



06-23-2000



101387905

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

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 Error
Reel # _____ Frame # _____

Corrective Document
Reel # _____ Frame # _____

Conveyance Type

Assignment License

Security Agreement Nunc Pro Tunc Assignment

Merger Change of Name

Other _____

Effective Date
Month Day Year
05 19 2000

Conveying Party

Mark if additional names of conveying parties attached

Name Dino Pappas Incorporated Execution Date
Month Day Year
05 19 2000

Formerly _____

Individual General Partnership Limited Partnership Corporation Association

Other _____

Citizenship/State of Incorporation/Organization Connecticut

Receiving Party

Mark if additional names of receiving parties attached

Name Bank Rhode Island

DBA/AKATA _____

Composed of _____

Address (line 1) One Turks Head Place

Address (line 2) _____

Address (line 3) Providence Rhode Island 02903
City State/Country Zip Code

Individual General Partnership Limited Partnership Corporation Association

Other Financial Institution

Citizenship/State of Incorporation/Organization Rhode Island

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.)

06/23/2000 DNGUYEN 00000076 1516597

FOR OFFICE USE ONLY

01 FC:481 40.00 OP
02 FC:482 75.00 OP

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Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

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

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

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

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)

<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

Registration Number(s)

<input type="text" value="1561597"/>	<input type="text" value="1274488"/>	<input type="text"/>
<input type="text" value="1550596"/>	<input type="text"/>	<input type="text"/>
<input type="text" value="1260143"/>	<input type="text"/>	<input type="text"/>

Number of Properties

Enter the total number of properties involved. #

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$

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: #

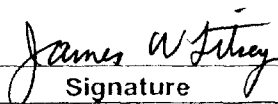
Authorization to charge additional fees: Yes No

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.

James W. Litsey

Name of Person Signing



Signature

6/7/00

Date Signed

TRADEMARK SECURITY AGREEMENT

This TRADEMARK SECURITY AGREEMENT (this "Agreement") is made effective as of this 19th day of May, 2000, by DINO PAPPAS INCORPORATED, a Connecticut corporation d/b/a BEE BEE DAIRY (hereinafter called "Guarantor"), in favor of BANK RHODE ISLAND, a Rhode Island financial institution, with its principal office located in the City of Providence, Rhode Island (hereinafter called "Secured Party"), in the following circumstances:

A. Secured Party has made a certain term loan to The Newport Creamery, Inc., a Rhode Island corporation ("Newport"), in the principal amount of \$500,000 (the "\$500,000 Loan"); and a certain term loan to Newport in the principal amount of \$850,000 (the "\$850,000 Loan", together with the \$500,000 Loan, the "Newport Loans"). The Newport Loans are governed, in part, by the Credit Agreement dated January 10, 2000, by and between Newport and Secured Party, as amended and restated by the Amended and Restated Credit Agreement dated as of even date herewith by and between Newport and Secured Party (as amended and restated, the "Newport Credit Agreement"), and are evidenced by (i) the Term Note dated January 10, 2000 made by Newport in favor of Secured Party in the stated principal amount of \$500,000, and (ii) the Term Note dated as of even date herewith made by Newport in favor of Secured Party in the stated principal amount of \$850,000 (collectively, the "Newport Notes").

B. Secured Party has made a certain mortgage loan to NewBerg LP, a Delaware limited partnership ("NewBerg"), in the principal amount of \$1,160,000, and a certain term loan to NewBerg in the principal amount of \$200,000 (collectively, the "NewBerg Loans"; together with the Newport Loans, the "Loans"). The NewBerg Loans are governed, in part, by the Credit Agreement dated January 10, 2000, by and between NewBerg and Secured Party (the "NewBerg Credit Agreement"; together with the Newport Credit Agreement, the "Credit Agreements"), and are evidenced by (i) the Mortgage Note dated January 10, 2000 made by NewBerg in favor of Secured Party in the stated principal amount of \$1,160,000, and (ii) the Term Note dated January 10, 2000, made by NewBerg in favor of Secured Party in the stated principal amount of \$200,000 (collectively, the "NewBerg Notes"; together with the Newport Notes, the "Notes").

C. Borrowers' obligations of payment and performance under the Notes and the Credit Agreements are secured by, among other things, the Guaranty Agreement dated as of even date herewith given by Guarantor to Secured Party (the "Guaranty").

