

RE

Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/3) Tab settings

01-16-2004



2 SHEET NLY

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

To the Honorable Comr

102648279

the attached original documents or copy thereof.

1. Name of conveying party(ies):

PCH Holdings, LLC

12.15-03

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

2. Name and address of receiving party(ies)

Name: Lifestyle Improvement Centers, LLC

Internal

Address:

Street Address: 110 West Preston Avenue

City: Lexington State: VA Zip: 24450

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

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other

Execution Date: 04/10/03

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) 78184931

B. Trademark Registration No.(s)

Additional number(s) attached Yes No

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

Name: Kimberly A. Chasteen

Internal Address: Williams Mullen

Street Address: 1 Old Oyster Point Road

Suite 210

City: Newport News State: VA Zip: 23602

6. Total number of applications and registrations involved:

1

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

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

50-0766

DO NOT USE THIS SPACE

9. Signature.

Kimberly A. Chasteen Name of Person Signing

Kimberly A Chasteen Signature

12/17/03 Date

Total number of pages including cover sheet, attachments, and document: 8

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

12/12/2003
700056519

Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings		RECORDATION FORM COVER SHEET TRADEMARKS ONLY		U.S. 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): PCH Holdings, LLC <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 <input type="checkbox"/> Other <u>Virginia</u>			2. Name and address of receiving party(ies) Name: <u>Lifestyle Improvement Centers, LLC</u> Internal Address: _____ Address: _____ Street Address: <u>110 West Preston Avenue</u> City: <u>Lexington</u> State: <u>VA</u> Zip: <u>24450</u> <input type="checkbox"/> Individual(s) citizenship _____ <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 _____		
Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
3. Nature of conveyance: <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____			Execution Date: _____		
4. Application number(s) or registration number(s): A. Trademark Application No.(s) <u>78184931</u> B. Trademark Registration No.(s) _____ Additional number(s) attached <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
5. Name and address of party to whom correspondence concerning document should be mailed: Name: <u>Kimberly A. Chasteen</u> Internal Address: <u>Williams Mullen</u> Street Address: <u>1 Old Oyster Point Road</u> <u>Suite 210</u> City: <u>Newport News</u> State: <u>VA</u> Zip: <u>23602</u>			6. Total number of applications and registrations involved: 1		
			7. Total fee (37 CFR 3.41).....\$ <u>40.00</u> <input type="checkbox"/> Enclosed <input checked="" type="checkbox"/> Authorized to be charged to deposit account		
			8. Deposit account number: <u>50-0766</u>		
DO NOT USE THIS SPACE					
9. Signature. <u>Kimberly A. Chasteen</u> <u>12/12/2003</u> Name of Person Signing Signature Date					
Total number of pages including cover sheet, attachments, and document: 					

CH \$40.00 600766 78184931

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

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

In re:

PCH HOLDING, LLC

Case No. 03-70902-DHA
Chapter 11

Debtor in Possession.

**ORDER APPROVING (1) ASSUMPTION AND ASSIGNMENT
OF LEASES AND EXECUTORY CONTRACTS AND
(2) SALE OF SUBSTANTIALLY ALL ASSETS,
TO LIFESTYLE IMPROVEMENT CENTERS, LLC**

On February 7, 2003, PCH Holding, LLC (the "Debtor" or "PCH"), by counsel, filed a Motion to (1) Assume and Assign Leases and Executory Contracts; and (2) Sell Substantially All Assets Outside the Ordinary Course of Business, Free and Clear of Liens (the "Motion"). Objections to the Motion were filed by the City of Newport News, Satyen Raja on behalf of PCH Franchises Canada, Inc., and James Kurinsky, each of which have been resolved upon terms incorporated herein. A hearing on the Motion was conducted on April 8, 2003. Based upon the uncontested allegations in the Motion, the evidence accepted by the Court at the hearing and the representations of counsel, the Court makes the following findings of fact and conclusions of law:

1. PCH filed a voluntary petition under Chapter 11 of Title 11, United States Code, in this court on February 7, 2003 ("Filing Date"). No trustee has been appointed and the debtor remains in possession of its estate as debtor in possession.

