

11-01-2000



101501293

RECORDATION FORM COVER SHEET TRADEMARKS ONLY

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

Submission Type

9.27.00

- 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

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/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)
City State/Country Zip Code

- Individual General Partnership Limited Partnership 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.)

- Corporation Association

Other

Citizenship/State of Incorporation/Organization

FOR OFFICE USE ONLY

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: 002164 FRAME: 0665

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)			Registration Number(s)		
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="1,137,911"/>	<input type="text" value="1,751,722"/>	<input type="text" value="1,758,970"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="761,087"/>	<input type="text" value="955,958"/>	<input type="text" value="713,015"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="1,773,891"/>	<input type="text" value="1,796,154"/>	<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.

Christopher E. Kondracki



27 September 2000

Name of Person Signing

Signature

Date Signed

EXHIBIT A

Heilig-Meyers' now owned or existing or hereafter acquired or arising registered service marks and Federal service mark applications, registered trademarks, and Federal trade mark applications:

Trademark/Service Mark Registrations

<u>TRADEMARK</u>	<u>REGISTRATION NUMBER</u>	<u>REGISTRATION DATE</u>
Health Bond	1137911	July 15, 1980
Heilig-Meyers	1751722	February 9, 1993
Heilig-Meyers stylized	1758970	March 16, 1993
MacSaver and design	0761087	December 3, 1963
MacSaver	955958	March 20, 1973
Mighty Mow	0913015	June 8, 1971
Miscellaneous Design	1773891	May 25, 1993
Miscellaneous Design	1796154	September 28, 1993

Trademark Applications

<u>MARK</u>	<u>SERIAL NUMBER</u>	<u>FILING DATE</u>
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[None]

August 16, 2000

THIS AGREEMENT is made between

Fleet Retail Finance Inc. (in such capacity, the "**Collateral Agent**"), a Delaware corporation with offices at 40 Broad Street, Boston, Massachusetts 02109, as Collateral Agent for a syndicate of lenders (collectively, the "**Lenders**")

and

Heilig-Meyers Company, debtor and debtor-in-possession (hereinafter, "**Heilig-Meyers**"), a Virginia corporation with its principal executive offices at 12560 West Creek Parkway, Richmond, Virginia 23238

in consideration of the mutual covenants contained herein and benefits to be derived herefrom,

WITNESSETH:

1. **BACKGROUND:** Reference is made to the Debtor-in-Possession Credit Agreement of even date herewith (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among (i) Heilig-Meyers, (ii) the Subsidiary Loan Parties, (iii) the Lenders, (iv) the Agents, (v) CitiCorp USA, Inc., as Syndication Agent, and (vi) FleetBoston Robertson Stephens, Inc., as Arranger. Capitalized terms used herein and not defined herein shall have the meanings assigned to such terms in the Credit Agreement.

2. **GRANT OF SECURITY INTEREST:** To secure the Obligations, Heilig-Meyers hereby creates a security interest in favor of the Collateral Agent, for the ratable benefit of the Secured Parties, with power of sale (which power of sale shall be exercisable only following the

occurrence of an Event of Default) in and to the following and all proceeds thereof (collectively, the "TM Collateral"):

(a) All of Heilig-Meyers' now owned or existing or hereafter acquired or arising trademarks, trademark applications, service marks, registered service marks and service mark applications including, without limitation, those listed on **EXHIBIT A** annexed hereto and made a part hereof, together with any goodwill of the business connected with and symbolized by any such trademarks, trademark applications, service marks, registered service marks, and service mark applications.

(b) All renewals of any of the foregoing.

(c) All income, royalties, damages and payments now and hereafter due and/or payable under and with respect to any of the foregoing, including, without limitation, payments under all licenses entered into in connection therewith and damages and payments for past or future infringements or dilutions thereof.

(d) The right to sue for past, present and future infringements and dilutions of any of the foregoing.

(e) All of Heilig-Meyers' rights corresponding to any of the foregoing throughout the world.

3. **ASSIGNMENT OF MARKS:** Heilig-Meyers has executed in blank and delivered to the Collateral Agent an assignment of federally registered trademarks in substantially the form of Exhibit B hereto (the "Assignment of Marks"). Heilig-Meyers hereby authorizes the Collateral Agent to complete as assignee and record with the United States Patent and Trademark Office the Assignment of Marks upon the acceleration of the Obligations and the proper exercise of the Collateral Agent's remedies under this TM Security Agreement.

