

04-30-2001



101692769

4.13.01

**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  
11/03/1995

**Conveying Party**

Mark if additional names of conveying parties

Name

Execution Date  
Month Day Year  
11/03/1995

Formerly

- Individual  General Partnership  Limited Partnership  Corporation  Association
- Other

Citizenship/State of Incorporation/Organization

**Receiving Party**

Mark if additional names of receiving parties attached

Name

DBA/AKATA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)     
City State/Country Zip Code

- Individual  General Partnership  Limited Partnership  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.)
- Corporation  Association
- Other

Citizenship/State of Incorporation/Organization

**FOR OFFICE USE ONLY**

050760 1935008

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.  
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)

Registration Number(s)

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="1935028"/>	<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"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<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:

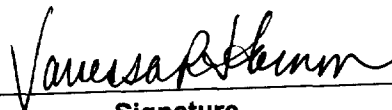
Yes

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.

Vanessa R. Harmon, Esq.





Name of Person Signing

Signature

Date Signed

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re )  
F & M DISTRIBUTORS, INC., ) Chapter 11  
Debtor. ) Case No. 94-52115-S  
)  
) Honorable Walter Shapero  
) United States Bankruptcy Judge

ORDER PURSUANT TO SECTIONS 363 AND 365 OF THE  
BANKRUPTCY CODE AUTHORIZING SALE OF  
CERTAIN ASSETS AND ASSUMPTION AND ASSIGNMENT  
OF CERTAIN LEASES TO DRUG EMPORIUM, INC.

A hearing (the "Hearing") having been held on due notice before the Court on November 3, 1995 upon the motion of F & M Distributors, Inc., as debtor in possession ("F&M"), dated October 23, 1995 (the "Motion")<sup>1</sup> for an order pursuant to sections 363 and 365 of title 11 of the United States Code (the "Bankruptcy Code") authorizing the sale of certain assets and the assumption and assignment of certain unexpired leases of real property to Drug Emporium, Inc. or a subsidiary thereof whose obligations under the leases will be <sup>unconditionally</sup> guaranteed by Drug Emporium, Inc. ("Drug Emporium") on the terms and conditions set forth in the agreement dated October 20, 1995, as amended and as modified on the record of the Hearing ("Agreement"); and it appearing

---

1. All defined terms not otherwise defined herein shall have the meaning ascribed to same in the Motion.

that notice of the Motion and the Hearing has been given in accordance with the Court's Case Management and Scheduling Order dated February 9, 1995, as amended (the "CMAO"), to (i) the Office of the United States Trustee, (ii) attorneys for the unsecured creditors' committee appointed in this chapter 11 case, (iii) each of the landlords of the affected Stores, (iv) each of the creditors who have asserted liens against the Assets, (v) Drug Emporium, and (vi) those parties listed on the Special Service List annexed as an exhibit to the CMAO; and F&M having given notice of the Hearing to entities who had expressed an interest in the Assets and it appearing that no other notice need be given; and upon consideration of the Motion and the objections interposed in respect thereof; and upon the record of the Hearing and all of the other proceedings had before the Court; and it appearing that the relief requested in the Motion is in the best interests of F&M, its creditors and all other parties in interest; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that, pursuant to section 363(b) of the Bankruptcy Code, F&M be, and it hereby is, authorized to sell the Assets to Drug Emporium upon the terms and conditions set forth in the Agreement; and it is further

and provided further that the assumption and assignment of the lease of F & M's store number 16 shall be conditioned upon the cure of defaults under such lease at the time of the assumption and assignment;

ORDERED that, subject to the consummation of the Agreement and the satisfaction of the conditions set forth in the Agreement with respect to the assumption and assignment of the Leases, pursuant to section 365(f) of the Bankruptcy Code, the assumption and assignment of the Leases described in Exhibits A and C to the Agreement, to Drug Emporium be, and the same hereby is, approved in all respects; provided, however, that Drug Emporium will incur no obligation under any of the Leases described in Exhibit C to the Agreement unless and until Drug Emporium, in its sole discretion, within seventy-five days from the date of entry of this Order, provides written notice to F&M and the affected landlords of its intent to assume and accept an assignment of any such Lease on the ninety-first day after entry of this Order; and it is further

