

04-14-1999



101008994

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

MRO
4-14-99

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)
Document ID #
- Correction of PTO Error
Reel # Frame #
- Corrective Document
Reel # Frame #

Conveyance Type

- Assignment License
- Security Agreement Nunc Pro Tunc Assignment
- Merger Effective Date
Month Day Year
- Change of Name
- Other

Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year
4-5-99

Name

Formerly

- Individual General Partnership Limited Partnership Corporation Association
- Other
- Citizenship/State of Incorporation/Organization

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AK/A

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City

State/Country

Zip Code

- Individual General Partnership Limited Partnership
- Corporation Association
- Other
- Citizenship/State of Incorporation/Organization

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

04/21/1999 DNGUYEN 00000113 75356267

FOR OFFICE USE ONLY

01 FC:481 40.00 OP
02 FC:482 250.00 OP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

TRADEMARK
REEL: 1882 FRAME: 0437

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages Enter the total number of pages of the attached conveyance document including any attachments.

#

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

75/356,267	<input type="text"/>	<input type="text"/>
75/356,266	<input type="text"/>	<input type="text"/>
75/568,871	<input type="text"/>	<input type="text"/>

Registration Number(s)

1,403,540	1,497,161	1,867,843
1,332,622	1,361,176	1,785,956
1,544,993	1,678,007	<input type="text"/>

Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

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. Charges to deposit account are authorized, as indicated herein.

Cheri Costa

Cheri Costa

4/8/99

Name of Person Signing

Signature

Date Signed

SERVICEMARK SECURITY AGREEMENT

This **SERVICEMARK SECURITY AGREEMENT**, dated as of April 5, 1999 (this "**Agreement**"), is between **PHEASANT MALL RESTAURANT GROUP, INC.**, a New Hampshire corporation (the "**Company**"), and **FINOVA CAPITAL CORPORATION**, a Delaware corporation, in its capacity as agent for the financial institutions from time to time parties to the Loan Agreement described below ("**Secured Party**").

RECITALS:

A. Back Bay Restaurant Group, Inc., a Delaware corporation ("**Borrower**"), Secured Party and the financial institutions from time to time party thereto (the "**Lenders**") have entered into that certain Loan Agreement of even date herewith (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "**Loan Agreement**"), pursuant to which Lenders have agreed to make loans and other financial accommodations to Borrower, on the terms and subject to the conditions of the Loan Agreement.

B. As one of the conditions precedent to the effectiveness of the Loan Agreement, Lenders have required the execution and delivery by the Company of this Agreement.

NOW, THEREFORE, in order to induce Lenders to enter into the Loan Agreement, and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereto hereby agree as follows:

1. Definitions. All capitalized terms used but not elsewhere defined herein shall have the respective meanings ascribed to such terms in the Loan Agreement.

2. Grant of Security Interest. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, to secure all of Guarantors' Obligations, the Company does hereby mortgage, pledge and collaterally assign to Secured Party, and grant to Secured Party a continuing security interest in, all of the following property (collectively, the "**Servicemarks**"), whether now or hereafter owned, acquired or existing:

(i) all the servicemarks referred to in Item A of **Attachment 1** hereto and all prints and labels on which the Servicemarks have appeared or appear, whether currently in use or not, all registrations and recordings thereof and all applications in connection therewith, whether pending or in preparation for filing, including registrations, recordings and applications in the United States Patent and Trademark Office or in any office or agency of the United States of America or any State thereof or any foreign country;

(ii) each Servicemark license referred to in Item B of **Attachment 1** hereto;

(iii) all reissues, extensions or renewals of any of the items described in clauses (i) and (ii);

(iv) all of the goodwill of the business connected with the use of, and symbolized by the items described in, clauses (i) and (ii); and

(v) all proceeds of, and rights associated with, the foregoing, including any claim by the Company against third parties for past, present or future infringement or dilution of the Servicemarks or any Servicemark registration or Servicemark license, including the Servicemarks or any Servicemark registration or Servicemark license referred to in **Attachment 1** hereto, or for any injury to the goodwill associated with the use of the Servicemarks or for breach or enforcement of any Servicemark license.

3. Security Agreement. This Agreement has been executed and delivered by the Company for the purpose of registering the security interest of Secured Party in the Servicemarks with the United States Patent and Trademark Office and corresponding offices in other countries of the world. The security interest granted hereby has been granted as a supplement to, and not in limitation of, the security interest granted to Secured Party under the Loan Agreement and the other Loan Instruments. The Loan Agreement (and all rights and remedies of Secured Party thereunder) shall remain in full force and effect in accordance with its terms.

4. Release of Security Interest. Upon payment and performance in full of all of Borrower's Obligations then owing and the termination of the Commitments, Secured Party shall, at the Company's expense, execute and deliver to the Company all instruments and other documents as may be necessary or proper to release the lien on and security interest in the Servicemarks which has been granted hereunder.

