

01-24-2001

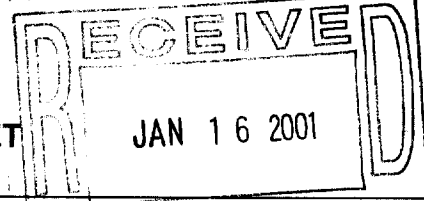
FORM PTO-1618A

Expires 06/30/99  
OMB 0651-0027

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U.S. Department of Commerce  
Patent and Trademark Office

TRADEMARK

RECORDATION FORM COVER SHEET  
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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 ErrorReel #  Frame # ☐ Corrective DocumentReel #  Frame # 

## Conveyance Type

☐ Assignment☐ License☐ Security Agreement☐ Nunc Pro Tunc Assignment☐ MergerEffective Date  
Month Day Year  
07/19/2000☐ Change of Name☒ Other VOLUNTARY SURRENDER OF COLLATERAL AGREEMENT

## Conveying Party

☐ Mark if additional names of conveying parties attachedExecution Date  
Month Day YearName  PIEWORKS DEVELOPMENT CORPORATION 07/03/2000Formerly ☐ Individual ☐ General Partnership ☐ Limited Partnership ☒ Corporation ☐ Association☐ Other ☒ Citizenship/State of Incorporation/Organization  NORTH CAROLINA

## Receiving Party

☐ Mark if additional names of receiving parties attachedName  BRANCH BANKING AND TRUST COMPANYDBA/AKA/TA  BB&TComposed of Address (line 1)  201 W. MARKET STREETAddress (line 2) Address (line 3)  GREENSBORO NC  USA

State/Country

 27401

Zip Code

☐ Individual ☐ General Partnership ☐ Limited Partnership☒ Corporation ☐ Association☐ Other ☒ Citizenship/State of Incorporation/Organization  NORTH CAROLINA BANKING CORPORATION

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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40.00 DP

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: 002218 FRAME: 0438

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

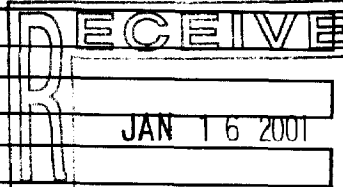
Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)



**Correspondent Name and Address**

Area Code and Telephone Number 336-275-7601

Name

WALTER L. BEAVERS

Address (line 1)

326 SOUTH EUGENE STREET

Address (line 2)

GREENSBORO, NC 27401

Address (line 3)

Address (line 4)

**Pages**

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

#

7

**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)**


1,693,394		

**Number of Properties**

Enter the total number of properties involved.

#

1

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41):

\$

40.00

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.

WALTER L. BEAVERS

Name of Person Signing

*Walter L. Beavers*

Signature

1-11-01

Date Signed

VOLUNTARY SURRENDER OF  
COLLATERAL AGREEMENT

COUNTY OF GUILFORD

THIS VOLUNTARY SURRENDER OF COLLATERAL AGREEMENT ("Agreement") is made and entered into effective as of the 19<sup>th</sup> day of July, 2000, by and between PIEWORKS DEVELOPMENT CORPORATION ("Pieworks"), JOHN W. WEAVER and MARY W. WEAVER ("Weaver") and KELLY S. BOHLEN ("Guarantors") and BRANCH BANKING AND TRUST COMPANY ("BB&T").

WITNESSETH:

WHEREAS, Pieworks is indebted to BB&T as evidenced by the Promissory Note of Pieworks dated July 11, 1994 and made payable to BB&T in the face amount of \$100,000, as amended by that Note Modification Agreement dated June 10, 1999, between Pieworks and BB&T ("First Note").

WHEREAS, Pieworks is indebted to BB&T as evidenced by the Promissory Note of Pieworks dated June 10, 1999 and made payable to BB&T in the face amount of \$319,891.91 ("Second Note"). The First Note and Second Note are collectively referred to as the "Notes."

WHEREAS, the indebtedness of Pieworks to BB&T evidenced by both the First and Second Notes is guaranteed by Weaver, and the indebtedness of Pieworks to BB&T evidenced by the Second Note also is guaranteed by Bohlen.