4. **CONDITIONAL ASSIGNMENT:** In addition to, and not by way of limitation of, the grant of a security interest over the TM Collateral provided in Section 2, Heilig-Meyers grants, assigns, transfers, conveys and sets over to the Collateral Agent, for the ratable benefit of the Secured Parties, Heilig-Meyers' entire right, title and interest in and to the TM Collateral;

provided that such grant, assignment, transfer and conveyance shall be and become of force and effect only (i) upon or after the occurrence and during the continuance of an Event of Default, and (ii) either (A) upon the written demand of the Collateral Agent at any time during such continuance or (B) immediately and automatically (without notice or action of any kind by the Collateral Agent) upon an Event of Default for which acceleration of the Obligations is automatic under the Credit Agreement or upon the sale or other disposition of or foreclosure upon the TM Collateral pursuant to this TM Agreement and applicable law (including the transfer or other disposition of the TM Collateral by Heilig-Meyers to the Collateral Agent or its nominee in lieu of foreclosure).

5. **PROTECTION OF MARKS BY HEILIG-MEYERS:** Heilig-Meyers shall undertake the following with respect to each items respectively described in Sections 2(a) and 2(b) (collectively, the "**Marks**"):

(a) Pay all renewal fees and other fees and costs associated with maintaining the Marks and with the processing of the Marks.

(b) At Heilig-Meyers' sole cost, expense, and risk, pursue the prompt, diligent, processing of each application for registration of the Marks which is the subject of the security interest created herein and not abandon or delay any such efforts.

(c) At Heilig-Meyers' sole cost, expense, and risk, take any and all action which Heilig-Meyers deems desirable to protect the Marks, including, without limitation, but subject to Heilig-Meyers' sole discretion, the prosecution and defense of infringement actions.

6. **HEILIG-MEYERS' REPRESENTATIONS AND WARRANTIES:** Heilig-Meyers represents and warrants that:

(a) **EXHIBIT A** includes all of the registered trademarks, Federal trademark applications, registered service marks and Federal service mark applications now owned by Heilig-Meyers.

(b) All TM Collateral is and shall remain, free and clear of all Liens to any Person other than to the Collateral Agent.

(c) Heilig-Meyers shall give the Collateral Agent written notice (with reasonable detail) within Ten (10) days following the occurrence of any of the following:

(i) Heilig-Meyers' obtaining rights to, and filing applications for registration of, any new trademarks, or service marks, or otherwise acquires ownership of any newly registered trademarks, registered service marks, trademark applications, or service mark applications, (other than Heilig-Meyers' right to sell products bearing the trademarks of others in the ordinary course of Heilig-Meyers' business).

(ii) Heilig-Meyers' becoming entitled to the benefit of any registered trademarks, trademark applications, trademark licenses, trademark license renewals, registered service marks, service mark applications, service mark licenses or service mark license renewals whether as licensee or licensor (other than Heilig-Meyers' right to sell products bearing the trademarks of others in the ordinary course of Heilig-Meyers' business).

(iii) Heilig-Meyers' entering into any new trademark license agreement or service mark license agreement.

7. AGREEMENT APPLIES TO FUTURE MARKS:

(a) The provisions of this TM Security Agreement shall automatically apply to any such additional property or rights described in 6(c), above, all of which shall be deemed to be and treated as "Marks" within the meaning of this TM Security Agreement, except trademark licenses.

(b) Heilig-Meyers hereby authorizes the Collateral Agent to take all such action to protect the Collateral Agent's interest in and concerning any future registered trademarks, trademark applications, registered service marks and service mark applications, written notice of which is so given, *provided, however*, the Collateral Agent's taking of such action shall not be a condition to the creation or perfection of the security interest created hereby.

8. HEILIG-MEYERS' RIGHTS TO ENFORCE MARKS: Prior the Administrative Agent's giving of notice to Heilig-Meyers following the occurrence of an Event of Default,

Heilig-Meyers shall have the exclusive right to sue for past, present and future infringement of the Marks including the right to seek injunctions and/or money damages, in an effort by Heilig-Meyers to protect the Marks against encroachment by third parties, *provided, however:*

(a) Heilig-Meyers first provides the Collateral Agent with written notice of Heilig-Meyers' intention to so sue for enforcement of any Mark.

(b) Any money damages awarded or received by Heilig-Meyers on account of such suit (or the threat of such suit) shall constitute TM Collateral.

(c) Following the occurrence of any Event of Default, the Administrative Agent, by notice to Heilig-Meyers may be terminate or limit Heilig-Meyers' rights under this Section 6.

