

11/25/02

11-25-2002

Form PTO-1594

(Rev. 10/02)

OMB No. 0651-0027 (exp. 6/30/2005)

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DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

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

## 1. Name of conveying party(ies):

Rosenberger's Dairies, LLC

- ☐ Individual(s) ☐ Association  
☐ General Partnership ☐ Limited Partnership  
☐ Corporation-State  
☒ Other Limited Liability company

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

## 3. Nature of conveyance:

- ☐ Assignment ☐ Merger  
☒ Security Agreement ☐ Change of Name  
☐ Other

Execution Date: 10/21/2002

## 2. Name and address of receiving party(ies)

Name: Wachovia Bank, National Association, as Collateral Agent

Internal

Address:

Street Address: 201 S. College Street, CP-8

City: Charlotte State: NC Zip: 28208

- ☐ Individual(s) citizenship  
☒ Association National Banking Association  
☐ General Partnership  
☐ Limited Partnership  
☐ Corporation-State  
☐ 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

## 4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 2066848

Additional number(s) attached ☐ Yes ☒ No

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

Name: Rene LeBlanc-Allman, Esq.

Internal Address: Kennedy Covington Lobell &amp;

Hickman, L.L.P.

Hearst Tower

Street Address: 214 N. Tryon Street, 47th FL

City: Charlotte State: NC Zip: 28202

## 6. Total number of applications and registrations involved:

1

7. Total fee (37 CFR 3.41).....\$ 40.00

- ☒ Enclosed 40E  
☐ Authorized to be charged to deposit account

## 8. Deposit account number:

DO NOT USE THIS SPACE

## 9. Signature.

Betty G. Smith

Name of Person Signing

Signature

10/21/2002

Date

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

9

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

11/26/2002 6TON11 00000049 2066848

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TRADEMARK  
REEL: 002621 FRAME: 0527

## TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT (as amended, restated, supplemented or otherwise modified from time to time, this "Agreement") is entered into as of this 21<sup>st</sup> day of October, 2002 by ROSENBERGER'S DAIRIES, LLC, a Delaware limited liability company (the "Grantor"), in favor of WACHOVIA BANK, NATIONAL ASSOCIATION (formerly known as First Union National Bank), as Collateral Agent (the "Collateral Agent") under the Credit Agreement (as defined below).

### STATEMENT OF PURPOSE

WHEREAS, the Grantor owns certain trademarks and service marks, including those trademark registrations and trademark applications listed on Schedule 1 annexed hereto, and is a party to the trademark licenses listed on Schedule 2 annexed hereto; and

WHEREAS, pursuant to the terms of the Amended and Restated Collateral Agreement dated April 30, 2002 (as supplemented by that certain Collateral Agreement Supplement dated as of October 21, 2002 and as may be further amended, restated, supplemented or otherwise modified from time to time, the "Collateral Agreement"), between the Grantor and the Collateral Agent, the Grantor has granted to the Collateral Agent a security interest in certain assets of the Grantor, including all right, title and interest of the Grantor in, to and under all Trademark Collateral (as hereinafter defined) to secure the payment of all Obligations owing by National Dairy Holdings, LP, as Borrower (the "Borrower") under the Amended and Restated Credit Agreement, dated April 30, 2002 (as further amended, restated, supplemented or otherwise modified, the "Credit Agreement"), by and among the Borrower, the Lenders party thereto and the Collateral Agent, and the other Loan Documents. All capitalized terms defined in the Credit Agreement or the Collateral Agreement and not otherwise defined herein have the respective meanings provided for in the Credit Agreement or the Collateral Agreement, as applicable.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor agrees as follows:

1. **Grant of Security Interest.** Grantor does hereby grant to the Collateral Agent a continuing security interest in all of Grantor's right, title and interest in, to and under all of the following (all of the following items or types of property being herein collectively referred to as the "Trademark Collateral"), whether now existing or hereafter created or acquired, in order to secure the Obligations referred to herein:

(a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade dress, service marks, certification marks, collective marks, logos, other source of business identifiers, prints and labels on which any of the foregoing appear or have appeared and designs owned by the Grantor (each of the foregoing items in this clause a "Trademark," and collectively, the "Trademarks,"), now existing anywhere in the world or hereafter adopted or acquired, whether currently in use or not, together with all registrations

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**TRADEMARK**  
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and recordings thereof and all applications filed in connection therewith, whether pending or in preparation for filing, including registrations, recordings and applications in any office or agent of the United States of America (including the United States Patent and Trademark Office) or any foreign country, and including, without limitation, those referred to in Schedule 1 annexed hereto and all reissues, extensions, continuations or renewals thereof;

(b) all Trademark licenses and other agreements providing the Grantor with the right to use, or pursuant to which the Grantor provides the right to use, any of the items described in Section 1(a) (together, the "Trademark Licenses"), including each Trademark license referred to in Schedule 2 annexed hereto;

(c) all of the goodwill of the business connected with the use of, and symbolized by, each item described in Sections 1(a) or 1(b);

(d) the right to sue third parties for past, present or future infringements of any Trademark Collateral described in Section 1(a) and, to the extent applicable, Section 1(b); and

(e) all products and proceeds of, and the rights associated with, the foregoing, including, without limitation, any claim by Grantor against third parties for past, present or future (i) infringement or dilution of any Trademark or Trademark registration including, without limitation, the Trademarks and Trademark registrations referred to in Schedule 1 annexed hereto, the Trademark registrations issued with respect to the Trademark applications referred to in Schedule 1 and the trademarks licensed under any Trademark License, (ii) injury to the goodwill associated with the use of any such Trademark, Trademark registration or trademark licensed under any Trademark License, or (iii) breach or enforcement of any Trademark license.

