

04-08-1999



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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

Effective Date
Month Day Year

Other

Conveying Party

Mark if additional names of conveying parties attached

Name

Execution Date
Month Day Year

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/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

Individual General Partnership Limited Partnership

Corporation Association

Other

Citizenship/State of Incorporation/Organization

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.)

04/08/1999 DNGUYEN 00000084 1970330

FOR OFFICE USE ONLY

01 FC:481
02 FC:482

40.00 DP
150.00 DP

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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

TRADEMARK
REEL: 1879 FRAME: 0646

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" value="75/269,635"/>	<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" value="1,970,330"/>	<input type="text" value="1,241,373"/>	<input type="text"/>
<input type="text" value="1,896,414"/>	<input type="text" value="1,192,616"/>	<input type="text"/>
<input type="text" value="1,196,973"/>	<input type="text" value="1,192,615"/>	<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.

Valerie G. Edward

Name of Person Signing

Signature

MARCH 25, 1999

Date Signed

ONTARIO COURT (GENERAL DIVISION)
COMMERCIAL LIST

THE HONOURABLE) THURSDAY, THE 22ND
MR. JUSTICE BLAIR) DAY OF OCTOBER, 1998
)

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Plaintiff

- and -

FBI BRANDS LTD.

Defendant



ORDER

THIS MOTION, made by Canadian Imperial Bank of Commerce for an Order, *inter alia*, appointing KPMG Inc. (the "Receiver"), as Receiver and Manager, without security, of the assets, property and undertaking of FBI Brands Ltd. (the "Company") was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING the statement of claim and the notice of motion herein, the affidavits of Jack McMurray sworn October 20 and 22, 1998 and the exhibits annexed thereto, the affidavit of Antonio Tondino sworn October 22, 1998, and on hearing the submissions of counsel for the Plaintiff.

Confirmation of Service

1. THIS COURT ORDERS that the time for service of the notice of motion and motion record herein is hereby abridged and that the motion is properly returnable today and that all parties entitled to notice of this motion have been duly served with notice of this motion and service upon any interested party other than the persons served with the notice of motion is hereby dispensed with.

HARRISON 405566411

Appointment and Powers

2. THIS COURT ORDERS that KPMG Inc. (the "Receiver"), having an office in the City of Toronto, in the Municipality of Metropolitan Toronto, be and it is hereby appointed Receiver and Manager, without security, of all of the assets, property and undertaking of the Company (collectively the "Property"), with full control and power over all aspects of the Property and with authority to receive, preserve, protect, dispose of and sell the Property or any part thereof, and to act at once until further Order of this Court.

3. THIS COURT ORDERS that the Company and its past and present directors, officers, employees, servants, shareholders, lawyers (subject to issues of privilege), accountants, consultants, agents and any and all other persons having notice of this Order, deliver the Property to the Receiver together with all books, documents, contracts, papers and records of every nature and kind whatsoever relating to the Property and the obligations and liabilities of the Company (including, but not limited to accounting records, consultant studies and reports, drawings and blueprints, computer programs and data), and further that such persons grant to the Receiver full access to and use of accounting, data processing and computer facilities relating thereto, provided that such persons shall be required to deliver up copies of such material to the Receiver only upon payment of their fair and reasonable cost of making such copies.

4. THIS COURT ORDERS that without limiting the generality of paragraph 2 above, and without requiring the Receiver to do so, the Receiver shall be at liberty:

- a) to take possession, control and management of the Property;
- b) to carry on or permit or cause the carrying on of the business of the Company on a short-term basis for the sole purpose of preserving the going-concern character of the Company to enable the Receiver to market and negotiate the sale of the Property on an en bloc basis so as

to maximize its value and in doing so the Receiver shall be deemed to be the agent of the Company and shall not be deemed to be an employer or a successor employer of the employees of the Company notwithstanding any provision or power in this Order;

