

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Security Agreement		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Earl of Sandwich (Holding), LLC		02/26/2004	LIMITED LIABILITY COMPANY: FLORIDA
RECEIVING PARTY DATA			
Name:	McGlynn Bakeries, LLC		
Street Address:	7350 Commerce Lane		
City:	Minneapolis		
State/Country:	MINNESOTA		
Postal Code:	55432		
Entity Type:	LIMITED LIABILITY COMPANY: DELAWARE		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	3678455	EARL OF SANDWICH	
CORRESPONDENCE DATA			
Fax Number:	(314)667-3633		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	314-552-6000		
Email:	ipdocket@thompsoncoburn.com		
Correspondent Name:	Thomas A. Polcyn		
Address Line 1:	One US Bank Plaza		
Address Line 2:	Thompson Coburn LLP		
Address Line 4:	St. Louis, MISSOURI 63101		
ATTORNEY DOCKET NUMBER:	66094-94991		
NAME OF SUBMITTER:	Thomas A. Polcyn		
Signature:	/thomas a. polcyn/		

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 REEL: 004482 FRAME: 0213

Date:

02/18/2011

Total Attachments: 10

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SECURITY AGREEMENT

4 THIS SECURITY AGREEMENT, dated as of the 26th day of February, 2007 (this "Agreement"), is made by Earl of Sandwich (Holding), LLC (the "Pledgor") with an address of 7598 West Sand Lake Road, Orlando, Florida 32819 in favor of McGlynn Bakeries, LLC (together with its successors or assigns hereunder, "McGlynn") with an address of 7350 Commerce Lane, Minneapolis, MN 55432.

RECITALS

A. McGlynn, by way of License Agreement (the "License Agreement") of even date herewith and attached hereto as Exhibit A, has transferred to Pledgors all right, title and interest in and to the "Earl Of Sandwich" Trademark, U.S. Registration No. 2,172,779, registered July 14, 1998 originally held by McGlynn (hereinafter collectively referred to as the "Mark"); provided, however, that Pledgor has licensed to McGlynn certain uses of the Mark, all as set forth in the License Agreement. Capitalized terms utilized but not otherwise defined herein shall have the meanings ascribed thereto in the License Agreement.

B. As a condition to entering into the License Agreement, Pledgors shall have executed and delivered this Agreement to McGlynn. McGlynn is relying on this Agreement in their decision to transfer the Mark to Pledgor under the License Agreement and would not enter into the License Agreement without the execution and delivery of this Agreement by the Pledgor. The purpose of the Agreement is to practically prevent McGlynn from losing or having terminated or rejected the License Agreement, in the event Pledgor shall become insolvent or bankrupt, by preserving to McGlynn a first priority perfected security interest in the Mark, also referred to as Collateral.

C. The Pledgor will receive direct and indirect benefits, and reasonably equivalent value and consideration, as a result of entering into the License Agreement with McGlynn, which benefits are hereby acknowledged by the Pledgors.

ARTICLE 1

DEFINITIONS

1.1 Defined Terms. For purposes of this Agreement, in addition to the terms defined elsewhere herein, the following terms shall have the meanings set forth below:

"Bankruptcy Code" shall mean 11 U.S.C. Sections 101 *et seq.*, as amended from time to time, and any successor statute.

"Collateral" shall mean, collectively, (a) the Mark, (b) all registrations and recordings of the Mark and all applications in connection therewith, whether pending or in preparation for filing, (c) all other general intangibles embodying, incorporating, evidencing or otherwise relating or pertaining to the Mark, including all associated goodwill of the business connected with the use of, and symbolized by, the Mark, all reissues, extensions or renewals of

the Mark, (d) payments under any indemnity, warranty or guaranty with respect to any of the foregoing, (e) all claims and rights to recover for any past, present or future infringement or dilution of or injury to the Mark, and (f) all proceeds of any of the foregoing.

"Event of Default" shall mean (x) the occurrence of an uncured default, uncured breach or the uncured failure to perform by Pledgor, its successors or assigns hereunder or under the License Agreement or (y) the License Agreement is rejected by the Pledgor in any case under title 11 of the United States Code filed by the Pledgor, its successors or assigns under the License Agreement or terminated for any reason (other than by way of uncured default by McGlynn of the License Agreement) without the prior written consent of McGlynn, which consent shall be in the sole and absolute discretion of McGlynn.

"Licensed Rights" shall mean the rights granted to McGlynn under the License Agreement.

"Mark" shall have the meaning given to such term in the Recitals of this Agreement.