WHEREAS, the indebtedness of Pieworks to BB&T evidenced by the Notes is secured by a first lien security interest in, among other things, all of Piework's accounts receivables, inventory, equipment, furniture, fixtures, general intangibles, and the products and proceeds thereof ("Collateral").

WHEREAS, Pieworks is in default under the terms of the Notes.

WHEREAS, Pieworks and the Guarantors have requested that BB&T accept this Agreement.

WHEREAS, Pieworks is willing to surrender all of the Collateral to BB&T and to permit BB&T to sell the Collateral at public or private sale pursuant to applicable law and this Agreement, provided that such surrender is effected upon the terms and conditions hereof and that Pieworks and the Guarantors shall remain liable to BB&T for any and all deficiencies that are due and owing to BB&T following the application of the net proceeds of any disposition of the Collateral to the amounts due to BB&T under the Notes, and BB&T is willing to forbear from immediately instituting

a state court action against Pieworks to foreclose upon the Collateral and to agree hereto upon the terms and conditions herein stated.

NOW, THEREFORE, for the consideration described in the foregoing recitals, in consideration of the mutual agreements contained herein and for other good and valuable consideration, the receipt and independent sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Delivery and Surrender of Collateral. The Collateral shall be surrendered by Pieworks to BB&T on or before July 19, 2000, at 11:00 A.m. local time. Surrender shall be effected upon the turnover of the Collateral to representatives of BB&T at BB&T's principal place of business located at 201 W. Market Street, Greensboro, North Carolina. Prior to such surrender, Pieworks shall use all due care and prudence with respect to the retention and maintenance of the Collateral and shall perform, in all respects, all of its obligations under any and all applicable loan documents with respect to the preservation, location, maintenance and use of the Collateral.

2. Disposition of the Collateral. Upon surrender of the Collateral to BB&T as provided herein, BB&T shall be deemed to have recovered possession of the Collateral for all purposes, including, without limitation, purposes of disposition pursuant to N.C. Gen. Stat. §§25-9-504 *et seq.* and this Agreement, and any such disposition shall be deemed to constitute a transfer in settlement or realization of a lien or other security interest within the meaning of N.C. Gen. Stat. §25-6-103(3). Upon receipt of the Collateral, BB&T may dispose of same in accordance with applicable law, or as provided herein, or may leave such property at Pieworks's places of business for disposition "as is, where is." Pieworks and the Guarantors further consent to any conveyance, transfer or private sale of the Collateral, and hereby waive any required notice (including specifically, without limitation, any notice required to be given to Pieworks or the Guarantors pursuant to the provisions of N.C. Gen. Stat. § 25-9-504(3)) of a private sale of the Collateral in accordance herewith to PW Holdings, Inc. or its affiliate at any time after receipt of the Collateral by BB&T pursuant hereto and hereby expressly consent to such sale and agree that it shall be deemed to be a "commercially reasonable" sale for all purposes of Article 9 of the Uniform Commercial Code as enacted in the State of North Carolina. Pieworks and Guarantors further hereby expressly waive and relinquish any right to redeem the Collateral pursuant to the provisions of N.C. Gen. Stat. §25-9-506 or otherwise.

3. Effect on Indebtedness. Pieworks and the Guarantors acknowledge and agree that the indebtedness to BB&T evidenced by the Notes will be reduced only by the "net proceeds" from disposition of the Collateral, as provided herein, and that the surrender of the Collateral by Pieworks to BB&T hereby is not in full satisfaction of the obligations of Pieworks and the Guarantors to BB&T evidenced by the Note or otherwise. Pieworks and the Guarantors represent and warrant to BB&T that the purpose of requesting the Agreement memorialized herein is to permit a peaceful surrender of the Collateral in the most economical fashion possible. Pieworks and the Guarantors acknowledge that they shall remain fully liable to BB&T for all of the indebtedness evidenced by the Note and the other documents and agreements associated with the loan evidenced thereby ("Loan Documents") except to the extent of any "net proceeds" from disposition of the Collateral and shall

remain fully liable to BB&T for all indebtedness and obligations arising pursuant to any other instruments and agreements.

4. Calculation of Net Proceeds. The parties hereto agree that the "net proceeds" of a disposition of the Collateral shall consist of the gross sales proceeds less any costs of disposition.