ORDERED that pursuant to section 363(f) of the Bankruptcy Code, the sale of the Assets and the assumption and assignment of the Leases to Drug Emporium shall be free and clear of all liens, claims or encumbrances thereon (collectively, the "Liens"), with any asserted Liens being transferred and attaching to the net proceeds of such sale with the same force and effect and asserted priority as such Liens had against the Assets, subject to the rights, claims,

defenses and objections, if any, of F&M and all interested parties with respect to such Liens; and it is further

ORDERED that F&M be, and hereby is, authorized and directed to execute and deliver such documents, and to take and fully perform any and all actions, reasonably necessary to implement and effectuate the sale of the Assets, the assumption and assignment of the Leases and all of the other transactions contemplated by the Agreement; and it is further

ORDERED that, subject to the consummation of the assumption and assignment of the Leases to Drug Emporium, F&M shall pay to the landlords of each of the Leases assumed and assigned to Drug Emporium (the "Landlords"), within five business days after consummation of such assumption and assignment, any and all amounts necessary to cure existing defaults under the Leases pursuant to section 365(b)(1) of the Bankruptcy Code; and it is further

ORDERED that the provisions of this Order shall be self-executing and each and every federal, state or local agency, department or governmental authority with regulatory authority over bulk sales or sales of pharmaceutical products be, and they hereby are, directed to accept this Order as binding authority to consummate such sales and no further approval, consents, licenses and the like of any

such federal, state or local agency, department or governmental authority are required to effectuate, consummate and implement such sales; and it is further

ORDERED that the Court shall retain jurisdiction over any and all disputes arising under or otherwise relating to the construction, performance and enforcement of the terms and provisions of the Agreement and this Order and the obligation of F&M to cure defaults under section 365 of the Bankruptcy Code; and it is further

ORDERED that Drug Emporium is a good faith purchaser entitled to the protection afforded by section 363(m) of the Bankruptcy Code in the event of a reversal or modification on appeal of this Order; and it is further

ORDERED that, other than with respect to the Leases assigned to it, Drug Emporium shall not be liable for any claims against F&M and shall have no successorship liabilities whatsoever; and it is further

ORDERED that the terms of this Order and the Agreement shall be binding upon F&M, its creditors and other parties in interest, and any successors of F&M, including any trustee appointed in this case or any subsequent case of F&M under chapter 7 or chapter 11 of the Bankruptcy Code; and it is further

ORDERED that all proceeds received from the disposition of any collateral, other than inventory sold in the ordinary course of business in accordance with customary business terms, shall be deposited in a segregated account at NBD Bank (the "Disposition Proceeds") and the Disposition Proceeds shall be held in such segregated account until F&M receives written consent by the Banks and the Creditors Committee for distribution of the Disposition Proceeds or entry of an order of the Court, after a hearing upon prior notice of at least 24 hours to the Banks and the Creditors Committee, approving distribution of the Disposition Proceeds; and it is further

ORDERED that this Order is without prejudice to or waiver of any rights of NBD Bank, as agent for the bank group consisting of Bankamerica Business Credit, Inc., Comerica Bank, National City Bank, NBD Bank, The Northern Trust Company and The Provident Bank (collectively, the



"Banks") or the Banks under the postpetition credit agreement approved by order of the Court dated January 16, 1995 (the "DIP Order"), as amended or the DIP Order.

Dated: Detroit, Michigan  
November \_\_, 1995

**NOV - 3 1995**

**WALTER SHAPERO**

United States Bankruptcy Judge

A TRUE COPY  
CLERK, U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
BY: *Susan J. Heffner*  
Deputy Clerk  
DATE: **NOV - 3 1995**

## BILL OF SALE

F & M Distributors, Inc., as Debtor-In-Possession ("Transferor"), in consideration of the sum of Thirty-one million seven hundred ninety-nine thousand and 00/100 Dollars (\$31,799,000.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, pursuant to the order of the United States Bankruptcy Court for the Eastern District of Michigan, Southern Division, In re F & M Distributors, Inc., debtor, Case No. 94-52115-8, and, with respect to the transfer of prescription records, in reliance on the status of Transferee as set forth in paragraph 3.1 below, grants, sells, transfers, and delivers to Drug Emporium of Michigan, Inc., a Delaware corporation ("Transferee"), the personal property (the "Property") described on the addendum attached as Exhibit "A," subject to such order and to the following:

1. **TRANSFEROR'S REPRESENTATIONS AND WARRANTIES.** Transferor represents and warrants that

1.1. Except as set forth in section 1.3, it is the lawful owner of the Property;  
and

1.2. The Property is transferred pursuant to 11 U.S.C. §363(b) and (f) free and clear of all liens, claims, and encumbrances.