2. **Other Security Interests.** This security interest is granted in conjunction with the security interests granted to the Collateral Agent pursuant to the Collateral Agreement. Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest granted herein are without prejudice to, and are in addition to, those set forth in the Collateral Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In the event that any provisions of this Agreement are deemed to conflict with the Collateral Agreement, the provisions of the Collateral Agreement shall govern.

3. **Restrictions on Future Agreements.** The Grantor agrees that until all Obligations shall have been satisfied in full and the Credit Agreement shall have been terminated, the Grantor will not, without the Collateral Agent's prior written consent, enter into any agreement including, without limitation, any license agreement, which is inconsistent with the Grantor's obligations under this Agreement if such action would reasonably be expected to materially adversely affect the fair market value of the Trademark Collateral or the benefits of this Agreement to the Collateral Agent, and the Grantor further agrees that it will not take any

action, or permit any action to be taken by others subject to its control, including licensees, or fail to take any action, which would materially adversely affect the validity or enforcement of the rights transferred to the Collateral Agent under this Agreement.

4. **New Trademarks.** The Grantor represents and warrants to the Collateral Agent that the Trademarks listed on Schedule 1 annexed hereto and the license agreements listed on Schedule 2 annexed hereto constitute all of the Trademarks now owned by or licensed to the Grantor for which registrations have been issued or applied for in the United States Patent and Trademark Office. If, before the Obligations have been satisfied in full and the Credit Agreement terminated, the Grantor shall (i) obtain rights to any new trademarks, trademark registrations or applications or tradenames used in the United States or in any foreign country or (ii) become entitled to the benefit of any trademark application, trademark, trademark registration or tradename used in the United States or in any foreign country, the provisions of Section 1 above shall automatically apply thereto and the Grantor shall give to the Collateral Agent prompt written notice thereof. The Grantor hereby authorizes the Collateral Agent to modify this Agreement upon such written notice by amending Schedule 1 and Schedule 2 annexed hereto to include any future trademarks, trademark registrations, trademark applications, tradenames and license agreements which are Trademarks, as applicable, under Section 1 above or under this Section 4.

5. **Lenders Not Liable.** Neither the Collateral Agent nor any Lender by virtue of this Agreement assumes any obligations whatsoever in respect of the Trademark Collateral including, without limitations, any obligation to renew registrations of or defend the validity, enforceability or distinctiveness of the Trademark Collateral.

[Signature Pages Follow]

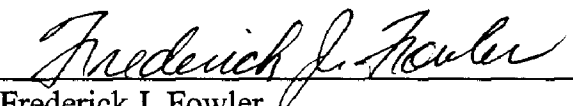
IN WITNESS WHEREOF, Grantor has caused this Trademark Security Agreement to be duly executed by its duly authorized officer thereunto, all as of the date first set forth above.

**ROSENBERGER'S DAIRIES, LLC, as Grantor**

By: Crowley Foods, LLC,  
its sole Member and Manager

By: National Dairy Holdings, LP,  
its Manager

By: Dairy Management LLC,  
its sole General Partner

By:   
Frederick J. Fowler  
Executive Vice President, General Counsel  
and Assistant Secretary

[Signature Pages Continue]

Agreed and Accepted as of the  
21<sup>st</sup> day of October, 2002.

**WACHOVIA BANK, NATIONAL ASSOCIATION**  
(formerly known as First Union National Bank),  
as Collateral Agent

By:   
Name: \_\_\_\_\_  
Title: JORGE A. GONZALEZ  
          Managing Director

[Acknowledgment Follows]

[Trademark Security Agreement - Rosenberger's Dairies, LLC]

**TRADEMARK**  
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# ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF DALLAS

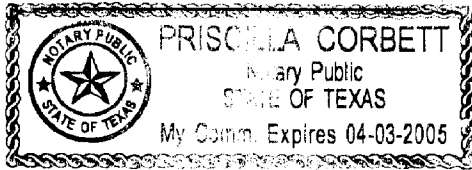
I, Priscilla Corbett, a Notary Public for said County and State, do hereby certify that FREDERICK J. FOWLER personally appeared before me this day and stated that he is Executive Vice President, General Counsel and Assistant Secretary of DAIRY MANAGEMENT LLC and acknowledged, on behalf of DAIRY MANAGEMENT LLC, in its capacity as sole general partner of National Dairy Holdings, LP, in its capacity as Manager of Crowley Foods, LLC, in its capacity as sole member and manager of Rosenberger's Dairies, LLC, the due execution of the foregoing instrument.

Witness my hand and official seal, this 21<sup>st</sup> day of October, 2002.

*Priscilla Corbett*

Notary Public

My commission expires:



Schedule 1  
to Trademark  
Security Agreement

**Trademark Registrations**

<u>Mark</u>	<u>Serial No.</u>	<u>Reg. Date</u>
ROSENBERGER'S DAIRIES & DESIGN	2,066,848	6/3/97

**Common Law Trademarks**

LONGACRE'S MODERN DAIRY

LONGACRE'S DAIRY

GEORGE B. STOCKER, INC.

STOCKER DAIRY

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Schedule 2  
to Trademark  
Security Agreement

**Trademark Licenses**

Pursuant to a license agreement by and between Landis Supermarket and Rosenberger's Dairies, LLC, Rosenberger's affixes the mark "HERITAGE" mark upon products sold in the supermarket in place of the Rosenberger's name.

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