- c) to make arrangements with such agents, assistants and employees as the Receiver may consider necessary or desirable to secure their assistance in the exercise of the Receiver's powers and the performance of its duties hereunder including the carrying on of the business of the Company;
- d) to enter into negotiations with the United Food and Commercial Workers International Union, Local 175 (the "Union") with respect to the engagement of the members of the Union, to continue production;
- e) to institute and prosecute all suits, proceedings, and actions in and before the Courts and administrative bodies, and any and all arbitration proceedings as may in its judgment be necessary for the proper protection, preservation, disposition or sale of the Property and likewise to defend all suits, proceedings, arbitration proceedings and actions instituted against it as the Receiver and to appear in and conduct the prosecution and defence of any suits, proceedings, arbitrations and actions now pending in any Court or administrative body or before any arbitrator against the Company relating to the Property including such appeals as the Receiver shall deem proper and advisable in respect of any Order, decision, or judgment pronounced in any such suits, proceedings, arbitrations or actions;
- f) to receive and collect all monies now or hereafter owing to the Company relating to the Property and enforce all security held by the Company in respect thereof;

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- g) to extend the time for payment of any monies due to the Company relating to the Property with or without security and to settle or compromise any such indebtedness;
- h) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority;
- i) to take such steps as the Receiver deems necessary or desirable to preserve and protect the Property including making payments to persons having mortgages, charges or encumbrances;
- j) to advertise and market the Property for sale, to conduct negotiations for the sale of the Property and to enter into an agreement of purchase and sale of the Property, any such agreement to be subject to the approval of this Court;
- k) to settle and pay any claims which may be made or brought against the Company relating to the Property on such terms and in such manner as the Receiver deems necessary or advisable;
- l) to execute in the name of and on behalf of the Company all necessary bills of sale, conveyances, deeds and documents of whatsoever nature which the Receiver considers to be necessary or incidental to the exercise of the powers granted hereby;
- m) to vote any shares and exercise any rights the Company may have as a shareholder with respect to any shares included in the Property;
- n) to make an assignment of the Property for the general benefit of the Company's creditors pursuant to the *Bankruptcy and Insolvency Act* (Canada), and to act as trustee in bankruptcy of the Company;
- o) without being deemed to have taken possession of the Property, to enter into agreements with the trustee in bankruptcy of the Company

in relation to the occupation of all or any part of the Property and the management and operation of the business of the Company; and

p) to take any steps, enter into any agreements or incur any obligations necessary or incidental to the exercise of the aforesaid powers.

5. THIS COURT ORDERS that the Receiver shall be at liberty to retain counsel to advise in connection with any matters associated with its appointment and the performance by it of its duties and the exercise of its powers hereunder and pay the fees and disbursements of its counsel.

6. THIS COURT ORDERS that the Receiver may, from time to time, bring motions before this Court for advice and directions in the exercise of its powers and the performance of its duties hereunder.

7. THIS COURT ORDERS that notwithstanding anything else in this Order, the Receiver is not authorized to make or cause the Company to make any contributions to any pension plan maintained by the Company for the benefit of its employees.

Employees

8. THIS COURT ORDERS that by the granting of this Order, the business of the Company has not been sold and will continue to be the business of the Company until it is sold in whole or in part by the Receiver (in this paragraph, "sells" includes leases, transfers and any other manner of disposition, and "sold" and "sale" have corresponding meanings) and for greater certainty, this Court Orders that the Receiver shall not be deemed to be the employer or successor employer of any of the employees of the Company notwithstanding any provision or power in this Order.

Accounting for Receipts and Disbursements

9. THIS COURT ORDERS that the Receiver shall pass its accounts and shall pay the balances in its hands as this Court may direct.

10. THIS COURT ORDERS that the Receiver's remuneration and any expenses which may be properly made or incurred by the Receiver in connection with the exercise of its powers and the performance of its duties hereunder (including any fees and disbursements of its counsel) shall be allowed to the Receiver in the passing of its accounts and shall form a charge on the Property ranking in priority to all existing charges and encumbrances on the Property in favour of the Plaintiff and all subsequent secured creditors, but subject to the rights of secured creditors having priority over the charges of the Plaintiff.

11. THIS COURT ORDERS that the costs of the Plaintiff in the preparation of this motion, in the commencement of this action and up to and inclusive of the hearing of this motion and the entry of this Order be assessed as between a solicitor and his own client and be paid by the Receiver as part of its expenses.

