

11-15-2002

Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings



U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

102281981

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): Host Communications, Inc. 546 East Main Street Lexington, Kentucky 40508

2. Name and address of receiving party(ies) Name: Wachovia Bank, National Association as Administrative Agent Internal Address: Street Address: 301 South College Street City: Charlotte State: NC Zip: 28288-0737

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance: Security Agreement Change of Name

Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State Other national association

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? Yes No

Execution Date: 10/11/2002

4. Application number(s) or registration number(s): Please see Exhibit A, attached hereto.

A. Trademark Application No.(s) 76365956

B. Trademark Registration No.(s)

Additional number(s) attached Yes No

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

Name: John P. McNeill, Esq. Womble Carlyle Sandridge & Rice, PLLC

6. Total number of applications and registrations involved: 16

7. Total fee (37 CFR 3.41): \$ 415.00

Enclosed Authorized to be charged to deposit account

Street Address: P.O. Box 13069

8. Deposit account number:

500517

Research Triangle Park, NC City: State: Zip: 27709

DO NOT USE THIS SPACE

11/14/2002 01 FC:8521 02 FC:8522

Signature 00000210 500517 76365956

40.00 CH 375.00 CH John P. McNeill Name of Person Signing

Signature

11/07/02 Date

Total number of pages including cover sheet, attachments, and document: 15

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

\* Includes two cover sheets for paying the filing fees by deposit account.

TRADEMARK REEL: 2617 FRAME: 0153

**Exhibit A to Form PTO-1594**

**4A. Trademark Application Numbers.**

<u>Trademark</u>	<u>Serial No.</u>	<u>Filing Date</u>
H (Design)	76/365,956	02/01/2002
HOST COMMUNICATIONS	76/365,952	02/01/2002
TCM TOTAL CAMPUS MARKETING & Design	75/637,290	02/09/1999

**4B. Trademark Registration Numbers.**

<u>Trademark</u>	<u>Registration No.</u>	<u>Registration Date</u>
MARCH TO MARCH	2,444,210	04/17/2001
SOUTHEASTERN FOOTBALL'S TAILGATE TALK	2,580,079	06/11/2002
SPORTS & Design	1,576,715	01/09/1990
TAKE A KID TO THE GAME	2,482,721	08/28/2001
TEXAS BOWL & Design	2,092,094	08/26/1997
TEXAS BOWL & Design	2,160,800	05/26/1998
TEXAS FOOTBALL CLASSIC & Design	2,375,352	08/08/2000
HOOP-IT-UP	1,844,508	07/12/1994
HOOP-IT-UP	1,589,427	03/27/1990
TAILGATE TALK	2,589,663	07/02/2002
(Design Only)	2,191,174	09/22/1998
H (Design)	1,286,347	07/17/1984
HOST COMMUNICATIONS (Stylized)	1,286,348	07/17/1984

## TRADEMARK SECURITY AGREEMENT

This SECOND AMENDED AND RESTATED TRADEMARK SECURITY AGREEMENT (this "Agreement") is made as of October 11, 2002, by and between Host Communications Inc, a Kentucky corporation (the "Debtor"), and Wachovia Bank, National Association, as administrative agent (in such capacity, the "Administrative Agent") for itself, the Issuing Banks and the Lenders (as such terms are defined in the Credit Agreement referred to below) and their successors and assigns (collectively, the "Secured Parties").

### WITNESSETH:

WHEREAS, BR Holding, Inc., a Georgia corporation, Capital Sports Properties, Inc., a Delaware corporation, Host Communications, Inc., a Kentucky corporation, and Datasouth Computer Corporation, a Delaware corporation, as borrowers (each a "Borrower" and collectively, the "Borrowers"), Bull Run Corporation, a Georgia corporation (the "Parent"), as a guarantor, the lenders signatory thereto, Bank of America, N.A. and Bank One, Kentucky, NA, as issuing banks, Wachovia Bank, National Association (formerly known as First Union National Bank), as syndication agent, and Bank of America, N.A., as administrative agent (the "Original Administrative Agent"), are parties to that certain Credit Agreement dated as of December 17, 1999, as amended and restated by that certain Amended and Restated Credit Agreement dated as of July 27, 2001 (as in effect on the date hereof, the "Prior Credit Agreement"); and

