

02-14-2002

SHEET

Docket No.:



NLY

20728/26

Tab settings

To the Honorable Commissioner of

101982689

and the attached original documents or copy thereof.

1. Name of conveying party(ies):
Troutman Investment Company *1-28-02*

Individual(s) Association
 General Partnership Limited Partnership
 Corporation-State **Oregon**
 Other _____

Additional names(s) of conveying party(ies) Yes No

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

Name: **Fleet Retail Finance Inc.**

Internal Address: _____

Street Address: **40 Broad Street**

City: **Boston** State: **MA** ZIP: **02110**

Individual(s) citizenship _____
 Association _____
 General Partnership _____
 Limited Partnership _____
 Corporation-State **Delaware**
 Other _____

If assignee is not domiciled in the United States, a domestic designation is Yes N
(Designations must be a separate document from
Additional name(s) & address(es) Yes N

3. Nature of conveyance:

Assignment Merger
 Security Agreement Change of Name
 Other _____

Execution Date: **December 19, 2001 & December 20, 2001**

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

A. Trademark Application No.(s)

75/687,179 Filed: 4/20/99
76/208,463 Filed: 2/9/01

Additional numbers Yes No

B. Trademark Registration No.(s)

1,377,355	1,513,676	1,834,669
1,519,319	1,560,215	
1,515,928	1,766,756	

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

Name: **Mark S. Leonardo, Esq.**

Internal Address: **Brown Rudnick Freed & Gesmer**
Box 1P, 18th Floor

Street Address: **One Financial Center**

City: **Boston** State: **MA** ZIP: **02111**

6. Total number of applications and registrations involved:..... **9**

7. Total fee (37 CFR 3.41):.....\$ **\$240.00**

Enclosed
 Authorized to be charged to deposit account

8. Deposit account number:
50-0369

02/13/2002 GTDN11 00000011 75687179 DO NOT USE THIS SPACE

01 FC:481 40.00 DP
02 FC:482 200.00 DP

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.

Mark S. Leonardo, Esq. (Reg. No. 41,433) *[Signature]* **January 7, 2001**

Name of Person Signing Signature Date

TRADEMARK AND TRADEMARK
APPLICATIONS SECURITY AGREEMENT

This Trademark and Trademark Application Security Agreement (the "TM Security Agreement") is made as of the 20th day of December, 2001, by Troutman Investment Company (the "Borrower") (hereinafter, the "Company"), an Oregon corporation with offices at 86776 McVay Highway, Eugene, OR 97405-0467 and Fleet Retail Finance Inc, a Delaware corporation, with offices at 40 Broad Street, Boston, MA 02110 (in its capacity as Tranche A Secured Party, Administrative Agent, and Collateral Agent pursuant to the Agency Agreement and Loan Agreement (hereinafter defined), the "Secured Party").

RECITALS

WHEREAS, pursuant to the Loan and Security Agreement, dated as of even date hereof, (as amended from time to time, the "**Loan Agreement**") by and among the Company, the Secured Party, and GB Retail Funding, LLC ("Tranche B Lender"), the Secured Party agreed to make certain Loans (as defined in the Loan Agreement, hereinafter, the "**Loans**") available to the Borrower;

WHEREAS, pursuant to the Loan Agreement the Company has granted to the Secured Party a security interest in the Collateral (as defined in the Loan Agreement) to secure the Liabilities (as defined in the Loan Agreement) of the Borrower to the Secured Party;

WHEREAS, as a condition, among others, to the establishment of the credit facilities contemplated by the Loan Agreement, and to further secure the Liabilities and to more fully vest the security interest granted in the Loan Agreement, the Company has executed this TM Security Agreement.

NOW THEREFORE, For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Company and the Secured Party, agree as follows:

1. Terms used herein which are defined in the Loan Agreement are used as so defined.
2. To secure the Liabilities, the Company hereby grants a security interest in favor of, and collaterally assigns to the Secured Party, with power of sale (which power of sale shall be exercisable only following the occurrence of an Event of Default as defined in the Loan Agreement and used herein as so defined), in and to the following and all proceeds thereof:

- a. All of the Company's 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 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 Company's rights corresponding to any of the foregoing throughout the world.