1.3 Notwithstanding anything herein to the contrary

1.3.1 With respect to the names "F&M" and "F&M Distributors", Transferor represents and warrants that it is entitled to use those names where they are currently being used, which shall not be read as having any right to exclude others from the use of those names.

1.3.2 With respect to prescription records, Transferor is transferring only possession of the records.

1.3.3 With respect to leased equipment set forth on Exhibit "B", Transferor is transferring only possession for a period of up to 6 months from the effective date of this Bill of Sale.

2. **CONDITION OF PROPERTY.** The Property is transferred to Transferee "as-is, where-is", with no representations and warranties (other than as set forth in section 1) as to the condition of the Property.

3. **COMPLIANCE WITH PRESCRIPTION TRANSFER LAWS.**

- 3.1 By acceptance of this Bill of Sale, Transferee represents and warrants that, pursuant to the Michigan Health Occupations Code, MCL 333.17752, it is a pharmacist acting on behalf of the patients disclosed in the prescription records and covenants it will preserve these records for five (5) years from the date hereof.
- 3.2 Based on the Transferee's representations set forth above, Transferor represents and warrants that it has complied with all applicable laws regarding the transfer of prescription records.

4. **RESERVATION OF USE OF NAME.** Transferor reserves the right to continue to use the name "F&M" and "F&M Distributors" at its remaining stores for a period not to exceed one (1) year from the effective date hereof, at which time the transfer of the names "F&M" and "F&M Distributors" shall be complete.

This Bill of Sale is effective as of the 3rd day of November, 1995.

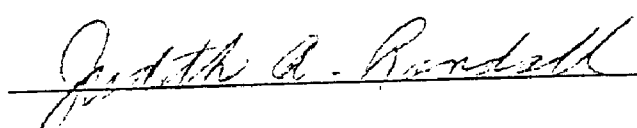
F & M Distributors, Inc.,  
Debtor-In-Possession

By:   
Title: EVP

STATE OF MICHIGAN     )  
  ) SS:  
COUNTY OF Macomb     )

Before me, a Notary Public in and for said county and state, on the 3rd day of FEBRUARY, 1996, personally appeared FRANK TERWEYDIP w h o acknowledged the execution of the foregoing Bill of Sale, and who, having been duly sworn, stated that the representations contained in it are true.

My Commission Expires:  
3-4-97

  
Notary Public  
Resident of Macomb County, Michigan

This instrument prepared by Robert L. Nicholson, Attorney at Law.

**Description of Personal Property  
(Michigan Stores)**

All of the Transferor's rights in the name "F&M" and "F&M Distributors", and all derivatives thereof, and all personal property, (excluding Transferor's interest in the leased property described in Exhibit "B") inventory, equipment, fixtures and intangibles, including phone numbers, prescription records, and any licenses to sell liquor products (but only to the extent such licenses are transferable), at the following locations:

Store Number	Store Address	Purchase Price Allocation Fixtures and Equipment *	Total Purchase Price Allocation Merchandise and Inventory	Purchase Price Allocation Liquor ** Inventory	Grocery
01	280 W. Nine Mile Ferndale, MI	1,004,000	981,000	-0-	30,000
02	30777 Gratiot Avenue Roseville, MI	482,000	1,697,000	22,000	69,000
03	1355 Eureka Road Southgate, MI	359,000	1,245,000	22,000	67,000
05	13505 Middlebelt Road Livonia, MI	258,000	1,519,000	8,000	82,000
06	2105 S. Telegraph Road Bloomfield Hills, MI	739,000	1,512,000	27,000	77,000
10	22200 Michigan Avenue Dearborn, MI	324,000	1,151,000	17,000	45,000
13	288 John R., Troy, MI	351,000	1,310,000	22,000	69,000
16	29088 Southfield Road Southfield, MI	147,000	1,291,000	12,000	52,000
20	27690 VanDyke Warren, MI	313,000	1,298,000	13,000	42,000

