

No. COA 14-185

TWENTY-TWO A DISTRICT

NORTH CAROLINA COURT OF APPEALS

BEVERAGE SYSTEMS OF THE)
CAROLINAS, LLC,)

Plaintiff-Appellant,)

vs.)

FROM IREDELL COUNTY
No. 12 CVS 1519

ASSOCIATED BEVERAGE)
REPAIR, LLC, LUDINE)
DOTOLI, AND CHERYL)
DOTOLI,)

Defendants-Appellees)

CLERK COURT OF APPEALS
OF NORTH CAROLINA

2014 FEB 12 A 10:26

FILED

RECORD ON APPEAL

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STATEMENT OF ORGANIZATION OF TRIAL COURT

Plaintiff appeals from the 3 October 2013, Order granting Defendants' Motion for Summary Judgment, which was rendered during the 30 September 2013, Civil Session of Superior Court of Iredell County, the Honorable A. Robinson Hassell, Judge presiding. Plaintiff filed and served written notice of appeal on 28 October 2013.

The record on appeal was filed with the Clerk of the North Carolina Court of Appeals on 11 FEBRUARY 2014 and was docketed on _____ 2014.

STATEMENT OF JURISDICTION

This action was commenced by the filing of a complaint and issuance of summonses on 14 June 2012. The parties acknowledge that the trial court had personal and subject-matter jurisdiction.

Record on Appeal filed 2-12-14;
Docketed 2-12-14.

STATE OF NORTH CAROLINA

CV 01519

IREDELL County

In The General Court of Justice

☐ District ☒ Superior Court Division

Name of Plaintiff
BEVERAGE SYSTEMS OF THE CAROLINAS, LLC
Address
P.O. BOX 3010
City, State, Zip
MOORESVILLE, NC 28117

CIVIL SUMMONS

☐ Alias and Pluries Summons

G.S. 1A-1, Rules 3, 4

VERSUS
Name of Defendant(s)
**ASSOCIATED BEVERAGE REPAIR, LLC, LUDINE DOTOLI,
and CHERYL DOTOLI**

Date Original Summons Issued

Date(s) Subsequent Summon(es) Issued

To Each of The Defendant(s) Named Below:

Name And Address of Defendant 1
**LUDINE DOTOLI
18928 VICTORIA BAY DRIVE
CORNELIUS, NC 28031**

Name And Address of Defendant 2
**CHERYL DOTOLI
18928 VICTORIA BAY DRIVE
CORNELIUS, NC 28031**

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address of Plaintiff's Attorney (If None, Address of Plaintiff)
**KEVIN C. DONALDSON
JONES, CHILDERS, McLURKIN & DONALDSON, PLLC
P.O. BOX 3010
MOORESVILLE, NC 28117**

Date Issued 6-14-12 Time 4:17 ☐ AM ☒ PM
Signature [Signature]
☒ Deputy CSC ☐ Assistant CSC ☐ Clerk of Superior Court

☐ **ENDORSEMENT**

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date of Endorsement _____ Time _____ ☐ AM ☐ PM
Signature _____
☐ Deputy CSC ☐ Assistant CSC ☐ Clerk of Superior Court

NOTE TO PARTIES: Many Counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

RETURN OF SERVICE			
I certify that this Summons and a copy of the complaint were received and served as follows:			
DEFENDANT 1			
Date Served	Time Served	<input type="checkbox"/> AM <input type="checkbox"/> PM	Name of Defendant
<input type="checkbox"/> By delivering to the defendant named above a copy of the summons and complaint.			
<input type="checkbox"/> By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.			
<input type="checkbox"/> As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.			
Name And Address of Person With Whom Copies Left (if corporation, give title of person copies left with)			
<input type="checkbox"/> Other manner of service (specify)			
<input type="checkbox"/> Defendant WAS NOT served for the following reason:			
DEFENDANT 2			
Date Served	Time Served	<input type="checkbox"/> AM <input type="checkbox"/> PM	Name of Defendant
<input type="checkbox"/> By delivering to the defendant named above a copy of the summons and complaint.			
<input type="checkbox"/> By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.			
<input type="checkbox"/> As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to person named below.			
Name And Address of Person With Whom Copies Left (if corporation, give title of person copies left with)			
<input type="checkbox"/> Other manner of service (specify)			
<input type="checkbox"/> Defendant WAS NOT served for the following reason.			
Service Fee Paid \$		Signature of Deputy Sheriff Making Return	
Date Received		Name of Sheriff (Type or Print)	
Date of Return		County of Sheriff	

STATE OF NORTH CAROLINA		File No. AOC-CV 01519
IREDELL County		In The General Court of Justice <input type="checkbox"/> District <input checked="" type="checkbox"/> Superior Court Division
Name of Plaintiff BEVERAGE SYSTEMS OF THE CAROLINAS, LLC Address P.O. BOX 3010 City, State, Zip MOORESVILLE, NC 28117		CIVIL SUMMONS <input type="checkbox"/> Alias and Pluries Summons
VERSUS		G.S. 1A-1, Rules 3, 4
Name of Defendant(s) ASSOCIATED BEVERAGE REPAIR, LLC, LUDINE DOTOLI, and CHERYL DOTOLI		Date Original Summons Issued Date(s) Subsequent Summon(es) Issued
To Each of The Defendant(s) Named Below:		
Name And Address of Defendant 1 ASSOCIATED BEVERAGE REPAIR, LLC C/O CHERYL DOTOLI, ITS REGISTERED AGENT 18928 VICTORIA BAY DRIVE CORNELIUS, NC 28031		Name And Address of Defendant 2
A Civil Action Has Been Commenced Against You! You are notified to appear and answer the complaint of the plaintiff as follows: 1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and 2. File the original of the written answer with the Clerk of Superior Court of the county named above. If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.		
Name And Address of Plaintiff's Attorney (If None, Address of Plaintiff) KEVIN C. DONALDSON JONES, CHILDERS, McLURKIN & DONALDSON, PLLC P.O. BOX 3010 MOORESVILLE, NC 28117		Date Issued: 6-14-12 Time: 4:17 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM Signature: <i>[Signature]</i> <input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk of Superior Court
<input type="checkbox"/> ENDORSEMENT This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.		Date of Endorsement: _____ Time: _____ <input type="checkbox"/> AM <input type="checkbox"/> PM Signature: _____ <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk of Superior Court
NOTE TO PARTIES: Many Counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.		

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<input type="checkbox"/> Other manner of service (specify)			
<input type="checkbox"/> Defendant WAS NOT served for the following reason:			
DEFENDANT 2			
Date Served	Time Served	<input type="checkbox"/> AM <input type="checkbox"/> PM	Name of Defendant
<input type="checkbox"/> By delivering to the defendant named above a copy of the summons and complaint.			
<input type="checkbox"/> By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.			
<input type="checkbox"/> As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to person named below.			
Name And Address of Person With Whom Copies Left (if corporation, give title of person copies left with)			
<input type="checkbox"/> Other manner of service (specify)			
<input type="checkbox"/> Defendant WAS NOT served for the following reason.			
Service Fee Paid		Signature of Deputy Sheriff Making Return	
\$			
Date Received		Name of Sheriff (Type or Print)	
Date of Return		County of Sheriff	

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO: **12CV501519**

**BEVERAGE SYSTEMS OF THE
CAROLINAS, LLC,**

Plaintiff,

vs.

**ASSOCIATED BEVERAGE REPAIR,
LLC, LUDINE DOTOLI, and CHERYL
DOTOLI,**

Defendants.

COMPLAINT

FILED
12 JUN 14 PM 4:17
IREDELL COUNTY, C.S.C.

Plaintiff Beverage Systems of the Carolinas, LLC, through counsel and pursuant to Rule 7(a) of the North Carolina Rules of Civil Procedure, complains of Defendants as follows:

PARTIES

1. Plaintiff Beverage Systems of the Carolinas, LLC ("Beverage Systems") is a North Carolina limited liability company with its principal place of business in Iredell County, North Carolina.

2. Upon information and belief, Defendant Associated Beverage Repair, LLC ("Associated Beverage") is a North Carolina limited liability company with its principal place of business in Mecklenburg County, North Carolina.

3. Upon information and belief, Defendants Ludine ("Ludine") and Cheryl ("Cheryl") Dotoli are, upon information and belief, citizens and residents of Mecklenburg County, North Carolina.

BACKGROUND

4. Associated Beverage is a company which supplies, installs, and services beverage products and beverage dispensing equipment in North Carolina and South Carolina.

5. Upon information and belief, Associated Beverage is owned by Cheryl Dotoli and has been so owned from April 7, 2011 through the present.

6. Ludine Dotoli is a manager of Associated Beverage.

7. Cheryl Dotoli is a member and manager of Associated Beverage.
8. In late 2008, Mark Gandino ("Gandino"), a resident and citizen of Somerset County, New Jersey, began negotiations with Thomas and Kathleen Dotoli the parents of Ludine Dotoli about the potential purchase of the business and assets of Imperial Unlimited Services, Inc. ("Imperial") and Elegant Beverage Products, LLC ("Elegant Beverage").
9. In late 2008 and throughout 2009, Gandino made several trips to Iredell County for the purpose of negotiating an asset purchase agreement for the assets and Real Property (hereinafter defined) of Imperial and Elegant Beverage (hereinafter collectively the "Business").
10. While in Iredell County for the purpose stated above, Gandino was shown the facilities, assets, and financial records of Imperial and Elegant Beverage.
11. On one trip to Iredell County in early 2009, Thomas Dotoli, father of Ludine Dotoli, gave Gandino a tour of the warehouse building and property located at 132 Conifer Drive, Statesville, North Carolina ("Real Property").
12. On or about May 27, 2009, Gandino created and organized Beverage Systems of the Carolinas, LLC under the laws of the State of North Carolina.
13. Beverage Systems is a company which supplies, installs, and services beverage products and beverage dispensing equipment in North Carolina.
14. Gandino is managing member of Beverage Systems.
15. On or about July 20, 2009, Beverage Systems entered into an Asset Purchase Agreement ("Agreement") with Elegant Beverage, Imperial, and Thomas, Kathleen and Ludine Dotoli (collectively the "Dotolis").
16. The Agreement provided for the sale by Elegant Beverage and Imperial and the purchase by Beverage Systems of the Business, including but not limited to all assets of the businesses, trade names, customer lists, accounts receivable, current customers and customer contracts and all equipment.
17. The Agreement also provided for the sale by Thomas Dotoli and Kathleen Dotoli and the purchase by Beverage Systems of the Real Property.
18. The Agreement was signed by Gandino as an authorized Member of Beverage Systems.
19. The total purchase price of the Agreement was \$650,000.00.
20. The closing, sale, and purchase of the Asset Purchase Agreement and

Real Property took place on September 30, 2009.

21. The Dotolis as officers and shareholders of Imperial and as authorized members of Elegant Beverage signed and caused to be delivered to the closing:

a) a bill of sale and assignment for all of the assets of Elegant Beverage and Imperial;

b) a general warranty deed from Thomas and Kathleen Dotoli to Beverage Systems transferring title to the Real Property where Elegant Beverage and Imperial are located, this deed being subsequently recorded at the Iredell County, North Carolina Register of Deeds.

22. As part of the Agreement, all of the Dotolis, including Ludine Dotoli agreed to execute a Non-Competition Agreement with Beverage Systems (Paragraph 4.01(m) (page 11) of the Agreement) in which the Dotolis agreed they would not compete with the business of the Plaintiff.

23. The Dotolis did in fact execute such a Non-Competition, Non-Solicitation and Confidentiality Agreement (hereinafter "Non-Competition Agreement") at the closing on September 30, 2009. A copy of said Non-Competition Agreement is attached hereto and incorporated herein as Exhibit A.

24. The Dotolis and Imperial and Elegant Beverage were collectively paid the sum of \$10,000.00 by Beverage Systems as consideration for their execution of the Non-Competition Agreement.

25. The Dotolis, including Ludine Dotoli agreed not to compete with Beverage Systems, as defined in the Non-Competition Agreement, within the states of North and South Carolina for a period extending until October 14, 2014.

26. On or about March 11, 2011, Beverage Systems received information that Thomas Dotoli had been in contact with Bunn-O-Matic, a company which had business with Beverage Systems.

27. Beverage Systems learned that equipment which was to be shipped to Beverage Systems was in fact shipped to Thomas Dotoli under a new business of Associated Beverage Repair for Ludine Dotoli as Associated Beverage was storing equipment at the residence of Thomas and Kathleen Dotoli.

28. This was the first time that Beverage Systems became aware of any competing business being engaged in by any of the Dotolis.

29. On or about March 15, 2011, Beverage Systems received a call from a Baker Heard of Silver Service Refreshment who believed that he was calling Ludine Dotoli.

30. During the call, Beverage Systems learned that Mr. Heard was calling Ludine Dotoli to follow up on a conversation he had with Thomas Dotoli the week before regarding a service call he wanted Ludine Dotoli to perform on a PF Chang's restaurant in Asheville, North Carolina.

31. On or about March 17, 2011 Bunn-O-Matic informed Beverage Systems that certain equipment belonging to Tetley was to be installed in the Asheville, North Carolina area and that Associated Beverage Repair was going to do the installation.

32. Bunn-O-Matic requested that Beverage Systems turn over the equipment to Associated Beverage Repair.

33. Further, Beverage Systems was instructed to turn over all other Tetley equipment in its possession to Associated Beverage Repair.

34. On or about March 18, 2011, Beverage Systems contacted Bunn-O-Matic and requested the address and phone number for Associated Beverage Repair.

35. Bunn-O-Matic responded with the address of 372 Brawley School Road, Mooresville, NC (the address of Thomas and Kathleen Dotoli) and a number of 866-790-0490 which is a phone number utilized by the Defendants in their competing business.

36. On or about March 21, 2011, Beverage Systems received a call from Bunn-O-Matic, a company in which Beverage Systems did business with.

37. During that conversation, Tim Mahoney of Bunn-O-Matic, stated that both Thomas and Ludine Dotoli had called him and told him that Beverage Systems and Imperial Beverage were both no longer in business in the Carolinas and that they wanted the contract with Bunn-O-Matic placed under their new company name of Associated Beverage Repair.

38. The Thomas and Ludine Dotoli also told Mr. Mahoney that they had "taken back the building and employees" which caused Mr. Mahoney to believe that Beverage Systems could not perform service for his company any longer.

39. As a result of this conversation, the Bunn-O-Matic business was moved to Associated Beverage from Beverage Systems.

40. On or about March 18, 2011, counsel for Beverage Systems sent correspondence to counsel for the Dotolis and advised him of the breaches of the Non-Competition Agreement by the Dotolis and requesting that the Dotolis cease and desist from such actions.

41. The Dotolis did not cease and desist and have continued to violate the

Non-Competition Agreement causing damages to Beverage Systems.

42. Beverage Systems is engaged in a separate civil action against Imperial, Elegant Beverage, Thomas Dotoli, Kathleen Dotoli and Ludine Dotoli, having file number 10 CVS 3676, in Iredell County Superior Court in which it has alleged breach of contract and other causes of action (the "Initial Lawsuit").

43. As part of the Initial Lawsuit, the Plaintiff has taken the deposition of Ludine and Cheryl Dotoli.

44. Cheryl Dotoli has admitted to forming Associated Beverage and has admitted that Ludine Dotoli works for Associated Beverage.

45. Ludine Dotoli has admitted that he works for Associated Beverage.

46. Ludine Dotoli has admitted that he is violating the non-competition agreement that he executed.

47. Ludine Dotoli has admitted that he has purposely called on customers of Beverage Systems to try and take the business from Beverage Systems and move the same to Associated Beverage.

48. Ludine Dotoli has admitted that these same customers were part of the customer lists and contracts that Beverage System purchased from him, his parents and Imperial and Elegant.

49. Ludine Dotoli and Associated Beverage have taken a number of customers from Beverage Systems causing damage to the business of Beverage Systems.

50. The actions of Ludine and Cheryl Dotoli and Associated Beverage have been intentional and have been for the purpose of interfering with the contracts and agreements of Beverage Systems.

51. The actions of Ludine and Cheryl Dotoli and Associated Beverage have been with the intention to harm the business of Beverage Systems and have damaged the business of Beverage Systems.

FIRST CAUSE OF ACTION

(Breach of Non-Competition Agreement as to Ludine Dotoli)

52. Plaintiff realleges and incorporates by reference the allegations of the preceding paragraphs.

53. Ludine Dotoli admittedly entered into a non-competition agreement with Plaintiff.

- 54. Ludine Dotoli was paid consideration for the same.
- 55. Ludine Dotoli has admitted that he is violating the said non-competition agreement.
- 56. Beverage Systems has suffered damages in excess of \$10,000.00 as a result of said breach.

SECOND CAUSE OF ACTION

(Preliminary and Permanent Injunctive Relief and Damages as to Ludine Dotoli)

- 57. Plaintiff realleges and incorporates by reference the allegations of the preceding paragraphs.
- 58. Ludine Dotoli's misconduct in breaching the Non-Competition Agreement as set forth above is continuing.

59. If unrestrained, Beverage Systems will suffer irreparable harm for which there is no adequate legal remedy as a result of HIS breach of the Non-Competition Agreement.

60. Such harm is irreparable because it is impossible to: (a) determine the impact that will occur from Ludine Dotoli's conduct and competition with Beverage Systems; or (b) measure the full extent of monetary damages that Beverage Systems will continue to suffer.

61. Pursuant to the Non-Competition Agreement (Paragraph 7), Ludine Dotoli acknowledged that in the event of a breach or threatened breach of the Non-Competition Agreement, Beverage Systems may apply to any court of competent jurisdiction for injunctive relief, without a showing of actual damages or posting a security bond.

62. Upon information and belief, unless restrained, Ludine Dotoli will continue to compete with Beverage Systems in violation of the Non-Competition Agreement.

THIRD CAUSE OF ACTION

(Tortious Interference with Contract)

63. Plaintiff realleges and incorporates by reference the allegations of the preceding paragraphs.

64. Ludine Dotoli was aware of the contracts and customers transferred to Beverage Systems at the time of purchase of the Business.

65. Subsequent to said purchase, Ludine and Cheryl Dotoli formed

Associated Beverage to compete with Beverage Systems.

66. Admittedly, the Defendants have sought after the customers of Beverage System which were previously transferred to Beverage Systems.

67. The Defendants have purposely and intentionally interfered with the contracts and agreements of Beverage Systems with the intent to steal the customers away from Beverage Systems.

68. The Defendants have been successful in purposely, willfully, wantonly and intentionally taking business away from Beverage Systems with the intent to obtain the business for themselves and to harm Beverage Systems' business.

69. The Defendants have harmed the business of Beverage Systems and as such it has suffered damages in excess of \$10,000.00.

FOURTH CAUSE OF ACTION
(Punitive Damages)

70. Plaintiff realleges and incorporates by reference the allegations of the preceding paragraphs.

71. The actions of the Defendants were made with malice, or were willful and wanton, thus entitling Beverage Systems to punitive damages in excess of Ten Thousand Dollars (\$10,000.00), plus interest thereon at the legal rate until paid in full, as permitted by Chapter 1D of the North Carolina General Statutes.

FIFTH CAUSE OF ACTION
(Unfair and Deceptive Trade Practices Pursuant to N.C.G.S. §75-1.1)

72. Plaintiff realleges and incorporates by reference the allegations of the preceding paragraphs.

73. The conduct of all Defendants in tortuously interfering with the business of Beverage Systems, amounts to conduct proscribed in N.C.G.S. §75-1.1, et seq., to §75-16.2 as unfair and deceptive trade practices under North Carolina law subjecting all Defendants to damages described in N.C.G.S. §75-16, etc. and attorney fees in N.C.G.S. §75-16.1(1).

74. By tortuously interfering with the business of Beverage Systems the Defendants engaged in a practice that was an unfair and deceptive trade practice pursuant to N.C.G.S. §75-1.1, et seq, to §75-16.2 that offended public policy, was immoral, unethical, oppressive, unscrupulous, and substantially injurious to Beverage Systems.

75. All Defendants were engaged in and affected trade or commerce within

the meaning of N.C.G.S. §75-1.1 when they damaged Beverage Systems.

76. All Defendants, upon information and belief, willfully violated N.C.G.S. §75-1.1, et seq, to §75-16.2.

77. The conduct of all Defendants qualify as unfair and deceptive trade practices under N.C.G.S. §75-1.1, et seq, to §75-16.2 and the damages of Beverage Systems should be trebled pursuant to that statute and all Defendants are liable for all court costs and reasonable attorney fees pursuant to that statute.

PRAYER FOR RELIEF

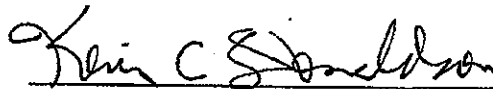
WHEREFORE, the Plaintiff, prays the Court that:

1. The Court find that the Defendant Ludine Dotoli has breached his contract with Plaintiff.
2. The Court enter Judgment against Defendant Ludine Dotoli on Plaintiff's claim for Breach of Contract in an amount exceeding Ten Thousand Dollars (\$10,000.00), together with interest thereon at the legal rate from the date of breach until paid in full.
3. That pursuant to Rule 65 of the North Carolina Rules of Civil Procedure, the Court enter a preliminary and permanent injunction prohibiting Ludine Dotoli from competing with the Plaintiff for a period of five years as prescribed by the Non-Competition Agreement.
4. The Court enter Judgment against the Defendants, jointly and severally, on the Plaintiff's Claim for Tortious Interference of Contract in an amount exceeding Ten Thousand Dollars (\$10,000.00), together with interest thereon at the legal rate from the date of breach until paid in full.
5. The Court enter an award of punitive damages against the Defendants, jointly and severally, in an amount exceeding Ten Thousand Dollars (\$10,000.00), together with interest thereon at the legal rate from the date of breach until paid in full.
6. The Court enter Judgment against the Defendants, jointly and severally, for treble damages on the Plaintiff's Claim for Unfair or Deceptive Trade Practices in an amount exceeding Ten Thousand Dollars (\$10,000.00), together with interest thereon at the legal rate from the date of breach until paid in full.
7. The Court award Plaintiff its reasonable attorneys' fees on its Unfair or Deceptive Trade Practices Claim.
8. The Court award Plaintiff its costs in this matter.

9. This matter be tried before a jury on all issues so triable.
10. The Court grant Plaintiff such other and further relief as to the Court appears just and proper.

This the 14th day of June, 2012.

JONES, CHILDERS, MCLURKIN, & DONALDSON PLLC
Attorneys for the Plaintiff



Kevin C. Donaldson
N.C. State Bar No. 26663
P.O. Box 3010
Mooresville, NC 28117
(704) 664-1127

NON-COMPETITION, NON-SOLICITATION AND CONFIDENTIALITY
AGREEMENT

Sept. 30, 2009

Elegant Beverage Products LLC

Imperial Unlimited Service Inc.

Thomas Dotoli

Kathleen E. Dotoli

Ludine Thomas Dotoli

Dear Sirs and Madams:

Reference is hereby made to that certain Asset Purchase Agreement, dated as of September 30, 2009 (the "Asset Agreement"), by and between Elegant Beverage Products LLC, a North Carolina limited liability company having an address of 132 Conifer Drive, Statesville, NC 28525; Imperial Unlimited Service Inc., a corporation formed under the laws of the State of North Carolina, having an address of 132 Conifer Drive, Statesville, NC 28525 (hereinafter collectively referred to as "Seller"); Kathleen E. Dotoli and Ludine Thomas Dotoli, individuals having an address of 372 Brawley School Rd., Mooresville NC 28117 (hereinafter Ludine Thomas Dotoli and Kathleen E. Dotoli are collectively referred to as "Shareholder") and Beverage Systems of The Carolinas, LLC a North Carolina limited liability company, having an address of 120 Panmarc Dr. Ste 118, Raleigh NC 27603 (hereinafter referred to as "Buyer" or "Purchaser"). Capitalized terms used herein which are not otherwise defined shall have the meanings given to such terms in the Asset Agreement.

The parties hereto hereby acknowledge, agree and covenant as follows:

1. Subject to the provisions of Section 6 hereof, Seller and Shareholder shall not, from the effective date of the Asset Agreement in the states of North Carolina or South Carolina until the earlier of (i) October 1, 2014 (the "Non-Competition Period"), or (ii) such other period of time as may be the maximum permissible period of enforceability of this covenant (the "Termination Date"), without the prior written consent of Purchaser, directly or indirectly, for himself or on behalf of or in conjunction with any person, partnership, corporation or other entity, compete, own, operate, control, or participate or engage in the ownership, management, operation or control of, or be connected with as an officer, employee, partner, director, shareholder, representative, consultant, independent contractor, guarantor, advisor or in any other manner or otherwise, directly or indirectly, have a financial interest in, a proprietorship, partnership, joint venture, association, firm, corporation or other business organization or



_____, 2009
Page 2

enterprise that is engaged in the business of the Purchaser or any of its respective affiliates or subsidiaries on behalf of clients (the "Business"). Notwithstanding the foregoing, however, nothing in this Agreement shall prohibit _____ during the Non-Competition Period from: (x) providing employment services to Purchaser pursuant to the Employment Agreement (as defined in the Asset Agreement) (the "Employment Agreement"); or (y) complying with the covenants and agreements of _____ set forth in the Asset Agreement.

2. Nothing contained in Section 1 shall be deemed to prevent the Shareholder from beneficially owning, directly or indirectly, one percent (1%) or less of any class of securities of an entity that has a class of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended.

3. Subject to the provisions of Section 6 hereof:

(a) Seller and Shareholder shall not at any time following the execution of the Asset Agreement by all of the parties thereto, print, publish, divulge or communicate to any person, firm, corporation or other business organization or use for its own account any trade or business secret, process, method or means, or any other Confidential Information (as defined below) concerning Seller, Purchaser, and/or any of their respective affiliates or subsidiaries.

(b) For purposes of this Agreement, "Confidential Information" shall mean and include information treated as confidential or as a trade secret by Seller, Purchaser or any of their respective affiliates or subsidiaries, including, but not limited to, information regarding contemplated products, models, compilations, business and financial methods or practices, marketing, merchandising and selling techniques, customers, vendors, suppliers, trade secrets, training programs, manuals or materials, technical information, contracts, systems, procedures, mailing lists, know-how, trade names, improvements, pricing, price lists, financial or other data (including the revenues, costs, products, services or profits associated with SELLER, Purchaser, or any of their respective affiliates or subsidiaries), business plans, strategy, code books, invoices and other financial statements, computer programs, software systems, databases, discs and printouts, other plans (technical or otherwise), customer and industry lists, supplier lists, correspondence, internal reports, personnel files, sales and advertising material, telephone numbers, names, addresses or any other compilation of information, written or unwritten, which is or was used in the Business (whether or not developed, devised, or otherwise created in whole or in part by the efforts of a Seller).

(c) The term "Confidential Information" does not include information which is or becomes generally available to the public other than as a result of disclosure by Seller. Seller agrees not to remove from the premises of SELLER or any of its Affiliates or Subsidiaries, except as specifically permitted in writing by an agreement with Purchaser, any document or other object containing or reflecting any such information. Seller agrees and acknowledges that all of such Confidential Information, in any form, and copies and extracts thereof, are and shall remain the sole and exclusive property of Purchaser, and except as may be permitted in writing by an agreement with Purchaser, Seller shall return to Purchaser the originals and all copies of any such Confidential Information provided to or acquired by Seller in connection with the performance of his duties for, or shareholding interest in, SELLER, and shall return to Purchaser all files, correspondence and/or other communications received, maintained and/or originated by

Seller during the course of his employment or shareholding interest in SELLER, and no copy of any such materials shall be retained by him or it. Seller further covenants and agrees that it shall retain the Confidential Information received or obtained in trust for the sole benefit of Purchaser or its respective successors and assigns.

(d) The term "Confidential Information" as defined in Section 3(b) hereof shall include information obtained by SELLER, Purchaser, or any of their Affiliates or Subsidiaries from any third party.

(e) In the event that Seller is requested pursuant to subpoena or other legal process to disclose any of the Confidential Information, Seller will provide Purchaser with prompt notice so that Purchaser may seek a protective order or other appropriate remedy and/or waive compliance with Section 3 of this Agreement. In the event that such protective order or other remedy is not obtained, or that Purchaser waives compliance with the provisions of Section 3 of this Agreement, Seller will furnish only that portion of the Confidential Information which it is legally required to furnish.

4. (a) Subject to the provisions of Section 6 hereof, Seller and Shareholder agree that during the Non-Competition Period Seller shall not: (i) in any manner, directly or indirectly, induce or attempt to induce any employee of the Purchaser or any of their affiliates or subsidiaries (collectively, the "Protected Entities" or the "Other Protected Entities," as the case may be), or of SELLER to terminate or abandon his or her employment with SELLER, Purchaser or with any of the Other Protected Entities, for any purpose whatsoever; or (ii) call on, service, solicit or otherwise do any business which is competitive with the Business as defined in this Agreement with any customer, partner, alliance or prospect of SELLER or any of the Protected Entities, or a potential customer of any of the Protected Entities. The activities described in this Section 4(a) are collectively referred to as the "Prohibited Non-Solicitation."

(b) Subject to the provisions of Section 6 hereof, Seller and Shareholder agree that during the Non-Competition Period, neither the Seller or Shareholder shall not provide competitive services to the Business other than: (i) to Purchaser pursuant to the Employment Agreement; or (ii) to SELLER prior to the closing under the Asset Agreement.

(c) Subject to the provisions of Section 6 hereof, during the Non-Competition Period Seller or Shareholder shall not, at any time, directly or indirectly, participate as a partner, shareholder (except by ownership of less than one percent (1%) of the outstanding voting stock of a publicly held corporation), director, trustee, associate, principal, agent, employee, consultant, independent contractor, or otherwise of any person, firm, corporation or other entity which is engaged in any Prohibited Non-Solicitation.

(d) If Seller shall be in violation of any provision of Section 1, 3 or 4 hereof, then each time limitation set forth in Section 1, 3 or 4 hereof shall be extended for a period of time equal to the period of time during which such violation or violations occur.

5. It is understood by and between the parties hereto that the foregoing covenants by Seller and Shareholder are essential elements of this Agreement and that but for the agreements of Seller and Shareholder to comply with such covenants, the Purchaser would not

have entered into the Asset Agreement. Seller and Shareholder have independently consulted with counsel and have been advised concerning the reasonableness and propriety of such covenants with specific regard to the Business. Seller and Shareholder further acknowledge and confirm that (a) the restrictive covenants contained in Sections 1, 3 and 4 hereof are reasonable and necessary to protect the legitimate business interests of Purchaser, the Other Protected Entities and their respective successors and assigns, and (b) the restrictions contained in Sections 1, 3 and 4 hereof (including without limitation the length of the term of the provisions of Sections 1, 3 and 4 hereof) are not overbroad, overlong, or unfair and are not the result of overreaching, duress or coercion of any kind. Seller further acknowledges and confirms that his full, uninhibited and faithful observance of each of the covenants contained in Sections 1, 3 and 4 hereof will not cause Seller or Shareholder any undue hardship, financial or otherwise, and that enforcement of each of the covenants contained herein will not impair Seller's ability to obtain employment commensurate with Seller's or Shareholder's abilities and on terms fully acceptable to Seller or Shareholder, or otherwise to obtain income required for the comfortable support of Seller, Shareholder and Shareholder's family and the satisfaction of the needs of Seller's and Shareholder's creditors. Seller and Shareholder further acknowledges that Seller and Shareholder are agreeing to the covenants set forth in Sections 1, 3 and 4 hereof: (i) in consideration of the substantial economic benefits derived by Seller and Shareholder under the terms of the Asset Agreement; and (ii) to induce the Purchaser to enter into the Asset Agreement. Seller and Shareholder further acknowledge that the restrictions contained in Sections 1, 3 and 4 hereof are intended to be, and shall be, for the benefit of and shall be enforceable by, Purchaser, the Other Protected Entities and their respective successors and assigns, including, without limitation, any successor to any of them, whether by Asset, consolidation, sale of stock, sale of assets or otherwise.

6. If, at the time of enforcement of any provisions of Sections 1, 3 or 4 hereof, a court holds that the restrictions stated herein are unreasonable under circumstances then existing, the parties hereto agree that the maximum period, scope or geographical area that are reasonable under such circumstances shall be substituted for the stated period, scope or area, and that the court shall be allowed to revise the restrictions contained in Sections 1, 3 and 4 hereof to cover the maximum period, scope and area permitted by law.

7. Without intending to limit the remedies available to Purchaser, the Other Protected Entities and their respective successors and assigns, Seller and Shareholder further agree that damages at law will be an insufficient remedy to Purchaser or Other Protected Entities if Seller or Shareholder breach the terms of this Agreement and that Purchaser or any one or more of the Protected Entities may apply for and have injunctive relief in any court of competent jurisdiction to restrain the breach or threatened breach of or otherwise to specifically enforce any of the covenants contained herein. Seller and Shareholder acknowledge that, in addition to all other remedies they may have, Purchaser, the Other Protected Entities and their respective successors and assigns will be entitled to temporary and permanent injunction relief to enforce the provisions of this Agreement, and that such relief may be granted without prior actual notice and without the necessity, or proving, of actual damages sustained by the Purchaser, the Other Protected Entities or their successors and assigns, and without posting a bond or other security.

8. This Agreement shall become effective upon the execution of the Asset Agreement by each of the parties thereto.

9. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of any other provision of this Agreement, or the validity, legality or enforceability of such provision in any other jurisdiction, but this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein. Furthermore, in lieu of each such illegal, invalid or unenforceable provision there shall be added automatically, in such jurisdiction, as part of this Agreement, provisions as similar in terms to such illegal, invalid or unenforceable provisions as may be possible and be legal, valid and enforceable.

10. This Agreement shall be governed by and construed (both as to validity and performance) in accordance with the laws of the State of North Carolina without giving effect to the principles thereof relating to conflict of law.

11. Seller and Shareholder agree to indemnify and hold harmless the Purchaser, the Other Protected Entities and their respective successors and assigns from and against any action, claim, or proceeding and any costs, expenses, or other liabilities arising therefrom (including, without limitation, reasonable attorneys' fees and expenses), as and when incurred, as a result of the breach of any provision of this Agreement by Seller or Shareholder.

12. The obligations set forth in this Agreement shall be continuing and shall survive the termination of any other agreement between any of the parties hereto. Except where stated otherwise, or with the prior written consent of the Purchaser, the agreements, covenants, undertakings, and obligations set forth herein shall be regarded as continuing in full force and effect without limit in point of time.

13. This Agreement shall be enforceable by each party hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

14. [Intentionally deleted.]

15. (a) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the jurisdiction of courts sitting in ~~New Jersey, Mercer County~~ ^{North Carolina} and any appellate court hearing appeals from such courts in any action or proceeding arising out of or relating to this Agreement. Each of the parties hereto hereby irrevocably and unconditionally agrees to commence all claims in respect of any such action or proceeding in the United States District Court for the District of New Jersey or, if, for jurisdictional purposes, such suit, action or other proceeding may not be brought in such court, in the Superior Court of the State of New Jersey. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(b) Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of, or relating

_____, 2009
Page 6

to, this Agreement, in any court specified in Section 15(a) hereof. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each party to this Agreement further irrevocably agrees that service of all writs, process and summonses in any proceeding or any suit, action, proceeding to enforce or execute any judgment brought against it in the State of New Jersey may be made by certified or registered mail return receipt requested at the address given for such party in Section 16 hereof (or such other address for such party as shall be specified by notice given pursuant to Section 16 hereof). Each party hereby irrevocably waives any objection to such service of process and further irrevocably waives and agrees not to plead or claim in any action or proceeding commenced hereunder that service of process was in any way invalid or ineffective. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law, or to commence legal proceedings, or otherwise proceed against, any other party to this Agreement in any other jurisdiction.

16. All notices and other communications required or permitted hereunder shall be in writing and shall be deemed given when delivered personally or by overnight courier to the following address of the other party hereto (or such other address for such party as shall be specified by notice given pursuant to this Section).

Seller:

Elegant Beverage Products LLC
Imperial Unlimited Service Inc.
132 Conifer Drive
Statesville, NC 288625
Telecopy:
Telephone:
Email:

with copy to:

Crosswhite, Crosswhite, Ashley & Johnson, PLLC
239 East Broad Street
Statesville, NC 28677
Telecopy: 704-873-5363
Telephone: 704-873-7233
Email: rcrosswhite@crosswhitelaw.com

Shareholder:

Kathleen E. Dotoli
Ludine Thomas Dotoli
372 Brawley School Rd.
Mooresville NC 28117
Telecopy:
Telephone: 704-361-7215
Email: tomidot@aol.com

with copy to:

Crosswhite, Crosswhite, Ashley & Johnson, PLLC

239 East Broad Street
Statesville, NC 28677
Telecopy: 704-873-5363
Telephone: 704-873-7233
Email: rcrosswhite@crosswhitelaw.com

Purchaser: Beverage Systems of The Carolinas, LLC
120 Penmarc Dr. Ste 118
Raleigh NC 27603
Telecopy:
Telephone:
Email:

with copy to: Schenkman Jennings LLC
2109 Pennington Road
West Trenton, NJ 08638
Attn: Martin J. Jennings, Jr., Esq.
Telecopy: (609) 530-1184
Telephone: (609) 883-8000
Email: jjenns@aol.com

17. (a) EACH PARTY HERETO HEREBY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, OR RELATING TO, THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(b) Each party certifies and acknowledges that (i) it understands and has considered the implications of waivers in Section 17(a) hereof, (ii) it makes such waivers voluntarily, and (iii) it has been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in Sections 15 and 17 hereof.

18. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures on this Agreement may be communicated by facsimile transmission or by email in protected disk format ("pdf") and shall be binding upon the parties so transmitting their signatures. Counterparts with original signatures shall be provided to the other parties following the applicable facsimile transmission or pdf; provided, that the failure to provide the original counterpart shall have no effect on the validity or the binding nature of this Agreement.