12. THIS COURT ORDERS that the Receiver shall be at liberty, from time to time, to pay costs and other expenses relating to the Property, including its own remuneration and disbursements, from monies in its hands. Any amounts so applied against the Receiver's remuneration and expenses shall constitute advances against the amounts allowed on the passing of the Receiver's accounts.

Borrowing Powers

13. THIS COURT ORDERS that the Receiver shall be at liberty and is hereby empowered to borrow monies from the Canadian Imperial Bank of Commerce, without personal liability from time to time, as it may consider necessary, not to exceed \$500,000 in principal amount in the aggregate, at such rate or rates of interest as it deems advisable and for such period or periods as it may be able to arrange, for the purpose of exercising its powers and performing its duties. The Receiver is authorized to pledge, assign or give security or securities on any of the Property and/or its proceeds which shall be subject to the priority of the Plaintiff's security,

HARRISON 438866411

the rights of the secured creditors ranking in priority to the Plaintiff, and to charge in favour of the Receiver granted in this Order.

14. THIS COURT ORDERS that the monies authorized to be borrowed by this Order shall be evidenced by a certificate or certificates substantially in the form of the draft certificate attached as Schedule "A" to this Order and shall be in the nature of revolving credit which the Receiver may pay off or re-borrow within the limits of the authority hereby conferred.

15. THIS COURT ORDERS that all monies from time to time borrowed by the Receiver pursuant to this Order or to any further Order of this Honourable Court and all Receiver's certificates representing the same or any other part thereof shall rank *pari passu* unless the holders of such certificates agree otherwise.

16. THIS COURT ORDERS that any security granted by the Receiver in connection with its borrowings shall not be enforced without leave of this Honourable Court first being obtained.

Stay of Proceedings

17. THIS COURT ORDERS that no action, application or administrative proceedings, extra-judicial proceedings, self-help remedies, enforcement processes or any other acts, proceedings, or private remedies including, without limitation:

- a) any right of distraint or termination of any lease;
- b) any right to take possession of, exercise right of garnishment, foreclose upon or otherwise deal with any of the Property or to continue such actions if commenced prior to the date of this Order;
- c) any right to commence or continue enforcement, realization or collection proceedings in respect of any encumbrance, tax, lien, security

interest, charge, mortgage, guarantee, hypothecation, pledge or other security held in relation to, or any trust attaching to the Property;

- d) any right of termination of any contract of insurance for the Property or any portion thereof or in which the Company is a named or an unnamed insured or from which the Company may derive a benefit;
- e) any right of termination, suspension, cancellation or alteration of any contract, whether written or oral, for the supply of goods or services to the Company or for the sale of goods to customers of the Company including, without limitation, commercial leases, supply contracts, service contracts, display contracts, stocking or shelving arrangements, distribution agreements, shipping contracts, licenses, permits and approvals;
- f) any right of termination, suspension, cancellation or alteration of any contract, whether written or oral, between the Company and any of its customers relating to the stocking, placement or display of the Company's products on display shelves at retail outlets owned, controlled or operated by such customers or relating to the stocking of the Company's products by such customers;
- g) any right of set-off; or
- h) any right or entitlement to any construction, repair storage or other lien relating to the Property or its proceeds;

shall be taken, commenced, or continued against the Company or the Property by any person, firm, corporation or entity wherever situated or domiciled without the specific consent of the Receiver or the leave of this Court first being obtained on seven days notice to the Receiver.

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18. THIS COURT ORDERS that all persons with notice of this Order be and they are hereby enjoined from disturbing or interfering with the use by the Receiver of utility services presently used by the Company in connection with the Property, including the furnishing of gas, heat, electricity, water, telephone, electronic mail, internet, computer software and other data services, and the providers of such utilities are hereby enjoined from cutting off, or discontinuing or altering any such services without the specific consent of the Receiver or the leave of this Court first being obtained on seven days notice to the Receiver, provided that the Receiver shall pay for such services supplied in the future, while the Receiver is carrying on the business of the Company, in accordance with the applicable contractual terms and that the Receiver shall be secured with respect to such payments in accordance with paragraphs 10 and 12 hereof.

19. THIS COURT ORDERS that all persons be and they are hereby enjoined from disturbing or interfering with access by the Receiver to any premises or locations leased by or licensed to the Company and that no person shall in any manner interfere with the possession, use or control of the Property by the Receiver or its assigns as permitted by this Order.

