

12-14-2000



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MRD 11-20-00
MRD 8/21/00

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

- 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
Effective Date
Month Day Year
- Merger
- 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)

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.)

FOR OFFICE USE ONLY

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125.00 OP

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475.00

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

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"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

<input type="text" value="2050324"/>	<input type="text" value="1439246"/>	<input type="text"/>
<input type="text" value="2050323"/>	<input type="text" value="0817053"/>	<input type="text"/>
<input type="text" value="1793987"/>	<input type="text" value="2311525"/>	<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.

Genevieve A. Silveroli, Esq.

Aug 18, 2000

Name of Person Signing

Signature

Date Signed

Attorney for DH Sportswear, LLC

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT is made on June 18, 1999, by and among THE HUNTINGTON NATIONAL BANK, a national banking association (the "Seller") and DH Sportswear, Limited Liability Company, an Ohio limited liability company ("Purchaser") under the following circumstances:

RECITALS

A. The Seller desires to sell its rights with respect to certain assets as more particularly described hereinafter (the "Assets") acquired by Seller from Famous Fraternity Sportswear Co., an Ohio corporation ("Famous"), pursuant to a voluntary surrender and peaceful repossession as a secured creditor pursuant to a valid security agreement between Famous and Seller (the "Foreclosure") under Part 5 of Article 9 of the Uniform Commercial Code and Ohio Revised Code, Chapter 1309 (collectively, the "UCC"). Famous utilized the Famous Assets in connection with its business conducted under the names "Famous Fraternity" or "Famous Sportswear". Seller is entitled to sell the Assets to Purchaser by a private sale as hereinafter more fully set forth.

B. The Purchaser desires to purchase the Assets from Seller for cash, as hereinafter more fully set forth.

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto acknowledge the accuracy of the foregoing recitals and further agree as follows:

ARTICLE 1

PURCHASE AND SALE OF ASSETS

§1.1 Sale of Assets. Seller hereby sells, and Purchaser hereby purchases, all of the Seller's right, title and interest in and to all of the Assets acquired by Seller pursuant to the Foreclosure (except the Excluded Assets) including the following which is meant to be generally descriptive:

§1.1.1 Equipment. All equipment, fixtures, machinery, shop parts, telephone systems and furniture including but not necessarily limited to, those described on the attached Exhibit 1.1.1;

§1.1.2 Accounts and Customer Lists. All accounts receivable in the approximate amounts and lists as described on the attached Exhibit 1.1.2 and all customer lists, prospect lists, customer records and all other customer information;

§1.1.3 Intangibles. The trade names, trademarks (including the names "Famous Fraternity," "Famous Sportswear" and "Famous Fraternity Sportswear"), service marks, the telephone numbers and director listings, software and other data and information in the computer systems, formerly used by Famous in its business

including but not necessarily limited, to those described on the attached Exhibit 1.1.3;

§1.1.4 Contract Rights. All rights under contracts, licenses, sales and purchaser orders and contracts with independent sales representatives and other agreements including but not necessarily limited to, those described on the attached Exhibit 1.1.4;

§1.1.5 Inventory. All inventories of finished goods, work-in-process and materials and supplies including but not necessarily limited to those approximately described on the attached Exhibit 1.1.5;

§1.1.6 Supplies. All office supplies, printed and other advertising materials, art work, sales and promotional materials, stationery, and catalogues;

§1.1.7 Other Assets. All other assets, except Excluded Assets (as hereinafter defined) used in the business of Famous, including cash on hand as deposits for orders, work-in-process and finished goods ("Deposits"); the Deposits are listed on the attached Exhibit 1.1.7.

The assets being sold by Seller and purchased by Purchaser pursuant to this Purchase Agreement shall be referred to as the "Assets".

§1.2 Excluded Assets. Seller shall retain: (i) Famous' cash on hand, cash, and all cash equivalents on deposit with financial institutions excluding the Deposits; (ii) any rights Seller may have with respect to claims Famous may have against its accounting or other professional advisors, or against its present and former employees, officers, directors, shareholders or agents, (iii) all rights Seller has with respect to Famous' claims for tax refunds; (iv) the assets specifically identified on Exhibit 1.2 attached hereto; (v) the assets of inventory and fixtures located in the retail stores leased by Famous in Martha's Vineyard, Massachusetts and (vi) the assets of inventory and fixtures now stored in Florida (collectively, "Excluded Assets").