19. The Protected Entities that are not parties to this Agreement are third party beneficiaries of this Agreement and may enforce the terms of this Agreement to the extent Seller

_____, 2009
Page 8

violates or impinges upon any of their rights hereunder even though they are not parties to this Agreement.

20. Each party hereto shall pay its or his own expenses incident to the negotiation, preparation and execution of this Agreement. The foregoing shall not affect the legal right that any party hereto may have to recover expenses from any other party that breaches its obligations hereunder.

21. The provisions of this Agreement may be amended or waived only by the written agreement of all of the parties hereto, and no course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement. The waiver by any party hereto of a breach or violation of any term or provision of this Agreement shall not operate nor be construed as a waiver of any subsequent breach or violation.

22. The parties acknowledge and agree that (i) each party and its counsel have reviewed the terms and provisions of this Agreement and have contributed to its revision, (ii) the normal rule of construction, to the effect that any ambiguities are resolved against the drafting party, shall not be employed in the interpretation of it, and (iii) the terms and provisions of this Agreement shall be construed fairly as to all parties hereto and not in favor of or against any party, regardless of which party was generally responsible for the preparation of this Agreement.

23. The obligations of _____ pursuant to this Agreement are in addition to, and independent of, any obligations Seller may have to Purchaser under the Asset Agreement, the _____ Employment Agreement or any other agreement.

[The remainder of this page is left intentionally blank]

If the foregoing is acceptable to you, please acknowledge this letter agreement and the enclosed copies where indicated below, and kindly return a fully executed counterpart of this letter Agreement to us.

Beverage Systems of The Carolinas, LLC

By: *Malcolm Prescott*
Name
Title: Managing Member

AGREED AND ACCEPTED:

Elegant Beverage Products, LLC

Kathleen Dotoli
By: Kathleen Dotoli

Imperial Unlimited Service Inc.

Thomas Dotoli
By: Thomas Dotoli

Kathleen Dotoli
Kathleen E. Dotoli

Ludine Thomas Dotoli
Ludine Thomas Dotoli

Thomas Dotoli
Thomas Dotoli

(Signature Page to Non-Competition, Non-Solicitation and Confidentiality Agreement)

STATE OF NORTH CAROLINA

VERIFICATION

COUNTY OF IREDELL

MARK GANDINO, as Manager of **BEVERAGE SYSTEMS OF THE CAROLINAS, LLC**, first being duly sworn, alleges and says:

That he is Manager of Plaintiff in the foregoing action; that he has read the attached Complaint and knows the contents thereof; that the same is true of his own knowledge, except as to those matters and things stated therein upon information and belief, and as to those, he believes them to be true.

This 14th day of June, 2012.

BEVERAGE SYSTEMS OF THE CAROLINAS, LLC

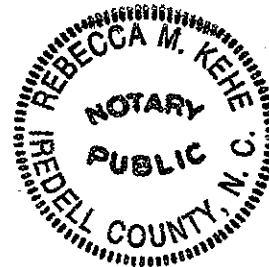
By: 
MARK GANDINO, Manager

Sworn to and subscribed before me,

This 14th day of June, 2012.

Rebecca M. Kehe
Rebecca M. Kehe, Notary Public

My Commission Expires: Sept. 23, 2014



STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE GENERAL COURT OF JUSTICE
FILED SUPERIOR COURT DIVISION
FILE NO: 12 CVS 1519

BEVERAGE SYSTEMS OF THE
CAROLINAS, LLC,

Plaintiff,

vs.

ASSOCIATED BEVERAGE REPAIR,
LLC, LUDINE DOTOLI, and CHERYL
DOTOLI,

Defendants.

2012 JUN 19 PM 1:13

IREDELL 00-0000

BY

AFFIDAVIT

KEVIN C. DONALDSON, attorney for the plaintiff, being first duly sworn, deposes and says:

1. That he is the attorney for the plaintiff in this action.
2. That the defendant, Ludine Dotoli, is subject to service of process in accordance with Rule 4(j)(2) of the North Carolina Rules of Civil Procedure.
3. That the Summons and Complaint in this action were deposited in the United States Post Office for mailing by certified mail, return receipt requested.
4. That said Summons and Complaint were, in fact, received by the defendant, Ludine Dotoli, as evidenced by the attached certified receipt indicating delivery to the defendant.
5. That the genuine receipt of delivery to the defendant, Ludine Dotoli, is attached hereto indicating that service was accomplished on June 16, 2012.

This the 18th day of June, 2012.

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC
Attorneys for the Plaintiff

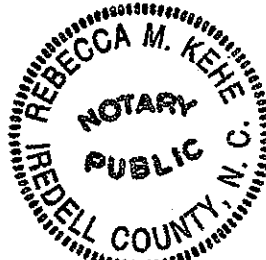
By: Kevin C. Donaldson

Kevin C. Donaldson
P. O. Box 3010
Mooresville, NC 28117
(704) 664-1127

Sworn to and subscribed before me,
this 18th day of June, 2012.

Rebecca M. Kehe

Rebecca M. Kehe, Notary Public
My commission expires: September 23, 2014



FILED
2012 JUN 19 PM 1:13
RECEIVED
BX

Kevin C. Donaldson
Jones, Childers, McLurkin & Donaldson, PLLC
P.O. Box 3010
Mooresville, NC 28117

PS Form 3800 6/02

CERTIFIED MAIL



9414 7112 0108 0995 1535 89

COMPLETE THIS SECTION ON DELIVERY

A. Signature: (☐ Addressee or ☐ Agent)

X *[Signature]*

B. Received By: (Please Print Clearly)

C. Date of Delivery

D. Addressee's Address (If Different From Address Used by Sender)

Secondary Address / Suite / Apt. / Floor (Please Print Clearly)

Delivery Address

City State ZIP + 4 Code

RETURN RECEIPT REQUESTED

Article Addressed To:



LUDINE DOTOLI
18928 VICTORIA BAY DRIVE
CORNELIUS NC 28031-5535

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YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
9414711201080935153589	First-Class Mail®	Delivered	June 16, 2012, 3:47 pm	CORNELIUS, NC 28031	Certified Mail™ Return Receipt
		Arrival at Unit	June 16, 2012, 8:53 am	CORNELIUS, NC 28031	
		Processed through USPS Sort Facility	June 16, 2012, 3:10 am	CHARLOTTE, NC 28228	
		Electronic Shipping Info Received	June 15, 2012		
		Processed at USPS Origin Sort Facility	June 15, 2012, 9:14 pm	CHARLOTTE, NC 28228	
		Accepted at USPS Origin Sort Facility	June 15, 2012, 7:59 pm	MOORESVILLE, NC 28115	

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STATE OF NORTH CAROLINA

COUNTY OF IREDELL

BEVERAGE SYSTEMS OF THE
CAROLINAS, LLC,

Plaintiff,

vs.

ASSOCIATED BEVERAGE REPAIR,
LLC, LUDINE DOTOLI, and CHERYL
DOTOLI,

Defendants.

-28-

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO: 12 CVS 1519

FILED

2012 JUN 19 PM 1:12

IREDELL CO. N.C.

BY

AFFIDAVIT

KEVIN C. DONALDSON, attorney for the plaintiff, being first duly sworn, deposes and says:

1. That he is the attorney for the plaintiff in this action.
2. That the defendant, Associated Beverage Repair, LLC, is subject to service of process in accordance with Rule 4(j)(2) of the North Carolina Rules of Civil Procedure.
3. That the Summons and Complaint in this action were deposited in the United States Post Office for mailing by certified mail, return receipt requested.
4. That said Summons and Complaint were, in fact, received by the defendant, Associated Beverage Repair, LLC c/o Cheryl Dotoli, Its Registered Agent, as evidenced by the attached certified receipt indicating delivery to the defendant.
5. That the genuine receipt of delivery to the defendant, Associated Beverage Repair, LLC c/o Cheryl Dotoli, Its Registered Agent, is attached hereto indicating that service was accomplished on June 16, 2012.

This the 18th day of June, 2012.

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC
Attorneys for the Plaintiff

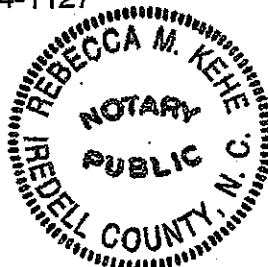
By: Kevin C. Donaldson

Kevin C. Donaldson
P. O. Box 3010
Mooresville, NC 28117
(704) 664-1127

Sworn to and subscribed before me,
this 18th day of June, 2012.

Rebecca M. Kehe

Rebecca M. Kehe, Notary Public
My commission expires: September 23, 2014

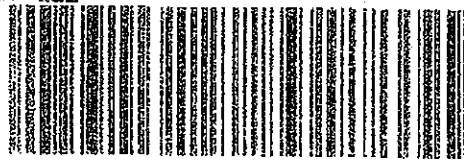


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2012 JUN 19 PM 1:12
FREDERICK
BY

Kevin C. Donaldson
Jones, Childers, McLurkin & Donaldson, PLLC
P.O. Box 3010
Morganton, NC 28117

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CERTIFIED MAIL



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COMPLETE THIS SECTION ON DELIVERY

A. Signature: ☒ Addressee or ☐ Agent

X

B. Received By: (Please Print Clearly)

C. Date of Delivery

D. Addressee's Address (If Different From Address Used by Sender)

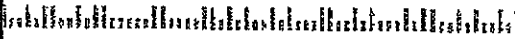
Secondary Address / Suite / Apt. / Floor (Please Print Clearly)

Delivery Address

City State ZIP + 4 Code

RETURN RECEIPT REQUESTED

Article Addressed To:



ASSOCIATED BEVERAGE REPAIR, LLC
C/O CHERYL DOTOLI, ITS REGISTERED AGENT
18928 VICTORIA BAY DRIVE
CORNELIUS NC 28031-5535

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		Arrival at Unit	June 18, 2012, 8:53 am	CORNELIUS, NC 28031	
		Electronic Shipping Info Received	June 15, 2012		
		Processed at USPS Origin Sort Facility	June 15, 2012, 9:14 pm	CHARLOTTE, NC 28228	
		Accepted at USPS Origin Sort Facility	June 15, 2012, 7:59 pm	MOORESVILLE, NC 28117	

Check on Another Item

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STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO: 12 CVS 1519

FILED

BEVERAGE SYSTEMS OF THE 2012 JUN 19 PM 1:11
CAROLINAS, LLC,

Plaintiff,

BY

vs.

AFFIDAVIT

ASSOCIATED BEVERAGE REPAIR,
LLC, LUDINE DOTOLI, and CHERYL
DOTOLI,

Defendants.

KEVIN C. DONALDSON, attorney for the plaintiff, being first duly sworn, deposes and says:

1. That he is the attorney for the plaintiff in this action.
2. That the defendant, Cheryl Dotoli, is subject to service of process in accordance with Rule 4(j)(2) of the North Carolina Rules of Civil Procedure.
3. That the Summons and Complaint in this action were deposited in the United States Post Office for mailing by certified mail, return receipt requested.
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This the 18th day of June, 2012.

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC
Attorneys for the Plaintiff

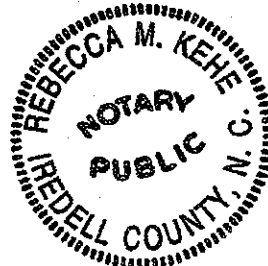
By: Kevin C. Donaldson
Kevin C. Donaldson
P. O. Box 3010
Mooresville, NC 28117
(704) 664-1127

Sworn to and subscribed before me,
this 18th day of June, 2012.

Rebecca M. Kehe

Rebecca M. Kehe, Notary Public

My commission expires: September 23, 2014



FILED
2012 JUN 19 PM 1:12
FBI
BY

Kevin C. Donaldson
Jones, Childers, McLurkin & Donaldson, PLLC
P.O. Box 3010
Mooresville, NC 28117

PS Form 3800 6/02

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[Handwritten Signature]

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Article Addressed To:



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18928 VICTORIA BAY DRIVE
CORNELIUS NC 28031-5535

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NORTH CAROLINA

IREDELL COUNTY

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IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

12 OCT -4 PM 2:34

12 Cvs 1519

Beverage Systems of the
Carolinas, LLC, IREDELL COUNTY, C.S.C.

Plaintiff

vs.

Associated Beverage Repair,
LLC, Ludine Dotoli and
Cheryl Dotoli,

Defendants

ANSWER

(Jury Trial Demanded)

Defendants, answering and otherwise responding to the
Complaint filed in this cause, says:

PARTIES

1. Admitted.
2. Admitted.
3. Admitted.

BACKGROUND

4. Associated Beverage installs and services beverage
dispensing equipment in parts of North Carolina and parts of South
Carolina; it does not supply beverage products anywhere.

5. Admitted.
6. Denied.
7. Admitted.
8. Admitted.
9. Admitted.
10. Admitted.
11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. The allegations in paragraph 16 of the Complaint are admitted, except to the extent that the Agreement included current customers of Elegant Beverage and Imperial, which is denied.

17. Admitted.

18. Admitted.

19. Admitted.

20. Admitted.

21. Admitted.

22. Denied.

23. The Agreement attached as Exhibit A to the Complaint speaks for itself and is the best evidence of its terms.

24. It is admitted that the sum of \$10,000 was included in the gross purchase price of \$650,000; these Defendants do not know whether any of said \$10,000 has been paid.

25. The commitments made by the Dotolis, including Ludine Dotoli, are as defined in the Agreement.

26. Defendants have no knowledge of the allegations in paragraph 26, and therefore deny the same.

27. These Defendants have no knowledge as to what Plaintiff learned at any time, and therefore deny the allegations in paragraph 27, of the Complaint.

28. Defendants have no knowledge concerning the allegations in paragraph 28 of the Complaint, and therefore deny the same, except for the allegation that Defendant Associated began to compete with Plaintiff, which is admitted.

29. Defendants have no knowledge concerning the allegations in paragraph 29 of the Complaint, and therefore deny the same.

30. Defendants have no knowledge as to the allegations in paragraph 30 of the Complaint, and therefore deny the same.

31. Defendants are without information concerning the allegations in paragraph 31 of the Complaint, and therefore deny the same. Defendants do say, however, that Associated had not been engaged to perform any services on or before March 17, 2011, because Associated had not yet been created.

32. Defendants are without information regarding the allegations in paragraph 32 of the Complaint, and therefore deny the same.

33. Defendants are without information regarding the allegations in paragraph 33 of the Complaint, and therefore deny the same.

34. Defendants are without information regarding the allegations in paragraph 34 of the Complaint, and therefore deny the same.

35. Defendants are without information regarding the allegations in paragraph 35 of the Complaint, and therefore deny

the same; it is admitted, however, that Number 866-790-0490 is the telephone number of Thomas and Kathleen Dotoli.

36. Defendants are without information regarding the allegations in paragraph 36 of the Complaint, and therefore deny the same.

37. Defendants are without information regarding the allegations in paragraph 37 of the Complaint, and therefore deny the same.

38. Defendants are without information regarding the allegations in paragraph 38 of the Complaint, and therefore deny the same.

39. Defendants are without information regarding the allegations in paragraph 39 of the Complaint, and therefore deny the same.

40. It is admitted that Plaintiff's attorney sent to counsel for Tom and Kathleen Dotoli the letter referred to in paragraph 40 of the Complaint, alleging the matters set out in paragraph 40.

41. Denied.

42. Denied; the civil action referred to in paragraph 42 of the Complaint has been resolved.

43. Admitted.

44. Admitted.

45. Admitted.

46. Denied.

47. Denied.

48. The allegations in paragraph 48 of the Complaint are denied, inasmuch as there were no customer lists and no customer contracts acquired by Plaintiff under the 2009 Agreement.

49. The allegations in paragraph 49 of the Complaint are denied; in reality, various customers of Plaintiff have contacted Associated for the purpose of engaging Associated's service, and Associated has responded to those requests; Defendants are without information concerning the remaining allegations in paragraph 49, and the same are therefore denied.

50. Denied.

51. Denied.

FIRST CAUSE OF ACTION

(Breach of Non-Competition Agreement as to Ludine Dotoli)

52. The allegations in paragraphs 1 - 51 of the Complaint, incorporated by reference into paragraph 52, are admitted and denied in the same manner as referred to above.

53. It is admitted that Ludine Dotoli signed the Non-Competition Agreement referred to in paragraph 53 of the Complaint.

54. Ludine Dotoli is without information concerning the allegations in paragraph 54 of the Complaint, and therefore denies the same.

55. Denied.

56. Denied.

SECOND CAUSE OF ACTION

(Injunctive Relief and Damages as to Ludine Dotoli)

57. The allegations in paragraphs 1 - 56 of the Complaint, incorporated by reference into paragraph 57, are admitted and denied in the same manner as referred to above.

58. Denied.

59. Denied.

60. Denied.

61. The Non-Competition Agreement referred to in paragraph 61 is the best evidence of its terms and speaks for itself.

62. It is admitted that Defendant Associated, with the help of Ludine Dotoli, intends to compete with Plaintiff; it is denied that such competition violates any Non-Competition Agreement.

THIRD CAUSE OF ACTION

(Tortuous Interference With Contract)

63. The allegations in paragraphs 1 - 62 of the Complaint, incorporated by reference into paragraph 63, are admitted and denied in the same manner as referred to above.

64. It is denied that any contracts or customers were transferred to Beverage Systems at the time of the purchase of the business; the allegations in paragraph 64 are therefore denied.

65. Denied.

66. Denied; the previous customers of Plaintiff sought out the services of the Defendants.

67. Denied.

68. Denied.

69. Denied.

FOURTH CAUSE OF ACTION
(Punitive Damages)

70. The allegations in paragraphs 1 - 69 of the Complaint, incorporated by reference into paragraph 70, are admitted and denied in the same manner and to the same extent as set out above.

71. Denied.

FIFTH CAUSE OF ACTION

72. The allegations in paragraphs 1 - 71 of the Complaint, incorporated by reference into paragraph 72, are admitted and denied in the same manner and to the same extent as set out above.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

FURTHER ANSWER AND DEFENSES

As and for their further Answer and Defenses to the Complaint filed in this cause, and in bar of the right of Plaintiff to recover anything from the Defendants, the Defendants say:

FIRST FURTHER DEFENSE
(Associated Beverage Repair, LLC)

1. Associated Beverage Repair, LLC (hereafter "Associated"), was organized on April 7, 2011, by filing its Articles of Organization in the office of the North Carolina Secretary of State.

2. Associated is not a party to the Asset Purchase Agreement or to the Non-Competition, Non-Solicitation and Confidentiality Agreement (the "Non-Competition Agreement") referred to in the Complaint.

3. Associated is not bound by any Agreement to which it was not a party.

4. In any event, the Non-Competition Agreement is too broad in its scope to be enforceable in North Carolina, inasmuch as it embraces and seeks to prevent competition with Plaintiff in areas where the parties to this Agreement never operated.

5. Further, as Associated is informed and believes, Plaintiff never had any contract with any customer which gave to Plaintiff the right to provide repair services to said customer for any defined period; that being so, Associated could not have interfered with any contract rights of the Plaintiff.

SECOND FURTHER DEFENSE
(Ludine Dotoli)

1. The Non-Competition Agreement defines as "Seller" (1) Elegant Beverage Products, LLC, and (2) Imperial Unlimited Services, Inc."; it further identifies as "Shareholder" Ludine Thomas Dotoli and Kathleen E. Dotoli with an address at "372 Brawley School Road, Mooresville, North Carolina".

2. The Ludine Dotoli named as a Defendant in this cause is the son of the Dotolis identified as "Shareholders" in the Non-Competition Agreement; at all times relevant to this action he was

a resident of Mecklenburg County, North Carolina, not 372 Brawley School Road in Mooresville, North Carolina.

3. The Ludine Dotoli named a Defendant in this cause did sign the Non-Competition Agreement, but is not identified in that document as a Seller or as a Shareholder.

4. The Non-Competition Agreement purports to prevent the signatories to the Non-Competition Agreement from competing with Plaintiff anywhere in North Carolina and anywhere in South Carolina at any time prior to October 1, 2014 (for five years after the closing of the "Asset Purchase Agreement").

5. Prior to and at the time of the signing of the Asset Purchase Agreement and the Non-Competition Agreement, Elegant Beverage Products, LLC, and Imperial Unlimited Services, Inc., had operated in only a confined area of North Carolina and South Carolina, principally within a 100-mile radius of their location in Statesville, North Carolina.

6. None of the work of Elegant Beverage Products, Inc., or Imperial Unlimited Services, Inc., had extended into vast areas of Piedmont North Carolina and the Coastal region of North Carolina, or into the Piedmont and eastern regions of South Carolina.

7. The Non-Competition Agreement sought to prevent competition by the signatories to that Agreement with Plaintiff in the entire areas of North and South Carolina referred to above. The Non-Competition Agreement is void under North Carolina law, and therefore not enforceable against Defendant Ludine Dotoli.

8. As to Plaintiffs claim of Tortious Interference with Contracts, Defendant Ludine Dotoli is informed and believes that Plaintiff acquired no rights under the Asset Purchase Agreement to any contracts between the Sellers or the Shareholders under which either or both of said parties had the right to service any customers for any defined period of time.

9. Defendant Ludine Dotoli has no knowledge of any rights owned by Plaintiff under any contract between Plaintiff and its customers; on information and belief, no such rights exist.

10. For the foregoing reasons Plaintiff's claims against Ludine Dotoli for Breach of Non-Competition Agreement, for Injunctive Relief, and for Tortious Interference with Contract should be dismissed.

11. So also Plaintiff's claims for Punitive Damages and for damages under N.C. Gen. Stat. §75-1.1 should likewise be dismissed, inasmuch as both of those claims rely upon the validity of other claims which are in fact unenforceable against Ludine Dotoli.

THIRD FURTHER DEFENSE
(Cheryl Dotoli)

1. Cheryl Dotoli is not a party to the Asset Purchase Agreement or the Non-Competition Agreement alleged by Plaintiff.

2. The entity executed by Cheryl Dotoli on April 2, 2011, Associated Beverage Repair, LLC, was not created until about eighteen (18) months after the execution of the Asset Purchase Agreement and the Non-Competition Agreement.

3. Cheryl Dotoli is the sole member in Associated Beverage Repair, LLC (hereafter "Associated").

4. Cheryl Dotoli does not now have, and has never had, any knowledge about any contracts between Plaintiff and any of its customers, giving the Plaintiff the right to serve said customers for any period of time, which contracts Plaintiff purchased from Elegant Beverage Products, LLC, or Imperial Unlimited Services, Inc.

5. Cheryl Dotoli has no knowledge of any other rights which Plaintiff has developed with any other clients, since acquiring the assets of Elegant and Imperial, to service such clients under a contract binding upon both parties (Plaintiff and its customers) for any period of time.

6. In any event, Cheryl Dotoli and Associated have the right under common law to seek and perform a business relationship with the customers of Plaintiff irrespective of any contract between Plaintiff and its customers, as a means of promoting competition in enterprise in North Carolina.

7. For the foregoing reasons the claims of Plaintiff against Defendant Cheryl Dotoli should be dismissed.

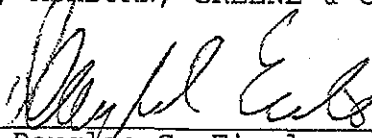
Wherefore, having fully answered the Complaint, all of the Defendants pray that Plaintiff's actions be dismissed against each and every Defendant, and that Plaintiff be taxed with the costs.

Defendants further pray that they be awarded their attorney fees under the provisions of N.C. Gen. Stat. §75-16.1, it appearing that they will be the prevailing parties in this cause.

This 3 day of October, 2012.

EISELE, ASHBURN, GREENE & CHAPMAN, PA

By: _____


Douglas G. Eisele
N.C. State Bar #4930
Attorneys for Defendants
320 W. Broad Street
Statesville, NC 28677
Telephone: 704/878-6400
FAX No.: 704/924-9727

North Carolina

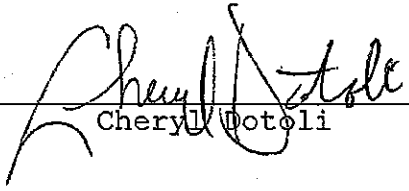
Iredell County

Cheryl Dotoli, being first duly sworn, deposes and says:

That she is the Managing Member of Associated Beverage Repair, LLC, one of the Defendants in the above-entitled action, that she has read the foregoing Answer and that the same is true of her own knowledge, except as to matters and things therein stated upon information and belief, and as to those, she believes them to be true.

ASSOCIATED BEVERAGE REPAIR, LLC

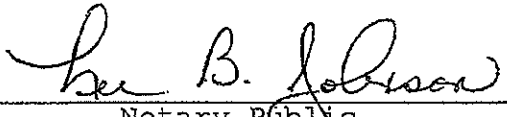
By: _____


Cheryl Dotoli

Sworn to and subscribed before me, this

3 day of October, 2012, said Affiant

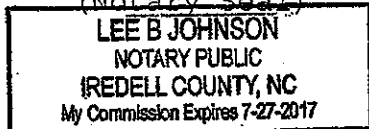
being personally known to me.



Notary Public

My commission expires July 27, 2017.

(Notary Seal)



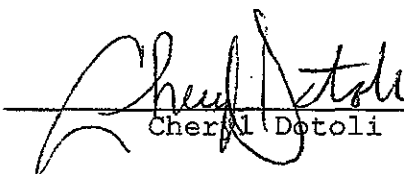
North Carolina

Iredell County

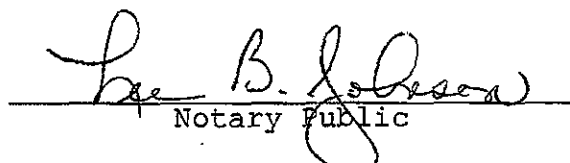
Ludine Dotoli and Cheryl Dotoli, being first duly sworn, depose and say:

That they are the individual Defendants in the above-entitled action, that they have read the foregoing Answer and that the same is true of their own knowledge, except as to matters and things therein stated upon information and belief, and as to those, they believe them to be true.

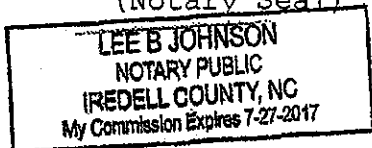

Ludine Dotoli


Cheryl Dotoli

Sworn to and subscribed before me, this
3 day of October 2012, said Affiants
being personally known to me.


Notary Public

My commission expires July 27, 2017.
(Notary Seal)



CERTIFICATE OF SERVICE

The foregoing Answer was served upon Plaintiff by mailing a copy thereof to its attorney of record as follows:

Mr. Kevin C. Donaldson
Jones Childers McLurkin Donaldson
P.O. Box 3010
Mooresville, NC 28115

This 3 day of October, 2012.

EISELE, ASHBURN, GREENE & CHAPMAN, PA

By: 

Douglas G. Eisele
N.C. State Bar #4930
Attorneys for Defendants
320 W. Broad Street
Statesville, NC 28677
Telephone: 704/878-6480
FAX No.: 704/924-9797

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BEVERAGE SYSTEMS OF THE
CAROLINAS, LLC,

Plaintiff,

vs.

FIRST AMENDED COMPLAINT

ASSOCIATED BEVERAGE REPAIR,
LLC, LUDINE DOTOLI, and CHERYL
DOTOLI,

Defendants.

Plaintiff Beverage Systems of the Carolinas, LLC, through counsel and pursuant to Rule 15(a) of the North Carolina Rules of Civil Procedure, amends its original complaint against the Defendants as follows:

PARTIES

1. Plaintiff Beverage Systems of the Carolinas, LLC ("Beverage Systems") is a North Carolina limited liability company with its principal place of business in Iredell County, North Carolina.

2. Upon information and belief, Defendant Associated Beverage Repair, LLC ("Associated Beverage") is a North Carolina limited liability company with its principal place of business in Mecklenburg County, North Carolina.

3. Upon information and belief, Defendants Ludine ("Ludine") and Cheryl ("Cheryl") Dotoli are, upon information and belief, citizens and residents of Mecklenburg County, North Carolina.

BACKGROUND

4. Associated Beverage is a company which supplies, installs, and services beverage products and beverage dispensing equipment in North Carolina and South Carolina.

5. Upon information and belief, Associated Beverage is owned by Cheryl Dotoli and has been so owned from April 7, 2011 through the present.

6. Ludine Dotoli is a manager of Associated Beverage.

7. Cheryl Dotoli is a member and manager of Associated Beverage.
8. In late 2008, Mark Gandino ("Gandino"), a resident and citizen of Somerset County, New Jersey, began negotiations with Thomas and Kathleen Dotoli the parents of Ludine Dotoli about the potential purchase of the business and assets of Imperial Unlimited Services, Inc. ("Imperial") and Elegant Beverage Products, LLC ("Elegant Beverage").
9. In late 2008 and throughout 2009, Gandino made several trips to Iredell County for the purpose of negotiating an asset purchase agreement for the assets and Real Property (hereinafter defined) of Imperial and Elegant Beverage (hereinafter collectively the "Business").
10. While in Iredell County for the purpose stated above, Gandino was shown the facilities, assets, and financial records of Imperial and Elegant Beverage.
11. On one trip to Iredell County in early 2009, Thomas Dotoli, father of Ludine Dotoli, gave Gandino a tour of the warehouse building and property located at 132 Conifer Drive, Statesville, North Carolina ("Real Property").
12. On or about May 27, 2009, Gandino created and organized Beverage Systems of the Carolinas, LLC under the laws of the State of North Carolina.
13. Beverage Systems is a company which supplies, installs, and services beverage products and beverage dispensing equipment in North Carolina.
14. Gandino is managing member of Beverage Systems.
15. On or about July 20, 2009, Beverage Systems entered into an Asset Purchase Agreement ("Agreement") with Elegant Beverage, Imperial, and Thomas, Kathleen and Ludine Dotoli (collectively the "Dotolis").
16. The Agreement provided for the sale by Elegant Beverage and Imperial and the purchase by Beverage Systems of the Business, including but not limited to all assets of the businesses, trade names, customer lists, accounts receivable, current customers and customer contracts and all equipment.
17. The Agreement also provided for the sale by Thomas Dotoli and Kathleen Dotoli and the purchase by Beverage Systems of the Real Property.
18. The Agreement was signed by Gandino as an authorized Member of Beverage Systems.
19. The total purchase price of the Agreement was \$650,000.00.

20. The closing, sale, and purchase of the Asset Purchase Agreement and Real Property took place on September 30, 2009.

21. The Dotolis as officers and shareholders of Imperial and as authorized members of Elegant Beverage signed and caused to be delivered to the closing:

a) a bill of sale and assignment for all of the assets of Elegant Beverage and Imperial;

b) a general warranty deed from Thomas and Kathleen Dotoli to Beverage Systems transferring title to the Real Property where Elegant Beverage and Imperial are located, this deed being subsequently recorded at the Iredell County, North Carolina Register of Deeds.

22. As part of the Agreement, all of the Dotolis, including Ludine Dotoli agreed to execute a Non-Competition Agreement with Beverage Systems (Paragraph 4.01(m) (page 11) of the Agreement) in which the Dotolis agreed they would not compete with the business of the Plaintiff.

23. The Dotolis did in fact execute such a Non-Competition, Non-Solicitation and Confidentiality Agreement (hereinafter "Non-Competition Agreement") at the closing on September 30, 2009. A copy of said Non-Competition Agreement is attached hereto and incorporated herein as Exhibit A.

24. The Dotolis and Imperial and Elegant Beverage were collectively paid the sum of \$10,000.00 by Beverage Systems as consideration for their execution of the Non-Competition Agreement.

25. The Dotolis, including Ludine Dotoli agreed not to compete with Beverage Systems, as defined in the Non-Competition Agreement, within the states of North and South Carolina for a period extending until October 14, 2014.

26. On or about March 11, 2011, Beverage Systems received information that Thomas Dotoli had been in contact with Bunn-O-Matic, a company which had business with Beverage Systems.

27. Beverage Systems learned that equipment which was to be shipped to Beverage Systems was in fact shipped to Thomas Dotoli under a new business of Associated Beverage Repair for Ludine Dotoli as Associated Beverage was storing equipment at the residence of Thomas and Kathleen Dotoli.

28. This was the first time that Beverage Systems became aware of any competing business being engaged in by any of the Dotolis.

29. On or about March 15, 2011, Beverage Systems received a call from a Baker Heard of Silver Service Refreshment who believed that he was calling Ludine Dotoli.

30. During the call, Beverage Systems learned that Mr. Heard was calling Ludine Dotoli to follow up on a conversation he had with Thomas Dotoli the week before regarding a service call he wanted Ludine Dotoli to perform on a PF Chang's restaurant in Asheville, North Carolina.

31. On or about March 17, 2011 Bunn-O-Matic informed Beverage Systems that certain equipment belonging to Tetley was to be installed in the Asheville, North Carolina area and that Associated Beverage Repair was going to do the installation.

32. Bunn-O-Matic requested that Beverage Systems turn over the equipment to Associated Beverage Repair.

33. Further, Beverage Systems was instructed to turn over all other Tetley equipment in its possession to Associated Beverage Repair.

34. On or about March 18, 2011, Beverage Systems contacted Bunn-O-Matic and requested the address and phone number for Associated Beverage Repair.

35. Bunn-O-Matic responded with the address of 372 Brawley School Road, Mooresville, NC (the address of Thomas and Kathleen Dotoli) and a number of 866-790-0490 which is a phone number utilized by the Defendants in their competing business.

36. On or about March 21, 2011, Beverage Systems received a call from Bunn-O-Matic, a company in which Beverage Systems did business with.

37. During that conversation, Tim Mahoney of Bunn-O-Matic, stated that both Thomas and Ludine Dotoli had called him and told him that Beverage Systems and Imperial Beverage were both no longer in business in the Carolinas and that they wanted the contract with Bunn-O-Matic placed under their new company name of Associated Beverage Repair.

38. The Thomas and Ludine Dotoli also told Mr. Mahoney that they had "taken back the building and employees" which caused Mr. Mahoney to believe that Beverage Systems could not perform service for his company any longer.

39. As a result of this conversation, the Bunn-O-Matic business was moved to Associated Beverage from Beverage Systems.

40. On or about March 18, 2011, counsel for Beverage Systems sent correspondence to counsel for the Dotolis and advised him of the breaches of the Non-

Competition Agreement by the Dotolis and requesting that the Dotolis cease and desist from such actions.

41. The Dotolis did not cease and desist and have continued to violate the Non-Competition Agreement causing damages to Beverage Systems.

42. Beverage Systems is engaged in a separate civil action against Imperial, Elegant Beverage, Thomas Dotoli, Kathleen Dotoli and Ludine Dotoli, having file number 10 CVS 3676, in Iredell County Superior Court in which it has alleged breach of contract and other causes of action (the "Initial Lawsuit").

43. As part of the Initial Lawsuit, the Plaintiff has taken the deposition of Ludine and Cheryl Dotoli.

44. Cheryl Dotoli has admitted to forming Associated Beverage and has admitted that Ludine Dotoli works for Associated Beverage.

45. Ludine Dotoli has admitted that he works for Associated Beverage.

46. Ludine Dotoli has admitted that he is violating the non-competition agreement that he executed.

47. Ludine Dotoli has admitted that he has purposely called on customers of Beverage Systems to try and take the business from Beverage Systems and move the same to Associated Beverage.

48. Ludine Dotoli has admitted that these same customers were part of the customer lists and contracts that Beverage System purchased from him, his parents and Imperial and Elegant.

49. Ludine Dotoli and Associated Beverage have taken a number of customers from Beverage Systems causing damage to the business of Beverage Systems.

50. The actions of Ludine and Cheryl Dotoli and Associated Beverage have been intentional and have been for the purpose of interfering with the contracts and agreements of Beverage Systems.

51. The actions of Ludine and Cheryl Dotoli and Associated Beverage have been with the intention to harm the business of Beverage Systems and have damaged the business of Beverage Systems.

FIRST CAUSE OF ACTION
(Breach of Non-Competition Agreement as to Ludine Dotoli)

52. Plaintiff realleges and incorporates by reference the allegations of the preceding paragraphs.

53. Ludine Dotoli admittedly entered into a non-competition agreement with Plaintiff.

54. Ludine Dotoli was paid consideration for the same.

55. Ludine Dotoli has admitted that he is violating the said non-competition agreement.

56. Beverage Systems has suffered damages in excess of \$10,000.00 as a result of said breach.

SECOND CAUSE OF ACTION

(Preliminary and Permanent Injunctive Relief and Damages as to Ludine Dotoli)

57. Plaintiff realleges and incorporates by reference the allegations of the preceding paragraphs.

58. Ludine Dotoli's misconduct in breaching the Non-Competition Agreement as set forth above is continuing.

59. If unrestrained, Beverage Systems will suffer irreparable harm for which there is no adequate legal remedy as a result of HIS breach of the Non-Competition Agreement.

60. Such harm is irreparable because it is impossible to: (a) determine the impact that will occur from Ludine Dotoli's conduct and competition with Beverage Systems; or (b) measure the full extent of monetary damages that Beverage Systems will continue to suffer.

61. Pursuant to the Non-Competition Agreement (Paragraph 7), Ludine Dotoli acknowledged that in the event of a breach or threatened breach of the Non-Competition Agreement, Beverage Systems may apply to any court of competent jurisdiction for injunctive relief, without a showing of actual damages or posting a security bond.

62. Upon information and belief, unless restrained, Ludine Dotoli will continue to compete with Beverage Systems in violation of the Non-Competition Agreement.

THIRD CAUSE OF ACTION

(Tortious Interference with Contract)

63. Plaintiff realleges and incorporates by reference the allegations of the preceding paragraphs.

64. Ludine Dotoli was aware of the contracts and customers transferred to Beverage Systems at the time of purchase of the Business.