D. As a condition to its agreement to make the \$850,000 Loan to Newport, Secured Party has required that Guarantor secure its obligations under the Guaranty by the grant of a security interest in certain assets of Guarantor as set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Grant of Security Interest. In order to secure the complete and timely satisfaction of the Obligations (hereinafter defined), Guarantor represents that it now possesses the sole and complete ownership rights to the business assets to be covered by this Agreement

and that it has not granted a security interest or otherwise pledged, mortgaged, transferred, assigned or licensed any part of its rights in said business assets to any party other than Secured Party, and Guarantor hereby pledges, mortgages, and grants a first priority security interest to Secured Party in and to the following:

(i) All of Guarantor's rights, title and interest of whatever nature in and to the Trademarks and U.S. Trademark Registrations and Applications set forth in Exhibit A attached hereto (collectively, the "Trademarks") and all trade names and logos used therewith.

(ii) The Trademarks and the goodwill associated therewith or connected thereto, including but not limited to, (a) any similar marks or amendments, modifications and renewals thereof and the goodwill represented by the Trademarks; (b) all rights to income, royalties, profits, damages, or other rights relating to Trademarks; and (c) any other rights and benefits relating to the Trademarks including any rights as a licensor or licensee of them.

2. As used herein, "Obligations" shall mean:

(i) All obligations of Guarantor under the Guaranty, all modifications, amendments, renewals and extensions thereof and interest thereon and all documents executed and delivered by Guarantor in connection therewith;

(ii) Interest, fees and other charges provided for in the Guaranty;

(iii) Reasonable attorneys' fees, court costs and expenses of whatever kind incident to the collection of Guarantor's indebtedness to Secured Party and the enforcement and protection of the security interest created hereby;

(iv) Future advances and interest thereon made by Secured Party for taxes, levies, insurance and repairs to or maintenance of the Collateral;

(v) Other monies heretofore or hereafter advanced by Secured Party to or for the account of Guarantor at the option of Secured Party; and

(vi) Other present or future liabilities and indebtedness of Guarantor to Secured Party of any kind, nature, and description, liquidated or unliquidated, direct or indirect, primary or secondary, secured or unsecured (including overdrafts), joint and several, absolute or contingent, due or to become due, now existing or hereafter arising, regardless of how it may be evidenced.

3. No Liens, etc. Guarantor agrees that it will not, without the prior written consent of Secured Party, assign or transfer, pledge, mortgage, license or allow a security interest or lien to be taken by anyone other than Secured Party in the Trademarks or take any other acts which are contrary to or inconsistent with the rights granted to Secured Party in this Agreement and will not cease use of the Trademarks or take any action or fail to take any action which will

result in the cancellation or expiration of any of the Trademarks without the prior written consent of Secured Party, which consent will not be unreasonably withheld.

4. Guarantor's Obligation to Maintain and Enforce. Guarantor further agrees that it has the obligation, at its own cost, unless otherwise consented to in writing by Secured Party:

(i) To take all actions necessary to properly maintain and renew all registrations or Trademarks which are or may become subject to this Agreement for the full term or terms allowed by law, including but not limited to, the appropriate and timely payment of any required fees and the appropriate and timely filing of any documents or declarations necessary to maintain and renew said registrations which may be necessary or appropriate under applicable law.

(ii) To file new applications to register and protect under applicable law all trademarks acquired by Guarantor but for which applications have not previously been filed or to take all other actions necessary to cause registrations for trademarks to be issued as a result of said applications.

(iii) To protect the Trademarks from infringement, unfair competition or dilution or damage by all appropriate actions including the commencement of legal action to prevent and recover damages for said infringement, unfair competition or damage including the defense of any legal action making such claims.

5. Reporting Requirements. Guarantor agrees to provide on a semi-annual basis written reports to Secured Party informing it of: (a) any change in status of the Trademarks subject to this Agreement including any new trademark registrations or trademark applications, and (b) any actions taken by Guarantor pursuant to Section 4 this Agreement.

6. After Acquired Property. If Guarantor shall obtain rights to or become entitled to the benefit of any new trademarks, registered trademarks or trademark applications before its obligations to Secured Party as set forth in this Agreement have been satisfied in full, the provisions of this Agreement shall automatically apply thereto and Guarantor hereby authorizes Secured Party to modify or update this Agreement accordingly.

7. Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default" or "Events of Default" hereunder:

(i) Occurrence of an Event of Default, as therein defined, under the Guaranty; or

(ii) Default in the observance or performance of any covenant or agreement of Guarantor herein set forth continuing for a period of thirty (30) days after the giving of written notice thereof by Secured Party; or

(iii) Any representation, warranty, certificate, schedule, financial statement or other information made or furnished by Guarantor to Secured Party herein or pursuant hereto is or shall be untrue or materially misleading in any material respect; or

(iv) Expiration or termination of any Trademark registration subject to this Agreement.