§1.3 Liabilities Assumed. Purchaser assumes no debts, liabilities and/or obligations of Famous in connection with the purchase of the Assets except for its obligation to pay for certain accrued and past due sales commissions listed on the attached Exhibit 1.3, which Purchaser shall pay after the Closing, said commissions not to exceed \$27,000.00.

§1.4 Purchase Price. The purchase price for the Assets (the "Purchase Price") shall be \$588,000.00 (plus the \$27,000.00 of assumed liabilities for commissions as per §1.3 above), payable by Purchaser to Seller in immediately available funds at Closing. The Purchase Price shall be allocated among the Assets as determined by Purchaser, and Purchaser shall provide a schedule of such allocation of the Purchase Price within 60 days following the Closing.

ARTICLE 2

THE CLOSING

§2.1 The Closing. The closing of the transactions contemplated hereby (the "Closing") shall take place at the offices of The Huntington National Bank, 7th Floor, 41 South High Street, Columbus, Ohio on or before 9:00 a.m., local time, on June 18, 1999 (the "Closing Date"), unless the parties may mutually agree upon some other date (and, if so agreed, the definition of Closing Date shall be deemed modified to mean such other date) or place in writing.

§2.2 Deliveries by Seller. On the Closing Date, Seller shall deliver to Purchaser, in addition to any other items specified elsewhere in this Agreement, the following:

§2.2.1 Bill of Sale. Bill of Sale and Assignment in the form attached hereto as Exhibit 2.2.1 (the "Bill of Sale" and "Assignment").

§2.2.2 Possession. Possession and delivery of the Assets.

§2.2.3 Change of Famous Name. A duly executed and authorized amendment to the Articles of Incorporation of Famous changing its name so Purchaser may use said name; said amendment to be filed by counsel for Purchaser at or immediately after Closing.



§2.3 Deliveries by Purchaser. On the Closing Date, Purchaser shall deliver to Seller in addition to all other items specified elsewhere in this Agreement, \$588,000.00 in immediately available funds.

§2.4 Seller's Best Efforts. At Closing, Seller agrees to use its best efforts to effectuate the following and will do so following the Closing for a reasonable time:

§2.4.1 Leases. To get Famous to execute the Agreement of Landlord, Tenant and Substitute Tenant in the forms attached hereto as Exhibit 2.4.1 (the "Agreement of Landlord").

§2.4.2 Offsite Assets. To get Famous and/or its appropriate employees to deliver to Purchaser, all offsite contracts (including those with independent sales representatives), artwork and other assets and all copies of same shall be delivered to Purchaser including those described on the attached Exhibit 2.4.2.

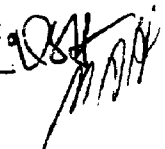
§2.4.3 Employee Files. To get Famous and/or its employees to deliver to Purchaser all employee files of Famous' former and present employees.

ARTICLE 3

REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER

Seller makes the following representations, warranties and covenants to the Purchaser:

§3.1 Authorization. Seller has full power to execute, deliver and perform its obligations under this Agreement. This Agreement is the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.

§3.2 Title to Property. At the Closing, Seller shall transfer all of its right, title and interest in the Assets in accordance with the terms hereof and pursuant to the Bill of Sale and Assignment ~~which title and interests shall be free and clear of any and all liens, encumbrances, charges, claims, pledges and security interests or any restrictions.~~ 

§3.3 No Breach of Statute, Decree, or Contract. The execution, delivery and performance of this Agreement does not breach any applicable statute, regulation or ordinance of any governmental authority, and does not conflict with or result in a breach of or default under any of the terms, conditions or provisions of any documents regulating the conduct of Seller's business, or Famous' business, or any order, writ, injunction, decree, contract, agreement or instrument to which Seller or Famous is a party or by which the Assets may be bound, and does not result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the Assets and does not give to others any interest or rights in, or with respect to, any of the Assets, except to the Purchaser as provided hereunder.

§3.4 Litigation; Orders. There is no suit, action, claim, administrative or arbitration or other proceeding, investigation or inquiry of any kind (collectively, "Actions") pending or, to Seller's knowledge, threatened against or affecting any of the Assets, or the ability of the Seller to consummate the transactions contemplated by this Agreement, by any person, corporation, partnership, firm, association, business entity, organization or other enterprise, or by an administrative agency or other governmental body. There is no outstanding order, writ, injunction or decree of any kind (collectively, "Order") of any court, administrative agency, other governmental body or arbitration tribunal against or affecting any of the Assets, or the ability of the Seller to consummate the transactions contemplated by this Agreement.

§3.5 Consents. All consents, if any, necessary in connection with the consummation of the sale of Assets have been made, filed, given or obtained.