All of the foregoing trademarks, registered trademarks and trademark applications, and service marks, registered service marks and service mark applications described in Subsection 2(a), together with the items respectively described in Subsections 2(b) through and including 2(e) are hereinafter individually and/or collectively referred to as the "**Marks**".

3. Until this TM Security Agreement is terminated in writing by a duly authorized officer of the Secured Party, the Company shall undertake the following with respect to each Mark:

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

b. At the Company's sole cost, expense, and risk, pursue the prompt, diligent, processing of each Application for Registration which is the subject of the security interest created herein and not abandon or delay any such efforts.

c. At the Company's sole cost, expense, and risk, take any and all action which Company deems necessary or desirable to protect the Marks, including, without limitation, the prosecution and defense of infringement actions.

4. In the event of

a. the Company's failure, within Five (5) days of written notice from the Secured Party, to cure any failure by the Company to perform any of the Company's obligations set forth in Section 3, above, and/or

b. the occurrence of any Event of Default,

the Secured Party acting in its capacity as Collateral Agent or in the name of the Company may (but shall not be required to) act in the Company's place and stead and/or in the Secured Party's own right in connection therewith.

5. Company 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 the Company.

b. No liens, claims or security interests have been granted in any Mark by the Company to any Person other than to the Secured Party.

6. In order to further secure the Liabilities:

a. The Company shall give the Secured Party written notice (with reasonable detail) within Ten (10) days following the occurrence of any of the following:

i. The Company obtains rights to, and files 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 Company's right to sell products containing the trademarks of others in the ordinary course of Company's business).

ii. The Company becomes 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 Company's right to sell products in containing the trademarks of others' the ordinary course of Company's business).

iii. The Company enters into any new trademark license agreement or service mark license agreement.

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

c. The Company hereby authorizes the Secured Party to modify this agreement by amending EXHIBIT A to include any future registered trademarks, trademark applications, registered service marks and service mark applications, written notice of which is so given, *provided, however*, the modification of said EXHIBIT shall not be a condition to the creation or perfection of the security interest created hereby.

7. Upon the occurrence of any Event of Default, the Secured Party 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 Secured Party, subject to the terms of the Loan Agreement, may sell, license, assign, transfer, or otherwise dispose of the Marks. Any person may conclusively rely upon an affidavit of an officer of the Secured Party that an Event of Default has occurred and that the Secured Party is authorized to exercise such rights and remedies.

8. The Company hereby irrevocably constitutes and designates the Secured Party as and for the Company's attorney in fact, effective with and upon the Secured Party's first exercise (the "**First Exercise**") of such powers following the occurrence of any Event of Default:

a. To exercise any of the rights and powers referenced in Section 3.

b. To execute all and singular such instruments, documents, and papers as the Secured Party 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.

The within grant of a power of attorney, being coupled with an interest, shall be irrevocable until the within TM Security Agreement is terminated by a duly authorized officer of the Secured Party, but shall be exercisable only following the occurrence of an Event of Default.

9. Any use by the Secured Party of the Marks as authorized hereunder in connection with the exercise of the Secured Party's rights and remedies under the within TM Security Agreement and the Loan Agreement shall be coextensive with Company's rights thereunder and with respect thereto and without any liability for royalties or other related charges from the Secured Party to the Company. Such use by the Secured Party shall be permitted only with and upon the First Exercise following the occurrence of an Event of Default.

10. Secured Party hereby acknowledges that the Company shall continue to have the exclusive right, prior to notice from the Secured Party following the occurrence of an Event of Default, 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 Company to protect the Marks against encroachment by third parties; provided, however, that Company first notifies the Secured Party in writing of its intention to sue for enforcement of the Marks against a particular party. All costs arising in connection with any infringement shall be borne by Company.