Miscellaneous

20. THIS COURT ORDERS AND DECLARES that the Receiver is not an owner of any property or assets for any purpose including the purposes of Environmental Legislation as defined below. "Environmental Legislation" is any legislation for the protection of the environment including, without limitation, the *Canadian Environmental Protection Act (Canada)*, *Environmental Protection Act (Ontario)*, the *Ontario Water Resources Act (Ontario)*, the *Occupational Health and Safety Act (Ontario)*, the regulations thereunder or any other statute, regulation or rule of law or equity under any federal, provincial or other jurisdiction whatsoever, but nothing herein shall relieve the Receiver from liability under Environmental Legislation arising as a

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result of its own wilful neglect or negligence during its carrying on of the business of the Company.

21. THIS COURT ORDERS that the Receiver shall not be deemed to have taken possession of any real property owned or leased by the Company, for any purpose including the purposes of Environmental Legislation, by reason only of the Receiver's action in entering upon any such property for the purpose of obtaining access to the books and records of the Company.

22. THIS COURT ORDERS that the liability of the Receiver which it may incur as a result of its appointment or as a result of the performance of its duties hereunder, save and except negligence, shall be limited in the aggregate to the Net Realized Value of the Property. The Net Realized Value of the Property shall be the Proceeds realized in cash from the disposition of the Property or part thereof after deducting the remuneration and disbursements of the Receiver and any costs or obligations incurred by the Receiver or by any other person in connection with the performance of its duties hereunder have been repaid.

23. THIS COURT HEREBY seeks and requests the aid and recognition of any Court or administrative body in any Province of Canada, any Canadian Federal Court or administrative body and any federal or state Court or administrative body in the United States of America or elsewhere to assist the Receiver and its agents to carry out the terms of this Order including the making of such vesting Orders as may be requisite or desirable to complete the disposition of such of the Property as may be within the jurisdiction of such courts or administrative bodies. The Receiver shall be at liberty and is hereby authorized and empowered to apply, without notice to the Company, as it may consider necessary or desirable to any other Courts or administrative bodies, whether in Canada, the United States of America or elsewhere, for Orders recognizing the appointment of the Receiver in such other jurisdictions. All Courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such Orders and provide such assistance to

the Receiver as an officer of the Court as they may deem necessary or appropriate for the purposes for which the Receiver was appointed.

24. THIS COURT ORDERS that a copy of this Order shall be served upon the persons listed in Schedule "B" hereto and that liberty be reserved to any interested person to bring a motion to this Court for such further Order as such person may be advised on seven days notice to the Receiver.

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Ante Nalman

RA Blain

Justice O.G.J. (G.D.)

2 2 1998

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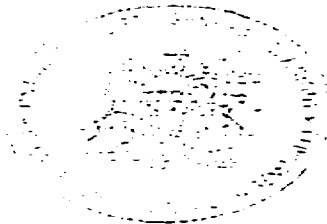
THIS IS TO CERTIFY THAT
THIS DOCUMENT, EACH PAGE
OF WHICH IS AFFIXED WITH
THE SEAL OF THE COURT,
COUNTY OF YORK, ONTARIO,
AT THE COURT HOUSE,
CORPORATE BUILDING,
ON FILE WITH THE CLERK

LA PRÉSENTE ATTESTE QUE CE
DOCUMENT, EN SON INTÉRIEUR
DE CHAQUE PAGE, EST REVÊTU DU
SCÉLÉ DE LA COUR DE
L'ONTARIO, COMTE DE YORK,
AU PALAIS DE JUSTICE,
CORPORATE BUILDING,
COMME DÉPOSÉ EN BUREAU

DATED AT TORONTO THIS 20 DAY OF JAN 19 98.
FAIT A TORONTO LE 20 JOUR DE JANVIER 1998

LOCAL REGISTRAR

GREFFIER LOCAL



SCHEDULE "A"

Amount \$

Receiver's Certificate

TO:

1. This is to certify that the undersigned, KPMG Inc., as the Receiver and Manager of the assets and property (the "Property") of FBI Brands Ltd. pursuant to the Order of the Honourable [] of the Ontario Court (General Division) dated the [] (hereinafter called the "Order"), acknowledges that as such Receiver and Manager it is indebted to the holder of this Certificate in the sum of [] Dollars (\$ []) in lawful money of Canada.