§3.6 Security Agreements. The Assets were the subject of valid security agreements and filed financing statements between Seller and Famous and in the Seller's taking of the Assets and conveying the Assets to Purchaser, there have been no acts or omissions by the Seller that would denigrate from the right, title and interest to be conveyed to Purchaser under this Agreement in the Assets. To Seller's knowledge after inquiry, there are no other liens, security interests or

encumbrances in and to the Assets. All actions taken by Seller regarding the taking of the Assets, its Security Agreements and the sale of the Assets to Purchaser have complied in all respects with the requirements of Ohio Revised Code, specifically §1309.44 through §1309.50, and to the best of Seller's knowledge, all actions taken by Seller regarding the taking of the Assets and the sale of the Assets to Purchaser have complied in all respects with the requirements of all applicable laws.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser represents and warrants as follows:

§4.1 Authorization. Purchaser has full power to execute, deliver and perform its obligations under this Agreement. This Agreement is the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms.

§4.2 Litigation; Orders. There are no Actions pending or, to Purchaser's knowledge, threatened against Purchaser, and no Orders against Purchaser, that may have the effect of prohibiting the sale and purchase contemplated by this Agreement.

§4.3 No Breach of Statute, Decree, or Contract. The execution, delivery and performance of this Agreement does not breach any applicable statute, regulation or ordinance of any governmental authority, and does not conflict with or result in a breach of or default under any of the terms, conditions or provisions of any documents regulating the conduct of Purchaser's business, or any order, writ, injunction, decree, contract, agreement or instrument to which Purchaser is a party or by which the Assets may be bound.

§4.4 Consents. Purchaser is not required to make, file, give or obtain any consents with, to or from any persons or governmental authorities or private agencies in connection with the Purchase of the Assets.

ARTICLE 5

COVENANTS OF SELLER

§5.1 Compliance with UCC. Seller has complied with all requirements of the Ohio Revised Code, including Chapter 1309 of the Ohio Revised Code in connection with the Foreclosure and the sale and purchase contemplated hereby.

§5.2 Further Assurances. From time to time, whether at or after the Closing, Seller will execute and deliver such further instruments and take such other action as may be necessary to carry out the terms of this Agreement, and will take no action that will prevent its performance of this Agreement in accordance with its terms.

ARTICLE 6

COVENANTS OF PURCHASER

§6.1 Removal of Assets. Purchaser shall remove the Assets from Famous' place of business located at 2060 Hardy Parkway, Grove City, Ohio 43123, within seven (7) days from the date of this Agreement, (The Hardy Parkway location the "Location") and the store locations in Columbus, Ohio and Alabama (by June 30 for the stores unless otherwise agreed with the landlords of the stores) unless otherwise agreed between Purchaser and the new landlord of said Location. The removal of the Assets from the Location and stores by Purchaser shall be done by it and its agents in a manner so as not to cause any destruction or damage to the Location and stores and not to destroy or damage in any manner the business records of Famous or the Excluded Assets or the records pertaining thereto. Upon the removal of the Assets, Purchaser shall repair any damage caused by it or its agents and shall leave the Location and stores in a broom clean condition.

§6.2 Further Assurances. From time to time, whether at or after the Closing, Purchaser will execute and deliver such further instruments and take such other action as may be necessary to carry out the terms of this Agreement, and will take no action that will prevent its performance of this Agreement in accordance with its terms.

ARTICLE 7

MISCELLANEOUS

§7.1 Survival. The representations and warranties of the parties hereto included or provided for in this Agreement shall survive for a period of two years from the date of this Agreement and shall thereafter expire and be of no further force or effect, provided that a notice of a breach of such representations or warranties delivered prior to such expiration shall extend the survival of the representations and warranties with respect to the subject of the notice.

§7.2 Counterparts. This Agreement may be executed in one or more counterparts (each of which shall be considered an original but all of which together shall be deemed to constitute one and the same Agreement), and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

§7.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without reference to the choice of law principles thereof. The parties agree that all actions or proceedings arising or in connection with this Agreement, any documents incorporated herein or executed in connection herewith shall be tried and litigated only in the Federal District Court for the Southern District of Ohio or the State Courts of Franklin County. The parties hereto waive any right each may have to assert the doctrine of *forum non conveniens* or to object to venue to the extent that any proceeding that is brought in accordance with

this section. Service of process, sufficient for personal jurisdiction in any action in connection with this Agreement may be made to the addresses set forth in Section 7.6.