"Obligations" shall mean all obligations of the Pledgor to McGlynn under the Trademark Settlement Agreement, the Trademark License Agreement or this Agreement, including, but not limited to, any damages to McGlynn as a result of the failure of the Licensor to perform under such agreements to be measured by, on a rolling basis, the net present value of ten (10) years of projected net profit of McGlynn arising directly from the sale of products utilizing the Collateral discounted based on a discount rate equal to the then current Prime Rate as published by the Federal Reserve Bank of New York, such net profits calculated using Generally Accepted Accounting Principles and calculated by McGlynn, acting reasonably, using historical performance and trends in connection with such calculations.

"Secured Party" shall mean McGlynn.

"Termination Event" shall have the meaning given to such term in Section 7.4.

"Trademark" shall mean, collectively, the Mark.

"Uniform Commercial Code" shall mean the Uniform Commercial Code as the same may be in effect from time to time in the State of Florida; provided that if, by reason of applicable law, the validity or perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral granted under this Agreement is governed by the Uniform Commercial Code as in effect in a jurisdiction other than Florida, then as to the validity or perfection or the effect of perfection or non-perfection or the priority, as the case may be, of such security interest, **"Uniform Commercial Code"** shall mean the Uniform Commercial Code as in effect in such other jurisdiction.

ARTICLE 2

CREATION OF SECURITY INTEREST

- 2.1 Pledge and Grant of Security Interest. Pledgors hereby pledge and assign to McGlynn a first priority Lien upon and security interest in and to Pledgor's right, title and interest in and to the Collateral. The Pledgor authorizes McGlynn to file financing statements under the Uniform Commercial Code describing the Collateral and to file notice of this security interest in the United States Patent and Trademark Office.
- 2.2 Security for Obligations. This Agreement and the Collateral of the Pledgors secure the full and prompt payment and performance of all Obligations. Notwithstanding anything to the contrary in this Agreement, in the event that the Obligations are for any reason deemed satisfied by foreclosure, deed in foreclosure or otherwise (except in the event the Obligations are paid in full), this Agreement shall continue in full force and effect until the occurrence of the Termination Event described in Section 7.4 of this Agreement, and shall continue to secure an amount equal to the Obligations as of the date of such deemed satisfaction of the Obligations.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES

Pledgor represents and warrants as follows:

- 3.1 Ownership of Collateral. The Pledgor owns, and has the power to transfer or pledge first priority perfected security interest with respect to, all Collateral purported to be pledged hereunder for the benefit of the Secured Party pursuant to this Agreement
- 3.2 Authorization: Consent. No authorization, consent or approval of, or declaration or filing with, any Governmental Authority is required for the valid execution, delivery and performance by any Pledgor of this Agreement, the grant by it of the Lien and security interest in favor of McGlynn provided for herein, or the exercise by McGlynn of its rights and remedies hereunder, except such UCC filings as may be reasonably required.
- 3.3 No Restrictions. There are no statutory, regulatory or other legal restrictions, prohibitions or limitations on any Pledgor's ability to grant to McGlynn a Lien upon and security interest in the Collateral pursuant to this Agreement or on the exercise by the McGlynn of its rights and remedies hereunder, and there are no contractual restrictions on any Pledgor's ability so to grant such Lien and security interest.
- 3.4 No Actions. No case or action, whether voluntary or otherwise, is pending against any Pledgor under the Bankruptcy Code or any insolvency, fraudulent conveyance or similar debtor laws of any state, and there are no claims or actions pending against any Pledgor which if decided against such Pledgor would materially and adversely affect the financial condition or ability to perform Pledgor obligations under the License Agreement.

ARTICLE 4

COVENANTS

4.1 Use and Disposition of Collateral. So long as no Event of Default shall have occurred and be continuing, Pledgor may, in any lawful manner not inconsistent with the provisions of this Agreement, use, control and manage the Collateral in accordance with the provisions of the License Agreement, and receive and use the income, revenue and profits arising therefrom and the Proceeds thereof, in the same manner and with the same effect as if this Agreement had not been made; provided, however, that Pledgor shall not encumber McGlynn's use of any of the Collateral or any interest therein as set forth in the License Agreement, and Pledgors shall not transfer title to the Collateral; provided that Pledgors may pledge or encumber the Collateral; provided, however, as a condition precedent to any such pledge or encumbrance, the recipient of such pledge or encumbrance remains subject and subordinate to this Agreement and the Pledgor must secure from the recipient of any such pledge or encumbrance a subordination agreement in form acceptable to McGlynn, the terms of which shall include the protection of McGlynn's rights under the License Agreement in the event of a foreclosure by such recipient.