5. Turnover of Excess Proceeds. In the event the "net proceeds" of a disposition of the Collateral exceed the outstanding indebtedness owed to BB&T under the Notes and the Loan Documents, BB&T agrees immediately to remit the excess proceeds to those entitled to receive such proceeds in accordance with applicable law.

6. Effect Upon BB&T's Rights and Remedies. This Agreement shall not preclude BB&T from hereafter exercising any rights or remedies against Pieworks or the Guarantors which are available to BB&T under the Note or the Loan Documents or are available to it under applicable law. BB&T, in its sole discretion and at any time, may determine that any such action is in the best interests of BB&T.

7. Access to Property. Pieworks, or its successors and assigns, shall accord BB&T access to each of Pieworks' places of business where the Collateral is maintained and stored, as noted above, for purposes of preparing, inspecting, cleaning, removing, servicing, repairing and otherwise handling the Collateral in preparation for public or private disposition of the same. Such access shall be accorded to all agents and independent contractors of BB&T, including, without limitation, auctioneers and other persons retained by BB&T.

8. Warranties, Representations and Indemnification to BB&T. Pieworks hereby represents and warrants to BB&T that the Collateral is in compliance with all applicable environmental laws. Pieworks and the Guarantors agree to hold harmless and indemnify BB&T with regard to any claims, costs or expenses which arise out of the non-compliance or alleged non-compliance of the Collateral with any applicable environmental laws. Pieworks further represents and warrants to BB&T that the Collateral is free of liens and encumbrances other than the first lien security interest of BB&T.

9. Miscellaneous. This Agreement contains the entire and fully integrated agreement between the parties respecting the subject matter hereof and shall be governed by the laws of North Carolina. This Agreement shall not be amended or supplemented except by a writing signed by the party against whom such amendment or supplement is sought to be enforced.

IN WITNESS WHEREOF, each of the corporate parties hereto has caused this Agreement to be signed and sealed in its corporate name by its duly authorized officers and the individual parties hereto have hereto set their hands and seals, all effective as of the date first above written.

PIEWORKS DEVELOPMENT CORPORATION,  
a North Carolina corporation

By: \_\_\_\_\_

John W. Weaver, President

ATTEST:

By: \_\_\_\_\_

Kelly S. Bohlen

~~Assistant~~ Secretary

(CORPORATE SEAL)

\_\_\_\_\_  
(SEAL)

JOHN W. WEAVER

~~Mary W. Weaver~~

(SEAL)

MARY W. WEAVER

Kelly S. Bohlen

(SEAL)

KELLY S. BOHLEN

BRANCH BANKING AND TRUST COMPANY

By: \_\_\_\_\_

NAME: \_\_\_\_\_

Gary S. Platt

TITLE: \_\_\_\_\_

Vice President

(CORPORATE SEAL)

STATE OF NORTH CAROLINA  
COUNTY OF GUILFORD

I, Johnnie m. Baskin, a Notary Public for the aforesaid State and Guilford County, certify that Kelly S. Bohlen personally came before me this day and acknowledged that she is the ~~Assistant~~ Secretary of Pieworks Development Corporation, a North Carolina corporation, and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by her as its Assistant Secretary. OK

WITNESS my hand and official seal or stamp this 17<sup>th</sup> day of July, 2000.

Johnnie m. Baskin  
Notary Public

My Commission Expires:

6-8-03

(NOTARY SEAL OR STAMP)

\*\*\*\*\*

STATE OF NORTH CAROLINA  
COUNTY OF GUILFORD

I, Wendi M. Wahl, a Notary Public for the aforesaid State and Guilford County, certify that JOHN W. WEAVER and MARY W. WEAVER personally came before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal or stamp this 3<sup>rd</sup> day of July, 2000.

Wendi M. Wahl  
Notary Public

My Commission Expires:

May 14, 2004

(NOTARY SEAL OR STAMP)

\*\*\*\*\*

STATE OF NORTH CAROLINA  
COUNTY OF GUILFORD

I, Johnnie m. Baskin, a Notary Public for the aforesaid State and Guilford  
County, certify that KELLY S. BOHLEN personally came before me this day and acknowledged the  
due execution of the foregoing instrument.