65. Subsequent to said purchase, Ludine and Cheryl Dotoli formed Associated Beverage to compete with Beverage Systems.

66. Admittedly, the Defendants have sought after the customers of Beverage System which were previously transferred to Beverage Systems.

67. The Defendants have purposely and intentionally interfered with the contracts and agreements of Beverage Systems with the intent to steal the customers away from Beverage Systems.

68. The Defendants have been successful in purposely, willfully, wantonly and intentionally taking business away from Beverage Systems with the intent to obtain the business for themselves and to harm Beverage Systems' business.

69. The Defendants have harmed the business of Beverage Systems and as such it has suffered damages in excess of \$10,000.00.

FOURTH CAUSE OF ACTION

(Unfair and Deceptive Trade Practices Pursuant to N.C.G.S. §75-1.1)

70. Plaintiff realleges and incorporates by reference the allegations of the preceding paragraphs.

71. The conduct of all Defendants in tortuously interfering with the business of Beverage Systems, amounts to conduct proscribed in N.C.G.S. §75-1.1, et seq., to §75-16.2 as unfair and deceptive trade practices under North Carolina law subjecting all Defendants to damages described in N.C.G.S. §75-16, etc. and attorney fees in N.C.G.S. §75-16.1(1).

72. By tortuously interfering with the business of Beverage Systems the Defendants engaged in a practice that was an unfair and deceptive trade practice pursuant to N.C.G.S. §75-1.1, et seq, to §75-16.2 that offended public policy, was immoral, unethical, oppressive, unscrupulous, and substantially injurious to Beverage Systems.

73. All Defendants were engaged in and affected trade or commerce within the meaning of N.C.G.S. §75-1.1 when they damaged Beverage Systems.

74. All Defendants, upon information and belief, willfully violated N.C.G.S. §75-1.1, et seq, to §75-16.2.

75. The conduct of all Defendants qualify as unfair and deceptive trade practices under N.C.G.S. §75-1.1, et seq, to §75-16.2 and the damages of Beverage Systems should be trebled pursuant to that statute and all Defendants are liable for all court costs and reasonable attorney fees pursuant to that statute.

FIFTH CAUSE OF ACTION

(Tortious Interference with Prospective Economic Advantage)

76. The allegations contained in the preceding paragraphs are realleged and incorporated by reference as if fully set forth herein

77. Upon information and belief, Ludine Dotoli was aware of the contracts and customers that were transferred to Beverage Systems at the time it purchased the Business.

78. Subsequent to said purchase, Ludine and Cheryl Dotoli formed Associated Beverage to directly compete with Beverage Systems.

79. Admittedly, the Defendants have directly contacted and solicited the customers of Beverage Systems which were previously transferred to it in the purchase of the Business.

80. The Defendants have purposely and intentionally interfered with the contracts and agreements of Beverage Systems with the intent to steal the customers away from Beverage Systems.

81. The Defendants have been successful in purposely, willfully, wantonly and intentionally taking business away from Beverage Systems with the intent to obtain the business for themselves and to harm Beverage Systems' business.

82. Absent the Defendants' interference, Beverage Systems would have maintained its customer base, which would have resulted in additional income and profits for Beverage Systems.

83. As a direct and proximate result of Defendants' interference, Beverage Systems was deprived of the opportunity to conduct business with its existing customers, and was deprived of the substantial income that such business would produce.

84. The Defendants have interfered with Beverage Systems' business relationships and business expectancy with malice and for reasons not reasonably related to the protection of their own business interests.

85. As a result of Defendants' interference with Beverage Systems' business relationships and business expectancy, Beverage Systems has suffered damages in an amount to be proven at trial, but which are reasonably believed, and therefore alleged,

to be in excess of \$10,000.00, plus interest at the legal rate from the date of the filing of this complaint until paid in full.

SIXTH CAUSE OF ACTION
(Punitive Damages)

86. Plaintiff realleges and incorporates by reference the allegations of the preceding paragraphs.

87. The actions of the Defendants were made with malice, or were willful and wanton, thus entitling Beverage Systems to punitive damages in excess of Ten Thousand Dollars (\$10,000.00), plus interest thereon at the legal rate until paid in full, as permitted by Chapter 1D of the North Carolina General Statutes.

PRAYER FOR RELIEF

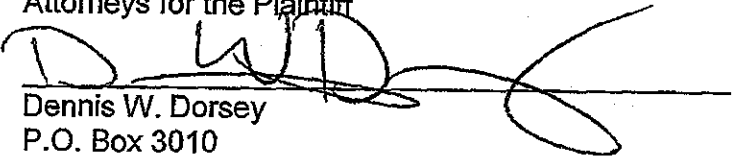
WHEREFORE, the Plaintiff, prays the Court that:

1. The Court find that the Defendant Ludine Dotoli has breached his contract with Plaintiff.
2. The Court enter Judgment against Defendant Ludine Dotoli on Plaintiff's claim for Breach of Contract in an amount exceeding Ten Thousand Dollars (\$10,000.00), together with interest thereon at the legal rate from the date of breach until paid in full.
3. That pursuant to Rule 65 of the North Carolina Rules of Civil Procedure, the Court enter a preliminary and permanent injunction prohibiting Ludine Dotoli from competing with the Plaintiff for a period of five years as prescribed by the Non-Competition Agreement.
4. The Court enter Judgment against the Defendants, jointly and severally, on the Plaintiff's Claim for Tortious Interference of Contract in an amount exceeding Ten Thousand Dollars (\$10,000.00), together with interest thereon at the legal rate from the date of breach until paid in full.
5. The Court enter an award of punitive damages against the Defendants, jointly and severally, in an amount exceeding Ten Thousand Dollars (\$10,000.00), together with interest thereon at the legal rate from the date of breach until paid in full.
6. The Court enter Judgment against the Defendants, jointly and severally, for treble damages on the Plaintiff's Claim for Unfair or Deceptive Trade Practices in an amount exceeding Ten Thousand Dollars (\$10,000.00), together with interest thereon at the legal rate from the date of breach until paid in full.

7. The Court award Plaintiff its reasonable attorneys' fees on its Unfair or Deceptive Trade Practices Claim.
8. The Court enter Judgment against the Defendants, jointly and severally, on the Plaintiff's Claim for Tortious Interference with Prospective Economic Advantage in an amount exceeding Ten Thousand Dollars (\$10,000.00), together with interest thereon at the legal rate from the date of the filing of this complaint until paid in full.
9. The Court award Plaintiff its costs in this matter.
10. This matter be tried before a jury on all issues so triable.
11. The Court grant Plaintiff such other and further relief as to the Court appears just and proper.

This the 8th day of July, 2013.

JONES, CHILDERS, MCLURKIN, & DONALDSON PLLC
Attorneys for the Plaintiff


Dennis W. Dorsey
P.O. Box 3010
Mooresville, NC 28117
(704) 664-1127

**EXHIBIT A: NON-COMPETITION, NON-SOLICITATION and
CONFIDENTIALITY AGREEMENT**

Duplicate Copy. Set forth in its entirety at R pp 15-23.

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing FIRST AMENDED COMPLAINT was made upon the attorney of record for the Defendants by the deposit of a true copy of same in the United States mail, postage prepaid, addressed as follows:

Douglas G. Eisele
Eisele, Ashburn, Greene & Chapman, P.A.
P.O. Box 1108
Statesville, NC 28687-1108

This the 8th day of July, 2013.

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC
Attorneys for the Plaintiff

By: 

Dennis W. Dorsey
P.O. Box 3010
Mooresville, NC 28117
Telephone: (704) 664-1127

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NORTH CAROLINA

IREDELL COUNTY

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2013 AUG 20 A 11: 51

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 Cvs 1519

Beverage Systems of IREDELL COUNTY, C.S.C.
Carolinas, LLC,

BY
Plaintiff

vs.

Associated Beverage Repair,
LLC, Ludine Dotoli and
Cheryl Dotoli,

Defendants

DEFENDANTS' ANSWERS TO PLAINTIFF'S
FIRST AMENDED COMPLAINT

Defendants answering and otherwise responding to Plaintiff's
First Amended Complaint, says:

1. Defendants incorporate herein by reference and respond to
all facts and claims alleged in the First Amended Complaint in the
same manner and to the same extent that Defendants addressed such
facts and claims in Defendants' Answers to the First Amended
Complaint.

2. As to the FIFTH CAUSE OF ACTION in Plaintiff's First
Amended Complaint, which contains the only new allegations
contended by Plaintiff, Defendants say:

a. The allegations incorporated by reference into
paragraph 76 are admitted and denied in the same manner and to
the same extent as is set forth in Defendants' Answers to the
original Complaint.

b. The allegations in paragraph 77 are denied, inasmuch
as no contracts or customers "were transferred to Beverage

c. It is admitted that Cheryl Dotoli formed Associated Beverage; as alleged in paragraph 78, it is denied that Associated Beverage was formed to compete with Beverage Systems.

d. The allegations in paragraph 79 are denied.

e. The allegations in paragraph 80 are denied.

f. The allegations in paragraph 81 are denied.

g. The allegations in paragraph 82 are denied.

h. The allegations in paragraph 83 are denied.

i. The allegations in paragraph 84 are denied.

j. The allegations in paragraph 85 are denied.

PRAYER FOR RELIEF

Defendants pray that Plaintiff recover nothing of Defendants based on any allegations in either the original Complaint or the Amended Complaint.

This 20 day of August, 2013.

EISELE, ASHBURN, GREENE & CHAPMAN, PA

By: 

Douglas G. Eisele
N.C. State Bar #4930
Attorneys for Defendants
320 W. Broad Street
Statesville, NC 28677
Telephone: 704/878-6400
FAX No.: 704/924-9727

CERTIFICATE OF SERVICE

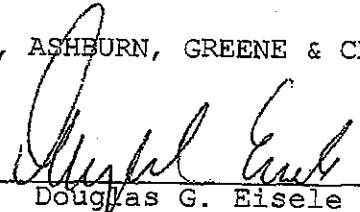
The attached Defendants' Answers to Plaintiff's First Amended Complaint was served upon Plaintiff by mailing a copy thereof to its attorney of record as follows:

Mr. Kevin C. Donaldson
Jones Childers McLurkin Donaldson
P.O. Box 3010
Mooresville, NC 28115

This 20 day of August, 2013.

EISELE, ASHBURN, GREENE & CHAPMAN, PA

By: _____


Douglas G. Eisele
N.C. State Bar #4930
Attorneys for Defendants
320 W. Broad Street
Statesville, NC 28677
Telephone: 704/878-6400
FAX No. 704/224-9727

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REDELL COUNTY, C.S.C.

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NORTH CAROLINA

IREDELL COUNTY

Beverage Systems of the)
Carolinas, LLC, BY _____)

Plaintiff)

vs.)

Associated Beverage Repair,)
LLC, Ludine Dotoli and)
Cheryl Dotoli,)

Defendants)

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 Cvs 1519

DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT ON ALL ISSUES

Defendants move pursuant to Rule 56, N.C. Rules Civ. Prod., for Summary Judgment on all issues raised by the Plaintiff in this cause. Defendants show:

1. Covenant Not to Compete - Ludine Dotoli.

Plaintiff alleges a claim against Ludine Dotoli for breach of a Non-Competition Agreement which appears as Exhibit A to the original Complaint filed in this cause. It appears on the face of Exhibit A when measured against the law of North Carolina that the Non-Competition Agreement is unenforceable because it is too broad in scope, as determined in earlier case law in this State.

2. Injunctive Relief Against Ludine Dotoli.

Plaintiff alleges claims for preliminary injunction, permanent injunction and damages as to Ludine Dotoli, predicated upon his alleged breach of a Non-Competition Agreement appearing as Exhibit A to the original Complaint in this cause. Since the Non-Competition Agreement is unenforceable under North Carolina law,

there exists no basis for injunctive relief or damages arising from any such breach.

3. Tortious Interference With Contract.

Plaintiff alleges against all Defendants a claim based on the tortious interference by Defendants with contracts between Plaintiff and its customers. This claim must fail as to all the Defendants because Plaintiff (1) has failed to adduce any evidence of any contracts between Plaintiff and any customers, or that (2) if any such contracts did exist, Defendants had knowledge of any such contracts and interfered with the same by inducing or seeking to induce the breach thereof by any third party to such contracts, for the purpose of damaging the Plaintiff.

4. Unfair and Deceptive Trade Practices.

Plaintiff alleges claims against all Defendants based on violations of the North Carolina Unfair and Deceptive Trade Practices Act (N.C. Gen. Stat. §75-1.1, et seq.), the predicate Acts for which are the alleged violation by Ludine Dotoli on a Non-Competition Agreement and the alleged tortious interference by all the Defendants with contracts between Plaintiff and its customers.

There is no basis for a Chapter 75 claim because the wrongful acts upon which that claim relies did not occur.

5. Tortious Interference With Prospective Business Advantage.

Plaintiff alleges against all Defendants a claim for Tortious Interference With Prospective Business Advantage. This claim, which is a tort in North Carolina, requires both allegation and proof that Defendants induced a third party to refrain from entering into a contract with the Plaintiff without justification, and that a contract or contracts would have ensued but for Defendants' interference. There is neither allegation nor any evidence in the record that any of the Defendants induced a third party to refrain from entering into a contract with the Plaintiff. This claim therefore fails as a matter of law.

6. Punitive Damages.

Relying on its previous allegations and claims, Plaintiff asserts a claim for Punitive Damages "as permitted by Chapter 1D of the North Carolina General Statutes". This claim must fail because there is no evidence to support the underlying claims of (1) breach of a Non-Compete Agreement, (2) tortious interference with a contract, (3) unfair and deceptive trade practices, or (4) tortious interference with a prospective business advantage.

Wherefore, Defendants pray that the Court dismiss each and every of the claims alleged by the Plaintiff, it appearing as a matter of law either that (1) such claims are not supported by the law of North Carolina, or (2) that there is no factual basis to support any of the claims.

This 11 day of September, 2013.

EISELE, ASHBURN, GREENE & CHAPMAN, PA

By: 

Douglas G. Eisele
N.C. State Bar #4930
Attorneys for Defendants
320 W. Broad Street
Statesville, NC 28677
Telephone: 704/878-6400
FAX No.: 704/924-9727

CERTIFICATE OF SERVICE

The attached Defendants' Motion for Summary Judgment on All Issues was served upon Plaintiff by mailing a copy thereof to its attorney of record as follows:

Mr. Kevin C. Donaldson
Jones Childers McLurkin Donaldson
P.O. Box 3010
Mooresville, NC 28115

This 11 day of September, 2013.

EISELE, ASHBURN, GREENE & CHAPMAN, PA

By: _____

Douglas G. Eisele
Douglas G. Eisele
N.C. State Bar #4930
Attorneys for Defendants
320 W. Broad Street
Statesville, NC 28677
Telephone: 704/878-6400
FAX No.: 704/924-9727

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NORTH CAROLINA

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IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

IREDELL COUNTY

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12 CVS 1519

Beverage Systems of the
Carolinas, LLC, IREDELL CO, S.C.

Plaintiff

vs.

NOTICE OF HEARING OF
MOTION FOR SUMMARY JUDGMENT
ON ALL ISSUES

Associated Beverage Repair,
LLC, Ludine Dotoli and
Cheryl Dotoli,

Defendants

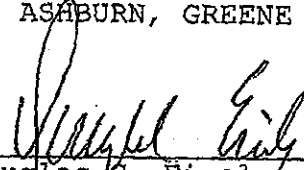
To: Beverage Systems of the Carolinas, LLC, by and
through its attorney of record, Kevin C. Donaldson of
the firm Jones, Childers, McLurkin & Donaldson, PLLC,
P.O. Box 3010, Mooresville, North Carolina, 28117

TAKE NOTICE that the Defendants have this date filed Motion
for Summary Judgment on All Issues in the above matter. Defendants
have scheduled a hearing in the above matter in the General Court
of Justice, Superior Court Division at the Hall of Justice in
Statesville, Iredell County, North Carolina, beginning at 10:00
o'clock a.m., on the 30th day of September, 2013, or as soon
thereafter as may be convenient to the Court.

This 11 day of September, 2013.

EISELE, ASHBURN, GREENE & CHAPMAN, PA

By:


Douglas G. Eisele
N.C. State Bar #4930
Attorneys for Defendants
320 W. Broad Street
Statesville, NC 28677
Telephone: 704/878-6400
FAX: 704/924-9727

CERTIFICATE OF SERVICE

The foregoing Notice was served upon the Plaintiff by mailing
a copy thereof to its attorney of record as follows:

Mr. Kevin C. Donaldson
Jones, Childers, McLurkin & Donaldson, PLLC
P.O. Box 3010
Mooresville, NC 28117-3010

This 11 day of September, 2013.

EISELE, ASHBURN, GREENE & CHAPMAN, PA

By: 

Douglas G. Eisele
N.C. State Bar #4930
Attorneys for Defendants
320 W. Broad Street
Statesville, NC 28677
Telephone: 704/878-6400
FAX No.: 704/924-9727

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IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 Cvs 1519

IREDELL COUNTY

2013 SEP 18 P 2:22

Beverage Systems of the IREDELL COUNTY, C.S.C.
Carolinas, LLC,

Plaintiff

vs.

AFFIDAVIT

Associated Beverage Repair,
LLC, Ludine Dotoli and
Cheryl Dotoli,
Defendants

Comes now Loudine Dotoli, who, being first duly sworn, says:

I am the Loudine Dotoli named as a Defendant in the above action. Cheryl Dotoli, the other individual Defendant, is, and at all times germane to this action was, my wife. The Defendant Associated Beverage Repair, LLC, is a limited liability company created by my wife on April 7, 2011. She is the sole member in Associated Beverage Repair, LLC (hereafter "Associated").

I was previously involved as a member in Elegant Beverage Products, LLC (hereafter "Elegant"), along with my mother, Kathleen Dotoli (hereafter "Kathy"). Elegant was in the business of selling high-end coffee and tea products to hotels, commercial restaurants and other institutions which sold high quality coffee and tea to its clientele. Elegant's business began in 2008.

Prior to the time that Kathy and I created Elegant, my father, Tom Dotoli, and my mother, Kathy Dotoli, had owned and operated a company known as Imperial Unlimited Services, Inc. (hereafter

"Imperial"). Imperial was engaged in the business of servicing beverage dispensing equipment, such as soft drink dispensers in establishments like McDonald's, Burger King and other fast-food stores, in which the dispensing equipment was either owned by the manufacturer or distributor of the dispensing equipment, or which had been sold by a manufacturer or distributor to the end user. My father Tom Dotoli and I were the principal technicians employed by Imperial who called upon Imperial's clientele to repair or replace dispensing equipment provided by various manufacturers.

On or about July 20, 2009, Beverage Systems of the Carolinas, LLC (hereafter "Beverage"), an entity created by a man named Mark Gandino from New Jersey, bought the assets of Elegant and Imperial from my mother, my father and me under an Asset Purchase Agreement attached hereto as Exhibit 1. Beverage also purchased from my parents a building owned by them on Conifer Drive in Statesville, from which the operations of Elegant and Imperial were conducted. In conjunction with the Asset Purchase Agreement, Tom, Kathy and I signed a Non-Competition, Non-Solicitation and Confidentiality Agreement attached hereto as Exhibit 2 (the "Non-Comp" Agreement). The Non-Comp Agreement provides in part:

"1. Subject to the provisions of Section 6 hereof, Seller and Shareholder shall not, from the effective date of the Asset Agreement in the states of North Carolina or South Carolina until the earlier of (i) October 1, 2014 (the "Non-Competition Period"), or (ii) such other period of time as may be the maximum permissible period of enforceability of this covenant (the "Termination Date"), without the prior written consent of Purchaser, directly or indirectly for himself or on behalf of or

in conjunction with any person, partnership, corporation or other entity, compete, own, operate, control, or participate or engage in the ownership, management, operation or control of, or be connected with as an officer, employee, partner, director, shareholder, representative, consultant, independent contractor, guarantor, advisor or in any other manner or otherwise, directly or indirectly, have a financial interest in, a proprietorship, partnership, joint venture, association, firm, corporation or other business organization or enterprise that is engaged in the business of the Purchaser or any of its respective affiliates or subsidiaries on behalf of clients (the "Business"). Notwithstanding the foregoing, however, nothing in this Agreement shall prohibit _____ during the Non-Competition Period from: (x) providing employment services to Purchaser pursuant to the Employment Agreement (as defined in the Asset Agreement) (the "Employment Agreement"); or (y) complying with the covenants and agreements of _____ set forth in the Asset Agreement."

Paragraph 6 referred to in the first sentence above provides as follows:

"6. If, at the time of enforcement of any provisions of Sections 1, 3 or 4 hereof, a court holds that the restrictions stated herein are unreasonable under circumstances then existing, the parties hereto agree that the maximum period, scope or geographical area that are reasonable under such circumstances shall be substituted for the stated period, scope or area, and that the court shall be allowed to revise the restrictions contained in Sections 1, 3 and 4 hereof to cover the maximum period, scope and area permitted by law."

Apropos Defendants' pending Motion for Summary Judgment, the critical quoted provisions of the Non-Comp Agreement are that (1) the signatories prior to October 1, 2014, could not compete with Beverage Systems anywhere in the States of North Carolina or South Carolina (emphasis ours), and (2) that if a Court found the geographical restrictions to be too broad, the scope of the limitation could be reduced by the Court to create a revised territory that would be "permitted by law".

Throughout their history, the deepest penetration by either Elegant or Imperial for the conduct of their business into South Carolina was Rock Hill, just to the south of Charlotte, North Carolina, and to Spartanburg, which lies to the southwest of Charlotte. North Carolina. Neither of the companies provided any sales or service in South Carolina east of Rock Hill, or to the south or southwest of Spartanburg. In North Carolina, Imperial's activities did not extend to the east of Stanly County; Elegant's eastern-most account was in Wake County. Neither company had any business within the large Piedmont, Sandhills or eastern portions of South Carolina or in the Sandhills or eastern part of North Carolina. Their western-most penetration was Morganton in North Carolina and Gaffney in South Carolina. Neither company was involved in the vast western-most sections of either state.

After my wife created Associates in April, 2011, I began providing, as an unpaid employee of Associates, repair services on beverage dispensing equipment in the same geographic area as had been previously serviced by Imperial. Neither I nor my wife ever once requested of or suggested to a prior customer of Imperial or Elegant that they use the services of Associated or me for any purpose. To the contrary, Associated or I would be periodically contacted by a prior customer of Imperial complaining of their dissatisfaction with the services of Beverage after it acquired Imperial's assets, and inquiring whether I or Associated knew of a person or entity who could

provide repair services for the caller. These calls and the word in the market-place led to the steady expansion of business for Associated, using me as the technician to serve the caller's needs. I have never, since beginning performance of services as an employee of Associated, worked outside of the geographic area in North or South Carolina where Imperial or Elegant ever provided services prior to the purchase of their assets by Beverage.

I do not know the name of any customer now being served by Beverage. I have never contacted, discussed with or otherwise communicated to any entity a request or suggestion that such entity not enter into any contract with or provide any services or commodity to Beverage. I have never assisted Associated or attempted on my own behalf to induce any customer or account of Beverage to terminate all or any part of its relationship with Beverage.

I have personal knowledge of the manner in which Imperial and Elegant conducted their businesses at all times after 1999. I know that no customer of either entity and no provider of equipment or goods to either entity, had any written contract with either Imperial or Elegant for the rendering of services by those entities to its clients. Simply stated, the arrangement was that so long as Imperial provided competent services at reasonable rates, its customers kept calling back for additional services. So long as Elegant called on its accounts and successfully promoted and sold the coffee and tea products provided to it by its vendors, Elegant continued representing

its suppliers. There were no written contracts which obligated any customer or supplier of either Imperial or Elegant to continue a business relationship with those firms. There is no reference in the Asset Purchase Agreement to the purchase by Beverage of any contract rights which either Imperial or Elegant is alleged to have had with its suppliers or customers.

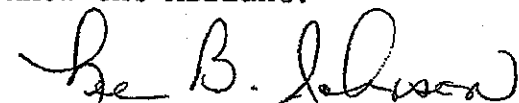
Cheryl Dotoli worked briefly for Imperial after Cheryl and I moved to North Carolina in 2001. She had not worked for Imperial for at least five (5) years prior to 2009, when Imperial sold its assets to Beverage. She never worked for Elegant. Neither Cheryl nor Associated Beverage Repair, LLC, the company she formed on April 7, 2011, is a signatory to the Asset Purchase Agreement or the Non-Competition Agreement involved in this matter.

This 18 day of September, 2013.



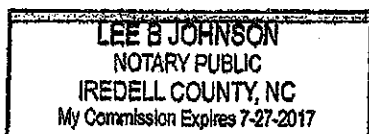
Loudine Dotoli

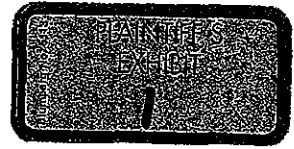
Sworn to and subscribed before me,
this 18 day of September, 2013.
I acknowledge that I personally
know the Affiant.



Notary Public

My commission expires 7-27-17.
(Notary Seal)





**ASSET PURCHASE AGREEMENT
AND REAL PROPERTY AGREEMENT**

THIS ASSET PURCHASE AGREEMENT, made this 30 day of August, 2009 by and between Elegant Beverage Products LLC, a North Carolina limited liability company having an address of 132 Conifer Drive, Statesville, NC 28525; Imperial Unlimited Service Inc., a corporation formed under the laws of the State of North Carolina, having an address of 132 Conifer Drive, Statesville, NC 28525 (hereinafter collectively referred to as "Seller"); Thomas Dotoli and Kathleen E. Dotoli, individuals having an address of 372 E. Suleyevskiy Dr. (Highway 101) NC 28517 (hereinafter referred to as the "Real Property Seller") and Ludine Thomas Dotoli having an address of 18428 Vic Bridgey Corveths NC (hereinafter Ludine Thomas Dotoli. Thomas Dotoli and Kathleen E. Dotoli are collectively referred to as "Shareholder") and Beverage Systems of The Carolinas, LLC a North Carolina limited liability company, having an address of _____ (hereinafter referred to as "Buyer" or "Purchaser"); or its assigns.

WITNESSTH:

WHEREAS, Seller is the sole legal and equitable owner of the business known as "Elegant Beverage Products and Imperial Unlimited Service" located at 132 Conifer Drive, Statesville, North Carolina together with certain equipment listed, described and shown on Exhibit "A" attached hereto and by this reference made a part hereof as if fully set out herein (hereinafter referred to as the "Business and Equipment"); and

WHEREAS, Real Property Seller ¹⁹ the owner of certain real property located at 132 Conifer Drive, Statesville, North Carolina together with the improvement located thereon, more particularly described and shown on Exhibit "B", attached hereto and by this reference made a part hereof as if fully set out herein (hereinafter referred to as the "Real Property");

WHEREAS, Purchaser is desirous of purchasing the Business and Equipment and Real Property and the Seller and Real Property Seller are desirous of selling, subject to the terms, covenants, conditions and agreements that follow and Seller is agreeable to such sale; and

NOW, THEREFORE, in consideration of the recitals above, the terms, covenants, conditions and agreements below, and the sum of _____ each party to the other in hand paid, the receipt and sufficiency of which consideration is hereby acknowledged, the parties hereto, intending to be legally bound thereby, agree as follows:

ARTICLE I PURCHASE AND SALE

1.01 Purchase and Sale. Upon the terms and subject to all the conditions and the full performance by the parties of their respective obligations as set forth in this Agreement,

Seller shall sell, transfer, assign, convey and deliver to Purchaser and Purchaser shall purchase, take assignment and receive from Seller the Business and Equipment, including, but not limited to all assets of the Business, including the names "Elegant Beverage Products and Imperial Unlimited Service", customer lists, telephone numbers, supplies, furniture, fixtures, equipment, leases for the use of any equipment, accounting system and software, computer, printer, warehouse equipment, racking, five motor vehicles, trailers and such other assets, more particularly listed, described and shown on Exhibit "A" attached hereto; and from the Real Property Seller the Property.

(a) The following assets of Seller are specifically excluded from this Agreement:

- (i) Trade accounts receivable; and
- (ii) Cash on hand.

Purchaser subsequent to closing shall have no obligation to collect any trade accounts receivable on the part of Seller, however, Purchaser will agree to remit to Seller, any and all trade accounts receivable payments it may receive subsequent to Closing.

(b) Purchaser in addition to the foregoing shall purchase the existing inventory of Elegant Beverage Products, LLC on hand at the date of Closing (hereinafter defined). The price to be paid for the inventory shall be the lesser of the then fair market value or the wholesale cost of such inventory paid by Elegant Beverage Products, LLC.

1.02 No Liabilities. Purchaser shall assume no liabilities of Seller with respect to the Equipment or Business or Real Property except as specifically stated herein; and same are being transferred free and clear of all liens and/or encumbrances. In addition, Purchaser shall have no obligation to satisfy any federal or state tax obligation on the Seller, as the Purchaser does not assume any responsibility or liability for the satisfaction of any tax, which may be due and owing by the Seller to any federal, state or local authority.

ARTICLE III PURCHASE PRICE AND PAYMENT

2.01 Purchase Price. The purchase price for the Business, Equipment and Real Property shall be the sum of Six Hundred Fifty Thousand and xx/100 (\$650,000.00) dollars, payable as follows:

(a) Payment of the sum of Ten thousand and xx/100 (\$10,000.00) dollars by check upon the signing of this Agreement, to be held in escrow by Seller's legal counsel in an attorney trust account until Closing, at which time said funds shall be paid over to Seller (the "Deposit Funds"). In the event that this Agreement shall be terminated in accordance with the terms hereof, the Deposit Funds shall be immediately returned to the Purchaser.

(b) Payment of or assumption of the existing loan on the Real Property

currently held by _____, in the approximate amount of One Hundred Twenty (\$120,000.00) Dollars, to be adjusted on the date of Closing.

(c) Payment of the existing loan in the name of Elegant Beverage Products, LLC currently held by _____, in the approximate amount of Thirty-Five Thousand (\$35,000.00) Dollars, to be adjusted on the date of Closing.

(d) Payment of the existing product inventory of Elegant Beverage Products, LLC in the approximate amount of Ten Thousand (\$10,000.00) Dollars.

(e) Issuance of a promissory notes to the Seller and Real Property Seller (to be determined by the parties) in the total amount of Four Hundred Thirty Six Thousand Five Hundred (\$436,500.00) Dollars (the "Promissory Notes") having a term of ten (10) years bearing interest at the rate of four (4%) percent per annum, in the form attached hereto as Exhibit "C" (subject adjustment based upon the amounts to be paid under (b) and (c) above.

(f) Cash in the amount of Thirty Eight Thousand Five Hundred (\$38,500.00) Dollars by certified or attorney trust check.

(g) Purchaser shall provide to Seller a first line Deed of Trust on the real property and a first lien security interest on the Equipment and vehicles along with UCC-1 financing statements. In addition, the personal guaranty of Mark Gandino shall be provided guarantying the payment of all amounts under the Promissory Notes.

2.02 Allocation of Purchase Price. The allocation of the Purchase Price as and between Seller and the Real Property Seller shall be made in accordance with the agreement of the said parties as set forth on Exhibit "D" attached hereto.

(a) Purchaser shall be permitted to pay any and all existing debts, liens or other obligations of Seller related to the Business and Equipment and the Real Property Seller related to the Property from the proceeds to be paid to the aforesaid parties under Section 2.01 above, including but not limited to, unpaid income, real estate, franchise other taxes to the State of North Carolina.

(b) Closing shall take place on or before _____, 2009 (the "Closing") at _____ or such other place as the parties shall reasonably agree, subject to the complete satisfaction of all contingencies set forth in this Agreement.

2.03 Inspections. During the twenty one (21) day period from the execution of this Agreement (the "Inspection Period"), Purchaser shall be permitted to enter the Property and the business locations of the Seller, upon at least one (1) business day prior written notice to Seller or Real Property Seller as the case may be, and to inspect and evaluate the Property, Business and Equipment and to conduct studies, tests and investigations related to the Property and review all of the business, accounting and financial records of Seller.

If during the Inspection Period Purchaser determines for any reason in its sole and unfettered discretion that the Property or the Business or Equipment is not suitable for Purchaser's purposes, Purchaser may terminate this Agreement. If Purchaser desires to terminate this Agreement hereunder, it shall give written notice of termination to Seller and Real Property Seller on or before the end of the last day of the Inspection Period, in which event this Agreement shall terminate and the Deposit Funds shall be refunded to Purchaser and the parties shall have no further obligation hereunder except for those matters that expressly survive termination hereof. If Purchaser fails to give written notice of its election to terminate this Agreement, this Agreement shall be deemed to have continued and Purchaser shall be deemed to have been satisfied with its inspection of the Property and the Business and Equipment.

2.04 Title. At Closing, Seller shall convey to Purchaser by Special Warranty Deed, good and marketable title in fee simple to the Real Property, insurable at regular rates by a title insurance company licensed to do business in the State of North Carolina, subject to the following liens, easements, restrictions, conditions or other encumbrances (hereinafter referred to as the "Permitted Encumbrances"), provided same do not render title unmarketable or unreasonably interfere with Purchaser's intended uses:

- (a) General real estate taxes for the year of Closing which are not yet due and payable (subject to adjustment);
- (b) Liens for municipal betterments, which are assessed after the date of Closing;
- (c) Other grants to utility and/or power companies, the rights of the public in sidewalks and abutting public rights-of-way, and easements given to the public for water course maintenance, slope rights or sight rights;
- (d) Standard exceptions set forth in the form of title insurance policy of the title insurance company selected by Purchaser, provided such exceptions as are applicable to Seller are satisfied by Seller at Closing;
- (e) Any other matter which would constitute a Title Objection (as hereinafter defined) that Purchaser does not waive pursuant to the following subsections.

2.05 Title Commitment. Purchaser covenants and agrees to promptly obtain a commitment for title insurance (the "Commitment") from a reputable title insurance company authorized to do business in the State of North Carolina, and shall deliver to Seller within twenty (21) days of the effective date of this Agreement a copy of the Commitment. In the event the title company selected by Purchaser to insure its interest in the Real Property shall report to Purchaser any objections any title matter that makes title unmarketable or which materially and adversely affects the ownership or operation of the Property, reasonably determined by Purchaser and which is unacceptable to Purchaser ("Title Objection"), Purchaser shall notify Real Property Seller of any such Title Objection at the time of Purchaser's delivery of a copy of the Commitment to Seller.

(a) If Purchaser notifies Real Property Seller, as herein provided, of a Title Objection, Real Property Seller shall elect, upon delivery of written notice to Purchaser within ten (10) business days after receipt of notification from Purchaser of a Title Objection, whether to cure such Title Objection. Real Property Seller shall have the right, at its sole election, to adjourn the Closing Date one or more times, for a period or periods not in excess of thirty (30) days in the aggregate, to enable Real Property Seller to convey title to the Property without such Title Objection. If Real Property Seller does not so elect to cure such Title Objection, or if having elected to cure such Title Objection Real Property Seller is unable to convey title subject to and in accordance with the provisions of this Agreement, Purchaser may either (i) terminate this Agreement by written notice to the Seller on or after the latter of the Closing Date or any adjournment by Real Property Seller, in which event this Agreement shall become void and of no further effect, the Deposit shall be immediately returned to Purchaser, and thereupon neither party shall have any further obligations of any nature to the other hereunder or by reason hereof, or (ii) upon notice to Real Property Seller, accept such title as Seller can convey without reduction of the Purchase Price or any credit or allowance on account thereof.

(b) Notwithstanding the foregoing, any deeds of trust, mortgages, judgment liens, mechanics or materialmen's liens, tax liens (other than liens for taxes not yet due and payable) and other monetary liens against the Real Property (collectively, "Liens") shall be deemed Objectable Exceptions, whether Purchaser gives written notice of such or not, and shall be removed by Seller at or before Closing. Seller may authorize Settlement Agent to use Purchaser's funds payable at Closing for the satisfaction and discharge of any Liens.

(c) Seller shall execute such affidavits, indemnities, and other similar type instruments as are required reasonably by the Title Company for the elimination of any standard or printed exceptions in Purchaser's final policy of title insurance, including, without limitation, the exception for un-filed mechanics' liens and parties in possession.

2.06. Survey. Purchaser, at its sole cost and expense, may obtain an update and/or recertification of the Real Property Seller's existing survey and/or a new survey for the Property prepared by a land surveyor licensed in the state in which the Property is located. If the Survey discloses (i) any material encroachment or protrusion of an improvement across a boundary line, (ii) an unreasonable restriction on access, ingress or egress, (iii) the non-contiguity of any parcels of land comprising the Property for which affirmative title insurance is not available at commercially reasonable rates, (iv) any other matter objectionable to Purchaser and which materially and adversely affects the use of the Property as a distribution warehouse, then Purchaser shall give Seller written notice of such fact together with a copy of the Survey. Real Property Seller may, if it so chooses, promptly undertake to eliminate or modify all such unacceptable matters to the reasonable satisfaction of Purchaser. If Seller chooses not to or is unable to do so or fails to notify Purchaser of its intent to cure within ten (10) days after receipt of the Survey Objection Notice, Purchaser may, as its sole remedy, terminate this Agreement within the earlier of ten (10) days after receipt of notice from Seller that it is unable or unwilling to cure same, or the Closing date, whichever occurs first, and the Agreement shall thereupon

be null and void for all purposes except for those matters that expressly survive termination hereof, and the Deposit Funds shall be forthwith returned by the to Purchaser.