11. Following the payment and satisfaction of all Liabilities, and the termination of any obligation of the Secured Party and Tranche B Lender to provide loans or financial

accommodations under the credit facility contemplated by the Loan Agreement, this TM Security Agreement shall terminate and the Secured Party shall execute and deliver to Company all such instruments as the Company reasonably may request to release any encumbrance in favor of the Secured Party created hereby or pursuant hereto, subject, however, to any disposition thereof which may have been made by the Secured Party pursuant hereto or pursuant to the Loan Agreement.

12. The Company shall, at the request of the Secured Party, do any and all acts and execute any and all documents required by the Secured Party in connection with the protection, preservation, and enforcement of the Secured Party's rights hereunder.

13. The Company shall, upon demand, reimburse the Secured Party for all costs and expenses incurred by the Secured Party in the exercise of any rights hereunder (including, without limitation, fees and expenses of counsel).

14. Neither anything contained in the within TM Security Agreement or in the Loan Agreement nor any act, omission, or circumstance may be construed as directly or indirectly conveying to the Secured Party any rights in and to the Marks, which rights are effective except following the occurrence of any Event of Default (and in such circumstances, only with and upon the First Exercise).

15. This TM Security Agreement is intended to be supplemental of the Loan Agreement. All provisions of the Loan Agreement shall apply to the Marks and the Secured Party shall have the same rights with respect to any and all security interests in the Marks granted the Secured Party to secure the Liabilities hereunder as thereunder. In the event of a conflict between this TM Security Agreement and the Loan Agreement, the terms of this TM Security Agreement shall control with respect to the Marks and the Loan Agreement with respect to all other collateral.

IN WITNESS WHEREOF, the Company and the Secured Party respectively have caused this TM Security Agreement to be executed by officers duly authorized so to do on the date first above written.

(REMAINDER OF PAGE INTENTIONALLY BLANK)

[SIGNATURE PAGE TO TRADEMARK AGREEMENT]

TROUTMAN INVESTMENT COMPANY,
as Pledgor

FLEET RETAIL FINANCE INC.,
as Collateral Agent

By: [Signature]

By: [Signature]

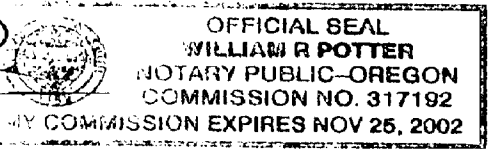
Print Name: Ronald Schiff
Title: President & CEO

Print Name: James J. Ward
Title: Director

THE ~~State~~ of Oregon
COUNTY OF Lane, SS

Then personally appeared before me Ronald Schiff who acknowledged that such person the duly authorized President of the Troutman Investment Company and that such person had executed the foregoing instrument on its behalf.

Witness my hand and seal this 17th day of December, 2001.

[Signature]
Notary Public
My Commission Expires: 

THE ~~Commonwealth~~ of Massachusetts
COUNTY OF Suffolk, SS

Then personally appeared before me James Ward who acknowledged that such person the duly authorized Director of Fleet Retail Finance, Inc. and that such person had executed the foregoing instrument on its behalf.

Witness my hand and seal this 20th day of December, 2001.

[Signature]
Notary Public
My Commission Expires:

EXHIBIT A

Company's 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

MARK NAME	TRADEMARK REGISTRATION NUMBER	REGISTRATION DATE
Emporium	10043	03/05/84
Emporium	S15686	03/05/84
Pacific Coast Clothing Co. & D.	1377355	01/07/86
Troutman's Emporium	1519319	01/03/89
Troutman's	1515928	12/06/88
Adam Hall Ltd. (Stylized)	1513676	11/22/88
Operation Santa Claus	1560215	10/10/89
Silver Sport	1834669	05/03/94
Twin Rivers	1766756	04/20/93
Emporium	14887	03/05/84

Trademark Applications

MARK	SERIAL NUMBER	FILING DATE
Twin Rivers	75/687179	04/20/99

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Trademark Applications (Cont.)

MARK	SERIAL NUMBER	FILING DATE
EMPORIUM	76/208,463	2/9/01

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