8. Acceleration. Upon the occurrence of any Event of Default, then and in any such event, at the sole option of Secured Party, then or at any time thereafter, Secured Party may declare all or any part of the Obligations to be due and payable, without notice, protest, presentment or demand, all of which are hereby expressly waived by Guarantor.

9. Rights and Remedies. Secured Party shall have all of the rights and remedies enumerated herein after the occurrence of any Event of Default and so long as such Event of Default shall continue uncured:

(i) Secured Party, and any officer or agent of Secured Party, is hereby constituted and appointed as true and lawful attorney-in-fact of Guarantor with power to execute and deliver any assignment or transfer of any Trademark, any instrument or document relating thereto or to rights of Guarantor therein, or take any other action as Secured Party may deem necessary to protect its rights hereunder or preserve or protect its interest in the Trademarks; granting to Secured Party, as the attorney-in-fact of Guarantor, full power of substitution and full power to do any and all things necessary to be done with respect to such Trademarks as fully and effectually as Guarantor might or could do but for this appointment, and hereby ratifying all that said attorney-in-fact shall lawfully do or cause to be done by virtue hereof. Neither Secured Party nor its agents shall be liable for any acts or omissions or for any error of judgment or mistake of fact or law in its capacity as such attorney-in-fact. This power of attorney is coupled with an interest and shall be irrevocable so long as any Obligations shall remain outstanding.

(ii) Secured Party shall have, in addition to any other rights and remedies contained in this Agreement, the Guaranty, and any other agreements, guaranties, notes, instruments and documents heretofore, now or at any time or times hereafter executed by Guarantor and delivered to Secured Party, all of the rights and remedies of a secured party under the Uniform Commercial Code, all of which rights and remedies shall be cumulative, and none exclusive, to the extent permitted by law.

10. Absence of Waiver. The failure of Secured Party at any time or times hereafter to require strict performance by Guarantor of any of the provisions, warranties, terms and conditions contained in this Agreement or in any other agreement, guaranty, note, instrument or document now or at any time or times hereafter executed by Guarantor and delivered to Secured Party shall not waive, affect or diminish any right of Secured Party at any time or times hereafter to demand strict performance thereof; and no rights of Secured Party hereunder shall be deemed to have been waived by any act or knowledge of Secured Party, its agents, officers or employees, unless such waiver is contained in an instrument in writing signed by an officer of Secured Party and directed to Guarantor specifying such waiver. No waiver by Secured Party of

any of its rights shall operate as a waiver of any other of its rights or any of its rights on a future occasion.

11. Notices. Except as otherwise specified herein or by notice, all notices, communications and demands hereunder shall be in writing and sent by certified or registered mail, return receipt requested, or by overnight delivery service, with all charges prepaid, to the applicable party or parties at the addresses set forth below, or by facsimile transmission (including, without limitation, computer generated facsimile), promptly confirmed in writing sent by first class mail, to the facsimile numbers and addresses set forth below:

(a) If to Guarantor, to: Dino Pappas Incorporated
208 West Main Road
Middletown, Rhode Island 02842
Attn: Mr. Robert E. Swain
Facsimile No.: (401) 848-5984

with a copy to: Elizabeth M. Myers, Esquire
Hinckley, Allen & Snyder
1500 Fleet Center
Providence, Rhode Island 02903
Facsimile No.: (401) 277-9600;

(b) If to Secured Party, to: Bank Rhode Island
One Turks Head Place
Providence, Rhode Island 02903
Attn: Mr. Daniel J. Hagerty, Senior Vice President
Facsimile No.: (401) 456-5021,

with a copy to: James W. Litsey, Esquire
Partridge Snow & Hahn LLP
180 South Main Street
Providence, Rhode Island 02903
Facsimile No.: (401) 861-8210

or, as to each party, at such other address as shall be designated by such party in a written notice to the other parties given in accordance with this Section at least ten (10) days in advance thereof. All such notices and correspondence shall be deemed given upon the earliest to occur of (i) actual receipt, (ii) if sent by certified or registered mail, three (3) business days after being postmarked, (iii) if sent by overnight delivery service, when received or when delivery is refused, or (iv) if sent by facsimile, when receipt of such transmission is acknowledged.