2. The principal sum of \$ [] (S []) represented by this Certificate is payable from the [] day of [], 1998, on demand with interest thereon (both after as well as before maturity) at the [] prime interest rate, as reported or announced from time to time or failing such reporting or announcement, at the rate established by it on an unsecured demand loan in the City of Toronto, Province of Ontario in Canadian dollars to its most credit-worthy commercial customers, plus two per cent 2% per annum.

3. The principal sum of [] (S []) together with interest therefrom as aforesaid is by the terms of the Order, together with the principal sums and interest thereon of all other Receiver's Certificates issued by the Receiver pursuant to the Order or to any further Order of the Court, a fixed specific charge on the Property ranking in priority to all charges and encumbrances on the Property save and except the charges in favour of Canadian Imperial Bank of Commerce, the charges in favour of all secured creditors ranking in priority to Canadian Imperial Bank of Commerce and the charges in favour of the Receiver as set out in the Order subject to the right of the Receiver to be indemnified out of the Property with respect to its liabilities, expenses and its own remuneration properly incurred.

HARRISON 43366413

4. All sums payable in respect of principal and interest under this Certificate are payable at the office of KPMG Inc., Toronto, Ontario.

5. In case default shall be made in payment of interest on this Certificate and such default shall continue, the principal and any interest thereon of this Certificate may be declared immediately due and payable by the holder hereof. This Certificate shall not be enforced without of the Court, on the motion made on notice to the Receiver.

6. All liability in respect of the whole or any part of the principal sum for which this Certificate is issued and for further interest thereon shall at any time or from time to time be terminated on tender to the holder hereof of the whole or such part of such principal sum with interest accrued thereon as aforesaid to the date of such tender.

7. The Receiver does not undertake and is not under any personal liability to pay any such in respect of which it may issue Certificates under the terms of the Order.

Dated at Toronto this _____ day of _____, 199

KPMG INC.,
RECEIVER AND MANAGER OF FBI
BRANDS LTD.

By: _____
Name: ●
Title: ●

By: _____
Name: ●
Title: ●

HARRISON JONES

SCHEDULE "B"

SERVICE LIST

International Paper
International Place I
6400 Poplar Avenue
Memphis, TN
U.S.A. 38197

Attention: J. Scott Murchison, General Manager, North American Liquid
Packaging Division

W. R. Grace & Co. of Canada Ltd.
Cryovac Division
2365 Dixie Road
Mississauga, Ontario L4Y 2A2

United Food and Commercial Workers International Union, Local 175
20 Hamilton Avenue North
Ottawa, Ontario K1Y 1B6
Attention: John Fuller, Director

The Municipal Savings & Loan Corporation
Post Office Box 7037
Adelaide Post Office
Toronto, Ontario M5C 2K7

Corporation Financiere Teletech
Suite 1400
1600 Blvd. René Lévesque West
Montreal, Quebec H3H 1P9

Xerox Canada Ltd.
121 Bloor Street East
6th Floor
Toronto, Ontario M2W 3N7

Pitney Bowes Leasing,
a Division of Pitney Bowes of Canada Ltd.
Suite 200
The Promontory I
2595 North Sheridan Way
Mississauga, Ontario L5K 2N7

HARRISON ASSOCIATES

SERVICE LIST

FBI Foods Inc.
6700 Côte de Liesse
Suite 301
St. Laurent, Quebec
H4T 2E5

HARRISON 4336-11

CANADIAN IMPERIAL BANK OF
COMMERCE
Plaintiff

and
Defendant

Court File No: 98 CI 311

ONTARIO COURT
(GENERAL DIVISION)

Proceeding commenced at Toronto

ORDER

STIKEMAN, ELLIOTT
Barristers & Solicitors
Commerce Court West
53rd Floor, P.O. Box 85
Toronto, Canada M5L 1B9

Sean E. Dunphy
Tel: 869-5662
Fax: (416) 947-0866

Douglas F. Harrison
Tel: 869-5693
Fax: (416) 947-0866

Solicitors for the Plaintiff