ARTICLE III REPRESENTATIONS, WARRANTIES AND COVENANTS

3.01 Representations and Warranties of Seller and Real Property Seller. In addition to any other representations, warranties or covenants contained in any other Article or Section of this Agreement, Seller and Real Property Seller in order to induce Purchaser to enter into and perform Purchaser's obligations and responsibilities contained in this Agreement, represent, warrant and covenant as follows:

(a) Seller, Elegant Beverage Products, LLC is a limited liability company duly organized and validly existing and in good standing under the laws of the State of North Carolina.

(b) Imperial Unlimited Service Inc. is a corporation duly organized and validly existing and in good standing under the laws of the State of North Carolina.

(c) Seller and Real Property Seller have full power and authority to enter into this Agreement and to assume and perform all its obligations hereunder; the execution and delivery of this Agreement and the performance by Seller and Real Property Seller of their obligations hereunder have been duly authorized by such corporate, partnership or individual action as may be required, and no further action or approval is required in order to constitute this Agreement as a binding and enforceable obligation of Seller and Real Property Seller.

(d) Real Property Seller has received no written notice, and to Real Property Seller's knowledge, is not aware that any zoning, building, environmental or other law, ordinance, code, order or regulation is or will be violated by the continued maintenance, operation or use as a distribution warehouse of any buildings, improvements or structures presently erected on the Property or by the continued maintenance, operation or use of parking areas.

(e) Real Property Seller has received no written notice, and to Real Property Seller's knowledge, is not aware that there is any action, suit or proceeding, pending or threatened against or materially affecting the Property or relating to or arising out of the ownership or operation of the Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau or agency or other governmental instrumentality.

(f) Real Property Seller has received no written notice and, to Real Property Seller's knowledge, is not aware that there is any pending or threatened condemnation or similar proceeding or assessment affecting the Property, or any part thereof.

(g) Real Property Seller has received no written notice from any governmental agency having jurisdiction that the Property is affected by the presence and/or harmful

effects of any asbestos, toxic, or hazardous substances as defined by applicable federal, state, or local laws.

(i) The execution and performance of Seller's and Real Property Seller's obligations under this Agreement shall not result in a breach or violation of any other agreement to which the Seller or Real Property Seller is a party:

(j) No person other than the Purchaser has any right or option to acquire all or any portion of the Business and Equipment or Property;

(k) Seller and Real Property Seller have good, marketable and indefeasible title to the Business and Equipment and Property, free and clear of all liens, encumbrances, claims, rights or entitlements of another with respect thereto, except as specifically stated herein;

(l) From the date of Seller's acquisition of the Business and Equipment and Real Property Seller's acquisition of the Property to the date of this Agreement and continuing through the date of hereof, there have been no claims, actions, suits or proceedings pending or threatened, nor any judgments, settlements, decrees or orders of any court or governmental agency involving the Business and Equipment or Property, nor is Seller or Real Property Seller aware of any facts or circumstances which now, or with the passage of time, would give rise to any of the above;

(m) There are no attachments, executions, assignments for the benefit of creditors or voluntary or involuntary proceedings in bankruptcy pending against the Seller or Real Property Seller, and to the knowledge of the Seller and Real Property Seller, no such actions have been threatened against it;

(n) Seller will guaranty that the Equipment as listed on Exhibit A is and will be in good working order on the date of Closing;

(o) The financial information as provided by Seller to Purchaser, including but not limited to Federal Income Tax Returns, financial statements, bank statements, operating statements and such other information provided by Seller to Purchaser during its due diligence review thereof, accurately and fairly reflect the financial condition and operation of the Business, as set forth therein and constitutes true copies of all filings with the appropriate taxing authorities;

(p) Seller agrees to defend, reimburse, indemnify and hold Purchaser harmless against and in respect of (a) any and all claims made against Purchaser by customers of Seller for services by Seller on or before the Closing date; (b) any and all actions, suits, claims, proceedings, investigations, audits, demand, assessments, fines, tax liabilities, judgments, settlement, costs and other expenses (including and without limitation, reasonable attorney fees and expenses) incident to any matter which occurred prior to the Closing Date; and (c) any breach of this Agreement, including, any representation or warranty stated on the part of Seller.

(q) Seller will comply with all of the requirements under the North Carolina Bulk Sales Act or similar or applicable law governing the sale of the Business and Equipment and supply to Purchaser, prior to closing evidence of all such compliance. Seller will provide to Buyer its TIN/Sales Tax ID immediately upon execution of the Agreement;

(r) From the date of this Agreement and prior to the Closing, Seller shall use commercially reasonable efforts to cause the Business to be carried on in the ordinary and normal course of business and shall use and shall cause to use all commercially reasonable efforts to preserve the goodwill of all clients or customers having business relations with the Seller,

(s) From the date of this Agreement Seller shall not make, nor permit to be made, any material change in the way the Business of the Seller is being operated and will use all commercially reasonable efforts to preserve customer or supplier relationships which exist on the date hereof;

(t) Seller shall provide to Purchaser a list of Seller's existing creditors, (the "List of Creditors"), containing the names and business addresses of all such creditors, with the amounts owed to each and also the names and addresses of all persons or entities who are known to the Seller to assert claims against the Seller whether disputed or not. The List of Creditors shall be signed and sworn to or affirmed by the Seller or its agent;

(u) Seller and Real Property Seller, and all of their assets and properties are and at all times have been, in material compliance with, and immediately following the consummation of the transactions contemplated by this Agreement, will be in material compliance with, and neither Seller or Real Property Seller have any liability under, any laws, including, without limitation, any applicable securities, franchise, building, zoning, environmental laws, employment, labor relations or other statute, law, ordinance or regulation. All business conducted by Seller with any governmental authority has been conducted in accordance with all applicable Laws and accounting requirements.

(v) Seller currently has all permits and licenses required for the operation by Seller of a Business referred herein including but not limited to permit operate control apparatus or equipment as may be required, if any, by North Carolina law;

(w) Seller agrees to take such necessary and reasonable action, including the filing of all necessary governmental applications in order to effectuate the transfer of the corporate names of the Seller to Purchaser and any other license transfer necessitated by the sale of the Business and Equipment.

(x) This Agreement does not, and, the consummation of the transactions contemplated hereby and thereby shall not conflict with, or result in any violation of, or default under (with or without notice or lapse of time, or both), or give rise to a right of termination, cancellation, modification or acceleration of any obligation or loss of any

benefit or result in the imposition of any lien upon any of its respective Business, Equipment or Property under: (i) any provision of the charter or governance documents of the Seller or Real Property Seller; (ii) any mortgage, indenture, lease, contract or other agreement or instrument, permit, concession, franchise or license to which Seller or Real Property Seller is a party or any of its respective properties or assets are subject; or (iii) any law, order, decree, injunction or writ applicable to Seller or Real Property Seller or its respective properties or assets.

(y) There are no actions, claims, suits, proceedings, arbitrations, complaints, grievances, unfair labor practice or employment discrimination charges or complaints, or investigations pending or to the knowledge of Seller or Real Property Seller, threatened (i) against, initiated by, relating to or affecting Seller or Real Property Seller, the Business, Equipment or Property before any governmental authority; (ii) that challenge the validity or propriety of any of the transactions contemplated by this Agreement; or (iii) that challenge or question the legal right of Seller to conduct the operations of the Business as presently or previously conducted.

(z) Seller has timely filed all Federal, State, local income and franchise tax returns ("Tax Returns") that it was required to file. All of those Tax Returns were correct and complete in all respects. Seller has delivered to Purchaser correct and complete copies of all Tax Returns and all state and local income for any taxable period ending after December 31, 2003.

(aa) Neither Seller nor Real Property Seller have paid or become obligated to pay any fee or commission to any broker, finder, investment banker or other intermediary in connection with this Agreement.

(bb) Elegant Beverage Products, LLC is owned by Kathleen Dotoli a 50% membership interest and Ludine Dotoli, a 50% membership interest.

3.02 Representations and Warranties of Purchaser. In addition to any other representations, warranties or covenants contained in any other Article or Section of this Agreement, Purchaser, in order to induce Seller and Real Property Seller to enter into and perform Seller's and Real Property Seller's obligations and responsibilities contained in this Agreement represents, warrants and covenants as follows:

(a) The execution and performance of Purchaser's obligations under this Agreement shall not result in a breach or violation of any other agreement to which the Purchaser is a party and Purchaser has the fully corporate authority to enter into this Agreement and complete its obligations hereunder and the Agreement has been duly authorized by the proper corporate action on the part of the Purchaser.

(b) The execution and delivery of this Agreement and the consummation of the transactions contemplated herein by Purchaser will not require the consent or approval of, or filing with, any governmental authority or third party.

(c) Purchaser has not paid or become obligated to pay any fee or commission to any broker, finder, investment banker or other intermediary in connection with this Agreement.

ARTICLE IV DELIVERIES AT CLOSING

4.01 Deliveries at Closing by Seller and Real Property Seller. Seller and Real Property Seller, as the case may be, shall deliver to the Purchaser or Closing Agent (as applicable) the following with respect to the Property:

(a) A special warranty deed, executed and acknowledged by the applicable Real Property Seller as of the Closing Date, in the form of Exhibit "E" attached hereto;

(b) A bill of sale (the "Bills of Sale") executed by the Seller as of the Closing, in the form of Exhibit "F" attached hereto transferring Seller's right, title and interest in and to the Business and Equipment, including all assets thereof, free and clear of all liens, encumbrances, charges, obligations and restrictions whatsoever and such other transfer document as may be reasonably necessary in order to properly effectuate the transaction;

(c) A certificate and affidavit of non-foreign status (the "FIRPTA Affidavit"), executed by Real Property Seller as of the Closing Date, in the form of Exhibit "G" attached hereto;

(d) Appropriate resolutions and other evidence reasonably required by Purchaser's Title Company to evidence the Real Property Seller's authority to execute and deliver the deed;

(e) An executed closing statement, in a form reasonably acceptable to Purchaser;

(f) An owner's affidavit in form attached as Exhibit "H";

(g) 1099-S;

(h) Any applicable state withholding affidavits;

(i) The List of Creditors (as hereinafter defined);

(j) The necessary assignment form as may be required by the local telephone company transferring the telephone numbers _____ to Purchaser;

(k) The necessary assignment form as may be required by North Carolina law transferring the names "Elegant Beverage Products and Imperial Unlimited Service" to Purchaser;

(l) Resolution of the Directors and Shareholders of the Seller, authorizing the sale of the Business and Equipment;

(m) Non-Competition and Confidentiality Agreement, in the form attached hereto as Exhibit "T", duly executed by the Seller, Real Property Seller, shareholders and members of Seller, as the case may be; and

(n) All other documents reasonably necessary to effectuate the transaction under the terms of this Contract.

4.02. Deliveries by Purchaser. At the Closing, Purchaser shall deliver to Seller, Real Property Seller or closing agent as the case may be, as applicable, the following with respect to the Property:

- (a) The Promissory Notes;
- (b) The balance of the Purchase Price;
- (c) Resolution of the Directors of the Purchaser, authorizing the acquisition of the Business and Equipment and Property;
- (d) First lien Deed of Trust for the Property and UCC-1 Financing Statements;
- (e) The personal guaranty of Mark Gandino in the form attached hereto as Exhibit "K";
- (f) Closing statement in a form reasonably acceptable to Seller and Real Property Seller; and
- (g) All other documents reasonably necessary to effectuate the transaction under the terms of this Contract.

ARTICLE V CONDITIONS PRECEDENT TO CLOSING

5.01 Conditions Precedent. The obligations of Purchaser, Seller and Real Property Seller to affect the Closing under this Agreement are subject to the satisfaction or waiver on or prior to the Closing of the following conditions:

- (a) (i) Seller and Real Property shall have obtained the required approval; and
- (ii) Purchaser shall have obtained the required approval.

(b) No laws shall have been adopted or promulgated, and no temporary restraining order, preliminary or permanent injunction or other order issued by a court or other governmental entity of competent jurisdiction shall be in effect, having the effect of making the Agreement illegal or otherwise prohibiting consummation of the Agreement.

5.02 Additional Conditions to Obligations of Purchaser. The obligations of Purchaser to affect the Closing under the Agreement are subject to the satisfaction of, or waiver by Purchaser, on or prior to the Closing, of the following additional conditions:

(a) Each of the representations and warranties of Seller and Real Property Seller set forth in this Agreement shall be true and correct on the date of this Agreement, and as of the Closing, as if made at and as of such time.

(b) Seller and Real Property Seller shall have performed or complied in all material respects with all material agreements and covenants required to be performed by it or complied with under this Agreement at or prior to the Closing. Purchaser shall have received a certificate of the President and the chief financial officer of Seller and Real Property Seller to such effect.

(c) Since the date of this Agreement, there shall have not been any material adverse change in Seller, the Business or Equipment.

(d) Seller, Real Property Seller, Kathleen E. Dotoli, Ludine Thomas Dotoli and Thomas Dotoli shall have entered into a Non-Competition, Non-Solicitation and Confidentiality Agreement, substantially in the form attached hereto as Exhibit, "T" (the "Non-Competition Agreement"), all in form and substance reasonably satisfactory to Purchaser.

(e) Purchaser shall have received an opinion from Crosswhite Crosswhite Ashley & Johnson, PLLC dated the Closing date, substantially in the form attached hereto as Exhibit "J".

(f) Good standing certificates, dated as of a date within one week of the Closing date, for Seller and Real Property Seller certified by the Secretary of State of the State of North Carolina and each other state in which Seller or Real Property Seller is qualified to do business.

(g) At the Closing, Seller will be able to convey to Purchaser fee simple title to the Property, free and clear of all mortgages, liens, encumbrances, restrictions, rights-of-way, easements, judgments and other matters affecting title.

5.03 Additional Conditions to Obligations of Seller and Real Property Seller. The obligations of Seller and Real Property Seller to effect the Merger are subject to the satisfaction of, or waiver by Seller and Real Property Seller, on or prior to the Closing Date, of the following additional conditions:

(a) Each of the representations and warranties of Purchaser set forth in this Agreement shall be true and correct on the date of this Agreement, and as of the Closing Date, as if made at and as of such time.

(b) Purchaser shall have performed or complied in all material respects with all material agreements and covenants required to be performed by it or complied with

under this Agreement at or prior to the Closing date. Seller and Real Property Seller shall have received a certificate of the President of Purchaser to such effect.

5.04 Best Efforts. Each party hereto agrees to use its reasonable best efforts to (i) take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate the Agreement and the other transactions contemplated by this Agreement as soon as practicable after the date hereof and (ii) to obtain and maintain all approvals, consents, waivers, registrations, permits, authorizations, clearances and other confirmations, required to be obtained from any third party and/or any governmental authority that are reasonably necessary to consummate the Agreement and the transactions contemplated hereby (each, a "Required Approval"). In furtherance and not in limitation of the foregoing, each party hereto agrees to make, as promptly as practicable all necessary filings with governmental authorities relating to the Agreement, and, in each case, to supply as promptly as practicable any additional information and documentary material that may be requested pursuant to such laws and to use reasonable best efforts to cause the receipt of Required Approvals as soon as practicable.

5.05 Other Documents. In addition, the parties shall execute and deliver such other documents as may be required by this Agreement and as any of them or their respective counsel may reasonably require in order to document and carry out the transactions contemplated by this Agreement.

ARTICLE VI CONDUCT OF BUSINESS PENDING CLOSING

6.01 Conduct of Business. From the date hereof until the Closing, Seller will:

- (a) maintain its existence in good standing;
- (b) maintain the general character of its business and properties and conduct its business in the ordinary and usual manner consistent with past practices, except as expressly permitted by this Agreement;
- (c) maintain business and accounting records consistent with past practices; and
- (d) use its reasonable best efforts (i) to preserve its business intact, (ii) to keep available to Seller the services of its present officers and employees, and (iii) to preserve for Seller the goodwill of its suppliers, customers and others having business relations with Seller.

6.02 Prohibited Actions Pending Closing. Unless otherwise provided for herein or approved by Purchaser in writing, which approval shall not be unreasonably withheld from the date hereof until the Closing, SELLER shall not:

- (a) amend or otherwise change its certificate of incorporation or by-laws;

- (b) issue or sell, or authorize for issuance or sale, or grant any options or make other agreements with respect to, any shares of its capital stock or any other of its securities;
- (c) declare, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise with respect to any of its equity securities;
- (d) reclassify, combine, split, subdivide or redeem, purchase or otherwise acquire, directly or indirectly, any of its equity securities;
- (e) (i) acquire (including, without limitation, by merger, consolidation, or acquisition of stock or assets) any corporation, partnership, other business organization or any division thereof, (ii) acquire assets with an aggregate purchase price of in excess of \$5,000; (iii) incur any indebtedness for borrowed money or issue any debt securities or assume, guarantee or endorse, or otherwise as an accommodation become responsible for, the obligations of any person, or make any loans or advances; (iv) enter into any contract or agreement other than in the ordinary course of business, consistent with past practice; or (v) authorize any capital commitment which is in excess of \$2,000 or capital expenditures which are, in the aggregate, in excess of \$5,000.
- (f) mortgage, pledge or subject to lien, any of its assets or properties or agree to do so;
- (g) assume, guarantee or otherwise become responsible for the obligations of any other person, or agree to do so;
- (h) enter into or agree to enter into, or terminate prior to the expiration date thereof, any employment agreement with respect to any employee;
- (i) increase the compensation or benefits payable, or to become payable, to its officers or employees, or grant any severance or termination pay to, or enter into any severance agreement with any current director, officer or other employee of Seller, or establish, adopt, enter into or amend any collective bargaining, bonus, profit sharing, thrift, compensation, stock option, restricted stock, pension, retirement, deferred compensation, employment, termination, severance or other plan, agreement, trust, fund, policy or arrangement for the benefit of any such director, officer or employee except as required under applicable law;
- (j) take any action, other than in the ordinary course of business and consistent with past practice, with respect to accounting policies or procedures (including, without limitation, procedures with respect to the payment of accounts payable and collection of accounts receivables);
- (k) make any material tax election, or settle or compromise any material federal, state, local or foreign income tax liability;

(l) settle or compromise any pending or threatened suit, action or claim which is material, or which relates to any of the transactions contemplated by this Agreement; or

(m) pay, discharge or satisfy any claim, liability or obligation (absolute, accrued, asserted or unasserted, contingent or otherwise) other than (i) the payment, discharge or satisfaction, in the ordinary course of business and consistent with past practice, of liabilities reflected or reserved against in the balance sheet or subsequently incurred in the ordinary course of business and consistent with past practice and (ii) other claims, liabilities or obligations (qualified as aforesaid) that in the aggregate do not exceed \$2,000.00.

ARTICLE VII RISK OF LOSS

7.01 Risk of Loss. Risk of loss related to the Business and Equipment shall be borne by Seller until delivery of the Business and Equipment to Purchaser at Closing. In the event that the Business or Equipment shall suffer any damage, loss or destruction thereof by casualty, fire or Act of God, Purchaser may terminate this Agreement and all of the obligations and responsibilities hereunder and receive the Deposit Funds from the Seller and upon the return of the Purchaser's deposit, neither party shall have any further rights or obligations.

ARTICLE VIII INDEMNIFICATION

8.01 Indemnification. Seller and Shareholder jointly and severally, prior to and after the Closing, agree, to indemnify and hold harmless Purchaser, and its officers, directors, agents, Affiliates, representatives, successors and assigns ("Purchaser Indemnitees") from and against, and shall reimburse each Purchaser Indemnitee on demand for, any and all direct or indirect claims, suits, actions, proceedings, liabilities, obligations, judgments, fines, penalties, claims, losses, lost profits, diminution in value, damages, costs and expenses of any kind (including, without limitation, the reasonable fees and disbursements of counsel, accountants and other experts whether incurred in connection with any of the foregoing or in connection with any investigative, administrative or adjudicative proceeding, whether or not such Purchaser Indemnitee shall be designated a party thereto), together with any and all reasonable costs and expenses associated with the investigation of the same and/or the enforcement of the provisions hereof and thereof (collectively, "Losses"), which may be incurred by such Purchaser Indemnitee relating to, based upon, resulting from or arising out of:

(a) the breach of any representation or warranty made by Seller or Shareholder in this Agreement or in any related document as of the date hereof and as of the Effective Date during the survival period set forth in Section 8.02;

(b) the breach of any agreement, covenant or obligation of Seller or Shareholder contained in this Agreement or in any related document;

(c) any liabilities, taxes, claims, debts or causes of action;

(d) any failure to comply with any applicable bulk sale or transfer law in connection with the transactions contemplated by this Agreement;

(e) any liability incurred by Seller to pay any fee or commission to any broker, finder, investment banker or other intermediary in connection with the transactions contemplated by this Agreement;

(f) any misrepresentation contained in any certificate or other document furnished by or on behalf of Seller or Shareholder pursuant to this Agreement or in any related document or in connection with the transactions contemplated hereby or thereby or any other losses arising out of or resulting from any fraud or intentional misrepresentation; or

(g) any (i) harm to the environment; (ii) release of hazardous substances; (iii) alleged or actual violation of environmental law; or (iv) environmental liability, arising from conditions, acts, or omissions that existed or occurred prior to Closing.

8.02 Survival of Representations and Warranties. The representations and warranties made by Seller and Shareholder in this Agreement shall survive the Closing and shall continue in effect until the survive until the until expiration of the applicable statute of limitations with respect to such matters (and any extensions thereof). Notwithstanding the right of Purchaser to investigate the Business, Equipment and Property and financial condition of Seller, and notwithstanding any knowledge obtained or obtainable by Purchaser as a result of such investigation, Purchaser has the unqualified right to rely upon, and has relied upon, each of the representations, warranties and covenants made by Seller and Shareholder in this Agreement or pursuant hereto. Seller the Shareholder and Purchaser acknowledges and agrees that the representations and warranties made hereunder by Seller and Shareholder are bargained for assurances.

8.03 Right of Set Off. If any Purchaser Indemnitee has any claim against Seller or Shareholder hereunder or under any related document, whether for indemnification, breach of agreement or otherwise, Purchaser may withhold the total amount of the claim from any payment due to Seller or Shareholder hereunder of the Promissory Notes until final determination of such pending claim, and after such final determination Purchaser may offset the determined amount against any amounts owed to Seller or any Shareholder.

ARTICLE IX MISCELLANEOUS

9.01 Modification or Waiver. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and shall supersede and replace all prior agreements and understandings between the parties relating to the acquisition of the Business and the Equipment and Property. The terms, promises, conditions, representations, warranties, covenants and agreements contained in this Agreement may not be waived, modified, amended or otherwise altered except in a writing signed by both parties. All the terms, covenants, conditions, representations, warranties and promises set forth herein shall inure to the benefit of the parties hereto, and their respective successors

and assigns.

9.02 Parity. This Agreement shall be deemed to have been drafted by both parties equally, and therefore, in the event that any litigation arises under or as a result of this Agreement, it is specifically stipulated and agreed to by Purchaser and Seller that this Agreement shall be interpreted and construed without regard to any rule of construction whereby ambiguities in an instrument are resolved against the party that drafted the instrument in question.

9.03 Law. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

9.04 Severability. In the event that any one or more of the provisions contained in this Agreement shall be determined to be void or unenforceable by a court of competent jurisdiction, or by action of law, the parties agree that they shall attempt, in good faith, to restructure this Agreement so as to effectuate and fulfill the purpose and intent of this Agreement in compliance with applicable laws, rules, regulations and ordinances. However, notwithstanding the failure of the parties to so agree, the remaining provisions contained in this Agreement shall remain in full force and effect, and be binding upon the parties hereto, and their respective successors and assigns.

9.05 Brokers. Purchaser and Seller represent and warrant to the other that there were no other brokers or finders retained or used by either party. Each party indemnifies, saves and holds harmless the other for any claims, actions or the like brought by any broker or finder based upon the actions of such party.

9.06 Notice. Any notices, requests, or other communications required or permitted to be given hereunder shall be in writing and shall be either (i) delivered by hand, (ii) mailed by United States registered mail, return receipt requested, postage prepaid, (iii) sent by a reputable, national overnight delivery service (e.g., Federal Express, UPS, Airborne, etc.), or (iv) sent by facsimile (with the original being sent by one of the other permitted means or by regular United States mail) and addressed to each party at the applicable address set forth herein. Any such notice, request, or other communication shall be considered given or delivered, as the case may be, on the date of hand delivery (if delivered by hand), on the third (3rd) day following deposit in the United States mail (if sent by United States registered mail), on the next business day following deposit with an overnight delivery service with instructions to deliver on the next day or on the next business day (if sent by overnight delivery service), or on the day sent by facsimile (if sent by facsimile, provided the original is sent by one of the other permitted means as provided in this paragraph or by regular United States mail). However, the time period within which a response to any notice or request must be given, if any, shall commence to run the date of actual receipt of such notice, request, or other communication by the addressee thereof. Rejection or other refusal to accept or inability to deliver because of a changed address of which no notice was given shall be deemed to be receipt of the notice, request, or other communication. By giving at least five (5) days prior written notice thereof, any party hereto may, from time to time and at any time, change its mailing

address hereunder. Any notice provided for hereunder may be given by a party's attorney or other representative.

Seller:

Elegant Beverage Products LLC
Imperial Unlimited Service Inc.
132 Conifer Drive
Statesville, NC 28862
Telecopy:
Telephone:
Email:

with copy to:

Crosswhite and Crosswhite, P.A.
239 East Broad Street
Statesville, NC 28677
Telecopy:
Telephone:
Email:

Real Property Seller:

Thomas Dotoli

Telecopy:
Telephone:
Email:

with copy to:

Crosswhite and Crosswhite, P.A.
239 East Broad Street
Statesville, NC 28677
Telecopy: 704-924-6938
Telephone: 704-873-7283
Email:

Shareholders:

Thomas Dotoli
Kathleen E. Dotoli
Ludine Thomas Dotoli

Telecopy:
Telephone:
Email:

with copy to:

Crosswhite and Crosswhite, P.A.
239 East Broad Street
Statesville, NC 28677
Telecopy: 704-924-6938
Telephone: 704-873-7233
Email:

Purchaser:

Beverage Systems of The Carolinas, LLC

Telecopy:
Telephone:
Email:

with copy to:

Schenkman Jennings LLC
2109 Pennington Road
West Trenton, NJ 08638
Attn: Martin J. Jennings, Jr., Esq.
Telecopy: (609) 530-7184
Telephone: (609) 883-8000
Email: jjenns@aol.com

9.07 Assurance. Each party to this Agreement shall execute all instruments and documents and take all actions as may be reasonably required to effectuate this Agreement, whether before concurrent with or after the consummation of the transactions contemplated hereby.

9.08 Entire Agreement. This Agreement, the Schedules and exhibits hereto and the related documents and certificates delivered in connection herewith constitute the entire agreement among the parties hereto pertaining to the subject matter hereof and thereof and supersede all prior agreements, term sheets, letters, discussions and understandings of the parties in connection therewith. This Agreement and the related documents contain all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and acknowledged the day and year first above written.

WITNESS:

LLC

Inc.

Witness:

Seller:

Elegant Beverage Products,

By:

Imperial Unlimited Service

By:

Members of Elegant
Beverage Products, LLC:

Kathleen E. Dotoli

50% owner Elegant Beverage
Products, LLC

Ludine Dotoli

Ludine Thomas Dotoli
50% owner Elegant
Beverage Products, LLC

Thomas Dotoli

100% owner Imperial
Unlimited Service Inc.

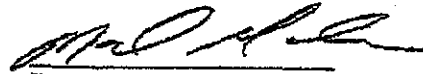
Real Property Seller:

Kathleen E. Dotoli

Thomas Dotoli

Attest:

Purchaser:
Beverage Systems of The
Carolinas, LLC.

A handwritten signature in dark ink, appearing to be "M. D. H.", written over a horizontal line.

By:

Dotoli Sale

Revised Price Allocation

Tom and Kathy Dotoli	\$210,000.00	Real Estate
Elegant Beverage	\$ 10,000.00	Equipment
	\$ 35,000.00	Inventory
Imperial Beverage	\$150,000.00	Equipment
	\$135,000.00	Inventory
	\$ 10,000.00	Covenant Not to Compete
	\$100,000.00	Goodwill
<hr/>		
Total:	\$650,000.00	

ORIGINAL NOTE



PROMISSORY NOTE

Dated: September 30, 2009

1. Principal.

FOR VALUE RECEIVED, the undersigned, Beverage Systems of the Carolinas, LLC, ("Borrower"), promises to pay to Ludine Thomas Dotoli and Kathleen Dotoli, ("Lender"), the principal sum of \$436,500.00, with annual interest thereon calculated in accordance with the terms and provisions provided below. All sums owing under this note are payable in lawful money of the United States of America.

2. Interest.

Interest accrued on this note shall be payable at a Fixed annual rate of Four Percent (4%), until such time as this note is paid in full.

All amounts required to be paid under Lender's note shall be payable to Lender's at 372 Brawley School Road, Mooresville, North Carolina 28117, or at another place as Lender, from time to time, may designate in writing.

Interest calculations shall be based on a 360-day year and charged on the basis of actual days elapsed.

If any required payment is not paid on or before the last business day of the month in which it becomes due, Borrower shall pay, at Lender's option, a late or collection charge not exceeding 5% of the amount of the unpaid amount. Further, the amount of each payment that is not paid on or before the last business day of the month in which it became due shall bear interest from the last business day until paid at the rate or rates charged from time to time on the principal owing under this rate.

3. Monthly Installments.

Monthly Installments Including Interest. Principal and interest shall be paid in equal successive monthly installments, each in the amount of \$4,419.35, commencing on the first day of November, 2009, and continuing on the same day of each month thereafter for a period of 120 months until all principal and accrued interest have been paid in full.

4. Maturity Date.

The entire principal balance of this note, together with all accrued and unpaid interest, shall be due and payable on September 1, 2019 ("maturity date"), unless otherwise prepaid in accordance with the terms of this note.

5. Security.

(a) This note is secured by, among other things, a mortgage and security agreement ("mortgage") bearing the date of this note, executed and delivered by Borrower, as mortgagor, to Lender, as mortgagee, encumbering property in Iredell County, North Carolina as more fully described in the Mortgage.

(b) This note is further secured by additional collateral documentation, including assignments and guarantees ("security documents"), which were executed and delivered to Lender on the date of this note.

(c) All of the agreements, conditions, covenants, provisions, and stipulations contained in the mortgage and security documents that are to be kept and performed by Borrower and any guarantors of the note, are made hereby a part of this note to the same extent and with the same force and effect as if they were set forth fully herein, and Borrower covenants and agrees to keep and perform them or cause them to be kept and performed strictly in accordance with their terms.

6. Prenayment.

Borrower may prepay the whole or any portion of this note on any date, upon five days' notice to Lender. Any payments of the principal sum received by Lender under the terms of this note shall be applied in the following order of priority: (a) first, to any accrued interest due and unpaid as of the date of payment; (b) second, to the outstanding principal sum; and (c) the balance, if any, to any accrued, but not yet due and payable, interest.

7. Late Charge.

If any required payment, including the final payment due on the maturity date, is not paid within 15 days from and including the date upon which it was due (whether by acceleration or otherwise), then, in each such event, all past due amounts shall be subject to a late penalty of .05 cents on every dollar owed (the "late penalty"). This late penalty shall be in addition to any other interest due as provided for in Paragraph 2 and in addition to all other rights and remedies provided herein or by law for the benefit of the holder on a default. The acceptance of any payment by the holder of the note shall not act to restrict the holder at all in exercising any other rights under the note or the law, to waive or release Borrower from any obligations contained herein, or to extend the time for payments due under this note.

8. Default and Remedies.

If Borrower fails to pay principal and/or interest on the date on which it falls due or to perform any of the agreements, conditions, covenants, provisions, or stipulations contained in this note, in the mortgage, or in the security documents, then Lender, at its option and without notice to Borrower, may declare immediately due and payable the entire unpaid balance of principal with interest from the date of default at the rate of 18% per year and all other sums due by Borrower hereunder or under the mortgage, anything herein or in the mortgage to the contrary notwithstanding. Payment of this sum may be enforced and recovered in whole or in part at any time by one or more of the remedies provided to Lender in this note, in the mortgage, or in the security documents. In that case, Lender also may recover all costs in connection with suit, a reasonable attorney's fee for collection, and interest on any judgment obtained by Lender at the rate of 18% per year.

The remedies of Lender and the warrants provided in this note, the mortgage, or the security documents shall be cumulative and concurrent, and they may be pursued singly, successively, or together at the sole discretion of Lender. They may be exercised as often as occasion shall occur, and failing to exercise one shall in no event be construed as a waiver or release of it.

9. Attorneys' Fees and Costs.

If Lender engages any attorney to enforce or construe any provision of this note or the mortgage, or as a consequence of any default whether or not any legal action is filed, Borrower immediately shall pay on demand all reasonable attorneys' fees and other Lender's costs, together with interest from the date of demand until paid at the highest rate of interest then applicable to the unpaid principal, as if the unpaid attorneys' fees and costs had been added to the principal.

10. Waivers.

(a) Borrower hereby waives and releases all benefit that might accrue to Borrower by virtue of any present or future laws of exemption with regard to real or personal property or any part of the proceeds arising from any sale of that property, from attachment, levy, or sale under execution, or providing for any stay of execution, exemption from civil process, or extension of time for payment. Borrower agrees that any real estate that may be levied on under a judgment obtained by virtue hereof, on any writ of execution issued thereon, may be sold on any writ in whole or in part in any order desired by Lender.

(b) Borrower and all endorsers, sureties, and guarantors jointly and severally waive presentment for payment, demand, notice of demand, notice of nonpayment or dishonor, protest, notice of protest of this note, and all other notices in connection with the delivery, acceptance,

performance, default, or enforcement of the payment of this note. They agree that each shall have unconditional liability without regard to the liability of any other party and that they shall not be affected in any manner by any indulgence, extension of time, renewal, waiver, or modification granted or consented to by Lender. Borrower and all endorsers, sureties, and guarantors consent to any and all extensions of time, renewals, waivers, or modifications that may be granted by Lender with respect to the payment or other provisions of this note, and to the release of any collateral or any part thereof, with or without substitution, and they agree that additional borrowers, endorsers, guarantors, or sureties may become parties hereto without notice to them or affecting their liability hereunder.

(c) Lender shall not be considered by any act of omission or commission to have waived any of its rights or remedies hereunder, unless such waiver is in writing and signed by Lender, and then only to the extent specifically set forth in writing. A waiver on one event shall not be construed as continuing or as a bar to or waiver of any right or remedy to a subsequent event.

11. Notices.

All notices required under or in connection with this note shall be delivered or sent by certified or registered mail, return receipt requested, postage prepaid, to the addresses set forth in Paragraph 1 hereof, or to another address that any party may designate from time to time by notice to the others in the manner set forth herein. All notices shall be considered to have been given or made either at the time of delivery thereof to an officer or employee or on the third business day following the time of mailing in the aforesaid manner.

12. Costs and Expenses.

Borrower shall pay the cost of any revenue tax or other stamps now or hereafter required by law at any time to be affixed to this note.

13. No Partnership or Joint Venture.

Nothing contained in this note or elsewhere shall be construed as creating a partnership or joint venture between Lender and Borrower or between Lender and any other person or as causing the holder of the note to be responsible in any way for the debts or obligations of Borrower or any other person.

14. Interest Rate Limitation.

Notwithstanding anything contained herein to the contrary, the holder hereof shall never be entitled to collect or apply as interest on this obligation any amount in excess of the maximum rate of interest permitted to be charged by applicable law. If the holder of this note ever collects or applies as interest any such excess, the excess amount shall be applied to reduce the principal debt;

and if the principal debt is paid in full, any remaining excess shall be paid forthwith to Borrower. In determining whether the interest paid or payable in any specific case exceeds the highest lawful rate, the holder and Borrower shall to the maximum extent permitted under applicable law (a) characterize any non-principal payment as an expense, fee, or premium rather than as interest; (b) exclude voluntary prepayments and the effects of these; and (c) spread the total amount of interest throughout the entire contemplated term of the obligation so that the interest rate is uniform throughout the term. Nothing in this paragraph shall be considered to increase the total dollar amount of interest payable under this note.

15. Modification.

In the event this note is pledged or collaterally assigned by Lender at any time or from time to time before the maturity date, neither Borrower nor Lender shall permit any modification of this note without the consent of the pledgee/assignee.

16. Number and Gender.

In this note the singular shall include the plural and the masculine shall include the feminine and neuter gender, and vice versa, if the context so requires.

17. Headings.

Headings at the beginning of each numbered paragraph of this note are intended solely for convenience of reference and are not to be construed as being a part of the note.

18. Time of Essence.

Time is of the essence with respect to every provision of this note.

19. Governing Law.

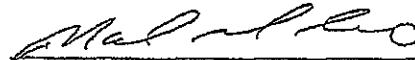
This note shall be construed and enforced in accordance with the laws of the State of North Carolina, except to the extent that federal laws preempt the laws of the state of North Carolina.

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IN WITNESS WHEREOF, Borrower has executed this promissory note on the date set forth above.

Signed in the presence of:

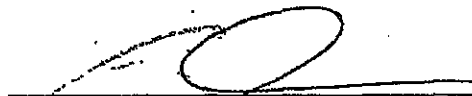
By: Beverage Systems of The Carolinas, LLC

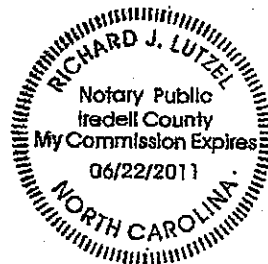


Managing Member

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

Sworn to and subscribed before me on September 30, 2009 by Mark Gandino, Managing Member of Beverage Systems of The Carolinas, LLC, who has provided photographic identification.