5. Acknowledgment. The Company does hereby further acknowledge and affirm that the rights and remedies of Secured Party with respect to the security interest in the Servicemarks granted hereby are more fully set forth in the Loan Agreement, the terms and provisions of which (including the remedies provided for therein) are incorporated by reference herein as if fully set forth herein.

6. Loan Instrument. This Agreement is a Loan Instrument executed pursuant to the Loan Agreement and shall (unless otherwise expressly indicated herein) be construed, administered and applied in accordance with the terms and provisions of the Loan Agreement.

7. Counterparts. This Agreement may be executed by the parties hereto in several counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same agreement.

8. Severability. In the event that any provision of this Agreement is deemed to be invalid by reason of the operation of any law, or by reason of the interpretation placed thereon by any

court or any Governmental Body, as applicable, the validity, legality and enforceability of the remaining terms and provisions of this Agreement shall not in any way be affected or impaired thereby, all of which shall remain in full force and effect, and the affected term or provision shall be modified to the minimum extent permitted by law so as to achieve most fully the intention of this Agreement.

9. **Notices.** All notices and communications under this Agreement shall be in writing, delivered and deemed received in the manner set forth in Section 12.1 of the Loan Agreement.

10. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of Secured Party and Company.

11. **Governing Law.** This Agreement shall be construed in accordance with and governed as to validity, interpretation, construction, effect and in all other respects by the laws and decisions of the State of Arizona. For purposes of this **Section 11**, this Agreement shall be deemed to be performed and made in the State of Arizona.

12. **Jurisdiction and Venue.** Company hereby agrees that all actions or proceedings initiated by Company and arising directly or indirectly out of this Agreement shall be litigated in the Superior Court of Arizona, Maricopa County Division, or the United States District Court for the District of Arizona, or, if Secured Party initiates such action, in addition to the foregoing courts, any court in which Secured Party shall initiate or to which Secured Party shall remove such action, to the extent such court has jurisdiction. Company hereby expressly submits and consents in advance to such jurisdiction in any action or proceeding commenced in or removed by Secured Party to any of such courts, and hereby waives personal service of the summons and complaint, or other process or papers issued therein, and agrees that service of such summons and complaint or other process or papers may be made by registered or certified mail addressed to Company at the address to which notices are to be sent pursuant to **Section 9**. Company waives any claim that Maricopa County, Arizona or the District of Arizona is an inconvenient forum or an improper forum based on lack of venue. Should Company, after being so served, fail to appear or answer to any summons, complaint, process or papers so served within the number of days prescribed by law after the mailing thereof, Company shall be deemed in default and an order and/or judgment may be entered by Secured Party against Company as demanded or prayed for in such summons, complaint, process or papers. The exclusive choice of forum set forth in this **Section 12** shall not be deemed to preclude the enforcement, by Secured Party, of any judgment obtained in any other forum or the taking, by Secured Party, of any action to enforce the same in any other appropriate jurisdiction and Company hereby waives any right to attack any such judgment or action collaterally.

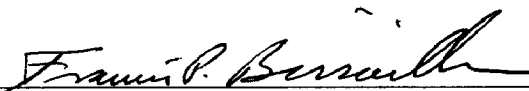
13. **Waiver of Right to Jury Trial.** Secured Party and Company acknowledge and agree that any controversy which may arise under this Agreement would be based upon difficult and complex issues and therefore, Secured Party and Company agree that any court

proceeding arising out of any such controversy will be tried in a court of competent jurisdiction by a judge sitting without a jury.

[remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the day and year first above written.

**PHEASANT MALL RESTAURANT GROUP,
INC.,** a New Hampshire corporation

By: 
Name: Francis P. Bissaillon
Title: Vice President

FINOVA CAPITAL CORPORATION,
a Delaware corporation, as Agent

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the day and year first above written.

**PHEASANT MALL RESTAURANT GROUP,
INC.,** a New Hampshire corporation

By: _____
Name: _____
Title: _____

FINOVA CAPITAL CORPORATION,
a Delaware corporation, as Agent

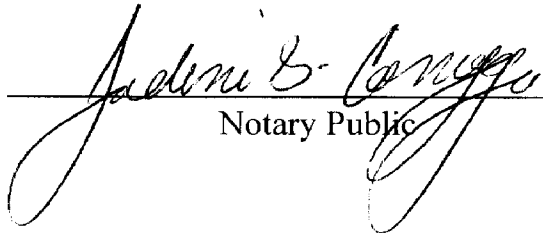
By: *Bernice H. Carr*
Name: **Bernice H. Carr**
Title: **Vice President
Contract Administration**

STATE OF New Jersey)
)
COUNTY OF Bergen)

SS. Paramus

I, Judine S. Correggio a notary public in and for said County, in the State of aforesaid, DO HEREBY CERTIFY that Bernice H. Carr personally known to me to be a Vice President of FINOVA CAPITAL CORPORATION, a Delaware corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as such officer of said corporation, pursuant to authority, given by the Board of Directors of said corporation as such person's free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 30TH day of March, 1999.