Store Number	Store Address	Purchase Price Allocation Fixtures and Equipment *	Total Purchase Price Allocation Merchandise and Inventory	Purchase Price Allocation Liquor ** Inventory	Grocery
27	1260 Rochester Road Rochester Hills, MI	384,000	1,503,000	32,000	49,000
46	1700 Dix Avenue Lincoln Park, MI	177,000	1,120,000	15,000	62,000
75	31005 Orchard Lake Road Farmington Hills, MI	173,000	1,418,000	18,000	56,000
76	30100 Grand River Avenue Farmington Hills, MI	318,000	1,120,000	14,000	59,000
80	35715 Warren Road Westland, MI	209,000	1,157,000	14,000	72,000
105	14545 Racho Road Taylor, MI	157,000	1,442,000	14,000	80,000
106	18859 E. Nine Mile Road Eastpointe, MI	363,000	1,720,000	38,000	71,000
115	3533 N. Woodward Royal Oak, MI	665,000	1,253,000	24,000	61,000
119	35630 VanDyke Sterling Heights, MI	-0-	1,175,000	40,000	69,000
	<b>TOTALS</b>	6,423,000	23,912,000	352,000	1,112,000

\* Includes building and lease value

\*\* Beer and wine only

Description of Leased Property  
(Michigan Stores)

Leased property specifically includes:

- Cash registers, scanners (both hand-held and flat-bed scanners)
- The register lanes
- The base units - electronic hand devices
- The main computer processor which would be located in the office (hard drives, keyboards and monitors)
- At some locations, there might be a second computer located in the receiving area
- Printers, including label printers
- All the cabling that connects the above equipment together

**Exhibit "B"**

## BILL OF SALE

F & M Distributors, Inc., as Debtor-In-Possession ("Transferor"), in consideration of the sum of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, pursuant to the order of the United States Bankruptcy Court for the Eastern District of Michigan, Southern Division, In re F & M Distributors, Inc., debtor, Case No. 94-52115-8, and, with respect to the transfer of prescription records, in reliance on the status of Transferee as set forth below, grants, sells, transfers, and delivers to Drug Emporium, Inc., a Delaware corporation ("Transferee"), the personal property (the "Property") described on the addendum attached as Exhibit "A," subject to such order and to the following:

1. **TRANSFEROR'S REPRESENTATIONS AND WARRANTIES.** Transferor represents and warrants that

- 1.1. Except as set forth in section 1.3, it is the lawful owner of the Property; and
- 1.2. The Property is transferred pursuant to 11 U.S.C. §363(b) and (f) free and clear of all liens, claims, and encumbrances.
- 1.3. Notwithstanding anything herein to the contrary
  - 1.3.1. With respect to the names "F&M" and "F&M Distributors", Transferor represents and warrants that it is entitled to use those names where they are currently being used, which shall not be read as having any right to exclude others from the use of those names.
  - 1.3.2. With respect to prescription records, Transferor is transferring only possession of the records.
  - 1.3.3. With respect to leased equipment set forth on Exhibit "B", Transferor is transferring only possession for a period of up to 6 months from the effective date of this Bill of Sale.

2. **CONDITION OF PROPERTY.** The Property is transferred to Transferee "as-is, where-is", with no representations and warranties (other than as set forth in section 1) as to the condition of the Property.

3. **COMPLIANCE WITH PRESCRIPTION TRANSFER LAWS.**

- 3.1 By acceptance of this Bill of Sale, Transferee represents and warrants that, pursuant to Title 12, Subtitle 5 of the Maryland Health Occupations Code,





**Description of Personal Property  
(Maryland Stores)**

All of the Transferor's rights in the name "F&M" and "F&M Distributors", and all derivatives thereof, and all personal property (excluding Transferor's leased property described in Exhibit "B" below) inventory, equipment, fixtures and intangibles, including phone numbers, prescription records, and any licenses to sell liquor products (but only to the extent such licenses are transferable), at the following locations:

STORE NUMBER	STORE ADDRESS
61	1403 Merritt Blvd., Dundalk, MD
62	7317 Ritchie Highway, Glen Burnie, MD
63	801 Goucher Blvd., Towson, MD
64	6501 Baltimore National Pike, Baltimore, MD
111	570 Baltimore Pike, Bel Air, MD

Exhibit "A"

**Description of Leased Property  
(Maryland Stores)**

Leased property specifically includes:

- Cash registers, scanners (both hand-held and flat-bed scanners)
- The register lanes
- The base units - electronic hand devices
- The main computer processor which would be located in the office (hard drives, keyboards and monitors)
- At some locations, there might be a second computer located in the receiving area
- Printers, including label printers
- All the cabling that connects the above equipment together

**Exhibit "B"**

G:\WORK\RLNW\DRUGE02P.EXH