Notary Public - State of North Carolina
Printed Name: Richard J. Lutzel
(Seal)

Amortization Schedule

Month	Interest	Principal	Balance
Oct, 2009	\$1,455.00	\$2,964.35	\$433,535.65
Nov, 2009	\$1,445.12	\$2,974.23	\$430,561.42
Dec, 2009	\$1,435.20	\$2,984.13	\$427,577.27
Jan, 2010	\$1,425.26	\$2,994.09	\$424,583.18
Feb, 2010	\$1,415.28	\$3,004.07	\$421,579.11
Mar, 2010	\$1,405.26	\$3,014.09	\$418,565.02
Apr, 2010	\$1,395.22	\$3,024.13	\$415,540.89
May, 2010	\$1,385.14	\$3,034.21	\$412,506.67
Jun, 2010	\$1,375.02	\$3,044.33	\$409,462.34
Jul, 2010	\$1,364.87	\$3,054.48	\$406,407.87
Aug, 2010	\$1,354.69	\$3,064.66	\$403,343.21
Sep, 2010	\$1,344.48	\$3,074.87	\$400,268.34
Oct, 2010	\$1,334.23	\$3,085.12	\$397,183.22
Nov, 2010	\$1,323.94	\$3,095.41	\$394,087.81
Dec, 2010	\$1,313.63	\$3,105.72	\$390,982.09
Jan, 2011	\$1,303.27	\$3,116.08	\$387,866.01
Feb, 2011	\$1,292.89	\$3,126.46	\$384,739.55
Mar, 2011	\$1,282.47	\$3,136.89	\$381,602.66
Apr, 2011	\$1,272.01	\$3,147.34	\$378,455.32
May, 2011	\$1,261.52	\$3,157.83	\$375,297.49
Jun, 2011	\$1,250.99	\$3,168.36	\$372,129.13
Jul, 2011	\$1,240.43	\$3,178.92	\$368,950.21
Aug, 2011	\$1,229.83	\$3,189.52	\$365,760.69
Sep, 2011	\$1,219.20	\$3,200.15	\$362,560.54
Oct, 2011	\$1,208.54	\$3,210.82	\$359,349.73
Nov, 2011	\$1,197.83	\$3,221.52	\$356,128.21
Dec, 2011	\$1,187.09	\$3,232.26	\$352,895.95
Jan, 2012	\$1,176.32	\$3,243.03	\$349,652.92
Feb, 2012	\$1,165.51	\$3,253.84	\$346,399.08
Mar, 2012	\$1,154.66	\$3,264.69	\$343,134.40

Apr, 2012	\$1,143.78	\$3,275.57	\$339,858.83
May, 2012	\$1,132.86	\$3,286.49	\$336,572.34
Jun, 2012	\$1,121.91	\$3,297.44	\$333,274.90
Jul, 2012	\$1,110.92	\$3,308.43	\$329,966.46
Aug, 2012	\$1,099.89	\$3,319.46	\$326,647.00
Sep, 2012	\$1,088.82	\$3,330.53	\$323,316.47
Oct, 2012	\$1,077.72	\$3,341.63	\$319,974.85
Nov, 2012	\$1,066.58	\$3,352.77	\$316,622.08
Dec, 2012	\$1,055.41	\$3,363.94	\$313,258.14
Jan, 2013	\$1,044.19	\$3,375.16	\$309,882.98
Feb, 2013	\$1,032.94	\$3,386.41	\$306,496.57
Mar, 2013	\$1,021.66	\$3,397.70	\$303,098.88
Apr, 2013	\$1,010.33	\$3,409.02	\$299,689.86
May, 2013	\$998.97	\$3,420.38	\$296,269.47
Jun, 2013	\$987.56	\$3,431.79	\$292,837.69
Jul, 2013	\$976.13	\$3,443.22	\$289,394.46
Aug, 2013	\$964.65	\$3,454.70	\$285,939.76
Sep, 2013	\$953.13	\$3,466.22	\$282,473.54
Oct, 2013	\$941.58	\$3,477.77	\$278,995.77
Nov, 2013	\$929.99	\$3,489.36	\$275,506.41
Dec, 2013	\$918.35	\$3,501.00	\$272,005.41
Jan, 2014	\$906.68	\$3,512.67	\$268,492.74
Feb, 2014	\$894.98	\$3,524.37	\$264,968.37
Mar, 2014	\$883.23	\$3,536.12	\$261,432.25
Apr, 2014	\$871.44	\$3,547.91	\$257,884.34
May, 2014	\$859.61	\$3,559.74	\$254,324.60
Jun, 2014	\$847.75	\$3,571.60	\$250,753.00
Jul, 2014	\$835.84	\$3,583.51	\$247,169.49
Aug, 2014	\$823.90	\$3,595.45	\$243,574.04
Sep, 2014	\$811.91	\$3,607.44	\$239,966.61
Oct, 2014	\$799.89	\$3,619.46	\$236,347.14
Nov, 2014	\$787.82	\$3,631.53	\$232,715.62

Dec, 2014	\$775.72	\$3,643.63	\$229,071.99
Jan, 2015	\$763.57	\$3,655.78	\$225,416.21
Feb, 2015	\$751.39	\$3,667.96	\$221,748.25
Mar, 2015	\$739.16	\$3,680.19	\$218,068.06
Apr, 2015	\$726.89	\$3,692.46	\$214,375.60
May, 2015	\$714.59	\$3,704.76	\$210,670.83
Jun, 2015	\$702.24	\$3,717.11	\$206,953.72
Jul, 2015	\$689.85	\$3,729.50	\$203,224.22
Aug, 2015	\$677.41	\$3,741.94	\$199,482.28
Sep, 2015	\$664.94	\$3,754.41	\$195,727.87
Oct, 2015	\$652.43	\$3,766.92	\$191,960.95
Nov, 2015	\$639.87	\$3,779.48	\$188,181.47
Dec, 2015	\$627.27	\$3,792.08	\$184,389.39
Jan, 2016	\$614.63	\$3,804.72	\$180,584.67
Feb, 2016	\$601.95	\$3,817.40	\$176,767.27
Mar, 2016	\$589.22	\$3,830.13	\$172,937.14
Apr, 2016	\$576.46	\$3,842.89	\$169,094.25
May, 2016	\$563.65	\$3,855.70	\$165,238.54
Jun, 2016	\$550.80	\$3,868.56	\$161,369.99
Jul, 2016	\$537.90	\$3,881.45	\$157,488.54
Aug, 2016	\$524.96	\$3,894.39	\$153,594.15
Sep, 2016	\$511.98	\$3,907.37	\$149,686.78
Oct, 2016	\$498.96	\$3,920.39	\$145,766.39
Nov, 2016	\$485.89	\$3,933.46	\$141,832.92
Dec, 2016	\$472.78	\$3,946.57	\$137,886.35
Jan, 2017	\$459.62	\$3,959.73	\$133,926.62
Feb, 2017	\$446.42	\$3,972.93	\$129,953.69
Mar, 2017	\$433.18	\$3,986.17	\$125,967.52
Apr, 2017	\$419.89	\$3,999.46	\$121,968.06
May, 2017	\$406.56	\$4,012.79	\$117,955.27
Jun, 2017	\$393.18	\$4,026.17	\$113,929.11
Jul, 2017	\$379.76	\$4,039.59	\$109,889.52

Aug, 2017	\$366.30	\$4,053.05	\$105,836.47
Sep, 2017	\$352.79	\$4,066.56	\$101,769.91
Oct, 2017	\$339.23	\$4,080.12	\$97,689.79
Nov, 2017	\$325.63	\$4,093.72	\$93,596.07
Dec, 2017	\$311.99	\$4,107.36	\$89,488.71
Jan, 2018	\$298.30	\$4,121.05	\$85,367.65
Feb, 2018	\$284.56	\$4,134.79	\$81,232.86
Mar, 2018	\$270.78	\$4,148.57	\$77,084.29
Apr, 2018	\$256.95	\$4,162.40	\$72,921.89
May, 2018	\$243.07	\$4,176.28	\$68,745.61
Jun, 2018	\$229.15	\$4,190.20	\$64,555.41
Jul, 2018	\$215.18	\$4,204.17	\$60,351.24
Aug, 2018	\$201.17	\$4,218.18	\$56,133.07
Sep, 2018	\$187.11	\$4,232.24	\$51,900.83
Oct, 2018	\$173.00	\$4,246.35	\$47,654.48
Nov, 2018	\$158.85	\$4,260.50	\$43,393.98
Dec, 2018	\$144.65	\$4,274.70	\$39,119.27
Jan, 2019	\$130.40	\$4,288.95	\$34,830.32
Feb, 2019	\$116.10	\$4,303.25	\$30,527.07
Mar, 2019	\$101.76	\$4,317.59	\$26,209.48
Apr, 2019	\$87.36	\$4,331.99	\$21,877.49
May, 2019	\$72.92	\$4,346.43	\$17,531.07
Jun, 2019	\$58.44	\$4,360.91	\$13,170.15
Jul, 2019	\$43.90	\$4,375.45	\$8,794.70
Aug, 2019	\$29.32	\$4,390.03	\$4,404.67
Sep, 2019	\$14.68	\$4,404.67	\$0.00

**EXHIBIT 2: NON-COMPETITION, NON-SOLICITATION and
CONFIDENTIALITY AGREEMENT**

Duplicate Copy. Set forth in its entirety R pp 15-23.

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO: 12 CVS 1519

BEVERAGE SYSTEMS OF THE
CAROLINAS, LLC,

Plaintiff,

vs.

ASSOCIATED BEVERAGE REPAIR,
LLC, LUDINE DOTOLI, and CHERYL
DOTOLI,

Defendants.

**PLAINTIFF'S RESPONSES TO
DEFENDANTS' FIRST REQUEST
FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rules 23, 33 & 34 of the North Carolina Rules of Civil Procedure, please find below the responses of Beverage Systems of the Carolinas, LLC ("BSC") to Defendants' First Request for Production of Documents to Plaintiff.

DEFINITIONS

Unless otherwise indicated, the definitions outlined in Defendants' First Request for Production of Documents to Plaintiff shall be applicable to these responses.

GENERAL OBJECTIONS

1. Plaintiff objects to each of the request for production to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence.
2. Plaintiff objects to the scope of each request for production to the extent that such request:
 - (a) seeks information that was prepared or obtained by Plaintiff and Plaintiff's attorney in anticipation of any litigation within the scope of the work-product privilege; or
 - (b) seeks information that constitutes confidential attorney-client communications; or
 - (c) seeks documents and things outside Plaintiff's possession, custody or control;
 - (d) contains "definitions" or "instructions" that are overly broad, are self-serving to the interests of the Defendant, are unduly burdensome, exceed the proper scope of discovery under the North Carolina Rules of Civil Procedure, or impose duties and obligations on Plaintiff that exceed the duties and obligations imposed by the North Carolina Rules of Civil Procedure;

(e) seeks documents or information readily ascertainable by Defendant and/or in Defendant's possession, custody or control;

(f) seeks documents which are proprietary, commercially confidential, or trade sensitive, which documents will be disclosed and produced only if genuinely relevant to the issues in this action and pursuant to an agreed-upon protective order limiting the use and disclosure of such documents in this action;

(g) requires Plaintiff to produce the documents requested at a time and place unilaterally designated by Defendant, which documents will be produced at a mutually agreeable time and place; and

(h) seeks production of documents which are maintained at diverse locations and, thus, are obtainable from some other source that is more convenient, less burdensome and less expensive.

3. Plaintiff assumes no duty to supplement its responses except to the extent required by Rule 26(e) of the North Carolina Rules of Civil Procedure.

4. By providing, or attempting to provide, substantive responses to the requests for production set forth hereinbelow, Plaintiff in no way waives, and expressly reserves, any and all rights it may have to object to the relevance and admissibility of the requests for production and the responses thereto.

RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All written contracts between Elegant Beverage Products, LLC and any of its customers which were acquired by and/or assigned to Plaintiff upon Plaintiff's purchase of the assets of Elegant Beverage Products, LLC under an Asset Purchase Agreement dated July 20, 2009.

RESPONSE: To Plaintiff's knowledge, there were no written agreements that were specifically transferred, but Plaintiff did purchase all of the accounts and customers of Elegant Beverage Products, LLC as part of the Asset Purchase Agreement dated July 20, 2009.

2. All written contracts between Imperial Unlimited Services, Inc. and any of its customers which were acquired by and/or assigned to Plaintiff upon Plaintiff's purchase of the assets of Imperial Unlimited Services, Inc. under an Asset Purchase Agreement dated July 20, 2009.

RESPONSE: To Plaintiff's knowledge, there were no written agreements that were specifically transferred, but Plaintiff did purchase all of the accounts and customers of Elegant Beverage Products, LLC as part of the Asset Purchase Agreement dated July 20, 2009. Further, Plaintiff understands that BSC 1 through BSC 5 was a contract with Franke that was transferred to Plaintiff.

3. Any document comprising a part of, or schedule to, the Asset Purchase Agreement between Plaintiff and (1) Elegant Beverage Products, LLC and (2) Imperial Unlimited Services, Inc. which identifies the customers of either Elegant or Imperial who were being served by them on July 20, 2009.

RESPONSE: No schedules were specifically included, but all accounts and customers were included in the purchase as referenced in the Asset Purchase Agreement.

4. Any document constituting a representation by either Elegant or Imperial that any customer being served by either of said entities on July 20, 2009 would remain a customer of Plaintiff after closing of the Asset Purchase Agreement dated July 20, 2009.

RESPONSE: See BSC 6 through BSC 42.

5. A copy of any written contract entered into between Plaintiff and any customer acquired by Plaintiff after September 30, 2009 under which Plaintiff was granted the right to provide services to such customer.

RESPONSE: None.

6. Any document which reflects that Plaintiff ever gave notice to any Defendant in this case of the existence of any contract produced in response to Request No. 5 above.

RESPONSE: None.

7. Any document or other instrument in Plaintiff's possession which evidence the knowledge of any Defendant in this case of the existence between Plaintiff and any customer or client of Plaintiff of any contract which granted to Plaintiff any right of Plaintiff to provide services to such customer.

RESPONSE: See deposition of Loudine Dotoli.

8. Any document in Plaintiff's possession or available to Plaintiff which shows that any portion of the \$10,000 referred to in the Asset Purchase Agreement as compensation for a covenant not to compete:

- a. Has been paid by Plaintiff to any party to the Asset Purchase Agreement; or
- b. If paid, to whom, on what amount, and on what date said payment was made.

RESPONSE: See BSC 43 through BSC 55.

9. Any document which constitutes the customer lists and contracts referred to in par. 48 of the Complaint filed in this cause.

RESPONSE: See BSC 56 through BSC 70.

10. A copy of the Federal Income Tax Return filed by Plaintiff for the calendar years ending December 31, 2009; December 1, 2010; and December 1, 2011.

RESPONSE: See BSC 71 through BSC 72.

11. Copies of the K-1 forms issued to every person with a membership interest in Plaintiff for the calendar years ending December 31, 2009; December 31, 2010; and December 31, 2011.

RESPONSE: None.

12. A copy of the monthly profit and loss statements prepared by Plaintiff or its bookkeepers or accountants for every month in calendar year 2012 for which such statement has been prepared.

RESPONSE: None.

13. Any document which describes the name of any customer of Plaintiff whose business has been taken by Defendant from Plaintiff as alleged in par. 68 of the Complaint.

RESPONSE: See deposition of Loudine Dotoli.

This 8th day of February, 2013.

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC
Attorneys for the Plaintiff



Kevin C. Donaldson
P.O. Box 3010
Mooresville, NC 28117
(704) 664-1127

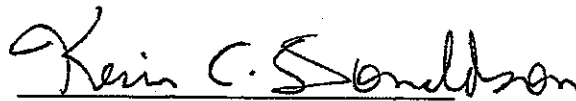
CERTIFICATE OF SERVICE

The undersigned does hereby certify that he has this day duly served a copy of the foregoing Plaintiff's Responses to Defendants' First Request for Production of Documents to Plaintiff to the following by the deposit of a true copy of same in the United States mail, postage prepaid, addressed to the Defendants' attorney of record, to:

Douglas G. Eisele
Eisele, Ashburn, Greene & Chapman, P.A.
320 W. Broad Street
Statesville, NC 28677

This 8th day of February, 2013.

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC
Attorneys for the Plaintiff



Kevin C. Donaldson
P.O. Box 3010
Mooresville, NC 28117
(704) 664-1127

Frankie Coffee Systems
800 Aviation Parkway
Smyrna, TN 37167



COFFEE
SYSTEMS

Service Agreement

This Service Agreement ("Agreement") is executed by and between Imperial Service ("Service Provider"), an independent service provider of espresso and/or foodservice equipment and Frankie Foodservice Systems Inc. ("Frankie") to set forth the terms and conditions whereunder Service Provider will service Frankie's espresso, refrigeration, water, and any applicable equipment ("Equipment").

General Terms

Performance: The Service Provider agrees to perform the services to the Equipment (the "Services") in a professional good and workmanlike manner consistent with industry standards, which will positively reflect on Frankie to Frankie's customers ("Customers") and to perform Services as dispatched by Frankie.

Operating Manual: The Service Provider further agrees to adhere to the specified requirements and procedures as set forth in the Frankie Authorized Service Provider Operating Manual ("Operating Manual") in order to receive payment. Frankie reserves the right to update the Operating Manual and its contents and it is the Service Provider's responsibility to be up to date to the contents of the Operating Manual and adhere to any new requirements as they become available. In the event of a conflict between the Operating Manual and the provisions of this Agreement, the provisions of this Agreement shall prevail.

Personnel: For all services dispatched by Frankie, the Service Provider agrees to send only technicians employed in good standing by the Service Provider or hired by Service Provider as contractors subject to the terms of this Agreement ("Technicians") that have been properly trained and certified by Frankie, unless otherwise approved by Frankie in writing in advance. Furthermore, Service Provider agrees not to use another service provider as a contractor for services dispatched by Frankie, unless otherwise approved by Frankie in writing in advance.

Service Provider hereby acknowledges and agrees that it will be responsible for ensuring that any and all of its contractors abide by the terms and conditions of this Agreement. Service Provider further acknowledges and agrees that if any action or omission of any of its contractors is not in accordance with or breaches, any of the terms or conditions of this Agreement, then Service Provider will be responsible for each such breach and all such breaches as though Service Provider itself had breached this Agreement.

Inventory: The Service Provider agrees to purchase and hold at least a minimum Frankie parts inventory ("Required Parts Inventory"), as listed in the Operating Manual, in its stock at all times in order to support most services dispatched by Frankie. The Service Provider will not charge Frankie for repeated service or repair trips that become necessary due to Service Provider's negligence, lack of knowledge, inability to keep appointments, lack of proper tools, or lack of repair parts. Exceptions to this article will be made only when Service Provider can demonstrate to Frankie that a part required to complete the repair was defective, not available due to a back order by Frankie, or the required part was not on Frankie's required parts inventory stocking list.

Response Time: Unless otherwise agreed to by Frankie in writing in advance, the Service Provider agrees to adhere to specific response time ("Response Time") criteria for all services dispatched by Frankie. The standard Response Time is 4 hours for an emergency or non-operational Equipment and 24 hours for all other dispatches.

01091724 01

Frankie Coffee Systems
600 Aradon, Pkwy
Seymour, TN 37167



**COFFEE
SYSTEMS**

Fee Schedule

The Service Provider and Frankie agree to the following rates ("Rates") for all services dispatched by Frankie. Frankie reserves the right to make adjustments to incorrect rates on Service Provider invoices to the agreed upon Rates and according to applicable requirements in the Operating Manual. The Service Provider understands that these Rates will be applied to services rendered based on established acceptable repair times, when applicable, as indicated in the Operating Manual. The Service Provider also understands that travel will adhere to the following rates and zoning method and that Service Provider Invoiced travel amount is subject to verification by Frankie.

Labor		Travel
Labor per hour field service	\$65 USD	Not to exceed 120 miles(extended miles must be approved)
Overtime labor per hour service	\$98 USD	OT must be authorized in advance
Flat Rates		
Start-up Frankie Sinfonia FSA	\$ 225 USD	Price includes 1 hour travel and mileage(charges in excess of 1 hour round trip are billable)
PM Minor Frankie Sinfonia FSA	\$ 225 USD	Price includes 1 hour travel and mileage(charges in excess of 1 hour round trip are billable)
PM Major Frankie Sinfonia FSA	\$ 275 USD	Price includes 1 hour travel and mileage(charges in excess of 1 hour round trip are billable)

Warranty Workmanship

The Service Provider warrants all services rendered by its Technicians and those of its employees or contractors, if applicable, against defects in workmanship. In the event a defect should be discovered within 30 days of the performance of the service, Service Provider shall repair the defect and/or remedy the complaint at no additional charge to the customer or to Frankie

Indemnification

Service Provider will indemnify, defend and hold harmless Frankie, its Service Providers, employees, distributors and equipment dealers from any and all losses, liabilities, claims and causes of action arising out of or resulting from defective repairs made by Service Provider or Service Provider's employees or contractors. The obligations under this Article shall survive the termination of this agreement.

Parts

As a service provider for Frankie, the Service Provider may purchase spare parts from Frankie Resupply Systems, Inc. (or an affiliated Frankie company) at the following discount structure: 50% discount off list price. A complete parts listing with recommended sale prices will be distributed to Service Provider through a separate communication. Service Provider will bill Frankie for such parts used during a service call at the price actually paid by Service Provider with a 25% mark-up (on a separate line).

7/15/2014

Frankie Coffee Systems
420 Alvarado Place
Smyrna TN 37167



COFFEE
SYSTEMS

Part Orders

Within 2 days of receipt of an order for parts from a customer, Service Provider shall log all part orders on Franke's Re-supply Website, with all Coffee part orders submitted separately

Part Returns

When returning a spare part, Service Provider should ensure that each part being returned has a Return Merchandise Authorization ("RMA") issued for the location and reason for return. Service Provider acknowledges and accepts that each part is subject to evaluation by Franke and if a part does not pass the inspection process credit will not be issued for the return. Returns of parts for Equipment under warranty will also be tested and billed according to the results of the test, deducting the cost of the part and service hours from the Service Provider's invoice. For example: if the service agent replaces a part in good excellent working condition, Franke will subtract hours from the service invoice as well as the cost of the part.

Confidentiality

In the course of the provision of the Services Service Provider may have access to information of a confidential nature regarding Franke's business, technology or customers (the "Confidential Information"). Except as may be necessary in the performance of Service Provider's duties under this Agreement, Service Provider shall not disclose or use for Service Provider's direct or indirect benefit or the direct or indirect benefit of any third party, and Service Provider shall maintain, both during and after the Term of this Agreement, the strict confidentiality of any and all Confidential Information. Service Provider shall protect the confidentiality of the Confidential Information as it would its own most valuable information, which in any event shall be no less than a reasonable standard of care.

Non-Exclusivity, Termination

The Service Provider understands that Franke is hiring Service Provider's services on non-exclusive basis and that services dispatched to the Service Provider are at the discretion of Franke. No employer-employee, partnership or agency relationship is created by the parties by executing this Agreement. Service Provider has no right or authority to create any obligation, express or implied, on behalf of Franke, or to bind Franke in any manner whatsoever. Both the Service Provider and Franke can terminate the Agreement at any time with a 30 day written notice. Upon the termination of the Agreement, any outstanding balances to both parties at the time of termination would be paid and remaining Franke parts inventory owned by the Service Provider would be purchased by Franke, provided that, Franke determines, in its sole discretion, that the product is in new, unused, and in its original packaging.

Personal Injury Resulting From Use Of Products

Service Provider shall notify Franke immediately upon obtaining information regarding possible personal injury or other claim resulting from the performance of the Services by Service Provider. Additionally, Service Provider shall inform Franke immediately upon recognizing any operation, misapplication, use or misuse that present a situation whereby the Product may be involved directly or indirectly in a personal injury or risk of death situation.

-1111224-12

Frankie Coffee Systems
800 Aviation Plaza
Seymour, TN 37167



COFFEE
SYSTEMS

Compliance with Applicable Laws, Regulations and Codes

Service Provider agrees to comply with all federal, state, county and local codes, restrictions, standards and other laws, regulations or standards that may be issued from time to time by said regulatory bodies including, but not limited to Occupational Safety and Health Act (OSHA) standards.

Insurance

Service Provider will at all times carry, and require all its contractors to likewise carry, public liability and workers compensation insurance, each with \$1,000,000 coverage per occurrence. Service Provider, and its contractors, will provide Frankie with an annual Certificate of Insurance as evidence for this coverage.

Taxes

Service Provider will be responsible for the payment of any and all taxes due as a result of the performance of the Services or the payment thereof. Service Provider will indemnify and hold harmless Frankie and its affiliates from and against all claims, damages, losses, and reasonable fees of attorneys and other professionals relating to any obligation to pay any withholding taxes, social security, unemployment or disability insurance or similar charges, including any interest or penalties.

Unusual Product Situations

Service Provider will inform Frankie of any unusual Product conditions not normally covered in service reports such as poor ventilation, unsafe conditions or machine abuse.

General

No Waiver. The failure of Frankie to enforce at any time the provisions of this Agreement or to require at any time the performance by the Service Provider of any provisions herein shall not in any way be construed to be a waiver of such provisions or of any other provision.

Governing Law. The validity, construction and performance of this Agreement and the rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Delaware, without application of conflict of laws principles.

Severability. The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof.

Assignment. Service Provider may not assign this Agreement or any rights or obligations hereunder without the prior written consent of Frankie, which consent may be withheld for any reason or for no reason.

Notice. Any notice hereunder by either party shall be given by personal delivery or by sending such notice by certified mail, return-receipt requested, or telecopied, addressed or telecopied, as the case may be, to the other party at its address set forth below or at such other address designated by notice in the manner provided in this section. Such notice shall be deemed to have been received upon the date of actual delivery if personally delivered or, in the case of mailing, two (2) days after deposit with the U.S. mail, or, in the case of facsimile transmission, when confirmed by the facsimile machine report.

4119-2124-1

Frankie Coffee Systems
400 Hudson Pkwy
Spartanburg, SC 29162



COFFEE
SYSTEMS

Agreement

It is understood that the scope of the Agreement falls under the conditions of Frankie Terms and Conditions of Sale and the Service guidelines (the "Service Documents") which are incorporated into this agreement by reference and are binding on Service Provider. In the event of a contradiction between the Agreement and the Service Documents, the provisions of the Agreement shall prevail.

Service Provider and Frankie hereby agree to execute this Agreement by their duly authorized representatives as of the date indicated below.

Service Provider	Imperial Service
Location(s)	132 Conifer Dr., Statesville, NC 28625
Service Territory	100 mile radius from Statesville
Name	South Carolina to Columbia VA to Galax
Job title	Tom Dotoli
Signature	Pres
Date	7/23/09
Initial	JD

The Service Provider hereby acknowledges the receipt of the Frankie Preferred Authorized Service Provider Operating Manual.

Frankie agent	Debra Citra
Job title	Service & Support Manager
Signature	[Signature]
Date	07/26/09

Please note: Service Providers with multiple locations may be required to sign this Agreement for each location. Please contact Frankie to determine need.

11/03/2004

Mark Gandino

From: ThomDot@aol.com
Sent: Saturday, November 08, 2008 4:42 PM
To: markg@beveragesystems.org
Subject: Re: Questions
Attachments: 010_12A.JPG; 015_7A.JPG; 016_6A.JPG; 017_5A.JPG; 019_3A.JPG; 020_2A.JPG; 021_1A.JPG; 022_0A.JPG; 023_00A.JPG

Hi Mark,

I am interested in talking further and I am sending info and pictures that will help get us started.

Existing accounts and their percentages of business.

Frankie 30%, Bunnserve 25%, NGB 20%, Kraft, Pantry, JT Davenport, HT Hackney, South Co, Caribbean Cream, US Foods., MR. Williams, Tetley Tea, IFH Food Dist., Royal Cup, Duncan Donuts, Fetco, Cecilware, Grindmaster, and Street accounts make up the rest of the percentages. We just lost Sara Lee to DSI and hope to get them back. Also I am talking to Sysco foods that uses DSI and not happy with them.

Biggest Competitor

DSI

Number of Tech 4 plus myself, 2 girls in office plus my wife

3 techs on the road

1 tech in the shop

Number of vehicles

4 E 150 vans

1 E 250 van

Area of Coverage

100 miles radius from Charlotte and Statesville, that extends into South Carolina, and Virginia.

Building Size 4000 sq. feet 50' X 80' plus 2 Storage Trailers full of Equipment

50' X 15' office space

50' X 25' work shop space

50 X 40' warehouse space

Tax value on property and building 297,330.00...value doesn't include storage trailers.

Gross Income

2006 409,286.00

2007 442,786.00

2008 up to September 347,285.00, Accountant to figure out rest of the year.

Asking Price for business

395,000.00 Includes all inventory, furniture, vans, forklift, tools etc.

Asking Price on Building and property on 1.25 Acres

495,000.00 includes storage trailers, racks, work benches

Mark, I hope this helps with some of information that you asked for, if you need anything else e-mail me or call. I am willing to hold notes on the business and building.

In a message dated 11/6/2008 8:38:00 A.M. Eastern Standard Time, markgandino@mindspring.com writes:

Tom,

Good talking with you today. If you are interested in talking further about you company, let's start with a few questions.

4/21/2009

BSC 6

- # of Technicians
- Area of coverage
- 2008 Year to Date Sales, 2007 Sales, 2006 Sales
- What you are looking to sell the company for.
- You said you have a building. What would you sell it for?
- Square footage of the building
- Send a photo of it if you can.
- Would you consider paying you out over time?
- Customers that you service and an estimate of the % of your total business is. (IE 5% NGB, 10% Kraft etc)
- Biggest competitor in your market.

I think this is a good start. Add anything that you would like. Im planning to head to VA week after next
lest see if I can get these answers so if there is still interest we can meet then.

Thanks,

Mark Gandino

Beverage Systems, Inc.

Service Unlimited, Inc.

609-882-2100 Ext 22.

609-882-2109 Fax

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**ASSET PURCHASE AGREEMENT
AND REAL PROPERTY AGREEMENT**

THIS ASSET PURCHASE AGREEMENT, made this 30 day of August, 2009 by and between Elegant Beverage Products LLC, a North Carolina limited liability company having an address of 132 Conifer Drive, Statesville, NC 28525; Imperial Unlimited Service Inc., a corporation formed under the laws of the State of North Carolina, having an address of 132 Conifer Drive, Statesville, NC 28525 (hereinafter collectively referred to as "Seller"); Thomas Dotoli and Kathleen E. Dotoli, individuals having an address of 372 Beasley School Rd Mooresville NC 28117 (hereinafter referred to as the "Real Property Seller") and Ludine Thomas Dotoli having an address of 18928 V.C. Briarclay Court Charlotte NC (hereinafter Ludine Thomas Dotoli, Thomas Dotoli and Kathleen E. Dotoli are collectively referred to as "Shareholder") and Beverage Systems of The Carolinas, LLC a North Carolina limited liability company, having an address of _____ (hereinafter referred to as "Buyer" or "Purchaser");

WITNESSTH:

WHEREAS, Seller is the sole legal and equitable owner of the business known as "Elegant Beverage Products and Imperial Unlimited Service" located at 132 Conifer Drive, Statesville, North Carolina together with certain equipment listed, described and shown on Exhibit "A" attached hereto and by this reference made a part hereof as if fully set out herein (hereinafter referred to as the "Business and Equipment"); and

WHEREAS, Real Property Seller the owner of certain real property located at 132 Conifer Drive, Statesville, North Carolina together with the improvement located thereon, more particularly described and shown on Exhibit "B", attached hereto and by this reference made a part hereof as if fully set out herein (hereinafter referred to as the "Real Property");

WHEREAS, Purchaser is desirous of purchasing the Business and Equipment and Real Property and the Seller and Real Property Seller are desirous of selling, subject to the terms, covenants, conditions and agreements that follow and Seller is agreeable to such sale; and

NOW, THEREFORE, in consideration of the recitals above, the terms, covenants, conditions and agreements below, and the sum of TEN (\$10.00) DOLLARS, each party to the other in hand paid, the receipt and sufficiency of which consideration is hereby acknowledged, the parties hereto, intending to be legally bound thereby, agree as follows:

ARTICLE I PURCHASE AND SALE

1.01 Purchase and Sale. Upon the terms and subject to all the conditions and the full performance by the parties of their respective obligations as set forth in this Agreement,

Seller shall sell, transfer, assign, convey and deliver to Purchaser and Purchaser shall purchase, take assignment and receive from Seller the Business and Equipment, including, but not limited to all assets of the Business, including the names "Elegant Beverage Products and Imperial Unlimited Service", customer lists, telephone numbers, supplies, furniture, fixtures, equipment, leases for the use of any equipment, accounting system and software, computer, printer, warehouse equipment, racking, five motor vehicles, trailers and such other assets, more particularly listed, described and shown on Exhibit "A" attached hereto; and from the Real Property Seller the Property.

(a) The following assets of Seller are specifically excluded from this Agreement:

- (i) Trade accounts receivable; and
- (ii) Cash on hand.

Purchaser subsequent to closing shall have no obligation to collect any trade accounts receivable on the part of Seller, however, Purchaser will agree to remit to Seller, any and all trade accounts receivable payments it may receive subsequent to Closing.

(b) Purchaser in addition to the foregoing shall purchase the existing inventory of Elegant Beverage Products, LLC on hand at the date of Closing (hereinafter defined). The price to be paid for the inventory shall be the lesser of the then fair market value or the wholesale cost of such inventory paid by Elegant Beverage Products, LLC.

1.02 No Liabilities. Purchaser shall assume no liabilities of Seller with respect to the Equipment or Business or Real Property except as specifically stated herein; and same are being transferred free and clear of all liens and/or encumbrances. In addition, Purchaser shall have no obligation to satisfy any federal or state tax obligation on the Seller, as the Purchaser does not assume any responsibility or liability for the satisfaction of any tax, which may be due and owing by the Seller to any federal, state or local authority.

ARTICLE II PURCHASE PRICE AND PAYMENT

2.01 Purchase Price. The purchase price for the Business, Equipment and Real Property shall be the sum of Six Hundred Fifty Thousand and xx/100 (\$650,000.00) dollars, payable as follows:

(a) Payment of the sum of Ten thousand and xx/100 (\$10,000.00) dollars by check upon the signing of this Agreement, to be held in escrow by Seller's legal counsel in an attorney trust account until Closing, at which time said funds shall be paid over to Seller (the "Deposit Funds"). In the event that this Agreement shall be terminated in accordance with the terms hereof, the Deposit Funds shall be immediately returned to the Purchaser.

(b) Payment of or assumption of the existing loan on the Real Property

currently held by _____, in the approximate amount of One Hundred Twenty (\$120,000.00) Dollars, to be adjusted on the date of Closing.

(c) Payment of the existing loan in the name of Elegant Beverage Products, LLC currently held by _____, in the approximate amount of Thirty-Five Thousand (\$35,000.00) Dollars, to be adjusted on the date of Closing.

(d) Payment of the existing product inventory of Elegant Beverage Products, LLC in the approximate amount of Ten Thousand (\$10,000.00) Dollars.

(e) Issuance of a promissory notes to the Seller and Real Property Seller (to be determined by the parties) in the total amount of Four Hundred Thirty Six Thousand Five Hundred (\$436,500.00) Dollars (the "Promissory Notes") having a term of ten (10) years bearing interest at the rate of four (4%) percent per annum, in the form attached hereto as Exhibit "C" (subject adjustment based upon the amounts to be paid under (b) and (c) above.

(f) Cash in the amount of Thirty Eight Thousand Five Hundred (\$38,500.00) Dollars by certified or attorney trust check.

(g) Purchaser shall provide to Seller a first line Deed of Trust on the real property and a first lien security interest on the Equipment and vehicles along with UCC-1 financing statements. In addition, the personal guaranty of Mark Gandino shall be provided guarantying the payment of all amounts under the Promissory Notes.

2.02 Allocation of Purchase Price. The allocation of the Purchase Price as and between Seller and the Real Property Seller shall be made in accordance with the agreement of the said parties as set forth on Exhibit "D" attached hereto.

(a) Purchaser shall be permitted to pay any and all existing debts, liens or other obligations of Seller related to the Business and Equipment and the Real Property Seller related to the Property from the proceeds to be paid to the aforesaid parties under Section 2.01 above, including but not limited to, unpaid income, real estate, franchise other taxes to the State of North Carolina.

(b) Closing shall take place on or before _____, 2009 (the "Closing") at _____ or such other place as the parties shall reasonably agree, subject to the complete satisfaction of all contingencies set forth in this Agreement.

2.03 Inspections. During the twenty one (21) day period from the execution of this Agreement (the "Inspection Period"), Purchaser shall be permitted to enter the Property and the business locations of the Seller, upon at least one (1) business day prior written notice to Seller or Real Property Seller as the case may be, and to inspect and evaluate the Property, Business and Equipment and to conduct studies, tests and investigations related to the Property and review all of the business, accounting and financial records of Seller.

If during the Inspection Period Purchaser determines for any reason in its sole and unfettered discretion that the Property or the Business or Equipment is not suitable for Purchaser's purposes, Purchaser may terminate this Agreement. If Purchaser desires to terminate this Agreement hereunder, it shall give written notice of termination to Seller and Real Property Seller on or before the end of the last day of the Inspection Period, in which event this Agreement shall terminate and the Deposit Funds shall be refunded to Purchaser and the parties shall have no further obligation hereunder except for those matters that expressly survive termination hereof. If Purchaser fails to give written notice of its election to terminate this Agreement, this Agreement shall be deemed to have continued and Purchaser shall be deemed to have been satisfied with its inspection of the Property and the Business and Equipment.