Notary Public

My Commission Expires:

JUDINE S. CORREGGIO
Notary Public, State of New Jersey
No. # 2181034
Commission Expires 9/1/2000

Attachment I

Registered Servicemarks

<u>Country</u>	<u>Trademark</u>	<u>Registration No.</u>	<u>Date</u>
USA	Atlantic Fish Co.	1,403,540	July 29, 1986
USA	Charley's Eating & Drinking Saloon	1,332,622	April 23, 1985
USA	Hillary's	1,544,993	June 20, 1989
USA	J.C. Hillary's	1,497,161	July 19, 1988
USA	Joe's American Bar & Grill	1,361,176	September 17, 1985
USA	Papa-Razzi	1,678,007	March 3, 1992
USA	Papa-Razzi's Cucina	1,867,843	December 13, 1994
USA	Rayz	1,785,956	

Pending Servicemark Applications

<u>Country</u>	<u>Trademark</u>	<u>Serial No.</u>	<u>Filing Date</u>
USA	Abe & Louie's	75/356,267	September 12, 1997
USA	Abe and Louie's	75/356,266	September 12, 1997
USA	Abe's Louie Louie	75/568,871	October 13, 1998

Servicemark Applications in Preparation

<u>Country</u>	<u>Trademark</u>	<u>Docket No.</u>	<u>Expected Filing Date</u>	<u>Products/ Services</u>
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None

Servicemark Security Agreement**Attachment 1****Item B: Servicemark Licenses**

Company	Service Mark	License Agreement
BBRG Operating, Inc.	Charley's Eating & Drinking Saloon Hillary's Papa.Razzi	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995, as amended May 7, 1998.
BBRG Operating, Inc.	Papa.Razzi	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995, as amended May 7, 1998.
The 199, Inc.	Papa.Razzi	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.
BBRG Massachusetts Restaurants, Inc.	Joe's American Bar & Grill Papa.Razzi	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.
BBRG Paramus Restaurants, Inc.	Joe's American Bar & Grill Papa.Razzi	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective February 21, 1997.
BBRG Rhode Island Restaurants, Inc.	Papa.Razzi	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.
BBRG Washington Restaurants, Inc.	Papa.Razzi	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.

Company	Service Mark	License Agreement
BBRG Waterfront, Inc.	Joe's American Bar & Grill	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective December 24, 1996.
Boraschi Cafe, Inc.	Abe & Louie's ⁽¹⁾ The Famous Atlantic Fish ⁽²⁾ Company	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective September 14, 1998. Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.
Pheasant Mall Restaurant Group, Inc. ⁽³⁾	Charley's Eating & Drinking Saloon	None. Pheasant Mall Restaurant Group, Inc. is the licensor of the service mark.
Waterford Restaurant Group, Inc.	Charley's Eating & Drinking Saloon	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.
Westfour, Inc.	Papa.Razzi	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.
The Westwood Copley Restaurant Group, Inc.	Papa.Razzi	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.
The Westwood Dedham Restaurant, Inc.	J.C. Hillary's, Ltd.	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.
The Westwood Hartford Restaurant Group, Inc.	Papa.Razzi Joe's American Bar & Grill	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.

Company	Service Mark	License Agreement
The Westwood Newton Restaurant, Inc.	Charley's Eating & Drinking Saloon	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.
The Westwood Short Hills Restaurant, Inc.	Joe's American Bar & Grill Papa.Razzi	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.
The Westwood Trumbull Restaurant Group, Inc.	J.C. Hillary's, Ltd.	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.
The Westwood White Plains Restaurant, Inc.	Papa.Razzi	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995.
The Westwood Woburn Restaurant Group, Inc.	Joe's American Bar & Grill	Service Mark License Agreement with Pheasant Mall Restaurant Group, Inc., effective March 7, 1995, as amended May 7, 1998..

- (1) An application has been filed for the approval of "Abe's Louie Louie" as a service mark in connection with a proposed expansion of the current Abe & Louie's establishment. Notice has been received of another company's use of the phonetically equivalent name Lui Lui. Debtor still intends to proceed with the approval and use of "Louie Louie" and does not believe that such use will result in any Material Adverse Effects.
- (2) The service mark "The Atlantic Fish Company" is in use by The Famous Atlantic Fish Company. "Famous" is not part of the service mark.
- (3) Pheasant Mall Restaurant Group, Inc. is also the licensor of "Rayz Riverside Cafe," which will expire August 3, 1999. Because "Rayz Riverside Cafe" is not currently in use, it cannot be renewed before it expires. Upon expiration, Debtor intends to submit another application, which does not require "current use" and intends to maintain ownership of such service mark.

HWD2: 515014-1