4.2 Delivery of Collateral. All certificates or instruments representing or evidencing any Collateral delivered to the McGlynn pursuant hereto, shall be in form suitable for transfer by delivery and shall be delivered together with necessary instruments of registration, transfer or assignment, duly executed and in form and substance reasonably satisfactory to the McGlynn, and in each case such other instruments or documents as the McGlynn may reasonably request.

4.3 Protection of Security Interest. Pledgors agree that they will use commercially reasonable efforts, at their own cost, to take any and all actions necessary to warrant and defend the first priority right, title and interest of McGlynn and to the Collateral against the claims and demands of all other persons.

4.4 Operation of Pledgor. Until the termination of this Agreement and the security interest granted herein, the Pledgor shall not: (a) incur indebtedness, obligations or other liabilities of any kind except for the security interest set forth herein; (b) merge or consolidate with or into any other entity, or sell, lease or otherwise transfer all or substantially all of its assets to another entity; (c) dissolve or liquidate, in whole or in part; (d) modify or amend its Articles of Organization so as to alter the provision of Section V thereof; (e) engage in any transaction between the Company and any of its affiliates that is not on an arm's-length, third-party basis; and (f) without the unanimous consent of the Manager and the Members: (i) institute proceedings to be adjudicated bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against the Company, (ii) file a petition seeking or consenting to reorganization or relief under any applicable Federal or state law relating to bankruptcy, (iii) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Company, or a substantial part of the Company's property, (iv) make any general assignment for the benefit of creditors, (v) admit in writing its inability to pay its debts generally as they become due, or (vi) take any limited liability company action in furtherance of any such action; provided, however, that any such actions, if taken, shall not limit the remedies of McGlynn's Bakeries, LLC related to the Security Interest. Until the termination of this Agreement and the

security interest granted herein, the Pledgor shall (a) maintain its assets in such a manner that it is not costly or difficult to segregate, identify or ascertain such assets; (b) hold regular limited liability company meetings, as appropriate, to conduct the business of the limited liability company, and observe all other limited liability company formalities; (c) hold itself out to creditors and the public as a legal entity separate and distinct from any other entity; (d) prepare financial statements separate from that of any other person or entity; (e) allocate and charge fairly and reasonably any common employee or overhead costs shared with affiliates; (f) transact all business with affiliates on an arm's-length, third-party basis; (g) conduct business in its own name, and use separate stationery, invoices and checks; (h) not commingle its assets or funds with those of any other person or entity; (i) not hold out its credit as being available to satisfy the obligations of any other person or entity; (j) not make any loans or advances to any person or entity or buy or hold evidence of indebtedness issued by any person or entity (other than cash and investment-grade securities); (k) not assume, guarantee or pay the debts or obligations of any other person or entity; (l) pay all of its liabilities and expenses out of its own funds; (m) pay the salaries of its employees from its own funds and maintain a sufficient number of employees in light of its contemplated business operations; (n) not to pledge its assets for the benefit of any other person or entity; (o) correct any known misunderstanding regarding its identity as separate from that of any other person or entity; (p) maintain adequate capital in light of its contemplated business operations; and (q) not fail to defend, oppose, contest or object to the institution of bankruptcy or insolvency proceedings against itself.

ARTICLE 5

REMEDIES

5.1 Remedies. (a) If an Event of Default shall have occurred and be continuing, McGlynn shall be entitled to transfer to or register in its name or the name of any of its nominees all or any part of the Collateral upon ten (10) business days' notice to Pledgor, and

(b) In addition to the rights and remedies provided in Section 5.1(a) above, if an Event of Default shall have occurred and be continuing, McGlynn shall be entitled to exercise in respect of the Collateral all other rights, powers and remedies provided for in this Agreement or otherwise available by law, in equity or otherwise, including all rights and remedies of a secured party under the Uniform Commercial Code.

(a) Rights of Pledgor. In the event that McGlynn succeeds to Pledgor's ownership interest in the Collateral, McGlynn shall grant to the Pledgors a perpetual exclusive license, AS IS, (without payment of royalty or other compensation by any Pledgor) to use and sublicense the use of the Marks in connection with customary terms for Pledgor's to continue its activities or actions other than those granted to McGlynn under the License Agreement. McGlynn shall retain the use of all Collateral to the extent set forth in the License Agreement.

