

02-09-2007



Form PTO-1594 (Rev. 07/05)
OMB Collection 0551-0027 (rev. 01)

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

103371770

TRADEMARKS ONLY

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

RE.
(MAD) 12-18-06

1. Name of conveying party(ies): Fresh Advantage Inc.		2. Name and address of receiving party(ies) <input type="checkbox"/> Yes Additional names, addresses, or citizenship attached? <input checked="" type="checkbox"/> No Name: <u>Fresh Express Incorporated</u> Internal Address: _____ Street Address: <u>P.O. Box 80599</u> City: <u>Salinas</u> State: <u>CA</u> Country: <u>USA</u> Zip: <u>93912</u>	
<input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation- State: <u>Virginia</u> <input type="checkbox"/> Other _____ Citizenship (see guidelines) _____ Additional names of conveying parties attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Association Citizenship _____ <input type="checkbox"/> General Partnership Citizenship _____ <input type="checkbox"/> Limited Partnership Citizenship _____ <input checked="" type="checkbox"/> Corporation Citizenship <u>Delaware</u> <input type="checkbox"/> Other _____ Citizenship _____ If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes <input type="checkbox"/> No (Designations must be a separate document from assignment)	
3. Nature of conveyance (Execution Date(s) : Execution Date(s) <u>December 27, 2005</u> <input type="checkbox"/> Assignment <input checked="" type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____		4. Application number(s) or registration number(s) and Identification or description of the Trademark. A. Trademark Application No.(s) _____ B. Trademark Registration No.(s) <u>2425072</u> Additional sheet(s) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):			
5. Name & address of party to whom correspondence concerning document should be mailed: Name: <u>E. Lynn Perry</u> Internal Address: <u>Perry IP Group A Law Corporation</u> Street Address: <u>100 Drake's Landing Rd. Suite 100</u> City: <u>Greenbrae</u> State: <u>CA</u> Zip: <u>94904</u> Phone Number: _____ Fax Number: _____ Email Address: _____		6. Total number of applications and registrations involved: <u>1</u>	
7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ _____ <input type="checkbox"/> Authorized to be charged by credit card <input type="checkbox"/> Authorized to be charged to deposit account <input checked="" type="checkbox"/> Enclosed		8. Payment Information: a. Credit Card Last 4 Numbers _____ Expiration Date _____ b. Deposit Account Number _____ Authorized User Name _____	
9. Signature: <u>E. LYNN PERRY</u> Signature _____ Name of Person Signing _____		Date <u>1-17-07</u> Total number of pages including cover sheet, attachments, and documents <u>12</u>	

Documents to be recorded (including cover sheet) should be taken to (877) 272-9140, or mailed to: Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

12-20-2006

Form PTO-1584
(Rev. 10/02)
OMB No. 0451-0037 (exp. 5/30/2005)
Tab settings =>=>

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

103351309

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

12/18/06

1. Name of conveying party(ies):
Fresh Advantage Inc.

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

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

2. Name and address of receiving party(ies)

Name: Fresh Express Incorporated
 Internal Address: _____
 Address: _____

Street Address: P.O. Box 80599
 City: Selma State: CA Zip: 95912

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

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

3. Nature of conveyance:

Assignment Merger
 Security Agreement Change of Name
 Other _____

Execution Date: December 27, 2005

4. Application number(s) or registration number(s):
 A. Trademark Application No.(s)

B. Trademark Registration No.(s)
2425072

Additional number(s) attached Yes No

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

Name: E. Lynn Perry
 Internal Address: Perry IP Group A Law Corporation

 Street Address: 100 Drake Landing Road, Suite 100

 City: Greenbrae State: CA Zip: 94904

6. Total number of applications and registrations involved: _____

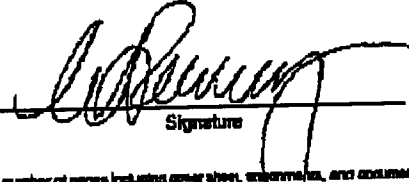
7. Total fee (37 CFR 3.41)..... \$ 400.00
 Enclosed
 Authorized to be charged to deposit account

8. Deposit account number: _____

OFFICE OF PUBLIC RELATIONS
206 DEC 18 AM 9:37
FINANCE SECTION

DO NOT USE THIS SPACE

9. Signature.

E. Lynn Perry  December 7, 2006
 Name of Person Signing Signature Date

12/18/2006 8:59AM 0000167 2425072

Total number of pages including cover sheet, assignments, and documents:

49.00 US Mail Documents to be recorded with required cover sheet information for Commissioner of Patents & Trademarks, See Assignments Washington D.C. 20527

State of Delaware
Secretary of State
Division of Corporations
Delivered 05:17 PM 12/23/2005
FILED 05:17 PM 12/23/2005
SPV 061058562 - 0869748 FILE