WHEREAS, to secure, among other things, the Obligations (as defined in the Prior Credit Agreement), the Debtor, Universal Sports America, Inc., a Delaware corporation, Datasouth Computer Corporation, a Delaware corporation, and USA Collegiate, L.P., a Texas limited partnership, executed and delivered in favor of the Original Administrative Agent that certain Trademark Security Agreement dated as of December 17, 1999, as amended and restated by that certain Amended and Restated Trademark Security Agreement dated as of July 27, 2001 between the Debtor, for itself and as successor by merger to Universal Sports America, Inc., and USA Collegiate, L.P., and the Original Administrative Agent (as in effect on the date hereof, the "Prior Trademark Security Agreement"); and

WHEREAS, the parties to the Prior Credit Agreement have agreed to substitute the Administrative Agent for the Original Administrative Agent and to amend and restate the Prior Credit Agreement in its entirety as set forth in that certain Second Amended and Restated Credit Agreement of even date herewith by and among the Borrowers, the Parent, the lenders signatory thereto (the "Lenders"), Wachovia Bank, National Association, an issuing bank (together with any other Person who hereafter may be designated as an Issuing Bank pursuant to the terms of the Credit Agreement, the "Issuing Banks"), and Wachovia Bank, National Association, as administrative agent (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"); and

WHEREAS, the Debtor acknowledges and agrees that the security interest granted to the Original Administrative Agent, in its capacity as administrative agent for the

Issuing Banks and the Lenders, pursuant to the Prior Credit Agreement and the other Loan Documents (as defined in the Prior Credit Agreement), shall remain outstanding and in full force and effect in accordance with the Prior Credit Agreement and shall continue to secure the Obligations (as defined in the Credit Agreement); and

WHEREAS, the Secured Parties have required that the Debtor execute and deliver this Agreement (i) in order to secure the prompt and complete payment, observance and performance of all of the Obligations (including, without limitation, any interest, fees and other charges in respect of the Notes and the other Loan Documents that would accrue but for the filing of a bankruptcy action with respect to any of the Borrowers, whether or not such claim is allowed in such bankruptcy action) and (ii) as a condition precedent to the execution and delivery of the Credit Agreement;

NOW, THEREFORE, for and in consideration of the premises set forth above and for other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the parties hereto agree to amend and restate the Prior Trademark Security Agreement in its entirety as follows:

1. Defined Terms.

(a) Unless otherwise defined herein, each capitalized term used herein that is defined in the Credit Agreement shall have the meaning specified for such term in the Credit Agreement.

(b) The words "hereof", "herein" and "hereunder" and words of like import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and paragraph references are to this Agreement unless otherwise specified.

(c) All terms defined in this Agreement in the singular shall have comparable meanings when used in the plural, and vice versa, unless otherwise specified.

2. Incorporation of Premises. The premises set forth above are incorporated into this Agreement by this reference thereto and are made a part hereof.

3. Incorporation of the Credit Agreement. The Credit Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto.

4. Security Interest in Trademarks. To secure the complete and timely payment, performance and satisfaction of all of the Obligations, the Debtor hereby grants, assigns, transfers and pledges to the Administrative Agent, its successors and assigns, for the ratable benefit of the Secured Parties, a security interest in and lien on all of the Debtor's right, title and interest in and to the following, whether, now existing or hereafter acquired: (a) trademarks, trade names, registered trademarks, trademark applications, service marks, registered service marks and service mark applications, including, without limitation, the trademarks, trade names, registered trademarks, trademark applications, service marks, registered service marks and service mark applications listed on Schedule 1 attached hereto

and made a part hereof, and (b) all renewals thereof, (c) all income, royalties, damages and payments now and hereafter due and/or payable under and with respect thereto, 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 or otherwise recover for past, present and future infringements and dilutions thereof, (e) the goodwill of the Debtor's business symbolized by the foregoing and connected therewith and (f) all of the Debtor's rights corresponding thereto throughout the world (all of the foregoing items described in clauses (a)-(f) in this Paragraph 4, are hereinafter individually or collectively, as the case may be, referred to as the "Trademarks").