9. **COLLATERAL AGENT'S ACTIONS TO PROTECT MARKS:** In the event of

(a) Heilig-Meyers' failure, within Five (5) days of written notice from the Collateral Agent, to cure any failure by Heilig-Meyers to perform any of Heilig-Meyers' obligations set forth in Section 5; and/or

(b) the occurrence of any Event of Default, the Collateral Agent, acting in its own name or in that of Heilig-Meyers, may (but shall not be required to) act in Heilig-Meyers' place and stead and/or in the Collateral Agents' own right in connection therewith.

10. **RIGHTS UPON DEFAULT:** Upon the occurrence of any Event of Default, the Collateral Agent may exercise all rights and remedies of a secured party upon default under the Uniform Commercial Code as adopted in Massachusetts (Massachusetts General Laws, Chapter 106), with respect to the Marks, in addition to which the Collateral Agent may sell, license, assign, transfer, or otherwise dispose of the Marks. Any person may conclusively rely upon an affidavit of an officer of the Collateral Agent that an Event of Default has occurred and that the Collateral Agent is authorized to exercise such rights and remedies.

11. **COLLATERAL AGENT AS ATTORNEY IN FACT:**

(a) Heilig-Meyers hereby irrevocably constitutes and designates the Collateral Agent as and for Heilig-Meyers' attorney in fact, effective following the occurrence of any Event of Default:

(i) To exercise any of the rights and powers referenced in Sections 5 and 7(b).

(ii) To execute all such instruments, documents, and papers as the Collateral Agent determines to be appropriate in connection with the exercise of such rights and remedies and to cause the sale, license, assignment, transfer, or other disposition of the Marks.

(b) The within grant of a power of attorney, being coupled with an interest, shall be irrevocable until this Agreement is terminated by a duly authorized officer of the Collateral Agent.

(c) The Collateral Agent shall not be obligated to do any of the acts or to exercise any of the powers authorized by Section 11(a) herein, but if the Collateral Agent elects to do any such act or to exercise any of such powers, it shall not be accountable for more than it actually receives as a result of such exercise of power, and shall not be responsible to Heilig-Meyers for any act or omission to act except for any act or omission to act as to which there is a final determination made in a judicial proceeding (in which proceeding the Administrative Agent has had an opportunity to be heard) which determination includes a specific finding that the subject act or omission to act had been grossly negligent or in actual bad faith.

12. **COLLATERAL AGENT'S RIGHTS:**

(a) Any use by the Collateral Agent of the Marks, as authorized hereunder in connection with the exercise of the Collateral Agent' rights and remedies under this Agreement and under the Credit Agreement shall be coextensive with Heilig-Meyers' rights thereunder and with respect thereto and without any liability for royalties or other related charges.

(b) None of this Agreement, the Credit Agreement, or any act, omission, or circumstance taken or arising hereunder may be construed as directly or indirectly conveying to

the Collateral Agent any rights in and to the Marks, which rights are only effective following the occurrence of any Event of Default.

13. **INTENT:** It is intended that this Agreement supplement the Security Agreement. All provisions of the Security Agreement shall apply to the Marks. The Collateral Agent shall have the same rights, remedies, powers, privileges and discretions, with respect to the security interests created in the TM Collateral as in all other Collateral. In the event of a conflict between this Agreement and the Security Agreement, the terms of this Agreement shall control with respect to the TM Collateral and the Security Agreement with respect to all other Collateral.

14. **CHOICE OF LAWS:** It is intended that this Agreement take effect as a sealed instrument and that all rights and obligations hereunder, including matters of construction, validity, and performance, shall be governed by the laws of The Commonwealth of Massachusetts.

15. **BORROWING ORDER:** Notwithstanding anything to the contrary contained in this Agreement, all rights and remedies of the Collateral Agent or any Lender under this Agreement shall be subject to the provisions of the Borrowing Order and all such remedies and the enforcement of such rights shall be exercised in a manner consistent with such Borrowing Order. If any provision in this Agreement shall conflict with any of the provisions of the Borrowing Order, the provisions of the Borrowing Order shall control.

16. **TERMINATION; RELEASE OF TRADEMARK COLLATERAL.** This Agreement shall terminate when all the Obligations have been indefeasibly paid in full, the Lenders have no further commitment to lend, there are no Letter of Credit Outstandings and the Issuing Bank has no further commitment to issue Letters of Credit under the Credit Agreement, at which time the Collateral Agent shall execute and deliver to Heilig-Meyers, at Heilig-Meyers' expense, all termination statements that Heilig-Meyers shall reasonably request to evidence such termination. Any execution and delivery of termination statements or documents pursuant to this Section 16 shall be without recourse to or warranty by the Collateral Agent.

