.

(g) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(h) Captions. The section and subsection headings included in this Agreement are provided for convenience of reference only and shall not define, limit, extend or interpret the scope of this Agreement or any particular section.

IN WITNESS WHEREOF, the parties have executed this Assignment Agreement on the date or dates below indicated, effective as of the Effective Date.

**PALISADES:**

**CLIPPER:**

PALISADES BASEBALL, A CALIFORNIA LIMITED PARTNERSHIP

CLIPPER ENTERTAINMENT, INC.

By: AML Entertainment, Inc.,  
General Partner

By: Kenneth S. Silver President  
Kenneth S. Silver, President

By: Alan M. Levin  
Alan M. Levin, President

Date: 10/30/97

Date: 10/30/97

By: Mattken, Inc. General Partner

By: Gerald J. Leider  
Gerald J. Leider, President

Date: 10/30/97

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