5.3 Waivers. Pledgor, to the greatest extent not prohibited by applicable law, hereby (i) agrees that it will not invoke, claim or assert the benefit of any rule of law or statute now or hereafter in effect, or take or omit to take any other action, that would or could reasonably be

expected to have the effect of delaying, impeding or preventing the exercise of any rights and remedies in respect of the Collateral, and waives the benefit of all such laws and further agrees that it will not hinder, delay or impede the execution of any power granted hereunder to the McGlynn, but that it will permit the execution of every such power as though no such laws were in effect.

ARTICLE 6

6.1 McGlynn; Standard of Care. McGlynn will hold all items of the Collateral at any time received under this Agreement in accordance with the provisions hereof. The obligations of McGlynn as holder of the Collateral and interests therein and with respect to the disposition thereof, and otherwise under this Agreement, are only those expressly set forth in this Agreement. The powers conferred on McGlynn hereunder are solely to protect its interest in the Collateral, and shall not impose any duty upon it to exercise any such powers.

6.2 Power of Attorney. The Pledgor hereby appoints McGlynn as Pledgor's attorney-in-fact, with full authority in the place and stead of such Pledgor and in the name of such Pledgor or otherwise, from time to time in McGlynn's good-faith discretion, to take any action and to execute any instrument that McGlynn may reasonably believe necessary or advisable to accomplish the purposes of this Agreement, in a manner consistent with the terms hereof, provided that, McGlynn shall not exercise the powers granted under this Section until an Event of Default has occurred and is continuing.

ARTICLE 7

MISCELLANEOUS

7.1 No Waiver. The rights and remedies of the Secured Party expressly set forth in this Agreement are cumulative and in addition to, and not exclusive of, all other rights and remedies available at law, in equity or otherwise. No failure or delay on the part of any Secured Party in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege or be construed to be a waiver of any Event of Default. No course of dealing between the Pledgors and the Secured Parties or their employees shall be effective to amend, modify or discharge any provision of this Agreement or to constitute a waiver of any Event of Default. No notice to or demand upon any Pledgor in any case shall entitle such Pledgor or any other Pledgor to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of any Secured Party to exercise any right or remedy or take any other or further action in any circumstances without notice or demand.

7.2 Pledgors Obligations Absolute. Each Pledgor agrees that its obligations hereunder, and the security interest granted to and all rights, remedies and powers of the McGlynn hereunder, are irrevocable, absolute and unconditional and shall not be discharged, limited or otherwise affected (absent the written consent of McGlynn, in its sole discretion) by reason of any of the following, whether or not such Pledgor has knowledge thereof:

- (a) any change in the time, manner or place of payment of, or in any other term of, any of the Obligations;
- (b) the invalidity or unenforceability of any of the Obligations or any provisions of the License Agreement;
- (c) the addition or release of Pledgor hereunder or the taking, acceptance or release of any Secured Obligations or additional Collateral or other security therefore;
- (d) any agreement not to pursue or enforce or any failure to pursue or enforce (whether voluntarily or involuntarily as a result of operation of law, court order or otherwise) any right or remedy in respect of any Secured Obligations or any Collateral or other security therefor, or any failure to create, protect, perfect, secure, insure, continue or maintain any Liens in any such Collateral or other security;
- (e) any bankruptcy, reorganization, arrangement, liquidation, insolvency, dissolution, termination, reorganization or like change in the corporate structure or existence of Pledgor or any other person directly or indirectly liable for any of the Obligations or the obligations under this Agreement;
- (f) any manner of application of any payments by or amounts received or collected from any person, by whomsoever paid and howsoever realized, whether in reduction of any of the Obligations or any other obligations of Pledgor, or any other person directly or indirectly liable for any of the Obligations, regardless of what Obligations or Secured Obligations may remain unpaid after any such application, other than payment in full of the Obligations; or
- (g) any other circumstance that might otherwise constitute a legal or equitable discharge of, or a defense, set-off or counterclaim available to Pledgor or a surety or guarantor generally.

7.3 Amendments, Waivers, etc. No amendment, modification, waiver, discharge or termination of, or consent to any departure by the Pledgor from, any provision of this Agreement, shall be effective unless in a writing executed and delivered by overnight delivery service (with charges prepaid) or by facsimile transmission with the original being sent by overnight delivery service (with charges prepaid) by the next succeeding Business Day, in each case addressed to the party to be notified as set forth in Section 7.8, and then the same shall be effective only in the specific instance and for the specific purpose for which given.