2.04 Title. At Closing, Seller shall convey to Purchaser by Special Warranty Deed, good and marketable title in fee simple to the Real Property, insurable at regular rates by a title insurance company licensed to do business in the State of North Carolina, subject to the following liens, easements, restrictions, conditions or other encumbrances (hereinafter referred to as the "Permitted Encumbrances"), provided same do not render title unmarketable or unreasonably interfere with Purchaser's intended uses:

- (a) General real estate taxes for the year of Closing which are not yet due and payable (subject to adjustment);
- (b) Liens for municipal betterments, which are assessed after the date of Closing;
- (c) Other grants to utility and/or power companies, the rights of the public in sidewalks and abutting public rights-of-way, and easements given to the public for water course maintenance, slope rights or sight rights;
- (d) Standard exceptions set forth in the form of title insurance policy of the title insurance company selected by Purchaser, provided such exceptions as are applicable to Seller are satisfied by Seller at Closing;
- (e) Any other matter which would constitute a Title Objection (as hereinafter defined) that Purchaser does not waive pursuant to the following subsections.

2.05 Title Commitment. Purchaser covenants and agrees to promptly obtain a commitment for title insurance (the "Commitment") from a reputable title insurance company authorized to do business in the State of North Carolina, and shall deliver to Seller within twenty (21) days of the effective date of this Agreement a copy of the Commitment. In the event the title company selected by Purchaser to insure its interest in the Real Property shall report to Purchaser any objections any title matter that makes title unmarketable or which materially and adversely affects the ownership or operation of the Property, reasonably determined by Purchaser and which is unacceptable to Purchaser ("Title Objection"), Purchaser shall notify Real Property Seller of any such Title Objection at the time of Purchaser's delivery of a copy of the Commitment to Seller.

(a) If Purchaser notifies Real Property Seller, as herein provided, of a Title Objection, Real Property Seller shall elect, upon delivery of written notice to Purchaser within ten (10) business days after receipt of notification from Purchaser of a Title Objection, whether to cure such Title Objection. Real Property Seller shall have the right, at its sole election, to adjourn the Closing Date one or more times, for a period or periods not in excess of thirty (30) days in the aggregate, to enable Real Property Seller to convey title to the Property without such Title Objection. If Real Property Seller does not so elect to cure such Title Objection, or if having elected to cure such Title Objection Real Property Seller is unable to convey title subject to and in accordance with the provisions of this Agreement, Purchaser may either (i) terminate this Agreement by written notice to the Seller on or after the latter of the Closing Date or any adjournment by Real Property Seller, in which event this Agreement shall become void and of no further effect, the Deposit shall be immediately returned to Purchaser, and thereupon neither party shall have any further obligations of any nature to the other hereunder or by reason hereof, or (ii) upon notice to Real Property Seller, accept such title as Seller can convey without reduction of the Purchase Price or any credit or allowance on account thereof.

(b) Notwithstanding the foregoing, any deeds of trust, mortgages, judgment liens, mechanics or materialmen's liens, tax liens (other than liens for taxes not yet due and payable) and other monetary liens against the Real Property (collectively, "Liens") shall be deemed Objectionable Exceptions, whether Purchaser gives written notice of such or not, and shall be removed by Seller at or before Closing. Seller may authorize Settlement Agent to use Purchaser's funds payable at Closing for the satisfaction and discharge of any Liens.

(c) Seller shall execute such affidavits, indemnities, and other similar type instruments as are required reasonably by the Title Company for the elimination of any standard or printed exceptions in Purchaser's final policy of title insurance, including, without limitation, the exception for un-filed mechanics' liens and parties in possession.

2.06. Survey. Purchaser, at its sole cost and expense, may obtain an update and/or recertification of the Real Property Seller's existing survey and/or a new survey for the Property prepared by a land surveyor licensed in the state in which the Property is located. If the Survey discloses (i) any material encroachment or protrusion of an improvement across a boundary line, (ii) an unreasonable restriction on access, ingress or egress, (iii) the non-contiguity of any parcels of land comprising the Property for which affirmative title insurance is not available at commercially reasonable rates, (iv) any other matter objectionable to Purchaser and which materially and adversely affects the use of the Property as a distribution warehouse, then Purchaser shall give Seller written notice of such fact together with a copy of the Survey. Real Property Seller may, if it so chooses, promptly undertake to eliminate or modify all such unacceptable matters to the reasonable satisfaction of Purchaser. If Seller chooses not to or is unable to do so or fails to notify Purchaser of its intent to cure within ten (10) days after receipt of the Survey Objection Notice, Purchaser may, as its sole remedy, terminate this Agreement within the earlier of ten (10) days after receipt of notice from Seller that it is unable or unwilling to cure same, or the Closing date, whichever occurs first, and the Agreement shall thereupon

be null and void for all purposes except for those matters that expressly survive termination hereof, and the Deposit Funds shall be forthwith returned by the to Purchaser.

ARTICLE III REPRESENTATIONS, WARRANTIES AND COVENANTS

3.01 Representations and Warranties of Seller and Real Property Seller. In addition to any other representations, warranties or covenants contained in any other Article or Section of this Agreement, Seller and Real Property Seller in order to induce Purchaser to enter into and perform Purchaser's obligations and responsibilities contained in this Agreement, represent, warrant and covenant as follows:

(a) Seller, Elegant Beverage Products, LLC is a limited liability company duly organized and validly existing and in good standing under the laws of the State of North Carolina.

(b) Imperial Unlimited Service, Inc. is a corporation duly organized and validly existing and in good standing under the laws of the State of North Carolina.

(c) Seller and Real Property Seller have full power and authority to enter into this Agreement and to assume and perform all its obligations hereunder; the execution and delivery of this Agreement and the performance by Seller and Real Property Seller of their obligations hereunder have been duly authorized by such corporate, partnership or individual action as may be required, and no further action or approval is required in order to constitute this Agreement as a binding and enforceable obligation of Seller and Real Property Seller.

(d) Real Property Seller has received no written notice, and to Real Property Seller's knowledge, is not aware that any zoning, building, environmental or other law, ordinance, code, order or regulation is or will be violated by the continued maintenance, operation or use as a distribution warehouse of any buildings, improvements or structures presently erected on the Property or by the continued maintenance, operation or use of parking areas.

(e) Real Property Seller has received no written notice, and to Real Property Seller's knowledge, is not aware that there is any action, suit or proceeding, pending or threatened against or materially affecting the Property or relating to or arising out of the ownership or operation of the Property, in any court or before or by any federal, state, county or municipal department, commission, board, bureau or agency or other governmental instrumentality.

(f) Real Property Seller has received no written notice and, to Real Property Seller's knowledge, is not aware that there is any pending or threatened condemnation or similar proceeding or assessment affecting the Property, or any part thereof.

(g) Real Property Seller has received no written notice from any governmental agency having jurisdiction that the Property is affected by the presence and/or harmful

effects of any asbestos, toxic, or hazardous substances as defined by applicable federal, state, or local laws.

(i) The execution and performance of Seller's and Real Property Seller's obligations under this Agreement shall not result in a breach or violation of any other agreement to which the Seller or Real Property Seller is a party.

(j) No person other than the Purchaser has any right or option to acquire all or any portion of the Business and Equipment or Property;

(k) Seller and Real Property Seller have good, marketable and indefeasible title to the Business and Equipment and Property, free and clear of all liens, encumbrances, claims, rights or entitlements of another with respect thereto, except as specifically stated herein;

(l) From the date of Seller's acquisition of the Business and Equipment and Real Property Seller's acquisition of the Property to the date of this Agreement and continuing through the date of hereof, there have been no claims, actions, suits or proceedings pending or threatened, nor any judgments, settlements, decrees or orders of any court or governmental agency involving the Business and Equipment or Property, nor is Seller or Real Property Seller aware of any facts or circumstances which now, or with the passage of time, would give rise to any of the above;

(m) There are no attachments, executions, assignments for the benefit of creditors or voluntary or involuntary proceedings in bankruptcy pending against the Seller or Real Property Seller, and to the knowledge of the Seller and Real Property Seller, no such actions have been threatened against it;

(n) Seller will guaranty that the Equipment as listed on Exhibit A is and will be in good working order on the date of Closing;

(o) The financial information as provided by Seller to Purchaser, including but not limited to Federal Income Tax Returns, financial statements, bank statements, operating statements and such other information provided by Seller to Purchaser during its due diligence review thereof, accurately and fairly reflect the financial condition and operation of the Business, as set forth therein and constitutes true copies of all filings with the appropriate taxing authorities;

(p) Seller agrees to defend, reimburse, indemnify and hold Purchaser harmless against and in respect of (a) any and all claims made against Purchaser by customers of Seller for services by Seller on or before the Closing date; (b) any and all actions, suits, claims, proceedings, investigations, audits, demand, assessments, fines, tax liabilities, judgments, settlement, costs and other expenses (including and without limitation, reasonable attorney fees and expenses) incident to any matter which occurred prior to the Closing Date; and (c) any breach of this Agreement, including, any representation or warranty stated on the part of Seller;

(q) Seller will comply with all of the requirements under the North Carolina Bulk Sales Act or similar or applicable law governing the sale of the Business and Equipment and supply to Purchaser, prior to closing evidence of all such compliance. Seller will provide to Buyer its TIN/Sales Tax ID immediately upon execution of the Agreement;

(r) From the date of this Agreement and prior to the Closing, Seller shall use commercially reasonable efforts to cause the Business to be carried on in the ordinary and normal course of business and shall use and shall cause to use all commercially reasonable efforts to preserve the goodwill of all clients or customers having business relations with the Seller,

(s) From the date of this Agreement Seller shall not make, nor permit to be made, any material change in the way the Business of the Seller is being operated and will use all commercially reasonable efforts to preserve customer or supplier relationships which exist on the date hereof;

(t) Seller shall provide to Purchaser a list of Seller's existing creditors, (the "List of Creditors"), containing the names and business addresses of all such creditors, with the amounts owed to each and also the names and addresses of all persons or entities who are known to the Seller to assert claims against the Seller whether disputed or not. The List of Creditors shall be signed and sworn to or affirmed by the Seller or its agent;

(u) Seller and Real Property Seller, and all of their assets and properties are and at all times have been, in material compliance with, and immediately following the consummation of the transactions contemplated by this Agreement, will be in material compliance with, and neither Seller or Real Property Seller have any liability under, any laws, including, without limitation, any applicable securities, franchise, building, zoning, environmental laws, employment, labor relations or other statute, law, ordinance or regulation. All business conducted by Seller with any governmental authority has been conducted in accordance with all applicable Laws and accounting requirements.

(v) Seller currently has all permits and licenses required for the operation by Seller of a Business referred herein including but not limited to permit operate control apparatus or equipment as may be required, if any, by North Carolina law;

(w) Seller agrees to take such necessary and reasonable action, including the filing of all necessary governmental applications in order to effectuate the transfer of the corporate names of the Seller to Purchaser and any other license transfer necessitated by the sale of the Business and Equipment.

(x) This Agreement does not, and, the consummation of the transactions contemplated hereby and thereby shall not conflict with, or result in any violation of, or default under (with or without notice or lapse of time, or both), or give rise to a right of termination, cancellation, modification or acceleration of any obligation or loss of any

benefit or result in the imposition of any lien upon any of its respective Business, Equipment or Property under: (i) any provision of the charter or governance documents of the Seller or Real Property Seller; (ii) any mortgage, indenture, lease, contract or other agreement or instrument, permit, concession, franchise or license to which Seller or Real Property Seller is a party or any of its respective properties or assets are subject; or (iii) any law, order, decree, injunction or writ applicable to Seller or Real Property Seller or its respective properties or assets.

(y) There are no actions, claims, suits, proceedings, arbitrations, complaints, grievances, unfair labor practice or employment discrimination charges or complaints, or investigations pending or to the knowledge of Seller or Real Property Seller, threatened (i) against, initiated by, relating to or affecting Seller or Real Property Seller, the Business, Equipment or Property before any governmental authority; (ii) that challenge the validity or propriety of any of the transactions contemplated by this Agreement; or (iii) that challenge or question the legal right of Seller to conduct the operations of the Business as presently or previously conducted.

(z) Seller has timely filed all Federal, State, local income and franchise tax returns ("Tax Returns") that it was required to file. All of those Tax Returns were correct and complete in all respects. Seller has delivered to Purchaser correct and complete copies of all Tax Returns and all state and local income for any taxable period ending after December 31, 2003.

(aa) Neither Seller nor Real Property Seller have paid or become obligated to pay any fee or commission to any broker, finder, investment banker or other intermediary in connection with this Agreement.

(bb) Elegant Beverage Products, LLC is owned by Kathleen Dotoli a 50% membership interest and Ludine Dotoli, a 50% membership interest.

3.02 Representations and Warranties of Purchaser. In addition to any other representations, warranties or covenants contained in any other Article or Section of this Agreement, Purchaser, in order to induce Seller and Real Property Seller to enter into and perform Seller's and Real Property Seller's obligations and responsibilities contained in this Agreement represents, warrants and covenants as follows:

(a) The execution and performance of Purchaser's obligations under this Agreement shall not result in a breach or violation of any other agreement to which the Purchaser is a party and Purchaser has the fully corporate authority to enter into this Agreement and complete its obligations hereunder and the Agreement has been duly authorized by the proper corporate action on the part of the Purchaser

(b) The execution and delivery of this Agreement and the consummation of the transactions contemplated herein by Purchaser will not require the consent or approval of, or filing with, any governmental authority or third party.

(c) Purchaser has not paid or become obligated to pay any fee or commission to any broker, finder, investment banker or other intermediary in connection with this Agreement.

ARTICLE IV DELIVERIES AT CLOSING

4.01 Deliveries at Closing by Seller and Real Property Seller. Seller and Real Property Seller, as the case may be, shall deliver to the Purchaser or Closing Agent (as applicable) the following with respect to the Property:

(a) A special warranty deed, executed and acknowledged by the applicable Real Property Seller as of the Closing Date, in the form of Exhibit "E" attached hereto;

(b) A bill of sale (the "Bills of Sale") executed by the Seller as of the Closing, in the form of Exhibit "F" attached hereto transferring Seller's right, title and interest in and to the Business and Equipment, including all assets thereof, free and clear of all liens, encumbrances, charges, obligations and restrictions whatsoever and such other transfer document as may be reasonably necessary in order to properly effectuate the transaction;

(c) A certificate and affidavit of non-foreign status (the "FIRPTA Affidavit"), executed by Real Property Seller as of the Closing Date, in the form of Exhibit "G" attached hereto;

(d) Appropriate resolutions and other evidence reasonably required by Purchaser's Title Company to evidence the Real Property Seller's authority to execute and deliver the deed;

(e) An executed closing statement, in a form reasonably acceptable to Purchaser;

(f) An owner's affidavit in form attached as Exhibit "H";

(g) 1099-S;

(h) Any applicable state withholding affidavits;

(i) The List of Creditors (as hereinafter defined);

(j) The necessary assignment form as may be required by the local telephone company transferring the telephone numbers _____ to Purchaser;

(k) The necessary assignment form as may be required by North Carolina law transferring the names "Elegant Beverage Products and Imperial Unlimited Service" to Purchaser;

(l) Resolution of the Directors and Shareholders of the Seller, authorizing the sale of the Business and Equipment;

(m) Non-Competition and Confidentiality Agreement, in the form attached hereto as Exhibit "T", duly executed by the Seller, Real Property Seller, shareholders and members of Seller, as the case may be; and

(n) All other documents reasonably necessary to effectuate the transaction under the terms of this Contract.

4.02. Deliveries by Purchaser. At the Closing, Purchaser shall deliver to Seller, Real Property Seller or closing agent as the case may be, as applicable, the following with respect to the Property:

- (a) The Promissory Notes;
- (b) The balance of the Purchase Price;
- (c) Resolution of the Directors of the Purchaser, authorizing the acquisition of the Business and Equipment and Property;
- (d) First lien Deed of Trust for the Property and UCC-1 Financing Statements;
- (e) The personal guaranty of Mark Gandino in the form attached hereto as Exhibit "K";
- (f) Closing statement in a form reasonably acceptable to Seller and Real Property Seller; and
- (g) All other documents reasonably necessary to effectuate the transaction under the terms of this Contract.

ARTICLE V CONDITIONS PRECEDENT TO CLOSING

5.01 Conditions Precedent. The obligations of Purchaser, Seller and Real Property Seller to affect the Closing under this Agreement are subject to the satisfaction or waiver on or prior to the Closing of the following conditions:

- (a) (i) Seller and Real Property shall have obtained the required approval; and
(ii) Purchaser shall have obtained the required approval.

(b) No laws shall have been adopted or promulgated, and no temporary restraining order, preliminary or permanent injunction or other order issued by a court or other governmental entity of competent jurisdiction shall be in effect, having the effect of making the Agreement illegal or otherwise prohibiting consummation of the Agreement.

5.02 Additional Conditions to Obligations of Purchaser. The obligations of Purchaser to affect the Closing under the Agreement are subject to the satisfaction of, or waiver by Purchaser, on or prior to the Closing, of the following additional conditions:

(a) Each of the representations and warranties of Seller and Real Property Seller set forth in this Agreement shall be true and correct on the date of this Agreement, and as of the Closing, as if made at and as of such time.

(b) Seller and Real Property Seller shall have performed or complied in all material respects with all material agreements and covenants required to be performed by it or complied with under this Agreement at or prior to the Closing. Purchaser shall have received a certificate of the President and the chief financial officer of Seller and Real Property Seller to such effect.

(c) Since the date of this Agreement, there shall have not been any material adverse change in Seller, the Business or Equipment.

(d) Seller, Real Property Seller, Kathleen E. Dotoli, Ludine Thomas Dotoli and Thomas Dotoli shall have entered into a Non-Competition, Non-Solicitation and Confidentiality Agreement, substantially in the form attached hereto as Exhibit, "I" (the "Non-Competition Agreement"), all in form and substance reasonably satisfactory to Purchaser.

(e) Purchaser shall have received an opinion from Crosswhite Crosswhite Ashley & Johnson, PLLC dated the Closing date, substantially in the form attached hereto as Exhibit "J".

(f) Good standing certificates, dated as of a date within one week of the Closing date, for Seller and Real Property Seller certified by the Secretary of State of the State of North Carolina and each other state in which Seller or Real Property Seller is qualified to do business.

(g) At the Closing, Seller will be able to convey to Purchaser fee simple title to the Property, free and clear of all mortgages, liens, encumbrances, restrictions, rights-of-way, easements, judgments and other matters affecting title.

5.03 Additional Conditions to Obligations of Seller and Real Property Seller. The obligations of Seller and Real Property Seller to effect the Merger are subject to the satisfaction of, or waiver by Seller and Real Property Seller, on or prior to the Closing Date, of the following additional conditions:

(a) Each of the representations and warranties of Purchaser set forth in this Agreement shall be true and correct on the date of this Agreement, and as of the Closing Date, as if made at and as of such time.

(b) Purchaser shall have performed or complied in all material respects with all material agreements and covenants required to be performed by it or complied with

under this Agreement at or prior to the Closing date. Seller and Real Property Seller shall have received a certificate of the President of Purchaser to such effect.

5.04 Best Efforts. Each party hereto agrees to use its reasonable best efforts to (i) take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate the Agreement and the other transactions contemplated by this Agreement as soon as practicable after the date hereof and (ii) to obtain and maintain all approvals, consents, waivers, registrations, permits, authorizations, clearances and other confirmations, required to be obtained from any third party and/or any governmental authority that are reasonably necessary to consummate the Agreement and the transactions contemplated hereby (each, a "Required Approval"). In furtherance and not in limitation of the foregoing, each party hereto agrees to make, as promptly as practicable all necessary filings with governmental authorities relating to the Agreement, and, in each case, to supply as promptly as practicable any additional information and documentary material that may be requested pursuant to such laws and to use reasonable best efforts to cause the receipt of Required Approvals as soon as practicable.

5.05 Other Documents. In addition, the parties shall execute and deliver such other documents as may be required by this Agreement and as any of them or their respective counsel may reasonably require in order to document and carry out the transactions contemplated by this Agreement.

ARTICLE VI CONDUCT OF BUSINESS PENDING CLOSING

6.01 Conduct of Business. From the date hereof until the Closing, Seller will:

- (a) maintain its existence in good standing;
- (b) maintain the general character of its business and properties and conduct its business in the ordinary and usual manner consistent with past practices, except as expressly permitted by this Agreement;
- (c) maintain business and accounting records consistent with past practices;
and
- (d) use its reasonable best efforts (i) to preserve its business intact, (ii) to keep available to Seller the services of its present officers and employees, and (iii) to preserve for Seller the goodwill of its suppliers, customers and others having business relations with Seller.

6.02 Prohibited Actions Pending Closing. Unless otherwise provided for herein or approved by Purchaser in writing, which approval shall not be unreasonably withheld from the date hereof until the Closing, SELLER shall not:

- (a) amend or otherwise change its certificate of incorporation or by-laws;

- (b) issue or sell, or authorize for issuance or sale, or grant any options or make other agreements with respect to, any shares of its capital stock or any other of its securities;
- (c) declare, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise with respect to any of its equity securities;
- (d) reclassify, combine, split, subdivide or redeem, purchase or otherwise acquire, directly or indirectly, any of its equity securities;
- (e) (i) acquire (including, without limitation, by merger, consolidation, or acquisition of stock or assets) any corporation, partnership, other business organization or any division thereof, (ii) acquire assets with an aggregate purchase price of in excess of \$5,000; (iii) incur any indebtedness for borrowed money or issue any debt securities or assume, guarantee or endorse, or otherwise as an accommodation become responsible for, the obligations of any person, or make any loans or advances; (iv) enter into any contract or agreement other than in the ordinary course of business, consistent with past practice; or (v) authorize any capital commitment which is in excess of \$2,000 or capital expenditures which are, in the aggregate, in excess of \$5,000.
- (f) mortgage, pledge or subject to lien, any of its assets or properties or agree to do so;
- (g) assume, guarantee or otherwise become responsible for the obligations of any other person, or agree to do so;
- (h) enter into or agree to enter into, or terminate prior to the expiration date thereof, any employment agreement with respect to any employee;
- (i) increase the compensation or benefits payable, or to become payable, to its officers or employees, or grant any severance or termination pay to, or enter into any severance agreement with any current director, officer or other employee of Seller, or establish, adopt, enter into or amend any collective bargaining, bonus, profit sharing, thrift, compensation, stock option, restricted stock, pension, retirement, deferred compensation, employment, termination, severance or other plan, agreement, trust, fund, policy or arrangement for the benefit of any such director, officer or employee except as required under applicable law;
- (j) take any action, other than in the ordinary course of business and consistent with past practice, with respect to accounting policies or procedures (including, without limitation, procedures with respect to the payment of accounts payable and collection of accounts receivables);
- (k) make any material tax election, or settle or compromise any material federal, state, local or foreign income tax liability;

(l) settle or compromise any pending or threatened suit, action or claim which is material, or which relates to any of the transactions contemplated by this Agreement; or

(m) pay, discharge or satisfy any claim, liability or obligation (absolute, accrued, asserted or unasserted, contingent or otherwise), other than (i) the payment, discharge or satisfaction, in the ordinary course of business and consistent with past practice, of liabilities reflected or reserved against in the balance sheet or subsequently incurred in the ordinary course of business and consistent with past practice and (ii) other claims, liabilities or obligations (qualified as aforesaid) that in the aggregate do not exceed \$2,000.00.

ARTICLE VII RISK OF LOSS

7.01 Risk of Loss. Risk of loss related to the Business and Equipment shall be borne by Seller until delivery of the Business and Equipment to Purchaser at Closing. In the event that the Business or Equipment shall suffer any damage, loss or destruction thereof by casualty, fire or Act of God, Purchaser may terminate this Agreement and all of the obligations and responsibilities hereunder and receive the Deposit Funds from the Seller and upon the return of the Purchaser's deposit, neither party shall have any further rights or obligations.

ARTICLE VIII INDEMNIFICATION

8.01 Indemnification. Seller and Shareholder jointly and severally, prior to and after the Closing, agree, to indemnify and hold harmless Purchaser, and its officers, directors, agents, Affiliates, representatives, successors and assigns ("Purchaser Indemnitees") from and against, and shall reimburse each Purchaser Indemnitee on demand for, any and all direct or indirect claims, suits, actions, proceedings, liabilities, obligations, judgments, fines, penalties, claims, losses, lost profits, diminution in value, damages, costs and expenses of any kind (including, without limitation, the reasonable fees and disbursements of counsel, accountants and other experts whether incurred in connection with any of the foregoing or in connection with any investigative, administrative or adjudicative proceeding, whether or not such Purchaser Indemnitee shall be designated a party thereto), together with any and all reasonable costs and expenses associated with the investigation of the same and/or the enforcement of the provisions hereof and thereof (collectively, "Losses"), which may be incurred by such Purchaser Indemnitee relating to, based upon, resulting from or arising out of:

(a) the breach of any representation or warranty made by Seller or Shareholder in this Agreement or in any related document as of the date hereof and as of the Effective Date during the survival period set forth in Section 8.02;

(b) the breach of any agreement, covenant or obligation of Seller or Shareholder contained in this Agreement or in any related document;

(c) any liabilities, taxes, claims, debts or causes of action;

(d) any failure to comply with any applicable bulk sale or transfer law in connection with the transactions contemplated by this Agreement;

(e) any liability incurred by Seller to pay any fee or commission to any broker, finder, investment banker or other intermediary in connection with the transactions contemplated by this Agreement;

(f) any misrepresentation contained in any certificate or other document furnished by or on behalf of Seller or Shareholder pursuant to this Agreement or in any related document or in connection with the transactions contemplated hereby or thereby or any other losses arising out of or resulting from any fraud or intentional misrepresentation; or

(g) any (i) harm to the environment; (ii) release of hazardous substances; (iii) alleged or actual violation of environmental law; or (iv) environmental liability, arising from conditions, acts, or omissions that existed or occurred prior to Closing.

8.02 Survival of Representations and Warranties. The representations and warranties made by Seller and Shareholder in this Agreement shall survive the Closing and shall continue in effect until the survive until the until expiration of the applicable statute of limitations with respect to such matters (and any extensions thereof). Notwithstanding the right of Purchaser to investigate the Business, Equipment and Property and financial condition of Seller, and notwithstanding any knowledge obtained or obtainable by Purchaser as a result of such investigation, Purchaser has the unqualified right to rely upon, and has relied upon, each of the representations, warranties and covenants made by Seller and Shareholder in this Agreement or pursuant hereto. Seller the Shareholder and Purchaser acknowledges and agree that the representations and warranties made hereunder by Seller and Shareholder are bargained for assurances.

8.03 Right of Set Off. If any Purchaser Indemnitee has any claim against Seller or Shareholder hereunder or under any related document, whether for indemnification, breach of agreement or otherwise, Purchaser may withhold the total amount of the claim from any payment due to Seller or Shareholder hereunder of the Promissory Notes until final determination of such pending claim, and after such final determination Purchaser may offset the determined amount against any amounts owed to Seller or any Shareholder.

ARTICLE IX MISCELLANEOUS

9.01 Modification or Waiver. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and shall supersede and replace all prior agreements and understandings between the parties relating to the acquisition of the Business and the Equipment and Property. The terms, promises, conditions, representations, warranties, covenants and agreements contained in this Agreement may not be waived, modified, amended or otherwise altered except in a writing signed by both parties. All the terms, covenants, conditions, representations, warranties and promises set forth herein shall inure to the benefit of the parties hereto, and their respective successors

and assigns.

9.02 Parity. This Agreement shall be deemed to have been drafted by both parties equally, and therefore, in the event that any litigation arises under or as a result of this Agreement, it is specifically stipulated and agreed to by Purchaser and Seller that this Agreement shall be interpreted and construed without regard to any rule of construction whereby ambiguities in an instrument are resolved against the party that drafted the instrument in question

9.03 Law. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

9.04 Severability. In the event that any one or more of the provisions contained in this Agreement shall be determined to be void or unenforceable by a court of competent jurisdiction, or by action of law, the parties agree that they shall attempt, in good faith, to restructure this Agreement so as to effectuate and fulfill the purpose and intent of this Agreement in compliance with applicable laws, rules, regulations and ordinances. However, notwithstanding the failure of the parties to so agree, the remaining provisions contained in this Agreement shall remain in full force and effect, and be binding upon the parties hereto, and their respective successors and assigns.

9.05 Brokers. Purchaser and Seller represent and warrant to the other that there were no other brokers or finders retained or used by either party.. Each party indemnifies, saves and holds harmless the other for any claims, actions or the like brought by any broker or finder based upon the actions of such party.

9.06 Notice. Any notices, requests, or other communications required or permitted to be given hereunder shall be in writing and shall be either (i) delivered by hand, (ii) mailed by United States registered mail, return receipt requested, postage prepaid, (iii) sent by a reputable, national overnight delivery service (e.g., Federal Express, UPS, Airborne, etc.), or (iv) sent by facsimile (with the original being sent by one of the other permitted means or by regular United States mail) and addressed to each party at the applicable address set forth herein. Any such notice, request, or other communication shall be considered given or delivered, as the case may be, on the date of hand delivery (if delivered by hand), on the third (3rd) day following deposit in the United States mail (if sent by United States registered mail), on the next business day following deposit with an overnight delivery service with instructions to deliver on the next day or on the next business day (if sent by overnight delivery service), or on the day sent by facsimile (if sent by facsimile, provided the original is sent by one of the other permitted means as provided in this paragraph or by regular United States mail). However, the time period within which a response to any notice or request must be given, if any, shall commence to run the date of actual receipt of such notice, request, or other communication by the addressee thereof. Rejection or other refusal to accept or inability to deliver because of a changed address of which no notice was given shall be deemed to be receipt of the notice, request, or other communication. By giving at least five (5) days prior written notice thereof, any party hereto may, from time to time and at any time, change its mailing

address hereunder. Any notice provided for hereunder may be given by a party's attorney or other representative.

Seller:

Elegant Beverage Products LLC
Imperial Unlimited Service Inc.
132 Conifer Drive
Statesville, NC 288625
Telecopy:
Telephone:
Email:

with copy to:

Crosswhite and Crosswhite, P.A.
239 East Broad Street
Statesville, NC 28677
Telecopy:
Telephone:
Email:

Real Property Seller:

Thomas Dotoli

Telecopy:
Telephone:
Email:

with copy to:

Crosswhite and Crosswhite, P.A.
239 East Broad Street
Statesville, NC 28677
Telecopy: 704-924-6938
Telephone: 704-873-7293
Email:

Shareholders:

Thomas Dotoli
Kathleen E. Dotoli
Ludine Thomas Dotoli

Telecopy:
Telephone:
Email:

with copy to:

Crosswhite and Crosswhite, P.A.
239 East Broad Street
Statesville, NC 28677
Telecopy: 704-924-6938
Telephone: 704-873-7233
Email:

Purchaser:

Beverage Systems of The Carolinas, LLC

Telecopy:
Telephone:
Email:

with copy to:

Schenkman Jennings LLC
2109 Pennington Road
West Trenton, NJ 08638
Attn: Martin J. Jennings, Jr., Esq.
Telecopy: (609) 530-1184
Telephone: (609) 883-8000
Email: jjenns@aol.com

9.07 Assurance. Each party to this Agreement shall execute all instruments and documents and take all actions as may be reasonably required to effectuate this Agreement, whether before, concurrent with or after the consummation of the transactions contemplated hereby.

9.08 Entire Agreement. This Agreement, the Schedules and exhibits hereto and the related documents and certificates delivered in connection herewith constitute the entire agreement among the parties hereto pertaining to the subject matter hereof and thereof and supersede all prior agreements, term sheets, letters, discussions and understandings of the parties in connection therewith. This Agreement and the related documents contain all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective.

Mr. Jennings:

Attached is the price allocation for the transaction. The only item in the agreement is that Mr. Dotoli wants clarification that even though the equipment and vehicles are presently in working order, some equipment and vehicles are older and he does not want to warrant them for future condition. Also I believe the non-compete still references NJ law. I believe the clients are ready to proceed to sign the agreements. Do you have the attachments? Also, in your letter of June 29th you indicated you would be providing a list to delineate each party's responsibility.

We should also be looking to set a closing date.

I look forward to hearing from you. Thanks.

Dotoli Sale

Price Allocation

Tom and Kathy Dotoli	\$300,000	Real Estate
Elegant Beverage	\$10,000	Equipment
	\$35,000	Inventory
Imperial Beverage	\$150,000	Equipment
	\$135,000	Inventory
	\$10,000	Covenant Not to Compete
	<u>\$10,000</u>	Goodwill
Total:	\$650,000	

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and acknowledged the day and year first above written.

WITNESS:

LLC

Inc.

Witness:

Seller:

Elegant Beverage Products,

By:

Imperial Unlimited Service

By:

Members of Elegant
Beverage Products, LLC:

Kathleen E. Dotoli
50% owner Elegant Beverage
Products, LLC

Ludine Dotoli
Ludine Thomas Dotoli
50% owner Elegant
Beverage Products, LLC

Thomas Dotoli
100% owner Imperial
Unlimited Service Inc.

Real Property Seller:

Kathleen E. Dotoli

Thomas Dotoli

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

SECURITY AGREEMENT

THIS SECURITY AGREEMENT is made and entered into this 30th day of September, 2009, by and between BEVERAGE SYSTEMS OF THE CAROLINAS, LLC a North Carolina limited liability company ("Debtor"), and IMPERIAL UNLIMITED SERVICES INC. a North Carolina corporation ("Secured Party").

Background Statement

Debtor and Secured Party entered an Asset Purchase Agreement dated July 20, 2009 (the "Asset Purchase Agreement"), whereby Secured Party agreed to sell to Debtor certain of the assets used in connection with the operation of Secured Party's beverage service businesses. The closing date of the Asset Purchase Agreement was on even date herewith. As part of the consideration for the purchase of said assets pursuant to the Asset Purchase Agreement, the Debtor executed and delivered to Secured Party a Promissory Note dated September 30, 2009 in the principal amount of \$436,500.00 (the "Promissory Note"). This Security Agreement is entered into to grant a security interest in the collateral described herein to the Secured Party to provide security for the payment of the Promissory Note by the Debtor. It is intended by the Debtor and the Secured Party that the security interest created hereby be at all times first in priority to any and all security interests in the collateral described herein.

Statement of Agreement

In consideration of the premises, covenants, and agreements herein contained, the legal sufficiency and adequacy of which is expressly acknowledged, the parties hereto agree as follows:

1. Grant of Security Interest. Debtor, in consideration of the indebtedness described in this Agreement, hereby grants, conveys, and assigns to Secured Party for security all of Debtor's existing and future right, title and interest in, to and under the property listed in Paragraph 2 of this Agreement. This security interest is granted to the Secured Party to secure the payment of the indebtedness evidenced by the Promissory Note, with interest thereon, and all renewals, extensions, and modifications of the Promissory Note; (b) the payment of all other sums, with interest thereon, advanced under the terms of this Agreement; and (c) the performance of the agreements and warranties of Debtor contained in this Agreement and in the Asset Purchase Agreement.
2. Property. The property subject to the security interest ("Collateral") is all the property of the Debtor including, without limitation, the following:
 - (a) Cash. All of Debtor's cash, including cash on deposit and cash on hand.
 - (b) Fixed Assets and Equipment. All equipment, furniture, fixtures, vehicles, merchandising items and improvements owned by the Debtor, wherever located.

(c) Accounts Receivable and Other Intangibles. All of the Debtor's accounts, accounts receivables, chattel paper, contract rights, commissions, warehouse receipts, bills of lading, delivery orders, drafts, acceptances, Notes, securities and other instruments; documents; general intangibles and all other forms of receivables, and all guaranties and securities therefor.

(d) Inventory and Other Tangible Personal Property. All of the Debtor's inventory, including all goods, merchandise, materials, raw materials, work in progress, finished goods, now owned or hereinafter acquired and held for sale or lease or furnished or to be furnished under contracts or service agreements or to be used or consumed in the Debtor's business and all other tangible personal property of Debtor.

(e) Contracts and Contract Rights. All of Debtor's rights, title and interest in and to contracts and/or contract rights of Debtor relating to the operation of Debtor's business, including all of Debtor's rights, title and interest in and to all customer contracts.

(f) After-Acquired Property. All property of the types described in Sections 2(a), 2(b) 2(c), and 2(d) or similar thereto, that at any time hereafter may be acquired by Debtor, including but not limited to all accessions, parts, additions, and replacements, except after-acquired property purchased pursuant to a purchase money contract or financing, in which case the security interest created hereby shall be subordinated to the security interest of the vendor of said after-acquired property.

(g) Proceeds. All proceeds of the sale or other disposition of any of the Collateral described or referred to in Sections 2(a) through 2(e). Sale or disposition of Collateral is prohibited except sales in the ordinary course of the Debtor's business.

(h) Books/Records. All books, records, files, computer programs, computer software, data processing records and correspondence related to any of the foregoing described Collateral.

3. Covenants of Debtor. The Debtor agrees and covenants as follows:

(a) Payment of Principal and Interest. The Debtor shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Promissory Note, any prepayment and late charges provided in the Promissory Note, and all other sums secured by this Agreement and the Asset Purchase Agreement.

(b) Corporate Existence. The Debtor is a limited liability company duly organized and existing under the laws of the state of North Carolina, and is duly qualified to conduct business in the state of North Carolina and in every other state in which it is doing business.

(c) Corporate Authority. The execution, delivery, and performance of this Agreement, the Asset Purchase Agreement, and the execution and payment of the Promissory Note are within Debtor's corporate powers, have been duly authorized, and are not in contravention of law or the terms of the Debtor's articles of incorporation and bylaws, or of any indenture, agreement, or undertaking to which the Debtor is a party or by which it is bound.

(d) Ownership of Collateral. The Debtor is the sole owner of the Collateral and will defend the Collateral against the claims and demands of all other persons at any time claiming the same or any interest therein.

(e) Sale or Removal of Collateral Prohibited. Except for the sale of inventory in the ordinary course of Debtor's business and the incidental disposition in the ordinary course of the Debtor's business of equipment no longer used or useful in the Debtor's business, the Debtor shall not remove the Collateral from its premises or sell, lease, encumber, pledge, mortgage, assign, grant a security interest in, or otherwise transfer the Collateral without the written consent of the Secured Party.