5. Restrictions on Future Agreements. The Debtor agrees that it will not, without the Administrative Agent's prior written consent, enter into any agreement, including, without limitation, any license agreement, which is inconsistent with this Agreement, and the Debtor further agrees that it will not take any action, and will use its best efforts not to permit any action to be taken by others subject to its control, including, without limitation, licensees, or fail to take any action, which would affect the validity or enforcement of the rights transferred to the Administrative Agent under this Agreement or the rights associated with the Trademarks.

6. New Trademarks. The Debtor represents and warrants that (a) the Trademarks listed on Schedule 1 are a true, accurate and complete list of all of the Debtor's material Trademarks, and (b) no liens, claims or security interests in such Trademarks have been granted by the Debtor to any Person, other than the Administrative Agent and except as permitted in the Credit Agreement. If, prior to the termination of this Agreement, the Debtor shall (i) obtain rights to any new Trademarks or (ii) become entitled to the benefit of any Trademarks, the provisions of Paragraph 4 above shall automatically apply thereto. The Debtor shall give to the Administrative Agent written notice of the acquisition of new Trademarks promptly after the occurrence thereof. The Debtor hereby authorizes the Administrative Agent to modify this Agreement unilaterally upon the Debtor's notice to the Administrative Agent (i) by amending Schedule 1 to include any future Trademarks and (ii) by filing, in addition to and not in substitution for this Agreement, a duplicate original of this Agreement containing on Schedule 1 thereto, as the case may be, such future Trademarks.

7. Royalties. The Debtor hereby agrees that any use by the Administrative Agent of the Trademarks as authorized hereunder in connection with the Administrative Agent's exercise of its rights and remedies under Paragraph 15 or pursuant to any Loan Document shall be coextensive with the Debtor's rights thereunder and with respect thereto and without any liability for royalties or other related charges from the Secured Parties to the Debtor.

8. Right to Inspect; Further Agreements and Security Interest. The Administrative Agent may from time to time hereafter (upon at least 24 hours notice to the Debtor, or without notice if an Event of Default has occurred and is continuing), have access to, examine, audit, make copies (at the Debtor's expense) and extracts from and inspect the Debtor's premises and examine the Debtor's books, records and operations relating to the Trademarks. The Debtor agrees not to sell or assign its respective interests in, or grant any

license under, the Trademarks without the prior and express written consent of the Administrative Agent.

9. Nature and Continuation of the Administrative Agent's Security Interest; Termination of the Administrative Agent's Security Interest. This Agreement is made for collateral security purposes only. This Agreement shall create a continuing security interest in the Trademarks and shall terminate only when the Obligations have been paid in full and the Credit Agreement has been terminated. When this Agreement has terminated, the Administrative Agent shall promptly execute and deliver to the Debtor, at the Debtor's expense, all termination statements releases, reassignments and other instruments as may be necessary or proper to terminate the Administrative Agent's security interest in the Trademarks, subject to any disposition thereof which may have been made by the Administrative Agent pursuant to this Agreement or the Credit Agreement.

10. Duties of the Debtor. The Debtor shall have the duty, to the extent desirable in the normal conduct of its business, to prosecute diligently any trademark application or service mark application that is part of the Trademarks pending as of the date hereof or hereafter until the termination of this Agreement. The Debtor further agrees (i) not to abandon any Trademark without the prior written consent of the Administrative Agent, and (ii) to maintain in full force and effect the Trademarks. Any expenses incurred in connection with the foregoing shall be borne by the Debtor. The Administrative Agent shall not have any duty, other than any duty imposed by law, with respect to the Trademarks. Without limiting the generality of the foregoing, the Secured Parties shall be under no obligation to take any steps necessary to preserve rights in the Trademarks against any other parties, but the Administrative Agent may do so at its option from and after the occurrence of an Event of Default, and all expenses incurred in connection therewith shall be for the account of the Debtor and shall be added to the Obligations secured hereby.