Frank J. Santoro, Esq., VSB # 20259
Karen M. Crowley, Esq., VSB # 35881
Marcus, Santoro & Kozak, P.C.
P. O. Box 69
Portsmouth, VA 23705-0069
(757) 393-2555
(755) 399-6870 (facsimile)
Counsel for the Debtor

2. Prior to the bankruptcy filing, the Debtor was able to negotiate with Lifestyle Improvement Centers, LLC ("Lifestyle") for the sale by the Debtor and the purchase by Lifestyle of the operating assets of the Debtor.

3. PCH and Lifestyle have agreed upon the terms of the sale of the operating assets to Lifestyle, which terms are set forth in the Asset Purchase Agreement which is attached as Exhibit 1 (the "Asset Purchase Agreement").

4. The sale of the Property to Lifestyle will constitute a sale of substantially all of the assets of the Debtor.

5. The Debtor owns the assets described in Schedule 2(a) of the Asset Purchase Agreement (the "Assets").

6. The Debtor is a party to the executory contracts listed on Exhibit 2 (the "Assumed Contracts") and the franchise agreements listed on Exhibit 3 (the "Franchise Agreements") (the Assumed Contracts and the Franchise Agreements shall collectively be the "Contracts") (the Assets and Contracts are collectively the "Property").

7. This Order makes no finding as to the status of contracts with franchisees or sub-franchisees in Canada and those franchise agreements are excluded from the sale to Lifestyle.

8. As reflected in the Asset Purchase Agreement, the sale to Lifestyle excludes the Debtor's ownership interest in Bay Area PCH, LLC ("BAP"). This Order does not adjudicate the issue as to whether the franchise rights enumerated on page two (2) of the 2/20/02 Letter Agreement were actually contributed to BAP. To the extent that any franchise rights were contributed to BAP, those rights are not being conveyed to Lifestyle. This Order does not adjudicate the issue as to the rights of BAP to intellectual property owned by the Debtor or others.

9. Wachovia Bank, N.A. ("Wachovia") is properly secured by a perfected, first priority lien on essentially all of the Property, excluding the SunTrust Vehicle (defined below).

10. SunTrust Bank, N.A. ("SunTrust") is properly secured by a lien on a financed vehicle (the "SunTrust Vehicle") securing a current outstanding amount of approximately \$33,000.00.

11. Certain taxing authorities, including the City of Newport News (the "Taxing Authorities"), are owed personal property taxes, which constitute valid liens against certain of the Property.

12. Lifestyle provided post-petition financing to the Debtor (the "DIP Loan") and is properly secured by junior liens on all of the Property.

13. Other than the liens of Lifestyle, Wachovia, SunTrust and the Taxing Authorities, there are no other liens against the Property.

14. The liens of Lifestyle, Wachovia, SunTrust and the Taxing Authorities will attach to the proceeds from the Sale, to the same extent, validity and priority the liens existed against the Property.

15. Except for the non-payment of rent under certain of the Assumed Contracts, the amount of which is set out in Exhibit 2 (the "Cure Amount"), there are no other defaults or actual pecuniary loss due to the defaults under the Contracts.

16. Based upon the assignment of the Contracts to Lifestyle, the non-debtor parties to the Contracts will be provided adequate assurance of future performance under the Contracts.

17. The sale to Lifestyle of the Property is in the best interests of the estate.

18. The assumption by the Debtor and assignment to Lifestyle of the Contracts is in the best interest of the Estate.

19. The Purchase Price is fair and reasonable, as supported by the fact that sufficient opportunity for obtaining better and higher bids for the Property was provided and no better and higher offers for the Property were tendered.

20. The sale to Lifestyle is proposed in good faith and the Debtor and Lifestyle are proceeding in good faith.

21. All parties secured by the Property have consented to the sale of the Property free and clear of their liens encumbering the Property.

22. Due and proper notice of the sale to Lifestyle and of the Motion was provided to all creditors and parties in interest.

23. The affirmative relief granted by this Order, and the findings relative to that relief, arise from a core proceeding, over which the court has original referred jurisdiction, pursuant to 28 U.S.C. § 157(b)(2)(N). This Order is a judgment, as described in Bankruptcy Rule 9021, and contains findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052. This Order is an order authorizing the use, sale and lease of property, as contemplated by Bankruptcy Rule 7062.