AGREEMENT AND PLAN OF MERGER

of

FRESH ADVANTAGE, INC., a Virginia corporation,
REDI-CUT FOODS, INC., an Illinois corporation,
BLANCO DIRT INVESTORS, LLC, a Delaware limited liability company,
K.C. SALAD HOLDINGS, INC., a Missouri corporation,
K.C. SALAD REAL ESTATE, L.L.C., a Delaware limited liability company,
KANSAS CITY SALAD, L.L.C., an Illinois limited liability company,
FRESH-CUTS, LLC, a Delaware limited liability company,
TRANSWESSE VENTURES CORPORATION, a Delaware corporation,
FEF SALES CORP., a Delaware corporation,
FRESH EXPRESS-CHICAGO INCORPORATED, a Delaware corporation,
FRESH EXPRESS DALLAS INCORPORATED, a Delaware corporation,
FRESH EXPRESS MID-ATLANTIC, LLC, a Delaware limited liability company, and
FRESH INTERNATIONAL HOLDING CORP., a Delaware corporation,

with and into

FRESH EXPRESS INCORPORATED
a Delaware corporation

Effective as of December 31, 2005

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement"), effective as of December 31, 2005 (the "Effective Date"), is entered into by and among Fresh Advantage, Inc., a Virginia corporation ("FAI"), Real-Cut Foods, Inc., an Illinois corporation ("RCF"), Blanco Dirt Investors, LLC, a Delaware limited liability company ("BDI"), K.C. Salad Holdings, Inc., a Missouri corporation ("KCSH"), K.C. Salad Real Estate, L.L.C., a Delaware limited liability company ("KCSRE"), Kansas City Salad, L.L.C., an Illinois limited liability company ("KCS"), Fresh-Cuts, LLC, a Delaware limited liability company ("FC"), TransFRESH Ventures Corporation, a Delaware corporation ("TFVC"), FEF Sales Corp., a Delaware corporation ("FEFSC"), Fresh Express-Chicago Incorporated, a Delaware corporation ("FECI"), Fresh Express Dallas Incorporated, a Delaware corporation ("FEDI"), Fresh Express Mid-Atlantic, LLC, a Delaware limited liability company ("FEMA"), Fresh International Holding Corp., a Delaware corporation ("FIHC") and Fresh Express Incorporated, a Delaware corporation ("Fresh Express").

RECITALS

WHEREAS, each of FAI, RCF, BDI, KCSH, KCSRE, KCS, FC, TFVC, FEFSC, FECI, FEDI, FEMA (collectively, the "Companies"), FIHC and Fresh Express are indirect subsidiaries of Chicago Brands L.L.C., a Delaware limited liability company ("Chicago");

WHEREAS, the respective Board of Directors of the Companies, FIHC and Fresh Express have each determined that it is advisable for the Companies and FIHC to merge with and into Fresh Express pursuant to this Agreement, with the result that Fresh Express shall be the sole surviving corporation of such merger (the "Merger"); and

WHEREAS, the respective Boards of Directors of the Companies, FIHC and Fresh Express, and the stockholders of the Companies, FIHC and Fresh Express have each approved the execution and delivery of the Agreement and the consummation of the Merger.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements herein contained, the parties hereto agree as follows:

1. **The Merger.** Upon the terms and subject to the conditions hereof, and in accordance with the Delaware General Corporation Law, the Delaware Limited Liability Company Act, the Illinois Business Corporation Act, the Illinois Limited Liability Company Act, the Virginia Stock Corporation Act and the Missouri General and Business Corporation Act (the "Applicable Laws"), each of the Companies and FIHC shall be merged with and into Fresh Express upon the Effective Date.

2. **Effect of the Merger.** The Merger shall have the effects set forth in the Applicable Laws. From and after the Effective Date, the separate existence of each of the Companies and FIHC shall cease and Fresh Express shall continue as the surviving corporation (the "Surviving Corporation").

3. **Effective Time.** Each of the Companies, FIHC and Fresh Express shall cause a certificate of merger and such other documents as are required by the Applicable Laws to be duly filed prior to the Effective Time. Each of the Companies, FIHC and Fresh Express shall also cause appropriate filings to be made related to the Merger in each jurisdiction in which the parties hereto are qualified or licensed to do business as a foreign corporation in accordance with the laws of such jurisdictions.

4. **Certificate of Incorporation.** At the Effective Time and without any further action of the parties hereto, the Certificate of Incorporation of Fresh Express as in effect immediately prior to the Effective Time shall be the Certificate of Incorporation of the Surviving Corporation.

5. **Bylaws.** At the Effective Time and without any further action of the parties hereto, the Bylaws of Fresh Express as in effect immediately prior to the Effective Time shall be the Bylaws of the Surviving Corporation.

6. **Cancellation of Equity Interests.** As of the Effective Time, by virtue of the Merger and without any further action on the part of the Companies, or their respective stockholders or members, all of the then outstanding shares of common stock or membership interests, as the case may be, of the Companies shall be cancelled and retired without payment of any consideration therefor.

7. **Conversion of Shares of FIHC.** As of the Effective Time, by virtue of the Merger and without any further action on the part of FIHC or its stockholders, all of the then outstanding shares of common stock of FIHC shall be converted into one share of common stock of the Surviving Corporation.