11. The Administrative Agent's Right to Sue. From and after the occurrence of an Event of Default, the Administrative Agent shall have the right, but shall not be obligated, to bring suit in its own name to enforce the Trademarks and, if the Administrative Agent shall commence any such suit, the Debtor shall, at the request of the Administrative Agent, do any and all lawful acts and execute any and all proper documents reasonably required by the Administrative Agent in aid of such enforcement. The Debtor shall, upon demand, promptly reimburse the Administrative Agent for all reasonable costs and expenses incurred by the Administrative Agent in the exercise of its rights under this Paragraph 11 (including, without limitation, fees and expenses of attorneys and paralegals for the Administrative Agent).

12. Waivers. The Administrative Agent's failure, at any time or times hereafter, to require strict performance by the Debtor of any provision of this Agreement shall not waive, affect or diminish any right of the Administrative Agent thereafter to demand strict compliance and performance therewith nor shall any course of dealing between the Debtor and the Administrative Agent have such effect. No single or partial exercise of any right hereunder shall preclude any other or further exercise thereof or the exercise of any other right. None of the undertakings, agreements, warranties, covenants and representations of the Debtor contained in this Agreement shall be deemed to have been suspended or waived by the

Administrative Agent or any transferee of the Administrative Agent and to execute and deliver to the Administrative Agent or any such transferee all such agreements, documents and instruments as may be necessary, in the Administrative Agent's sole discretion, to effect such assignment, conveyance and transfer. All of the Administrative Agent's rights and remedies with respect to the Trademarks, whether established hereby, by the Credit Agreement or by any other agreements or by law, shall be cumulative and may be exercised separately or concurrently. Notwithstanding anything set forth herein to the contrary, it is hereby expressly agreed that upon the occurrence of an Event of Default, the Administrative Agent may exercise any of the rights and remedies provided in this Agreement, the Credit Agreement or any of the other Loan Documents. The Debtor agrees that any notification of intended disposition of any of the Trademarks required by law shall be deemed reasonable and properly given if given at least ten (10) days before such disposition; provided, however, that the Administrative Agent may give any shorter notice that is commercially reasonable under the circumstances. In addition, the content and form of such notice shall comply with O.C.G.A. § 11-9-613 in all material respects.

16. Successors and Assigns. This Agreement shall be binding upon the Debtor and its successors and assigns, and shall inure to the benefit of each member of the Secured Parties and their respective nominees, successors and assigns. The Debtor's successors and assigns shall include, without limitation, a receiver or a trustee of the Debtor; provided, however, that the Debtor shall not voluntarily assign or transfer its rights or obligations hereunder without the Administrative Agent's prior written consent.

17. Governing Law. This Agreement shall be construed and enforced and the rights and duties of the parties shall be governed by in all respects in accordance with the laws and decisions of the State of Georgia, without reference to the conflicts or choice of law principles thereof. Time is of the essence with regard to this Agreement.

18. Notices. All notices or other communications hereunder shall be given in the manner and to the addresses set forth in the Credit Agreement.

19. Paragraph Titles. The paragraph titles herein are for convenience of reference only, and shall not affect in any way the interpretation of any of the provisions hereof.

20. Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of a counterpart hereof via facsimile transmission shall be effective as delivery of a manually executed counterpart of this Agreement hereof.

21. Merger. This Agreement represents the final agreement of the Debtor, and the Secured Parties with respect to the matters contained herein and may not be contradicted by evidence of prior or contemporaneous agreements, or subsequent oral agreements, between the Debtor and the Secured Parties.