7.4 Continuing Security Interest; Term; Successors and Assigns; Assignment; Termination and Release; Survival. This Agreement shall create a continuing security interest in the Collateral and shall secure the complete and prompt payment and performance of all of the Obligations as the same may arise and be outstanding at any time and from time to time from and after the date hereof, and shall (i) remain in full force and effect until the earlier of (x) the payment in full of the Obligations by Pledgor and the voluntary release by McGlynn of its Liens (and specifically excluding the satisfaction of any portion of the Obligations by foreclosure, deed in lieu of foreclosure) or (y) the expiration of the term of each of the License Agreement (after giving effect to any and all extensions of the term of such agreement) (a "Termination Event"), (ii) be binding upon and enforceable against the Pledgor and its successors and assigns and (iii)

inure to the benefit of and be enforceable by McGlynn and its successors and assigns. Upon the occurrence of a Termination Event, McGlynn, at the request and expense of the Pledgor, will execute and deliver to such Pledgor such documents and instruments evidencing the release or termination of the Liens granted under this Agreement as such Pledgor may reasonably request and will assign, transfer and deliver to such Pledgor, without recourse and without representation or warranty, such of the Collateral as may then be in the possession of the McGlynn (or, in the case of any partial release of Collateral, such of the Collateral so being released as may be in its possession). All representations, warranties, covenants and agreements herein shall survive the execution and delivery of this Agreement.

7.5 Notices. All notices or requests hereunder to be given to a party shall be in writing and shall be sent by personal receipt delivery, or certified or registered mail to the following addresses, or such other addresses as are designated by notice hereunder:

To Pledgor: Earl Of Sandwich (Holding) LLC.
7598 West Sand Lake Road
Orlando, FL 32819
████████████████████

To McGlynn: McGlynn Bakeries, LLC.
7350 Commerce Lane
Minneapolis, MN 55432
Attention: Dan McGlynn

With a copy to: John L. Beard, Esq.
Merchant & Gould P.C.
3200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2215

7.6 Waiver. Pledgor hereby absolutely, unconditionally and irrevocably waives, to the fullest extent permitted by law, (i) promptness, diligence, notice of acceptance and any other notice with respect to this Agreement, or any obligations secured thereby, (ii) presentment, demand of payment, protest, notice of dishonor or nonpayment and any other notice with respect to any of the Obligations, (iii) any requirement that McGlynn protect, secure, perfect or insure any security interest or Lien or any property subject thereto or exhaust any right or take any action against Pledgor or any other person or any Collateral under this Agreement, and (iv) any other action, event or precondition to the enforcement of this Agreement, or the performance by the Pledgors of their obligations hereunder.

7.7 Applicable Law. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF FLORIDA WITHOUT REGARD TO ANY CONFLICTS OF LAWS PRINCIPLES THEREOF THAT WOULD CALL FOR THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION.

7.8 **Severability.** To the extent any provision of this Agreement is prohibited by or invalid under the applicable law of any jurisdiction, such provision shall be ineffective only to the extent of such prohibition or invalidity and only in such jurisdiction, without prohibiting or invalidating such provision in any other jurisdiction or the remaining provisions of this Agreement in any jurisdiction.

7.9 **Construction.** The headings of the various sections and subsections of this Agreement have been inserted for convenience only and shall not in any way affect the meaning or construction of any of the provisions hereof. Unless the context otherwise requires, words in the singular include the plural and words in the plural include the singular.

7.10 **Counterparts.** This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original but all of which when taken together shall constitute but one contract.

7.11 **Submission to Jurisdiction.** Any legal action or proceeding with respect to this Agreement may be brought in the courts of the State of Florida or of the United States of America for the Middle District of Florida, and, by execution and delivery of this Agreement, Pledgor hereby submits for itself and in respect of its property, generally and unconditionally, to the jurisdiction of the aforesaid courts, waives any objection, including, without limitation, any objection to the laying of venue or based on the grounds of forum non conveniens, which such Pledgor now or hereafter has to the bringing of any such action or proceeding in such respective jurisdictions and consents to the service of process of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to each such person, as the case may be, as provided for in Section 7.5. McGlynn may also serve process in any other manner permitted by law or commence legal proceedings or otherwise proceed against any Pledgor in any other jurisdiction.

7.12 **WAIVER OF JURY TRIAL.** EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

EARL OF SANDWICH (HOLDING), LLC

By: [Signature]

Title: [Signature]

Accepted and agreed to:

McGLYNN BAKERIES, LLC

By: [Signature]

Title: CEO