WITNESS my hand and official seal or stamp this 17th day of July, 2000.

Johnnie m. Baskin  
Notary Public

My Commission Expires:

6-8-03

(NOTARY SEAL OR STAMP)

\*\*\*\*\*

STATE OF NORTH CAROLINA  
COUNTY OF GUILFORD

I, Carolyn P Bowman, a Notary Public for the aforesaid State and \_\_\_\_\_  
County, certify that Gary S Piatt personally came before me this day  
and acknowledged that (he/she) is vice president of Branch Banking and Trust  
Company, a banking corporation, and that, by authority duly given and as an act of the bank, the  
foregoing instrument was signed in its name by him/her in such capacity and sealed with its  
corporate seal.

WITNESS my hand and official seal or stamp this 19th day of July, 2000.

Carolyn P Bowman  
Notary Public

My Commission Expires:

11-28-04

(NOTARY SEAL OR STAMP)

\*\*\*\*\*



## Surrender of Assets

July 19, 2000 at 11:00 AM

The following restaurants are hereby surrendered:

3700 Lawndale Drive, Greensboro, NC (R02)

612 Hanes Mall Boulevard, Winston-Salem, NC (R03)

C-201 Colonnades Way, Cary, NC (R11)

607 Broad Street, Durham, NC (R12)

5610 Atlantic Avenue, Raleigh, NC (R13)

## ADDENDUM

It is hereby acknowledged and agreed that the surrender of general intangibles effectuated by the Voluntary Surrender of Collateral Agreement entered on the 19<sup>th</sup> day of July, 2000, by and between PIEWORKS DEVELOPMENT CORPORATION, JOHN W. WEAVER, MARY W. WEAVER, and KELLY S. BOHLEN, and BRANCH BANKING AND TRUST COMPANY included, but was not limited to, a full and complete transfer of the following intellectual property from PIEWORKS DEVELOPMENT CORPORATION to BRANCH BANKING AND TRUST COMPANY:

The Mark: "PieWorks"  
U.S. Patent and Trademark Certificate of Registration No. 1693394

The Mark: "PieWorks"  
Canadian Trademark No. 810245

The Service Mark: "PieWorks"  
North Carolina Certificate of Registration No. T-9964

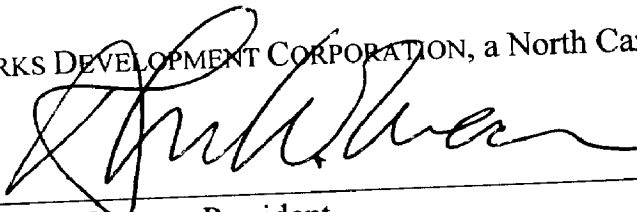
The Internet domain name: PIEWORKS.COM

Copyright Registration for PieWorks Menu Design and Content:  
U.S. Copyright Office Nos. Txu 504 836 and Txu 525 156

Various illustrations, names and advertising copy used in the menu and in advertising materials which have been identified as trademarked properties ("TM"). Proprietary materials of PieWorks Development Corporation, including all recipes and product preparation standards.

It is further agreed and acknowledged that it was the intent of PieWorks Development Corporation to make the above stated transfer of intellectual property at the time of entering into the Voluntary Surrender of Collateral Agreement on the 19<sup>th</sup> day of July, 2000.

PIEWORKS DEVELOPMENT CORPORATION, a North Carolina Corporation

By:   
John W. Weaver, President

STATE OF NORTH CAROLINA  
COUNTY OF GUILFORD

I, Lee F. Nance, a Notary Public for the aforesaid State and County, certify that John W. Weaver personally came before me this day and acknowledged that he is the President of PieWorks Development Corporation, a North Carolina corporation, that he has actual authority to act on behalf of said corporation and bind it accordingly, and pursuant to said authority, the foregoing instrument was signed by him as the act of the corporation.

WITNESS my hand and official seal or stamp this 9th day of January, 2001.

Lee F. Nance  
NOTARY PUBLIC

My commission expires:

10-15-2004

(NOTARY SEAL OR STAMP)

LEE F. NANCE  
NOTARY PUBLIC  
COUNTY OF GUILFORD, NC  
COMMISSION EXPIRES 10-15-2004