22. Effectiveness. This Agreement shall become effective on the Agreement Date.

23. Continuing Lien; Transfers by Lenders.

(a) This Agreement creates a continuing security interest in and to the Trademarks and shall (i) remain in full force and effect until payment in full of the Obligations and the termination of the Commitments, (ii) be binding upon the Debtor, its successors and assigns, and (iii) inure to the benefit of the Secured Parties and their respective successors, transferees and assigns. Without limiting the generality of the foregoing clause (iii), any Lender may assign or otherwise transfer any Obligations held by it, and such other benefits in respect thereof granted to the Administrative Agent herein or otherwise, to any other Person, subject, however, to the provisions of Section 10.5 of the Credit Agreement. Upon the payment in full of the Obligations, and the termination of the Commitments, the assignment hereunder shall terminate and all rights to the Trademarks shall revert to the Debtor or to any other Person as may be designated by the Debtor, subject to any disposition thereof which may have been made by the Administrative Agent pursuant hereto or pursuant to the Credit Agreement. Upon any such termination, the Administrative Agent shall, at the Debtor's expense, execute and deliver to the Debtor such documents as the Debtor shall reasonably request to evidence such termination.

(b) The Trademarks shall be subject to release from time to time in accordance with Section 9.15 of the Credit Agreement (the "Released Collateral"). The Liens under this Agreement shall terminate with respect to the Released Collateral upon such release, and upon the request of the Debtor, the Administrative Agent shall execute and deliver such instrument or document as may be necessary to release the Liens granted hereunder; provided, however, that (i) the Administrative Agent shall not be required to execute any such documents on terms which, in the Administrative Agent's opinion, would expose the Administrative Agent to liability and (ii) such release shall not in any manner discharge, affect or impair the Obligations of the Debtor or any Liens on (or obligations of the Debtor in respect of) all interests retained by the Debtor, including without limitation, the proceeds of any sale, all of which shall continue to constitute part of the collateral covered by this Agreement.

24. Cumulative Remedies; Power of Attorney; Effect on Credit Agreement.

All of the Administrative Agent's rights and remedies with respect to the Trademarks, whether established hereby, by the Credit Agreement, any other Loan Document, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. The Debtor hereby acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of the Secured Parties, or any of them, under the Credit Agreement, but rather is intended to facilitate the exercise of such rights and remedies. The Administrative Agent shall have, upon the occurrence and during the continuation of an Event of Default, in addition to all other rights and remedies given it by this Agreement and the Loan Documents, those rights and remedies allowed by law and the rights and remedies of a secured party on default under the Uniform Commercial Code as enacted in the State of Georgia at that time.



25. Interpretation. In the event of an irreconcilable conflict between the terms of this Agreement and the terms of the Security Agreement, the Security Agreement shall govern.

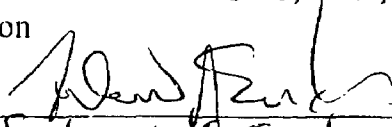
26. Administrative Agent. The powers conferred on the Administrative Agent hereunder are solely to protect its interest in the Trademarks and shall not impose any duty upon the Administrative Agent to exercise any such powers. Except for the safe custody of any Trademarks in its actual possession and the accounting for moneys actually received by it hereunder, the Administrative Agent shall have no duty as to any Trademark or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Trademark. The Administrative Agent shall be deemed to have exercised reasonable care in the custody and preservation of any Trademark in its actual possession if such Trademark is accorded treatment substantially equal to that which the Administrative Agent accords its own property. Each reference herein to any right granted to, benefit conferred upon or power exercisable by the "Administrative Agent" shall be a reference to the Administrative Agent for the ratable benefit of the Issuing Banks and the Lenders, and each action taken or right exercised hereunder shall be deemed to have been so taken or exercised by the Administrative Agent for the ratable benefit of the Issuing Banks and the Lenders.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement under seal as of the day and year first above written.