8. **Miscellaneous.**

a. **Address.** The street address of the Surviving Corporations' principal place of business is 950 E. Blanco Road, Salinas California 93912.

b. **Amendment and Modification.** This Agreement may be amended by a written instrument signed by the parties hereto and approved by action taken by their respective Boards of Directors, at any time prior to the Effective Time.

c. **Validity.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

d. **Parties in Interest.** This Agreement shall be binding upon and, except as provided below, inure solely to the benefit of each party hereto, and, nothing in this Agreement, except as set forth below, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

e. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to the conflicts-of-law rules thereof.

f. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

g. Headings. The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not affect in any way the meaning or interpretation of this Agreement.

h. Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties herein in respect of the subject matter contained herein or therein. There are no agreements, representations, warranties or covenants other than those expressly set forth herein or therein. This Agreement supersedes all prior agreements and understandings among the parties with respect to such subject matter.

The remainder of this page is intentionally blank.

The signature page immediately follows.

IN WITNESS WHEREOF, the parties have executed this Agreement and Plan of Merger as of the date first above written.

Fresh Advantage, Inc.
By: *Joseph W. Bradley*
Joseph W. Bradley, Vice President

TransFRESH Ventures Corporation
By: *Joseph W. Bradley*
Joseph W. Bradley, Vice President

Red-Cut Foods, Inc.
By: *Joseph W. Bradley*
Joseph W. Bradley, Vice President

FEF Sales Corp.
By: *Joseph W. Bradley*
Joseph W. Bradley, Vice President

Bianco Dirt Investors, LLC
By: *Brian W. Kocher*
Brian W. Kocher, Manager

Fresh Express Chicago Incorporated
By: *Joseph W. Bradley*
Joseph W. Bradley, Vice President

K.C. Salad Holdings, Inc.
By: *Joseph W. Bradley*
Joseph W. Bradley, Vice President

Fresh Express Dallas Incorporated
By: *Joseph W. Bradley*
Joseph W. Bradley, Vice President

K.C. Salad Real Estate, L.L.C.
By: *Brian W. Kocher*
Brian W. Kocher, Manager

Fresh Express Mid-Atlantic, LLC
By: *Brian W. Kocher*
Brian W. Kocher, Manager

Kansas City Salad, L.L.C.
By: *Brian W. Kocher*
Brian W. Kocher, Manager

Fresh International Holding Corp.
By: *Joseph W. Bradley*
Joseph W. Bradley, Vice President

Fresh-Cuts, LLC
By: *Brian W. Kocher*
Brian W. Kocher, Manager

Fresh Express Incorporated
By: *Joseph W. Bradley*
Joseph W. Bradley, Vice President

Delaware

PAGE 1

The First State

I, ~~HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF~~
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"BLANCO DIRT INVESTORS, LLC", A DELAWARE LIMITED LIABILITY
COMPANY,

"FEF SALES CORP.", A DELAWARE CORPORATION,

"FRESH ADVANTAGE, INC.", A VIRGINIA CORPORATION,

"FRESH-CUTS, LLC", A DELAWARE LIMITED LIABILITY COMPANY,

"FRESH EXPRESS-CHICAGO INCORPORATED", A DELAWARE
CORPORATION,

"FRESH EXPRESS DALLAS INCORPORATED", A DELAWARE CORPORATION,

"FRESH EXPRESS MID-ATLANTIC, LLC", A DELAWARE LIMITED
LIABILITY COMPANY,

"FRESH INTERNATIONAL HOLDING CORP.", A DELAWARE CORPORATION,

"KANSAS CITY SALAD, L.L.C.", A ILLINOIS LIMITED LIABILITY
COMPANY,

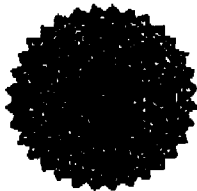
"K.C. SALAD HOLDINGS, INC.", A MISSOURI CORPORATION,

"K.C. SALAD REAL ESTATE, L.L.C.", A DELAWARE LIMITED
LIABILITY COMPANY,

"REDI-CUT FOODS, INC.", A ILLINOIS CORPORATION,

0869748 8200N

051059562



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State
AUTHENTICATION: 4403494

DATE: 12-27-05

Delaware

PAGE 2

The First State

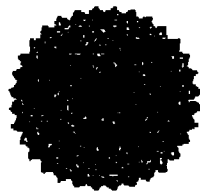
~~"TRANSFRESH VENTURES CORPORATION", - A DELAWARE CORPORATION,~~
WITH AND INTO "FRESH EXPRESS INCORPORATED" UNDER THE NAME OF
"FRESH EXPRESS INCORPORATED", A CORPORATION ORGANIZED AND
EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED
AND FILED IN THIS OFFICE THE TWENTY-THIRD DAY OF DECEMBER, A.D.
2005, AT 5:17 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF
THE AFORESAID CERTIFICATE OF MERGER IS THE THIRTY-FIRST DAY OF
DECEMBER, A.D. 2005.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE
NEW CASTLE COUNTY RECORDER OF DEEDS.

0869748 8100M

051059562



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State
AUTHENTICATION: 4403494

DATE: 12-27-05