4. Perfection of Security Interest. The Debtor agrees to execute and file financing statements, and do whatever may be necessary under the Uniform Commercial Code as applicable in the State of North Carolina or such other state where the Collateral is or may be located, to perfect and continue the Secured Party's interest in the Collateral, all at the Debtor's expense.

5. Taxes and Assessments. The Debtor will pay or cause to be paid promptly when due all taxes and assessments on the Collateral, this Agreement, and the Promissory Note. The Debtor may, however, withhold payment of any tax assessment or claim if a good faith dispute exists as to the obligation to pay.

6. Insurance. The Debtor shall have and maintain, or cause to be maintained, insurance at all times with respect to all Collateral except accounts receivable, against such risks as the Secured Party may reasonably require, in such form, for such periods, and written by such companies as may be satisfactory to the Secured Party. All policies of insurance shall have endorsed a loss payable clause acceptable to the Secured Party and/or such other endorsements as the Secured Party may from time to time request, and the Debtor will promptly provide the Secured Party with the original policies or certificates of such insurance. The Debtor shall promptly notify the Secured Party of any loss or damage that may occur to the Collateral. The Secured Party is hereby authorized to make proof of loss if it is not made promptly by the Debtor. All proceeds of any insurance on the Collateral shall be held by the Debtor for the benefit of the Secured Party as a part of the Collateral. Such proceeds shall be paid out from time to time by the Debtor only for the specific purpose of paying the reasonable cost of repairing, restoring, or replacing the property damaged. Any proceeds that have not been so paid out within 180 days following their receipt by the Secured Party shall be applied to the prepayment of principal on the Promissory Note. In the event of failure to provide insurance as herein provided, the Secured Party may, at the Secured Party's option, provide such insurance at the Debtor's expense.

7. Application of Payments. Unless applicable law provides otherwise, all payments received by the Secured Party from the Debtor under the Promissory Note, this Agreement, and the Asset Purchase Agreement shall be applied by the Secured Party in the following order of priority: (i) prepayment penalties and/or premiums due and payable on the Promissory Note in the manner provided therein; (ii) interest payable on the Promissory Note in the manner provided therein; (iii) principal of the Promissory Note in the manner provided therein; and (iv) any other sums secured by this Agreement and the Asset Purchase Agreement in such order as the Secured Party, at the Secured Party's option, may determine.

8. Protection of Secured Party's Security. If the Debtor fails to perform the covenants and agreements contained or incorporated in this Agreement and the Asset Purchase Agreement, or if any action or proceeding is commenced which affects the Collateral or title thereto or the interest of the Secured Party

therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then the Secured Party, at the Secured Party's option, may make such appearance, disburse such sums, and take such action as the Secured Party deems necessary, in its sole discretion, to protect the Secured Party's interest, including but not limited to (i) disbursement of attorneys' fees, (ii) entry upon the Debtor's property to make repairs to the Collateral, and (iii) procurement of satisfactory insurance. Any amounts disbursed by Secured Party pursuant to this Section, with interest thereon at the same rate as the Promissory Note secured hereby, shall become additional indebtedness of the Debtor secured by this Agreement. Unless the Debtor and the Secured Party agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the default rate stated in the Promissory Note unless collection from the Debtor of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from the Debtor under applicable law. Nothing contained in this Section shall require the Secured Party to incur any expense or take any action.

9. Inspection. The Secured Party may make or cause to be made reasonable entries upon and inspections of the Debtor's premises to inspect the Collateral.

10. Debtor and Lien Not Released. From time to time, the Secured Party may, at the Secured Party's option, without giving notice to or obtaining the consent of the Debtor, the Debtor's successors or assigns or of any other lienholder or guarantors, without liability on the Secured Party's part, and notwithstanding the Debtor's breach of any covenant or agreement of the Debtor in this Agreement and the Asset Purchase Agreement, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal Note or Notes therefor, modify the terms and the time of payment of said indebtedness, release from the lien of this Agreement any part of the Collateral, take or release other or additional security, reconvey any part of the Collateral, join in any extension or subordination agreement, and agree in writing with the Debtor to modify the rate of interest or period of amortization of the Promissory Note or change the amount of any installments payable thereunder. Any actions taken by the Secured Party pursuant to the terms of this Section shall not affect the obligation of the Debtor or the Debtor's successors or assigns to pay the sums secured by this Agreement and the Asset Purchase Agreement and to observe the covenants of the Debtor contained herein, shall not affect the guaranty of any person, corporation, partnership, or other entity for payment of the indebtedness secured hereby, and shall not affect the lien or priority of lien hereof on the Collateral. The Debtor shall pay the Secured Party a reasonable service charge, together with such reasonable attorneys' fees as may be incurred at the Secured Party's option for any such action if taken at the Debtor's request.

11. Forbearance by Secured Party Not a Waiver. Any forbearance by the Secured Party in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by the Secured Party of payment of any sum secured by this Agreement and the Asset Purchase Agreement after the due date of such payment shall not be a waiver of the Secured Party's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes, rents or other liens or charges by the Secured Party shall not be a waiver of the Secured Party's right to accelerate the maturity of the indebtedness secured by this Agreement, nor shall the Secured Party's receipt of any awards, proceeds or damages as provided in this Agreement operate to cure or waive the Debtor's default in payment of sums secured by this Agreement.

12. Uniform Commercial Code Security Agreement. This Agreement is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Collateral which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Debtor hereby grants the Secured Party a security interest in said items. The Debtor agrees that the Secured Party may file any appropriate document in the appropriate index as a financing statement for any of the items specified above as part of the Collateral. In addition, the Debtor agrees to execute and deliver to the Secured Party, upon the Secured Party's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Agreement in such form as the Secured Party may require to perfect a security interest with respect to said items. The Debtor shall pay all costs of filing such financing statements and any extensions, renewals, amendments, and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the Secured Party may reasonably require. Without the prior written consent of the Secured Party, the Debtor shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in the Collateral, including replacements and additions thereto. Upon the occurrence of an event of default, the Secured Party shall have the remedies of a secured party under the Uniform Commercial Code and, at the Secured Party's option, may also invoke the other remedies provided in this Agreement and the Loan Agreement as to such items. In exercising any of said remedies, the Secured Party may proceed against the items of real property and any items of personal property specified above as part of the Collateral separately or together and in any order whatsoever, without in any way affecting the availability of the Secured Party's remedies under the Uniform Commercial Code or of the other remedies provided in this Agreement and the Loan Agreement.

13. Events of Default. The Debtor shall be in default under this Agreement when any of the following events or conditions occurs:

(a) The Debtor shall be in default under the Promissory Note beyond any applicable notice and cure period.

(b) The Debtor fails to comply with any term, obligation, covenant, or condition contained in this Agreement and in the Asset Purchase Agreement within fifteen (15) days after receipt of written notice from the Secured Party demanding such compliance, or such longer period of time as may be reasonably necessary to effect such a cure provided that the Debtor is diligently pursuing such a cure.

(c) Any warranty, covenant, or representation made to the Secured Party by the Debtor under this Agreement, or under the Asset Purchase Agreement, proves to have been false in any material respect when made or furnished.

(d) Any event that results in acceleration of the maturity of any indebtedness of Debtor in the outstanding principal amount of Ten Thousand Dollars (\$10,000) or more, under any Notes, indenture, contract, or agreement.

(e) Any levy, seizure, attachment, lien, or encumbrance of or on the Collateral which is not discharged by the Debtor within ten (10) days or, any sale, transfer, or disposition of any interest in the Collateral, other than in the ordinary course of business, without the written consent of the Secured Party.

14. Acceleration in Case of Default: Insolvency. In any event of Debtor default, including, but not limited to, if the Debtor voluntarily files a petition under the federal Bankruptcy Act, as such Act

may from time to time be amended, or under any similar or successor federal statute relating to bankruptcy, insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act, or files an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if the Debtor is adjudged a bankrupt, or if a trustee or receiver is appointed for the Debtor's property, or if the Collateral becomes subject to the jurisdiction of a federal bankruptcy court or similar state court, or if the Debtor makes an assignment for the benefit of its creditors, or if there is an attachment, receivership, execution or other judicial seizure, then the Secured Party may, at the Secured Party's option, declare all of the sums secured by this Agreement to be immediately due and payable without prior notice to the Debtor, and the Secured Party may invoke any remedies permitted by this Agreement. Any attorneys' fees and other expenses incurred by the Secured Party in connection with the Debtor's bankruptcy or any of the other events described in this Section shall be additional indebtedness of the Debtor secured by this Agreement.

15. Rights of Secured Party.

(a) Upon default beyond any applicable notice and cure period, the Secured Party may require the Debtor to assemble the Collateral and make it available to the Secured Party at the place to be designated by the Secured Party which is reasonably convenient to both parties. The Secured Party may sell all or any part of the Collateral as a whole or in parcels either by public auction, private sale, or other method of disposition. The Secured Party may bid at any public sale on all or any portion of the Collateral. Unless the Collateral is perishable or threatens to decline speedily in value or is of the type customarily sold on a recognized market, the Secured Party shall give the Debtor reasonable notice of the time and place of any public sale or of the time after which any private sale or other disposition of the Collateral is to be made, and notice given at least ten (10) days before the time of the sale or other disposition shall be conclusively presumed to be reasonable. A public sale in the following fashion shall be conclusively presumed to be reasonable: (i) notice shall be given at least 10 days before the date of sale by publication once in a newspaper of general circulation published in the county in which the sale is to be held; (ii) the sale shall be held in a county in which the Collateral or any part is located or in a county in which the Debtor has a place of business; (iii) payment shall be in cash or by certified check immediately following the close of the sale; (iv) the sale shall be by auction, but it need not be by a professional auctioneer; and (v) the Collateral may be sold as is and without any preparation for sale.

(b) Notwithstanding any provision of this Agreement, the Secured Party shall be under no obligation to offer to sell the Collateral. In the event the Secured Party offers to sell the Collateral, the Secured Party will be under no obligation to consummate a sale of the Collateral if, in its reasonable business judgment, none of the offers received by it reasonably approximates the fair value of the Collateral.

(c) In the event the Secured Party elects not to sell the Collateral, the Secured Party may elect to follow the procedures set forth in the Uniform Commercial Code as applicable in the State of North Carolina or as set forth elsewhere in the North Carolina Civil Code and General Statutes for retaining the Collateral in satisfaction of the Debtor's obligation, subject to the Debtor's rights under such procedures.

(d) In addition to the rights under this Agreement and the Asset Purchase Agreement, in the event of a default by the Debtor, the Secured Party shall be entitled to the appointment of a receiver for the Collateral as a matter of right whether or not the apparent value of the Collateral exceeds the outstanding principal amount of the Promissory Note and any receiver appointed may serve without bond. Employment by the Secured Party shall not disqualify a person from serving as receiver.

16. Waiver of Marshalling. Notwithstanding the existence of any other security interest in the Collateral held by the Secured Party or by any other party, the Secured Party shall have the right to determine the order in which any or all of the Collateral shall be subjected to the remedies provided by this Agreement and the Asset Purchase Agreement. The Secured Party shall have the right to determine the order in which any or all portions of the indebtedness secured by this Agreement are satisfied from the proceeds realized upon the exercise of the remedies provided in this Agreement and the Asset Purchase Agreement. The Debtor, any party who consents to this Agreement, and any party who now or hereafter acquires a security interest in the Collateral and who has actual or constructive notice of this Agreement, hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or by this Agreement and the Asset Purchase Agreement.

17. Provisions of Agreement. The Debtor agrees to comply with the covenants and conditions of the Asset Purchase Agreement and the Promissory Note secured hereby, which are hereby incorporated by reference in and made a part of this Agreement. All sums disbursed by the Secured Party to protect the security of this Agreement and the Asset Purchase Agreement up to the principal amount and prepayment premiums or penalties of the Promissory Note shall be treated as disbursements pursuant to such Agreements. All such sums shall bear interest from the date of disbursement at the rate stated in the Promissory Note, unless collection from the Debtor of interest at such rate would be contrary to applicable law in which event such amount shall bear interest at the highest rate which may be collected from the Debtor under applicable law. In case of a breach by the Debtor of the covenants and conditions of the Agreement, the Secured Party at the Secured Party's option (i) may invoke any of the rights or remedies provided in the Agreement, (ii) may accelerate the sums secured by this Agreement and invoke the remedies provided in this Agreement or, (iii) may do both.

18. Remedies Cumulative. Each remedy provided in this Agreement and the Asset Purchase Agreement is distinct and cumulative to all other rights or remedies under this Agreement and the Asset Purchase Agreement or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

19. Notices. All necessary notices, demands and requests required or permitted to be given under the provisions of this Agreement shall be deemed duly given if sent by certified or registered mail, postage prepaid, or overnight courier, addressed as follows:

If to the Debtor:

Beverage Systems of the Carolinas, LLC
120 Penmarc Dr. Ste 118
Raleigh NC 27603

If to the Secured Party:

Imperial Unlimited Service, Inc.
Kathleen E. Dotoli, Ludine Thomas Dotoli, and Thomas Dotoli
372 Brawley School Rd.
Mooresville NC 28117

20. Entire Agreement. This Agreement, together with the incorporated documents, Schedules and Exhibits attached hereto, contains all of the terms agreed upon with respect to the subject matter hereof, supersedes and replaces any prior understandings and agreements by and among the parties respecting the subject matter of this Agreement and may be modified or amended only by a written agreement executed by all the parties hereto.

21. Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act, event or default from which the designated period of time begins to run shall be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period shall run until the end of the next day thereafter which is not a Saturday, Sunday or legal holiday.

22. Titles and Captions. All article, section and paragraph titles or captions contained in this Agreement are for convenience only and shall not be deemed part of the context nor affect the interpretation of this Agreement.

23. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina.

24. Waiver. Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision, nor shall any waiver of any breach of any provision be a waiver of any succeeding breach of any provision or a waiver of the provision itself for any other provision.

25. Benefit Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties, their successors and permitted assigns. Neither party may transfer or assign this Agreement without prior written consent of the other party.

26. Counterparts. This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not or may not be signatories to the original or the same counterpart.

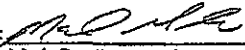
27. Use of Collateral. So long as there is no default in the performance of any of the terms, provisions and conditions of this Agreement, the Debtor shall be entitled to retain and use the Collateral in the ordinary course of business.

Signatures on following page.

IN WITNESS WHEREOF, the Debtor and R&T Howard, Inc. have each caused this Agreement to be executed by their duly authorized officers under seal, by authority of their Boards of Directors duly given, and Randy Howard has executed this Agreement under seal; all as of the day and year first above written.

DEBTOR:

Beverage Systems of The Carolinas, LLC

By:  [SEAL]
Mark Gandino, member

SECURED PARTY:

Imperial Unlimited Service, Inc.

By:  [SEAL]
Thomas Dotoli, President

NORTH CAROLINA
IREDELL COUNTY

Corporate Acknowledgement
(N.C.G.S. 47-41.01(c))

I, Barbara L. Hoffman, Notary Public, certify that Mark Gandino personally came before me this day and acknowledged that he is a member of Beverage Systems of The Carolinas, LLC, a North Carolina limited liability company, and that he, as a member, being authorized to do so, executed the foregoing Security Agreement on behalf of the company.

Witness my hand and official seal, this the 30th day of December, 2009.

My commission expires: 09/01/2012

(OFFICIAL SEAL)

NORTH CAROLINA
IREDELL COUNTY

Corporate Acknowledgement
(N.C.G.S. 47-41.01(c))

I, Barbara L. Hoffman, Notary Public, certify that Thomas Dotoli personally came before me this day and acknowledged that he is president of Imperial Unlimited Service, Inc., a North Carolina corporation, and that he, as President, being authorized to do so, executed the foregoing Security Agreement on behalf of the corporation.

Witness my hand and official seal, this the 30th day of September, 2009.

My commission expires: 09/01/2012

(OFFICIAL SEAL)



UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

IMPERIAL UNLIMITED SERVICE, INC.
 Kathleen E. Dotoli, Thomas Dotoli
 372 Brawley School Road
 Mooresville, NC 28117



Doc ID: 012707250004 Type: CRP
 Kind: UNIFORM COMMERCIAL CODE
 Recorded: 10/05/2009 at 11:58:01 AM
 Fee Amt: \$45.00 Page 1 of 4
 Iradell County, NC
 Brenda D. Bell Register of Deeds

BK 2030 PG 2394-2397

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME

BEVERAGE SYSTEMS OF THE CAROLINAS, LLC

OR

1b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

1c. MAILING ADDRESS

132 Conifer Drive

CITY

Statesville

STATE

NC

POSTAL CODE

28625

COUNTRY

U.S.

1d. TAX ID #: SSN OR EIN

ADDL INFO RE

ORGANIZATION

DEBTOR

1e. TYPE OF ORGANIZATION

1f. JURISDICTION OF ORGANIZATION

1g. ORGANIZATIONAL ID #, if any

Do Not Provide

NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

2c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

2d. TAX ID #: SSN OR EIN

ADDL INFO RE

ORGANIZATION

DEBTOR

2e. TYPE OF ORGANIZATION

2f. JURISDICTION OF ORGANIZATION

2g. ORGANIZATIONAL ID #, if any

Do Not Provide

NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - Insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

IMPERIAL UNLIMITED SERVICE, INC.

OR

3b. INDIVIDUAL'S LAST NAME

FIRST NAME

Kathleen & Thomas

MIDDLE NAME

SUFFIX

3c. MAILING ADDRESS

372 Brawley School Road

CITY

Mooresville

STATE

NC

POSTAL CODE

28117

COUNTRY

U.S.

4. This FINANCING STATEMENT covers the following collateral:

SEE ATTACHED EXHIBIT "A"

5. ALTERNATIVE DESIGNATION (if applicable)	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOR	<input checked="" type="checkbox"/> SELLER/BUYER	AG. LIEN	NON-UCC FILING	
6. <input checked="" type="checkbox"/> This FINANCING STATEMENT is to be filed (or recorded) in the REAL ESTATE RECORDS. Attach Addendum	<input type="checkbox"/> Check to REQUEST SEARCH REPORT(S) on Debtor(s)	7. ADDITIONAL FEES (optional)					
8. OPTIONAL FILER REFERENCE DATA					All Debtors	Debtor 1	Debtor 2

FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT (FORM UCC-1) (REV. 07/29/98)

EXHIBIT "A"
COLLATERAL DESCRIPTION

Debtor has granted Secured Party security interests in the property listed below which property shall be defined in accordance with the North Carolina Uniform Commercial Code - Article 9 - Secured Transactions.

Accounts. All of Debtor's now owned or hereafter acquired accounts, instruments, contract rights, general intangibles, chattel paper, and documents evidencing or relating to the right of Debtor to payment for goods sold or leased or for services rendered, whether or not it has been earned by performance, together with all books, records, and software, recording, evidencing or relating to the foregoing or any part thereof, wherever located ("Account").

Inventory. All of Debtor's now owned or hereafter acquired inventory and other goods held for sale or lease or to be furnished under contracts of service or so furnished, and all of Debtor's supplies and other materials used or consumed in the ordinary course of Debtor's business, wherever located ("Inventory").

Documents. All of Debtor's now owned and hereafter acquired Documents, wherever ~~located, including but not limited to documents of title, warehouse orders for the delivery of~~ goods, warehouse receipts, bills of lading and all proceeds therefrom whether cash, insurance or otherwise.

Fixtures. All of Debtor's now owned or hereafter acquired fixtures and equipment attached to the real property owned or leased by Debtor as set out, but not limited to, the items described on Schedule A attached hereto and hereby incorporated by reference.

Proceeds. All proceeds of the Accounts, including, but not limited to, accounts, contract rights, chattel paper, notes, drafts, instruments, general intangibles, inventory, equipment, money deposit accounts, goods, the proceeds of insurance or other tangible or intangible property, resulting from the sale or other disposition of any of the foregoing or the rendition of services by Debtors, and the proceeds thereof.

SCHEDULE "A"

Office Equipment:

5 desks
5 desk chairs
Computers -- 3 office, 2 laptop
and computer server
Phone system
All-in-one fax copier machine
2 file cabinets
Book case

Elegant Beverage:

Product and equipment in shop
and in field

Shop and Warehouse:

7 workbenches
Rack and shelves
Forklift and charger
Air Compressor

Refrigeration Equipment:

Torches and gases
Gages and meters
Assorted freons
Compressors and tools

Equipment Parts:

Part inventory for repair in shop and vans

Storage Trailers:

40 foot trailer
45 foot trailer

Break Room (kitchen):

Refrigerator
Table and chairs
Snack machine
Micro wave
Kitchen cabinets

Miscellaneous:

Office supplies
Furniture
Beverage Equipment (machines) new and used

Exhibit "A"

**Being all of Lot No. Two (2) of a MINOR SUBDIVISION FOR: IMPERIAL
UNLIMITED SERVICES, INC. as the same is planned, platted and
recorded in Plat Book 36, Page 95, Iredell County Registry**

**BSC 43-51: NON-COMPETITION, NON-SOLICITATION and
CONFIDENTIALITY AGREEMENT**

Duplicate Copy. Set forth in its entirety at R pp 15-23.

Dotoli Sale

Revised Price Allocation

Tom and Kathy Dotoli	\$210,000.00	Real Estate
Elegant Beverage	\$ 10,000.00	Equipment
	\$ 35,000.00	Inventory
Imperial Beverage	\$150,000.00	Equipment
	\$135,000.00	Inventory
	\$ 10,000.00	Covenant Not to Compete
	\$100,000.00	Goodwill
<hr/>		
Total:	\$650,000.00	

SELLERS SETTLEMENT STATEMENT FOR SALE OF
132 Conifer Drive, Statesville, NC
FROM THOMAS DOTOLI AND KATHLEEN DOTOLI ("SELLER")
LUDINE THOMAS DOTOLI ("SELLER")
ELEGANT BEVERAGE PRODUCTS, LLC ("SELLER")
IMPERIAL UNLIMITED SERVICES, INC. ("SELLER")
TO BEVERAGE SYSTEMS OF THE CAROLINAS, LLC ("PURCHASER")

SEPTEMBER 30, 2009

PURCHASE PRICE:

Real Estate	\$210,000.00
Elegant Beverage: Equipment	\$ 10,000.00
Inventory	\$ 35,000.00
Imperial Unlimited: Equipment	\$150,000.00
Inventory	\$135,000.00
Covenant not to Compete	\$ 10,000.00
Goodwill	\$100,000.00
TOTAL DUE	\$650,000.00

LESS CLOSING EXPENSES:

BB&T Loan#4560202410-0004(Land)	\$120,154.23
BB&T Loan#9512244850 (Elegant Beverage)	\$ 34,118.25
2009 Property Tax Due (1-1-09 to 9-30-09):	\$ 1,118.94
Deed Tax Stamps	\$ 600.00
Attorney Fees	\$ 2,950.00
Fed Ex Payoff	\$ 25.00
Purchase Money Note	\$436,500.00
TOTAL AMOUNT DUE FROM PURCHASER TO SELLER:	\$ 54,513.48

BUYERS SETTLEMENT STATEMENT FOR SALE OF
132 Conifer Drive, Statesville, NC
FROM THOMAS DOTOLI AND KATHLEEN DOTOLI ("SELLER")
LUDINE THOMAS DOTOLI ("SELLER")
ELEGANT BEVERAGE PRODUCTS, LLC ("SELLER")
IMPERIAL UNLIMITED SERVICES, INC. ("SELLER")
TO BEVERAGE SYSTEMS OF THE CAROLINAS, LLC ("PURCHASER")

SEPTEMBER 30, 2009

Due From Purchaser:

PURCHASE PRICE:

Real Estate	\$210,000.00
Elegant Beverage: Equipment	\$ 10,000.00
Inventory	\$ 35,000.00
Imperial Unlimited: Equipment	\$150,000.00
Inventory	\$135,000.00
Covenant not to Compete	\$ 10,000.00
Goodwill	\$100,000.00

TOTAL DUE \$650,000.00

PLUS CLOSING EXPENSES

2009 Property Taxes Due	\$ 382.58
Record Deed	\$ 25.00
Record Deed of Trust	\$ 36.00
Record UCC (2)	\$ 90.00
Record DBA	\$ 28.00
Attorney Fee	\$ 750.00
Prep DBA Certificates	\$ 50.00
Title Insurance	\$ 1,400.25

TOTAL EXPENSES DUE \$652,806.83

LESS CREDITS:

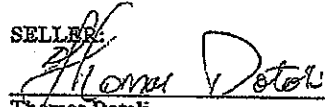
Earnest Money Deposit	\$ 10,000.00
Purchase Money Note	\$436,500.00

TOTAL CREDITS (\$446,500.00)

TOTAL AMOUNT DUE AT CLOSING \$206,306.83

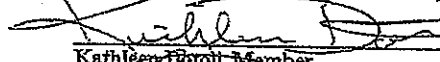
Accepted and approved:

SELLER:


Thomas Dotoli (SEAL)


Kathleen Dotoli (SEAL)

ELEGANT BEVERAGE PRODUCTS, LLC


Kathleen Dotoli, Member (SEAL)



Lucine Dotoli, Member (SEAL)

IMPERIAL UNLIMITED SERVICES, INC


Thomas Dotoli, President (SEAL)

PURCHASER:

BEVERAGE SYSTEMS OF THE CAROLINAS, LLC

By: 
Mark Gandino, Member/Manager (SEAL)

CLOSING ATTORNEY:


Richard J. Lutz (SEAL)

5:08 PM

03/25/09

Accrual Basis

Imperial Service, Inc.
Sales by Customer Summary
January through December 2008

	Jan - Dec 08	Jan - Dec 07	\$ Change	% Change
Automatic Bar Controls	300.53	175.00	125.53	71.7%
Beverage Systems 2	230.00	0.00	230.00	100.0%
Beverage Systems, Inc.	450.00	1,545.00	-1,085.00	-70.2%
Bistro-Roca	0.00	17.08	-17.08	-100.0%
Boyd's Coffe	120.00	0.00	120.00	100.0%
BunnServe	76,378.72	28,633.63	47,745.09	166.7%
Caribbean Creme	13,900.11	11,802.53	2,097.58	17.8%
Cecilia Hughes	0.00	87.00	-87.00	-100.0%
Charlotte Firefighters Association	90.00	0.00	90.00	100.0%
Charlotte South Fellowship	0.00	212.50	-212.50	-100.0%
Chill's Bar & Grill	110.00	0.00	110.00	100.0%
Chillout Frozen Drinks, LLC	0.00	160.00	-160.00	-100.0%
Circle K	0.00	3,924.00	-3,924.00	-100.0%
Concept Services	137.50	587.50	-450.00	-76.6%
Cooper Tea Company	3,000.00	0.00	3,000.00	100.0%
Crystal Springs	0.00	95.25	-95.25	-100.0%
Cuupys, Coffee and Smoothies	110.00	0.00	110.00	100.0%
Del Frisco's	97.50	0.00	97.50	100.0%
Denny's	774.80	0.00	774.80	100.0%
Dilworth Coffee	0.00	192.50	-192.50	-100.0%
Douwe Egberts	124.50	162.04	-37.54	-23.2%
Dresslers	101.56	0.00	101.56	100.0%
Dunkin Doughnuts	1,136.55	809.49	327.06	40.4%
Elegant Beverage Products	0.00	0.00	0.00	0.0%
Family Food	0.00	900.00	-900.00	-100.0%
Fortier	270.00	0.00	270.00	100.0%
Frankie	89,602.30	312.50	89,289.80	28,572.7%
Friendly Family Restaurant	0.00	60.00	-60.00	-100.0%
Grandfather Mountain	0.00	234.00	-234.00	-100.0%
Hav-A-Cup Coffee	0.00	832.32	-832.32	-100.0%
HT Hackney	7,574.69	450.00	7,124.69	1,583.3%
IFH Foods	12,304.65	5,590.78	6,713.87	120.1%
Ily Espresso Of The Americas	2,707.41	761.56	1,945.85	255.5%
Ilycaffe North America	327.13	4,844.41	-4,517.28	-93.3%
Javo Beverage	0.00	860.00	-860.00	-100.0%
JT Davenport	14,234.79	9,650.34	4,584.45	47.5%
Kraft 2	4,404.67	2,212.17	2,192.50	99.1%
Kraft1	31,931.17	944.13	30,987.04	3,282.1%
LRCC	174.85	0.00	174.85	100.0%
M.R. Williams	6,014.53	4,165.01	1,849.52	44.4%
Manitowoc Beverage Equipment	0.01	0.00	0.01	100.0%
Merchant Distribution	65.00	0.00	65.00	100.0%
Metro Door Inc	420.00	0.00	420.00	100.0%
Mountain Grounds Coffee & Tea	0.00	310.00	-310.00	-100.0%
NGE	67,606.77	64,678.37	2,928.40	4.5%
Nical Distributors	0.00	1,078.06	-1,078.06	-100.0%
Pantry Inc.	19,822.95	13,339.32	6,483.63	48.6%
Parrot Ice	0.00	874.21	-874.21	-100.0%
Party Rentals by Lisa	0.00	7.50	-7.50	-100.0%
PF Chang's	1,155.60	365.61	789.99	216.1%
Pitt Stop	0.00	0.00	0.00	0.0%
Procter & Gamble	154.00	19,583.68	-19,429.68	-99.2%
Quality Solutions Inc	526.34	0.00	526.34	100.0%
Reilly Food Service	16,154.78	6,064.63	10,090.15	166.4%
Renaissance Festival	8,160.00	0.00	8,160.00	100.0%
Ruby Tuesday	234.59	220.90	13.69	6.2%
Rush Co	120.00	0.00	120.00	100.0%
Sandwich Artists', Inc. DBA Subway	491.15	0.00	491.15	100.0%
Sanford Food Mart	0.00	1,000.00	-1,000.00	-100.0%
Sara Lee	71,882.57	179,247.86	-107,365.29	-59.9%
Service Unlimited	0.00	140.00	-140.00	-100.0%
Starin Food Service	0.00	57.56	-57.56	-100.0%
Silver Service	0.00	545.36	-545.36	-100.0%
Sonny's	0.00	49.00	-49.00	-100.0%
Southco Distributing	7,165.23	0.00	7,165.23	100.0%
Sullivans	309.10	0.00	309.10	100.0%

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08/25/09

Accrual Basis

Imperial Service, Inc.
Sales by Customer Summary
January through December 2008

	Jan - Dec 08	Jan - Dec 07	\$ Change	% Change
Target	202.00	0.00	202.00	100.0%
Tea & Coffee America	285.14	0.00	285.14	100.0%
Teazzers	2,063.50	3,136.00	-1,072.50	-34.2%
Tetley	7,659.71	5,135.47	2,524.24	49.2%
The Spilled Bean	0.00	207.95	-207.95	-100.0%
Thousand Trails	0.00	0.00	0.00	0.0%
Transportation Insight	0.00	92.63	-92.63	-100.0%
TTC	0.00	0.00	0.00	0.0%
US Foods	14,485.26	31,757.96	-17,272.70	-54.4%
Villa Antonio	110.00	0.00	110.00	100.0%
Whole Latte Love	455.00	0.00	455.00	100.0%
TOTAL	486,146.56	408,112.81	78,033.75	19.1%

9:18 AM

10/02/09

Accrual Basis

Imperial Service, Inc.
Sales by Customer Summary
January through December 2009

	Jan - Dec 09	Jan - Dec 08	\$ Change	% Change
Alligator Ice	386.58	0.00	386.58	100.0%
Automatic Bar Controls	0.00	300.53	-300.53	-100.0%
Beverage Systems 2	0.00	230.00	-230.00	-100.0%
Beverage Systems, Inc.	0.00	460.00	-460.00	-100.0%
BJ'S Wholesale Club	165.00	0.00	165.00	100.0%
Bob Evans	150.00	0.00	150.00	100.0%
Boyd's Coffe	0.00	120.00	-120.00	-100.0%
BunnServe	83,439.29	76,378.72	7,060.57	9.2%
Caribbean Creme	11,202.50	13,900.11	-2,697.61	-19.4%
Cecilware	274.50	0.00	274.50	100.0%
Charlotte Firefighters Association	0.00	90.00	-90.00	-100.0%
Chick Fil A	118.30	0.00	118.30	100.0%
Chili's Bar & Grill	0.00	110.00	-110.00	-100.0%
Clearly Carolina	1,034.03	0.00	1,034.03	100.0%
COD	8,792.36	0.00	8,792.36	100.0%
Concept Services	0.00	137.50	-137.50	-100.0%
Cooper Tea Company	0.00	3,000.00	-3,000.00	-100.0%
Cuupys,Coffee and Smoothies	0.00	110.00	-110.00	-100.0%
Del Frisco's	130.00	97.50	32.50	33.3%
Danny's	1,567.82	774.80	793.02	102.4%
Douwe Egberts	0.00	124.50	-124.50	-100.0%
Dresslers	0.00	101.56	-101.56	-100.0%
Dunkin Doughnuts	1,401.51	1,136.55	264.96	23.3%
Ed Elman	207.21	0.00	207.21	100.0%
Elegant Beverage Products	0.00	0.00	0.00	0.0%
Fortier	275.00	270.00	5.00	1.9%
Franke	209,873.00	89,602.30	120,270.70	134.2%
Globex America	192.50	0.00	192.50	100.0%
Grindmaster Warranty	787.50	0.00	787.50	100.0%
Hav-A-Cup Coffee	287.76	0.00	287.76	100.0%
HT Hackney	10,942.27	7,574.69	3,367.58	44.5%
IFH Foods	2,364.71	12,304.65	-9,939.94	-80.8%
Illy Espresso Of The Americas	968.75	2,707.41	-1,738.66	-64.2%
Illycaffè North America	0.00	327.13	-327.13	-100.0%
Infinity Customer Solutions	275.00	0.00	275.00	100.0%
JT Davenport	6,148.07	14,234.79	-8,086.72	-56.8%
Kim's Grocery	166.50	0.00	166.50	100.0%
Kraft 2	0.00	4,404.67	-4,404.67	-100.0%
Kraft1	30,249.15	31,931.17	-1,682.02	-5.3%
LRCC	0.00	174.85	-174.85	-100.0%
M.R. Williams	3,153.60	6,014.53	-2,860.93	-47.6%
Manitowoc Beverage Equipment	0.00	0.01	-0.01	-100.0%
McDonalds	203.30	0.00	203.30	100.0%
Merchant Distribution	0.00	65.00	-65.00	-100.0%
Metro Door Inc	165.00	420.00	-255.00	-60.7%
NGB	24,461.42	67,606.77	-43,145.35	-63.8%
Nical Distributors	0.00	0.00	0.00	0.0%
Nuova Distribution	285.00	0.00	285.00	100.0%
Pantry Inc.	23,141.58	19,822.95	3,318.63	16.7%
PF Chang's	0.00	1,155.50	-1,155.50	-100.0%
Pitt Stop	0.00	0.00	0.00	0.0%
Procter & Gamble	0.00	154.00	-154.00	-100.0%
Quality Soultions Inc	0.00	526.34	-526.34	-100.0%
Relly Food Service	23,044.12	16,154.78	6,889.34	42.7%
Renaissance Festival	3,780.00	8,160.00	-4,380.00	-53.7%
Ruby Tuesday	0.00	234.59	-234.59	-100.0%
Rush Co	0.00	120.00	-120.00	-100.0%
S & D Coffee	1,142.60	0.00	1,142.60	100.0%
Sandwich Artists', Inc. DBA Subway	121.24	491.15	-369.91	-75.3%
Sara Lee	0.00	71,882.57	-71,882.57	-100.0%
Silver Service	403.95	0.00	403.95	100.0%
Southco Distributing	2,621.89	7,165.23	-4,543.34	-63.4%
Stanley Furniture	278.13	0.00	278.13	100.0%
Sullivans	0.00	309.10	-309.10	-100.0%
Target	0.00	202.00	-202.00	-100.0%
Tea & Coffee America	0.00	285.14	-285.14	-100.0%

9:18 AM

10/02/09

Accrual Basis

Imperial Service, Inc.
Sales by Customer Summary
January through December 2009

	Jan - Dec 09	Jan - Dec 08	\$ Change	% Change
Teazzers	300.00	1,735.00	-1,435.00	-82.7%
Tetley	5,078.07	7,659.71	-2,581.64	-33.7%
The Fudgery	190.00	0.00	190.00	100.0%
The Point	290.30	0.00	290.30	100.0%
Thousand Trails	0.00	0.00	0.00	0.0%
US Foods	25,718.19	14,485.26	11,232.93	77.6%
Villa Antonio	262.00	110.00	152.00	138.2%
Whole Latte Love	0.00	455.00	-455.00	-100.0%
TOTAL	486,039.70	485,818.06	221.64	0.1%