**DEBTOR:**

HOST COMMUNICATIONS, INC., a Kentucky corporation

By:  (SEAL)

Name: Frederick J. Erickson

Title: Vice President

Agreed and Accepted as of this \_\_\_\_ day of October, 2002.

WACHOVIA BANK, NATIONAL ASSOCIATION.  
as administrative agent

By: \_\_\_\_\_ (SEAL)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement under seal as of the day and year first above written.

**DEBTOR:**

HOST COMMUNICATIONS, INC., a Kentucky corporation

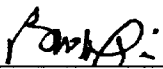
By: \_\_\_\_\_ (SEAL)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agreed and Accepted as of  
this 11<sup>th</sup> day of October, 2002.

WACHOVIA BANK, NATIONAL ASSOCIATION,  
as administrative agent

By:  (SEAL)

Name: Bruce Loftin

Title: Director

**Trademark Security Agreement  
Schedule 1**

<b>Trademark</b>	<b>Owner</b>	<b>Status</b>
MARCH TO MARCH	Host Communications, Inc.	<i>Registered</i> Reg. No. 2,444,210
SOUTHEASTERN FOOTBALL TAILGATE TALK	Host Communications, Inc.	<i>Registered</i> Reg. No. 2,580,079
SPORTS & DESIGN	Host Communications, Inc.	<i>Registered</i> Reg. No. 1,576,715
TAKE A KID TO THE GAME	Host Communications, Inc.	<i>Registered</i> Reg. No. 2,482,721
TEXAS BOWL & DESIGN	Host Communications, Inc.	<i>Registered</i> Reg. No. 2,092,094
TEXAS BOWL & DESIGN	Host Communications, Inc.	<i>Registered</i> Reg. No. 2,160,800
TEXAS FOOTBALL CLASSIC & DESIGN	Host Communications, Inc.	<i>Registered</i> Reg. No. 2,375,352
HOOP-IT-UP	Host Communications, Inc	<i>Registered</i> Reg. No. 1,844,508
HOOP-IT-UP	Host Communications, Inc	<i>Registered</i> Reg. No. 1,589,427
TAILGATE TALK	Host Communications, Inc	<i>Registered</i> Reg. No. 2,589,663
(DESIGN ONLY)	Host Communications, Inc	<i>Registered</i> Reg. No. 2,191,174
H (DESIGN)	Host Communications, Inc	<i>Registered</i> Reg. No. 1,286,347
H (DESIGN)	Host Communications, Inc	<b>Published</b> Ser. No 76/365956
HOST COMMUNICATIONS (STYLIZED)	Host Communications, Inc	<b>Registered</b> Reg. No. 1,286,348
HOST COMMUNICATIONS	Host Communications, Inc	<b>Published</b> Ser. No. 76/365952
TCM TOTAL CAMPUS MARKETING & DESIGN	Host Communications, Inc.	<i>Published</i> Ser. No. 75/637290

November 7, 2002

**VIA U.S. Mail**

Commissioner for Trademarks  
United States Patent & Trademark Office  
Box ASSIGNMENTS  
Washington, DC 20231

Re: Recordation of Trademark Conveyance Documents

Dear Sir or Madam:

Enclosed for recording against the United States trademark applications and registrations identified in the enclosed Recordation Form Cover Sheet (Form PTO-1594) and the attached Exhibit A, is a Trademark Security Agreement, dated October 11, 2002, between Host Communications, Inc. and Wachovia Bank, National Association, as Administrative Agent.

The Commissioner is hereby authorized to charge the filing fee of \$415.00, as well any deficiency in the required filing fee, to Deposit Account No. 500517. A duplicate copy of Form PTO-1594 is enclosed.

Please send us evidence of the recording of these documents at your earliest convenience. If you have any questions regarding the enclosed documents, please feel free to contact me at the address or telephone number listed above. Thank you in advance for your prompt attention to this matter.

Very truly yours,

WOMBLE CARLYLE SANDRIDGE & RICE  
*A Professional Limited Liability Company*



John P. McNeill

Enclosures

cc: Gates Grainger, Esq.