12. Merger of Understandings. This Agreement contains the entire understanding between the parties hereto with respect to the Trademarks and such understanding shall not be modified except in writing signed by or on behalf of the parties hereto; PROVIDED, HOWEVER, that Guarantor and Secured Party acknowledge and agree that they have entered into a Security Agreement dated as of even date herewith pursuant to which Guarantor has

granted to Secured Party a first priority security interest in all tangible and intangible assets owned by Guarantor (the "Security Agreement"), and this Agreement is intended by Guarantor and Secured Party to supplement the Security Agreement and is not intended as a substitute therefor.

13. Successors and Assigns. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of Secured Party and Guarantor, provided, however, Guarantor may not assign any of its rights or delegate any of its obligations hereunder without the prior written consent of Secured Party.

14. Interpretation. This Agreement is and shall be deemed to be a contract entered into and made pursuant to the laws of the State of Rhode Island, except with respect to the perfection of the security interests granted herein, and shall in all respects be governed, construed, applied and enforced in accordance with the laws of said State, without resort to its conflict of laws rules. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument. The section and paragraph headings herein are included for convenience only and shall not be deemed to be a part of this Agreement. All obligations, warranties, representations, covenants and agreements of Guarantor hereunder shall be the joint and several obligations, warranties, representations, covenants and agreements of each of the undersigned.

15. Fees and Expenses. If prior hereto and/or at any time or times hereafter Secured Party shall employ counsel in connection with the execution and consummation of the transactions contemplated by this Agreement or to commence, defend or intervene, file a petition, complaint, answer, motion or other pleadings, or to take any other action in or with respect to any suit or proceeding (bankruptcy or otherwise) relating to this Agreement, the Trademarks or any other agreement, guaranty, note, instrument or document heretofore, now or at any time or times hereafter executed by Guarantor and delivered to Secured Party, or to protect, collect, lease, sell, take possession of or liquidate any of the Trademarks, or to attempt to enforce any security interest in any of the Trademarks, or to enforce any rights of Secured Party hereunder, whether before or after the occurrence of any Event of Default, or to collect any of the Obligations, then in any of such events, all of the reasonable attorneys' fees arising from such services, and any expenses, costs and charge relating thereto, shall be part of the Obligations, payable on demand and secured by the Trademarks.

16. Severability. The terms of this Agreement are severable. If any term shall be found to be invalid or unenforceable, it shall not effect the validity of the remaining terms.

17. Further Action. Guarantor agrees to execute any other documents and take any further action upon the request of Secured Party as may deemed necessary to effectuate the terms of this Agreement.

18. **IN THE EVENT THAT SECURED PARTY BRINGS ANY ACTION OR PROCEEDING IN CONNECTION HERewith IN ANY COURT OF RECORD OF THE STATE OF RHODE ISLAND OR THE STATE OF CONNECTICUT, OR THE UNITED STATES IN SUCH STATES, GUARANTOR HEREBY IRREVOCABLY CONSENTS TO**

AND CONFERS PERSONAL JURISDICTION OF SUCH COURT OVER GUARANTOR BY SUCH COURT. IN ANY SUCH ACTION OR PROCEEDING, GUARANTOR HEREBY WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS AND AGREES THAT SERVICE THEREOF MAY BE MADE UPON GUARANTOR BY MAILING A COPY OF SUCH SUMMONS, COMPLAINT OR OTHER PROCESS BY UNITED STATES CERTIFIED MAIL, RETURN RECEIPT REQUESTED, POSTAGE PREPAID, TO GUARANTOR AT THE ADDRESS DESIGNATED ABOVE. GUARANTOR AND SECURED PARTY EACH HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND EACH HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE NOTES, THE CREDIT AGREEMENTS, THIS AGREEMENT, OR THE OTHER GUARANTY DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY GUARANTOR AND SECURED PARTY, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. SECURED PARTY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY GUARANTOR. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR SECURED PARTY TO ACCEPT THIS GUARANTY AND MAKE THE LOANS CONTEMPLATED IN THE CREDIT AGREEMENTS.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement on the date first above written.

Witnessed by:

GUARANTOR:

DINO PAPPAS INCORPORATED

Mary A Skora

By: Robert E. Swain
Name: Robert E. Swain
Title: President

SECURED PARTY:

BANK RHODE ISLAND

Jessie L. Butler

By: Daniel J. Hagerty
Daniel J. Hagerty
Senior Vice President

EXHIBIT A

Schedule of Trademarks

<u>Registration / Serial No.</u>	<u>Mark</u>	<u>Registration / Filing Date</u>
1,550,596	"BEE BEE DAIRY"	8/1/89
1,561,597	Bee logo, no lettering, including yellow color	10/17/89
1,260,143	Bee logo with lettering	12/6/83
1,274,488	"BEE BEE"	4/17/84