Based upon the foregoing, it is hereby ADJUDGED, ORDERED and DECREED as follows:

A. The Motion of the Debtor shall be, and hereby is, granted, the Asset Purchase Agreement between the Debtor and Lifestyle, as modified herein, is approved, and the Objection filed by Satyen Raja on behalf of PCH Franchises Canada, Inc. is withdrawn as moot based upon the modifications to the Motion as noted herein.

B. Simultaneously with the closing and upon full payment of the Cure Amount, the Debtor is authorized to assume the Contracts and assign them to Lifestyle, in accordance with 11 U.S.C. § 365.

C. Upon closing, the Property shall be transferred to Lifestyle, outside of the ordinary course of business, free and clear of all liens, claims and encumbrances, including, without limitation, the liens of Wachovia, SunTrust, the Taxing Authorities and Lifestyle pursuant to 11 U.S.C. Sections 363(b) and (f), which liens shall attach to the proceeds of the sale to the same extent, order and priority that they existed against the Property;

D. Upon closing, Lifestyle shall pay the sales price upon the terms set forth in the Asset Purchase Agreement;

E. The Debtor and Lifestyle shall be bound by all of the provisions of the Asset Purchase Agreement;

F. The proceeds from the sale shall be distributed as follows:

1. To pay the Cure Amount to the non-debtor parties to Assumed Contracts;
2. To taxing authorities with statutory liens against the Property, in the amount of the statutory lien;
3. To Wachovia in the total amount of its indebtedness against the Debtor;
4. To SunTrust in the total amount of its indebtedness against the Debtor; and
5. To Lifestyle in the amount of the unpaid balance of the DIP Loan.

G. Lifestyle shall be entitled to the protections afforded by 11 U.S.C. § 363(m)

in the event that this Order, or any part of it, is reversed or modified on appeal and entry of this order shall bar all parties with notice of the Motion from bringing any actions, proceedings or claims arising under 11 U.S.C. § 363(n);

H. The 10-day stay imposed by Bankruptcy Rules 6004(g) and 6006(d) is

waived.

I. Upon entry, the Clerk shall forward copies of this order to:

Karen M. Crowley, Esq.
Marcus, Santoro & Kozak, P.C.
355 Crawford Street, Suite 700
Portsmouth, VA 23705-0069

C. Grigsby Scifres, Esq.
Williams, Mullen, Clark & Dobbins
900 One Columbus Center
Virginia Beach, VA 23462

Robert B. VanArsdale, Esq.
Office of the United States Trustee
Room 625, Federal Building
200 Granby Street
Norfolk, VA 23510-1814

Dennis T. Lewandowski, Esq.
Kaufman & Canoles, P.C.
150 W. Main Street, Suite 1900
Norfolk, VA 23510

ENTERED: APR 10 2003


JUDGE

I ASK FOR THIS:

/s/ Karen M. Crowley
Karen M. Crowley, Esquire
Counsel for the Debtor

SEEN AND AGREED:

/s/ C. Grigsby Scifres
C. Grigsby Scifres, Esq
Counsel for Lifestyle Improvement Centers, LLC

SEEN AND NO OBJECTION:

/s/ Robert B. Van Arsdale
Robert B. Van Arsdale, Esq.
Office of the U. S. Trustee

/s/ John D. McIntyre
John D. McIntyre, Esq.
Counsel for Satyen Raja

/s/ Leonard Ringler
Leonard Ringler, Esq.
Counsel for the City of Newport News

/s/ Jeffrey Sherman
Jeffrey Sherman, Esq.
Counsel for James Kurinsky

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order was mailed this 10th day of April, 2003 to the parties on the attached Service List.

/s/ Karen M. Crowley

NOTICE OF JUDGMENT OR ORDER
Entered on docket
APR 10 2003

CERTIFICATE OF MAILING

The undersigned deputy clerk of the United States Bankruptcy Court for the Eastern District of Virginia hereby certifies that a copy of the order on which its stamp appears was mailed this date to the parties as set forth in the order.

APR 10 2003

DATED: _____

Robin C. Fauer

Deputy Clerk