§7.4 Entire Agreement. This Agreement and the Exhibits hereto constitute the entire agreement among the parties and supersedes all prior written or oral agreements and understandings among the parties, and there are no representations, warranties, covenants, agreements or understandings among the parties other than those set forth or referred to herein or therein.

§7.5 Expenses. Except as set forth in this Agreement, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

§7.6 Notices. All notices, demands or other communications which may be or are required to be given by any party to any other party pursuant to this Agreement, shall be in writing and shall be mailed by certified mail, return receipt requested, postage prepaid, or transmitted by hand delivery, national overnight express, telegram or facsimile transmission, addressed as follows:

If to Seller: The Huntington National Bank
41 South High Street
Columbus, Ohio 43215
Fax Number 614-480-3056
Attention: Michael Higbee

With a copy to: Porter, Wright, Morris & Arthur
41 South High Street
Columbus, Ohio 43215-6194
Fax Number 614-227-2100
Attention: Jack R. Pigman, Esq.

If to Purchaser: DH Sportswear, Limited Liability Company
1880 Abbotsford Green Drive
Powell, Ohio 43065
Fax Number: 614-847-1883
Attention: David Heutel

With a copy to: Shayne & Greenwald Co., L.P.A.
221 South High Street
Columbus, Ohio 43215
Fax Number 614-221-4070
Attention: Stan H. Shayne

until such time as either party notifies the other of a change of address. Each notice or other communication which shall be mailed, delivered or transmitted in the manner described above shall be deemed sufficiently given and received for all purposes at such time as it is delivered to the addressee (with the return receipt, the delivery receipt, or the affidavit of messenger or telefax transmission log being deemed conclusive evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation. Delivery of the notices to the persons who are to receive copies of such notices, as provided for in this Section 7.6, shall constitute effective delivery of notice to the parties hereto.

§7.7 Captions. The captions in this Agreement are for convenience and information only, are not an integral part of this Agreement and are not to be considered in the interpretation of any part hereof.

§7.8 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns; provided, however, that neither Seller nor Purchaser shall assign their respective rights under this Agreement without the prior written consent of the other party.

§7.9 Interpretation, No Presumption. This Agreement has been negotiated and incorporates the suggestions of the parties hereto. Therefore, no presumptions shall arise favoring any party by virtue of the authorship of any of its provisions.


§7.10 Waiver of a Jury Trial. THE SELLER AND THE PURCHASER ACKNOWLEDGE AND AGREE THAT THERE MAY BE A CONSTITUTIONAL RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY CLAIM, DISPUTE OR LAWSUIT ARISING BETWEEN OR AMONG THEM, BUT THAT SUCH RIGHT MAY BE WAIVED. ACCORDINGLY, EACH PARTY AGREES THAT NOTWITHSTANDING SUCH CONSTITUTIONAL RIGHT, IN THIS COMMERCIAL MATTER EACH PARTY BELIEVES AND AGREES THAT IT SHALL BE IN ITS BEST INTEREST TO WAIVE SUCH RIGHT, AND, ACCORDINGLY, HEREBY WAIVE SUCH RIGHT TO A JURY TRIAL, AND FURTHER AGREES THAT THE BEST FORUM FOR HEARING ANY CLAIM, DISPUTE OR LAWSUIT, IF ANY, ARISING IN CONNECTION

WITH THIS AGREEMENT, SHALL BE A COURT OF COMPETENT JURISDICTION SITTING WITHOUT A JURY.

§7.11 Limitation of Damages. Seller and Purchaser agree that any claim for damages arising hereunder shall be limited to actual damages or losses sustained by the aggrieved party, not to exceed the Purchase Price, and shall not include any compensatory, consequential, exemplary or punitive damages, fees or costs of any type.

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of each of the parties as of the day and year first above written.

SELLER:
THE HUNTINGTON NATIONAL BANK

By: 
Title: Vice President

PURCHASER:
DH SPORTSWEAR, LIMITED LIABILITY
COMPANY

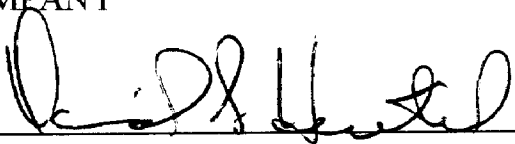
By: 
David Heutel, President

EXHIBIT 1.1.3

INTANGIBLES

1. The name, trademarks, services marks of (a) Famous Fraternity Sportswear; (b) Famous Fraternity; (c) Famous Sportswear; (d) Miami Express; and (e) Fraternity Favors.