IN WITNESS WHEREOF, Heilig-Meyers and the Collateral Agent respectively have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

HEILIG-MEYERS COMPANY
("Heilig-Meyers")

FLEET RETAIL FINANCE INC.
(The "Collateral Agent")

By Paige H. Wilson
Name Paige H. Wilson

Title Senior Vice President

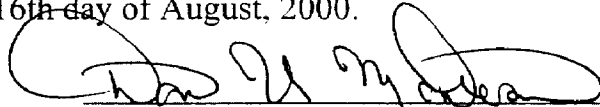
By Betsy Ratto
Name Betsy Ratto

Title Managing Director

THE COMMONWEALTH OF VIRGINIA
CITY OF RICHMOND

Then personally appeared before me Paige H. Wilson, who acknowledged that such person is the duly authorized Senior Vice President, Treasurer and Secretary of Heilig-Meyers Company and that such person executed the foregoing instrument on its behalf.

Witness my hand and seal this 16th day of August, 2000.

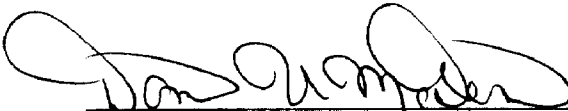


Donna U. McDermott Notary Public
My Commission Expires: 8/31/2001

THE COMMONWEALTH OF VIRGINIA
CITY OF RICHMOND

Then personally appeared before me Elizabeth A. Ratto, who acknowledged that such person is a duly authorized Managing Director of Fleet Retail Finance Inc. and that such person executed the foregoing instrument on its behalf.

Witness my hand and seal this 16th day of August, 2000.



Donna U. McDermott Notary Public
My Commission Expires: 8/31/2001

EXHIBIT B

ASSIGNMENT OF TRADEMARKS AND SERVICE MARKS

WHEREAS, Heilig-Meyers Company, a corporation organized and existing under the laws of the Commonwealth of Virginia, having a place of business at 12566 West Creek Parkway, Richmond, Virginia 23238 (the "Assignor"), has adopted and used and is using the trademarks and service marks (the "Marks") identified on the Annex hereto, and is the owner of the registrations of and pending registration applications for such Marks in the United States Patent and Trademark Office identified on such Annex; and

WHEREAS, _____, a _____ organized and existing under the laws of the State of _____, having a place of business at * (the "Assignee"), is desirous of acquiring the Marks and the registrations thereof and registration applications therefor;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the Assignor does hereby assign, sell and transfer unto the Assignee all right, title and interest in and to the Marks, together with (i) the registrations of and registration applications for the Marks, (ii) the goodwill of the business symbolized by and associated with the Marks and the registrations thereof, and (iii) the right to sue and recover for, and the right to profits or damages due or accrued arising out of or in connection with, any and all past, present or future infringements or dilution of or damage or injury to the Marks or the registrations thereof or such associated goodwill.

This Assignment of Trademarks and Service Marks is intended to and shall take effect as a sealed instrument at such time as the Assignee shall complete this instrument by inserting its name in the second paragraph above and signing its acceptance of this Assignment of Trademarks and Service Marks below.

IN WITNESS WHEREOF, the Assignor, by its duly authorized officer, has executed this assignment, as an instrument under seal, on this _____ day of _____, _____.

HEILIG-MEYERS COMPANY

By: _____

Title: _____

The foregoing assignment of the Marks and the registrations thereof and registration applications therefor by the Assignor to the Assignee is hereby accepted as of the _____ day of _____, _____.

By: _____
Title: _____

COMMONWEALTH OR STATE OF _____)
) ss.
COUNTY OF *)

On this the _____ day of August, 2000, before me appeared _____, the person who signed this instrument, who acknowledged that (s)he is the _____ of Heilig-Meyers Company and that being duly authorized (s)he signed such instrument as a free act on behalf of Heilig-Meyers Company.

Notary Public

[Seal]

My commission expires:

ANNEX A

Heilig-Meyers' now owned or existing or hereafter acquired or arising registered service marks and Federal service mark applications, registered trademarks, and Federal trade mark applications:

Trademark/Service Mark Registrations

TRADEMARK REGISTRATION NUMBER REGISTRATION DATE

Trademark Applications

MARK SERIAL NUMBER FILING DATE

588579.3