8:22 AM
06/30/11
Accountants

Imperial Service, Inc.
Sales by Customer Summary
January through December 2009

	Jan 09	Feb 09	Mar 09	Apr 09	May 09	Jun 09	Jul 09	Aug 09	Sep 09	Oct 09	Nov 09	Dec 09	TOTAL	2009	Jan-April 12
Allegiant Inc	0.00	0.00	0.00	0.00	0.00	184.60	0.00	0.00	218.10	0.00	0.00	0.00	382.80		
Bellington Resort	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
B/S Wholesale Club	0.00	0.00	0.00	185.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	185.00		
Bob Evans	0.00	0.00	0.00	0.00	0.00	160.00	0.00	0.00	0.00	0.00	0.00	0.00	160.00		
Bunnings	6361.30	6,117.67	5,371.06	6,008.43	11,824.31	27,693.67	8,419.30	4,824.16	9,253.86	6,146.53	7,777.30	1,013.00	89,258.19	6117.45	10955.33
Caribbean Cruise	1,482.00	605.00	890.00	1,347.09	1,797.59	787.50	987.50	1,842.60	1,882.60	1,165.00	2,090.00	1,210.00	15,657.65		
Cave Farm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
Geckman	274.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	274.50		
Charlie Galtand	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
ChickfilA	0.00	0.00	0.00	114.30	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	114.30		
Clancy Chevrolet	1,054.03	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,054.03		
CO2	0.00	1,241.59	1,669.35	1,118.23	968.14	804.50	748.20	615.00	2,311.56	390.00	1,835.67	283.00	12,524.23		
DalPhico's	0.00	0.00	0.00	0.00	130.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	130.00		
Denny's	221.00	0.00	880.82	203.00	0.00	0.00	184.50	128.00	0.00	188.20	137.00	110.00	2,000.52		
DustalPower	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
Dunkin Doughnuts	149.25	60.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	119.00	356.82	0.00	676.00		
Ed Etkin	207.21	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	207.21		
Farrier	0.00	0.00	0.00	0.00	0.00	118.49	0.00	165.00	0.00	0.00	0.00	0.00	283.49		
Funko	22,260.33	20,637.18	11,571.65	13,322.43	23,895.55	21,177.24	26,127.66	28,739.68	41,670.00	17,563.79	6,560.16	0.00	235,060.75	0	0
GlobeAmerica	0.00	0.00	182.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	182.50		
Gouldmaster Whiskey	0.00	407.50	0.00	197.50	0.00	0.00	182.50	0.00	0.00	0.00	0.00	0.00	683.00		
Have-A-Cup Coffee	0.00	0.00	0.00	147.76	0.00	0.00	0.00	140.00	0.00	0.00	0.00	0.00	287.76		
JT Hachery	137.50	652.06	560.54	0.00	0.00	83.67	137.50	0.00	0.00	0.00	0.00	0.00	2,642.27		
JFH Foods	1,219.71	165.00	0.00	0.00	0.00	0.00	0.00	0.00	900.00	338.97	0.00	0.00	2,594.76		
Jly Espresso Of The Americas	0.00	240.75	0.00	0.00	260.00	205.00	130.00	150.00	1,180.88	130.00	130.00	182.82	2,571.86		
Justly Customer Solutions	0.00	0.00	0.00	0.00	0.00	0.00	275.00	0.00	0.00	0.00	0.00	0.00	275.00		
Jova City	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
JT DentalPort	2,132.26	300.00	317.50	233.73	1,442.40	132.50	215.65	573.86	750.16	461.00	332.01	713.04	7,655.66	1406.00	648.33
Kim's Grocery	0.00	0.00	0.00	0.00	0.00	0.00	185.50	0.00	0.00	0.00	0.00	0.00	185.50		
Kraft	3,356.37	2,410.39	3,880.08	3,882.81	2,861.99	3,701.51	2,988.18	2,880.32	4,583.71	4,585.12	3,487.42	2,152.64	42,215.64		
M.R. Williams	303.82	0.00	0.00	182.14	124.75	67.66	558.95	825.63	1,684.58	1,081.60	280.68	165.00	6,321.43		
Madonville	0.00	0.00	0.00	0.00	0.00	0.00	203.50	0.00	0.00	0.00	0.00	0.00	203.50		
Matic Door Inc	0.00	0.00	0.00	0.00	0.00	0.00	165.00	0.00	0.00	0.00	0.00	0.00	165.00		
Mountain Island BP	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
NBB	3,182.54	4,031.51	5,332.38	4,600.34	3,854.38	2,930.01	1,888.58	883.00	2,603.30	602.44	0.00	207.88	22,181.31	180.13	0
Nova Distribution	0.00	0.00	0.00	0.00	0.00	0.00	0.00	285.00	0.00	0.00	0.00	0.00	285.00		
Penny Inc.	1,373.37	2,887.07	3,084.42	1,640.31	1,587.13	3,174.17	2,817.15	2,783.66	4,419.08	4,616.58	2,892.53	280.88	30,781.86	3320.657	3744.11
Rally Food Service	1,356.56	1,009.36	1,009.98	2,601.47	2,246.99	6,689.30	3,393.23	1,243.83	1,303.10	1,146.99	4,689.78	216.03	29,762.66	1216.114	1971.86
Remembrance Festival	0.00	160.00	0.00	0.00	0.00	0.00	0.00	0.00	1,192.69	0.00	0.00	0.00	1,192.69		
S&D Coffee	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
Sandwich Artist's Inn, DSA Subway	0.00	0.00	0.00	121.24	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	121.24		
Silver Service	402.85	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	402.85		
Southern Distributing	305.08	316.05	764.28	287.78	0.00	0.00	0.00	185.00	335.04	202.36	137.50	187.76	3,285.89		
Stoney Furniture	0.00	0.00	0.00	0.00	0.00	0.00	273.13	0.00	0.00	834.05	0.00	0.00	1,112.18		
Texas	150.00	150.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	300.00		

0122 AM
06/09/11
Actual Basis

Imperial Service, Inc.
Sales by Customer Summary
January through December 2010

	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	Dec-09	TOTAL	2010	Jan-April 11
Talley	632.50	137.50	247.50	308.48	585.56	1,095.37	768.26	0.00	302.50	482.50	407.50	300.00	5,246.07		
The Fedders	0.00	0.00	0.00	196.69	0.00	0.00	0.00	0.00	0.00	9.93	0.00	0.00	180.00		
The Point	0.00	0.00	0.00	0.00	0.00	0.00	160.30	0.00	110.00	315.00	165.00	159.78	824.08		
US Foods	3,089.11	614.65	1,487.30	1,240.81	2,707.02	3,503.29	5,880.09	3,214.56	3,018.81	2,081.35	2,162.44	1,175.04	32,248.83	602.7	0
Villa Ambiente	0.00	0.00	282.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	252.00		
Winco/Bears	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	396.11	0.00	396.11		
TOTAL	60,183.37	42,412.07	35,603.16	37,706.68	64,313.21	73,600.45	66,818.26	60,819.51	82,682.68	44,683.40	53,210.24	10,651.53	673,872.56		
Projected Lost Revenue													457,685.81		

Beverage Systems of the Carolinas Imperial Beverage Sales by Customer Comparison

BSC 62

	Jan - Dec 11	Jan - Dec 10	% Change	Jan - Dec 10	Jan - Dec 09	% Change	Jan - Dec 09	Jan - Dec 08	% Change
BunnServe	11899.38	61,172.55	-80.65%	61172.55	9926.96	-38.78%	99,926.96	76,378.72	30.83%
Franke	0.00	0.00	0.0%		235096.75	-100.0%	235,096.75	89,602.30	162.36%
IFH Foods	545.19	2,034.81	-73.21%	2034.81	2684.78	-24.21%	2,684.78	12,304.65	-78.18%
JT Davenport	648.25	14,063.03	-95.41%	14063.03	7625.84	84.41%	7,625.84	14,234.79	-46.43%
NGB	0.00	1,804.13	-100.0%	1804.13	27381.81	-93.41%	27,381.81	67,808.77	-59.5%
Relly Food Service	2585.90	12,163.14	-78.74%	12163.14	24702.66	-50.76%	24,702.66	18,154.78	52.91%
Tetley	1305.33	7,933.38	-83.55%	7933.38	6248.07	26.97%	6,248.07	7,669.71	-18.43%
US Foods	0.00	6,082.70	-100.0%	6082.70	32249.93	-81.14%	32,249.93	14,485.26	122.64%
TOTAL	16982.05	105253.74	-83.87%	105253.74	435,916.80	-75.86%	435,916.80	298,426.98	46.07%

Sales by Customer

	Jan - Aug 15-14	Jan - Aug 15-10	% Change	Jan - Dec 10	Jan - Dec 09	% Change	Jan - Dec 09	% Change
Alligator Ice	0.00	0.00	0.0%	388.58	388.58	-100.0%	0.00	100.0%
Automatic Bar Controls	0.00	0.00	0.0%	0.00	0.00	0.0%	300.53	-100.0%
Ballantyne Resort	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	0.0%
Beverage Systems 2	0.00	0.00	0.0%	0.00	0.00	0.0%	230.00	-100.0%
Beverage Systems, Inc.	0.00	0.00	0.0%	0.00	0.00	0.0%	480.00	-100.0%
BJ's Wholesale Club	0.00	0.00	0.0%	165.00	165.00	-100.0%	0.00	100.0%
Bob Evans	0.00	0.00	0.0%	180.00	180.00	-100.0%	0.00	100.0%
Boyd's Coffee	0.00	0.00	0.0%	0.00	0.00	0.0%	120.00	-100.0%
Bruff's	16,122.25	42,013.15	-62.3%	6,112.05	6,093.95	0.3%	78,378.72	-92.3%
Caribbean Creme	6500.70	6,905.00	-21.02%	9531.25	15,657.50	-39.13%	13,900.11	12.64%
Casa Farm	0.00	0.00	0.0%	82.50	82.50	-100.0%	0.00	100.0%
Chivers	0.00	0.00	0.0%	274.50	274.50	-100.0%	0.00	100.0%
Carla Galland	0.00	0.00	0.0%	67.00	67.00	-100.0%	0.00	100.0%
Charlotte Firefighters Association	0.00	0.00	0.0%	0.00	0.00	0.0%	90.00	-100.0%
Chick Fil A	0.00	0.00	0.0%	118.30	118.30	-100.0%	0.00	100.0%
Chili's Bar & Grill	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	100.0%
Clearly Carolina	0.00	0.00	0.0%	0.00	0.00	0.0%	110.00	-100.0%
Concept Services	0.00	0.00	0.0%	1,034.03	1,034.03	-100.0%	0.00	100.0%
Cooper Tea Company	0.00	208.25	-100.0%	208.25	0.00	100.0%	137.50	-100.0%
Cupsy's Coffee and Smoothies	0.00	0.00	0.0%	0.00	0.00	0.0%	3,000.00	-100.0%
Del Frisco's	0.00	0.00	0.0%	0.00	0.00	0.0%	110.00	-100.0%
Denny's	0.00	744.75	-100.0%	1120.65	130.00	-100.0%	97.50	93.33%
Douwa Egberts	0.00	0.00	0.0%	2000.52	2,000.52	-13.89%	774.80	159.2%
Drasslers	0.00	0.00	0.0%	0.00	0.00	0.0%	124.50	-100.0%
DukePower	0.00	0.00	0.0%	0.00	0.00	0.0%	101.55	-100.0%
Dunkin Doughnuts	0.00	4,488.40	-100.0%	4588.40	673.05	580.16%	1,136.55	-40.52%
Ed Elman	0.00	0.00	0.0%	207.21	207.21	-100.0%	0.00	100.0%
Elegant Beverage Products	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	0.0%
Elter	0.00	0.00	0.0%	275.00	275.00	-100.0%	270.00	1.85%
Elmer	0.00	0.00	0.0%	2,550.56	2,550.56	-100.0%	69,502.30	-97.33%
Global America	0.00	0.00	0.0%	837.12	162.50	386.82%	0.00	100.0%
Grindmaster Warranty	1288.25	0.00	100.0%	1392.50	1,392.50	-100.0%	0.00	100.0%
Hav-A-Cup Coffee	0.00	0.00	0.0%	287.78	287.78	-100.0%	0.00	100.0%
HT Hackney	0.00	0.00	0.0%	78,49.27	2,642.27	-100.0%	7,574.69	-68.44%
Illy Espresso Of The Americas	0.00	0.00	0.0%	2,571.93	2,571.93	-100.0%	12,304.85	-78.18%
Illycaffè North America	7928.11	2,344.92	235.75%	2653.40	0.00	100.0%	2,707.41	-5.0%
Infinity Customer Solutions	0.00	0.00	0.0%	275.00	275.00	-100.0%	0.00	100.0%
Java City	0.00	182.70	-100.0%	246.95	246.95	-38.17%	0.00	100.0%
Kim's Grocery	0.00	12,530.01	-100.0%	140,53.00	15,555.55	-84.31%	1,337.70	-8.13%
Kraft 2	0.00	0.00	0.0%	180.50	166.50	-100.0%	0.00	100.0%

Sales by Customer

Kraft	1941.45	21,230.97	-8.57%	34655.24	42215.54	-18.14%	42,215.54	31,331.17	32.21%
LROC	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	174.85	-100.0%
Manitowoc Beverage Equipment	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	0.01	-100.0%
McDonalds	0.00	0.00	0.0%	203.30	203.30	-100.0%	203.30	0.00	100.0%
Marochant Distribution	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	83.00	-100.0%
Meiro Door Inc	0.00	0.00	0.0%	165.00	165.00	-100.0%	165.00	420.00	-50.71%
Mountain Island EBF	0.00	0.00	0.0%	110.00	110.00	-100.0%	110.00	0.00	100.0%
NGB	0.00	0.00	0.0%	1804.13	27381.81	-93.41%	27,381.81	87,506.77	-68.5%
Nitel Distributors	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	0.00	0.0%
Nuova Distribution	0.00	0.00	0.0%	18294.67	285.00	-100.0%	285.00	0.00	100.0%
Pantry Inc.	5582.28	3,670.45	64.18%	30701.55	30,701.55	-50.18%	30,701.55	18,822.95	64.88%
PF Chang's	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	1,155.50	-100.0%
: Stop	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	0.00	0.0%
Procter & Gamble	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	184.00	-100.0%
Quality Solutions Inc	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	528.34	-100.0%
Renaissance Festival	0.00	0.00	0.0%	10140.00	7523.55	34.55%	7,523.55	8,160.00	-7.74%
Ruby Tuesday	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	234.58	-100.0%
Rush Co	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	120.00	-100.0%
S&D Coffee	0.00	0.00	0.0%	1142.80	1142.80	-100.0%	1,142.80	0.00	100.0%
Sandwich Artists, Inc. DBA Subway	210.00	0.00	100.0%	121.24	121.24	-100.0%	121.24	491.15	-75.32%
Sara Lee	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	71,800.07	-100.0%
Silver Service	1346.25	850.00	107.12%	650.00	403.95	60.91%	403.95	0.00	100.0%
Southco Distributing	0.00	0.00	0.0%	92.50	3285.86	-97.19%	3,285.86	7,155.23	-54.14%
Stanley Furniture	0.00	4,173.00	-100.0%	4173.00	1112.18	275.21%	1,112.18	0.00	100.0%
Sullivans	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	308.10	-100.0%
Target	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	202.00	-100.0%
Tea & Coffee America	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	285.14	-100.0%
Teazers	611.25	165.00	270.46%	165.00	300.00	-45.0%	300.00	1,735.00	-82.71%
The Point	0.00	0.00	0.0%	180.00	180.00	-100.0%	180.00	0.00	100.0%
Thousand Trails	0.00	0.00	0.0%	924.05	924.05	-100.0%	924.05	0.00	100.0%
Villa Antonio	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	0.00	0.0%
Whole Latte Love	0.00	0.00	0.0%	352.50	352.50	-100.0%	352.50	110.00	183.18%
Wilcoffs	0.00	0.00	0.0%	0.00	0.00	0.0%	0.00	455.00	-100.0%
Witchess	0.00	0.00	0.0%	359.11	359.11	-1.84%	359.11	0.00	100.0%
TOTAL	63002.63	136975.48	-54.0%	215285.78	571,872.36	-62.36%	571,872.36	486,736.58	17.73%

3/31/11 at 15:21:43.03

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Beverage Systems of the Carolinas, LLC

Customer Sales History

For the Period From Jan 1, 2010 to Mar 31, 2010

Filter Criteria includes: 1) Customer Types from Imperial to Imperial. Report order is by Customer ID. Report is printed in Summary Format.

Customer ID	Name	Amount	Cost of Sales
0740	Bunn-O-Matic Corporation	16,828.42	
0950	Caribbean Creme	1,718.75	
0955	Casa Farms		
1000	COD Imperial	4,212.34	
1150	Denny's	475.62	
1275	Dunkin Donuts	2,230.49	
1300	Earps		
1350	Elegant Beverage Products, Inc		77.00
13700	Kraft Foods Global Inc	10,428.24	
1500	North Georgia Beverage	1,116.75	
1600	Franke		
1750	Globex	363.12	
1800	Grindmaster Warranty		
2150	IFH	700.00	
2200	Illy Caffee North America	1,641.25	
2315	Java City, Inc	0.20	
2400	Jt Davenport & Sons, Inc	5,744.11	
2850	M.R. Williams	685.68	
2915	Metro Service Solutions	130.00	
3200	Pantry, Inc	470.09	
3425	Renaissance Festival		
3700	SouthCo Distributing		
3750	Stanley Furniture	4,173.00	

BSC 65

3/31/11 at 15:21:43.04

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Beverage Systems of the Carolinas, LLC
Customer Sales History

For the Period From Jan 1, 2010 to Mar 31, 2010
Filter Criteria Includes: 1) Customer Types from Imperial to Imperial. Report order is by Customer ID. Report is printed in Summary Format.

Customer ID	Name	Amount	Cost of Sales
3776	Teazzers	165.00	
4000	Telley	1,787.65	
4200	US Foods	4,180.22	
4550	Wilco Hess, LLC	352.50	
896332	Reilly Food Service	3,286.50	
Report Totals		60,689.93	77.00

BSC 66

3/31/11 at 15:20:23.51

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Beverage Systems of the Carolinas, LLC **Customer Sales History**

For the Period From Jan 1, 2011 to Mar 31, 2011

Filter Criteria Includes: 1) Customer Types from Imperial to Imperial. Report order is by Customer ID. Report is printed in Summary Format.

Customer ID	Name	Amount	Cost of Sales
0715	Bojangles	180.00	
0731	Brisk Coffee	164.40	
0737	Buca Di Pepo		
0740	Bunn-O-Matic Corporation	10,769.53	
0950	Caribbean Creme	1,742.50	
0980	Charlotte Mecklenburg Police		
0982	CHILI'S HICKORY	140.00	
1000	COD Imperial	2,909.45	
1060	Crossroads General Store	60.68	
1075	Day Enterprises	26.25	
1175	Dilworth Coffee	445.13	
13700	Kraft Foods Global Inc	9,558.40	
1375	Espresso Southeast		
1800	Grindmaster Warranty	55.00	
1810	SuraShot Dispensing Systems	162.50	
2150	IFH	545.19	
2200	Ily Caffee North America	2,025.00	
2400	Jt Davenport & Sons, Inc	646.25	
2700	Larry Oltman	10.40	
2785	Lonestar Steakhouse	137.48	
2850	M.R. Williams	1,434.93	
2950	Mountain Island Bp	165.00	
3200	Pantry, Inc	1,764.11	

3/31/11 at 18:20:23.54

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Beverage Systems of the Carolinas, LLC

Customer Sales History

For the Period From Jan 1, 2011 to Mar 31, 2011

Filter Criteria includes: 1) Customer Types from Imperial to Imperial. Report order is by Customer ID. Report is printed in Summary Format.

Customer ID	Name	Amount	Cost of Sales
3670	Silver Service	520.00	
3776	Teazzers	611.26	
3790	White Coffee Corp	412.00	
4000	Telley	1,084.08	
4550	Wilco Hess, LLC	647.06	
896332	Rally Food Service	1,357.88	
Report Totals		37,664.47	

BSC 68

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Beverage Systems of the Carolinas, L.L.C.
Customer Sales History
July 1st - July 27th

Customer ID	Name	July 2010	Jul-11	Diff
0740	Bunn-O-Matic Corporation	5,565.51	324.85	
0950	Caribbean Creme	1,237.50	395.00	
1000	COD Imperial	2,148.58	0.00	
1150	Denny's			
1275	Dunkin Donuts	895.13	0.00	
13700	Kraft Foods Global Inc	3,009.04	2094.28	
2200	Illy Caffee North America	398.40	650.00	
2400	Jt Davenport & Sons, Inc	2,018.10	0.00	
2800	Lowes Food Stores, Inc	110.00	0.00	
2850	M.R. Williams	165.00	0.00	
3200	Pantry, Inc	1,339.38	415.00	
3510	Royal Cup	268.58	0.00	
3670	Silver Service		227.50	
3790	White Coffee Corp			
4085	TOMMY ATKINSON		800.00	
4000	Tetley	672.55	0.00	
4050	The Point	223.90	0.00	
4200	US Foods	344.10	0.00	
896332	Reily Food Service	1,981.82	0.00	
Report Totals		20,377.59	4,906.63	

Imperial Service, Inc.
Sales by Customer Summary
January through December 2008

	Jan 08	Feb 08	Mar 08	Apr 08	May 08	Jun 08	Jul 08	Aug 08	Sep 08	Oct 08	Nov 08	Dec 08	TOTAL	2008	Jan-April 11
Alligator Ice	0.00	0.00	0.00	0.00	0.00	186.10	0.00	0.00	216.16	0.00	0.00	0.00	386.56	0.00	
Balentine Asset	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Bat's Whistle Club	0.00	0.00	0.00	166.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	166.00	0.00	
Bob Evans	0.00	0.00	0.00	0.00	0.00	190.00	0.00	0.00	0.00	0.00	0.00	0.00	190.00	0.00	
Budgetary	5,061.86	5,117.67	5,371.36	5,008.93	11,824.63	27,793.57	6,416.39	4,634.16	6,283.66	6,144.99	7,777.00	1,816.50	60,920.96	61,727.55	10,956.53
Campana Crane	1,162.50	605.00	900.00	1,347.50	1,785.36	787.50	697.50	1,842.50	1,652.50	1,156.00	2,050.00	1,270.00	12,594.25	12,594.25	
Cash Farm	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Cecilware	274.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	274.50	274.50	
Charlie Galsland	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Chick Fil A	0.00	0.00	0.00	116.36	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	116.36	116.36	
Clearly Caroline	1,034.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,034.00	1,034.00	
CD	0.00	1,341.66	1,850.36	1,116.23	596.16	694.50	746.00	685.00	2,511.50	870.00	1,835.87	265.00	12,594.25	12,594.25	
Del Pitter's	0.00	0.00	0.00	0.00	130.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	130.00	130.00	
Denny's	221.00	0.00	660.42	203.80	0.00	0.00	164.50	126.50	0.00	165.20	137.50	110.00	2,000.52	2,000.52	
DinerPower	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Quinn Deuphants	149.25	60.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	356.63	0.00	678.09	678.09	
Ed Elmer	207.21	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	110.00	0.00	0.00	207.21	207.21	
Forster	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Frontier	22,220.33	20,637.16	11,511.65	13,322.03	23,996.69	21,717.64	26,132.40	20,799.69	41,679.00	17,583.70	6,660.16	0.00	235,008.76	235,008.76	0
Global America	0.00	0.00	182.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	182.50	182.50	
Goldmaster Pharmacy	0.00	487.50	0.00	137.50	0.00	0.00	162.50	0.00	0.00	0.00	0.00	0.00	605.00	605.00	
How-A-Cup Coffee	0.00	0.00	0.00	147.76	0.00	0.00	0.00	140.00	0.00	0.00	0.00	0.00	287.76	287.76	
HT Machinery	137.50	652.06	580.54	220.00	0.00	634.67	137.50	0.00	0.00	0.00	0.00	0.00	2,642.27	2,642.27	
IFI Foods	1,356.71	165.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,694.76	2,694.76	
IFT Express Of The Americas	0.00	243.75	0.00	0.00	250.00	205.00	138.00	132.00	1,169.69	130.00	130.00	182.52	2,271.96	2,271.96	
Infinity Customer Solutions	0.00	0.00	0.00	0.00	0.00	0.00	275.00	0.00	0.00	0.00	0.00	0.00	275.00	275.00	
Jawa City	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
JT Development	2,127.36	300.00	317.50	223.73	1,446.40	137.50	245.66	673.66	720.16	461.60	352.01	737.04	7,635.64	7,635.64	
Kim's Grocery	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Kroger	3,363.37	2,400.30	3,660.08	3,062.91	2,591.88	3,301.61	2,509.16	2,860.32	6,520.71	4,985.12	3,467.42	2,102.54	42,216.54	42,216.54	
M.A. Williams	383.82	0.00	0.00	182.14	124.75	0.00	596.55	825.43	1,094.56	1,031.50	280.00	165.00	5,221.43	5,221.43	
McDonalds	0.00	0.00	0.00	0.00	0.00	0.00	203.30	0.00	0.00	0.00	0.00	0.00	203.30	203.30	
Maro Dore Inc	0.00	0.00	0.00	0.00	0.00	0.00	165.00	0.00	0.00	0.00	0.00	0.00	165.00	165.00	
Monahan Island BP	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
GR	3,182.94	4,331.51	3,333.36	4,860.28	3,054.38	2,026.01	1,880.56	632.60	2,603.50	602.14	0.00	987.50	27,351.81	27,351.81	
Nuway Distribution	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Party Inc.	1,373.37	2,672.97	3,004.42	1,646.31	1,857.13	3,174.17	2,019.16	2,763.66	4,419.06	4,518.56	2,682.53	208.08	30,701.60	30,701.60	
Rally Food Service	1,354.96	1,569.36	1,008.69	2,601.47	2,846.50	0.00	3,555.23	1,821.96	1,339.15	1,146.08	460.70	318.03	24,702.60	24,702.60	
Renaissance Festival	0.00	180.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	180.00	180.00	
St. D Coffee	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Sandwich Market, Inc. DBA Subway	0.00	0.00	0.00	121.24	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	121.24	121.24	
Silver Service	403.95	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	403.95	403.95	
Southernco Distributing	805.06	315.05	764.26	387.79	0.00	0.00	768.28	0.00	338.04	202.35	137.50	167.78	3,265.88	3,265.88	
Stanley Furniture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Tazzara	150.00	160.00	0.00	0.00	0.00	0.00	276.13	0.00	0.00	0.00	0.00	0.00	407.56	407.56	
Tobey	632.50	137.50	247.50	386.88	693.36	1,685.37	768.28	0.00	382.50	482.50	487.56	300.00	6,246.07	6,246.07	
The Pudding	0.00	0.00	0.00	180.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	180.00	180.00	
The Point	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
US Foods	3,664.11	614.35	1,467.30	1,040.68	2,797.02	3,532.28	5,960.55	3,324.56	3,018.81	2,081.36	3,752.84	1,175.04	32,246.93	32,246.93	
Vita Antonio	0.00	0.00	282.09	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	282.09	282.09	
Wilcoffs	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
TOTAL	50,199.97	47,112.07	35,493.16	37,709.63	64,233.21	73,560.46	56,553.35	60,316.55	82,662.63	44,623.48	31,380.64	10,271.43	671,892.34	671,892.34	

Projected Local Revenue

457,685.81

SCHEDULE C
(Form 1040)

Profit or Loss From Business
(Sole Proprietorship)

OMB No. 1545-0074

2009

Department of the Treasury
Internal Revenue Service (99)

Partnerships, joint ventures, etc., generally must file Form 1065 or 1065-B.
Attach to Form 1040, 1040NR, or 1041. See instructions for Schedule C (Form 1040).

Attachment
Sequence No. 09

Name of proprietor

MARK GANDINO

Social security number (SSN)

093-54-9089

A Principal business or profession, including product or service (see instructions)

BEVERAGE SYSTEMS OF THE CAROLINAS LLC

B Enter code from instructions

424400

C Business name. If no separate business name, leave blank.

D Employer ID number (EIN), if any

27-0996298

E Business address (including suite or room no.) **132 CONIFER DRIVE**

City, town or post office, state, and ZIP code **STATESVILLE NC**

F Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) _____

G Did you 'materially participate' in the operation of this business during 2009? If 'No,' see instructions for limit on losses. ☒ Yes ☐ No

H If you started or acquired this business during 2009, check here _____

Part I Income

1 Gross receipts or sales. Caution. See the instructions and check the box if:

- This income was reported to you on Form W-2 and the 'Statutory employee' box on that form was checked, or
- You are a member of a qualified joint venture reporting only rental real estate income not subject to self-employment tax. Also see instructions for limit on losses.

1 65,531.

2 Returns and allowances

2

3 Subtract line 2 from line 1

3 65,531.

4 Cost of goods sold (from line 42 on page 2)

4 70,795.

5 Gross profit. Subtract line 4 from line 3

5 -5,264.

6 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)

6

7 Gross income. Add lines 5 and 6

7 -5,264.

Part II Expenses. Enter expenses for business use of your home only on line 30.

8 Advertising **8 2,100.**

18 Office expense **18 751.**

9 Car and truck expenses (see instructions) **9 9,528.**

19 Pension and profit-sharing plans **19**

10 Commissions and fees **10**

20 Rent or lease (see instructions):

11 Contract labor (see instructions) **11**

a Vehicles, machinery, and equipment **20a 291.**

12 Depreciation **12**

b Other business property **20b 360.**

13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions) **13 1,274.**

21 Repairs and maintenance **21 362.**

14 Employee benefit programs (other than on line 19) **14**

22 Supplies (not included in Part III) **22**

15 Insurance (other than health) **15 2,415.**

23 Taxes and licenses **23 3,982.**

16 Interest:

24 Travel, meals, and entertainment:

a Mortgage (paid to banks, etc.) **16a**

a Travel **24a 2,730.**

b Other **16b 5,761.**

b Deductible meals and entertainment (see instructions) **24b 177.**

17 Legal & professional services **17 6,798.**

25 Utilities **25 791.**

28 Total expenses before expenses for business use of home. Add lines 8 through 27

26 Wages (less employment credits) **26 42,494.**

29 Tentative profit or (loss). Subtract line 28 from line 7

27 Other expenses (from line 48 on page 2) **27 5,233.**

30 Expenses for business use of your home. Attach Form 8829

28 **28 85,047.**

31 Net profit or (loss). Subtract line 30 from line 29

29 **29 -90,311.**

- If a profit, enter on both Form 1040, line 12, and Schedule SE, line 2 or on Form 1040NR, line 13 (if you checked the box on line 1, see instructions). Estates and trusts, enter on Form 1041, line 3.
- If a loss, you must go to line 32.

31 -90,311.

32 If you have a loss, check the box that describes your investment in this activity (see instructions).

- If you checked 32a, enter the loss on both Form 1040, line 12, and Schedule SE, line 2 or on Form 1040NR, line 13 (if you checked the box on line 1, see the line 31 instructions). Estates and trusts, enter on Form 1041, line 3.
- If you checked 32b, you must attach Form 6198. Your loss may be limited.

32a ☒ All investment is at risk.

32b ☐ Some investment is not at risk.

BAA For Paperwork Reduction Act Notice, see Form 1040 Instructions.

Schedule C (Form 1040) 2009

FD-20112L 06/18/09

SCHEDULE C
(Form 1040)

Profit or Loss From Business
(Sole Proprietorship)

OMB No. 1545-0074

2010

Attachment
Sequence No. **09**

Department of the Treasury
Internal Revenue Service (99)

Partnerships, joint ventures, etc., generally must file Form 1065 or 1065-B.
Attach to Form 1040, 1040NR, or 1041. See Instructions for Schedule C (Form 1040).

Name of proprietor

MARK GANDINO

Social security number (SSN)

093-54-9089

A Principal business or profession, including product or service (see instructions)

BEVERAGE SYSTEMS OF THE CAROLINAS LLC

B Enter code from Instructions

424400

C Business name, if no separate business name, leave blank.

D Employer ID number (EIN), if any

27-0996298

E Business address (including suite or room no.) **132 CONIFER DRIVE**

City, town or post office, state, and ZIP code **STATESVILLE NC 27799**

F Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) _____

G Did you 'materially participate' in the operation of this business during 2010? If 'No,' see instructions for limit on losses. ☒ Yes ☐ No

H If you started or acquired this business during 2010, check here _____

Part I Income

1 Gross receipts or sales. Caution. See instructions and check the box if: • This income was reported to you on Form W-2 and the 'Statutory employee' box on that form was checked, or • You are a member of a qualified joint venture reporting only rental real estate income not subject to self-employment tax. Also see instructions for limit on losses. <input type="checkbox"/>	1	729,659.
2 Returns and allowances.....	2	
3 Subtract line 2 from line 1.....	3	729,659.
4 Cost of goods sold (from line 42 on page 2).....	4	223,545.
5 Gross profit. Subtract line 4 from line 3.....	5	506,114.
6 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions).....	6	
7 Gross income. Add lines 5 and 6.....	7	506,114.

Part II Expenses. Enter expenses for business use of your home only on line 30.

8 Advertising.....	8		18 Office expense.....	18	142.
9 Car and truck expenses (see instructions).....	9		19 Pension and profit-sharing plans.....	19	
10 Commissions and fees.....	10	4,000.	20 Rent or lease (see instructions):		
11 Contract labor (see instructions).....	11		a Vehicles, machinery, and equipment.....	20a	
12 Depletion.....	12		b Other business property.....	20b	5,979.
13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions).....	13	10,383.	21 Repairs and maintenance.....	21	6,933.
14 Employee benefit programs (other than on line 19).....	14		22 Supplies (not included in Part III).....	22	
15 Insurance (other than health).....	15	22,061.	23 Taxes and licenses.....	23	40,330.
16 Interest:			24 Travel, meals, and entertainment:		
a Mortgage (paid to banks, etc.).....	16a	8,341.	a Travel.....	24a	9,068.
b Other.....	16b		b Deductible meals and entertainment (see instructions).....	24b	891.
17 Legal & professional services.....	17	10,987.	25 Utilities.....	25	13,528.
28 Total expenses before expenses for business use of home. Add lines 8 through 27.....	28		26 Wages (less employment credits).....	26	297,987.
29 Tentative profit or (loss). Subtract line 28 from line 7.....	29		27 Other expenses (from line 48 on page 2).....	27	115,653.
30 Expenses for business use of your home. Attach Form 8829.....	30				
31 Net profit or (loss). Subtract line 30 from line 29. • If a profit, enter on both Form 1040, line 12, and Schedule SE, line 2 or on Form 1040NR, line 13 (if you checked the box on line 1, see instructions). Estates and trusts, enter on Form 1041, line 3. • If a loss, you must go to line 32.	31	-40,169.			

32 If you have a loss, check the box that describes your investment in this activity (see instructions).

• If you checked 32a, enter the loss on both Form 1040, line 12, and Schedule SE, line 2, or on Form 1040NR, line 13 (if you checked the box on line 1, see the line 31 instructions). Estates and trusts, enter on Form 1041, line 3.

• If you checked 32b, you must attach Form 6198. Your loss may be limited.

32a ☒ All investment is at risk.

32b ☐ Some investment is not at risk.

BAA For Paperwork Reduction Act Notice, see your tax return instructions.

Schedule C (Form 1040) 2010

FD120112L 12/27/10

COPY

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

IREDELL COUNTY

12 Cvs 1519

Beverage Systems of the)
Carolinas, LLC,)
)
Plaintiff)

vs.)

DEFENDANTS' ANSWERS TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES

Associated Beverage Repair,)
LLC, Ludine Dotoli and)
Cheryl Dotoli,)
)
Defendants)

Defendants, answering and otherwise responding to Plaintiff's
First Set of Interrogatories to Defendants, say:

1. State the name, address, telephone number, and position
or title of each person who prepared, assisted in preparing, or
supplied information for the answers to these Interrogatories.

ANSWER: (1) Lou Dotoli
18928 Victoria Bay Drive
Cornelius, NC
Service Manager and repair technician
for Associated Beverage Repair, LLC

(2) Cheryl Dotoli
18928 Victoria Bay Drive
Cornelius, NC
Owner and Office Manager of Associated
Beverage Repair, LLC

2. State the name, address, telephone number, and position
or title of each person who has, or who you or your attorneys
reasonably believe may have, knowledge of facts relevant to the
subject matter of this lawsuit, and briefly state the substance of
that person's knowledge.

ANSWER: Lou and Cheryl Dotoli have knowledge of the facts germane to this action. Lou Dotoli's parents, Tom and Kathy Dotoli, also have knowledge of the events and transactions leading up to this action, including the Asset Purchase Agreement and the Non-Competition Agreement on which Plaintiff predicates its claims. Tom and Kathy Dotoli reside at 372 Brawley School Road, Mooresville, North Carolina. Their telephone number is 704/361-7215.

3. Identify all accountant(s) and/or bookkeeper(s) who have performed any bookkeeping or accounting services for you from December 1, 2007, through the present.

ANSWER: The late Joe Wilkins was the accountant for Lou and Cheryl Dotoli until his death in 2009. For calendar year 2009 and all subsequent periods the accountant for the Dotolis has been and is Chuck Maness.

4. Please provide the name, address and telephone number of each member, manager and officer of Elegant Beverage Products, LLC, and each shareholder and officer of Imperial Unlimited Services, Inc.

ANSWER: Kathy and Lou Dotoli were the members in Elegant Beverage Services, LLC (hereafter "Elegant"); Kathy's address is 372 Brawley School Road, Mooresville, North Carolina. Her telephone number is 704/361-7215. Tom Dotoli was the only shareholder in Imperial Unlimited Services, Inc. (hereafter "Imperial"). His address and telephone number are the same as Kathy Dotoli.

5. Identify each person you may call as a witness at the trial of this matter or upon whose sworn statement or testimony you may rely at trial or at any other proceeding in this action.

ANSWER: Defendants have not determined who they will call as witnesses in the trial of this action.

6. Identify each person you may call as an expert witness at the trial of this matter, and with respect to each such person identify:

(a) the subject matter about which the expert is expected to testify;

(b) the substance of the facts and opinions about which the expert is expected to testify;

(c) the grounds for each opinion about which the expert is expected to testify; and

(d) all documents provided to the expert in connection with this matter.

ANSWER: Defendants do not intend to call any expert witness for the trial of this cause.

7. Please describe in your own words the contractual commitments that you were obligated to follow under the Non-Competition Agreement that is central to this dispute. DO NOT RESPOND BY SIMPLY STATING THAT THE COMMITMENTS ARE AS DEFINED BY THE AGREEMENT, AND DO NOT SIMPLY REFER TO THE AGREEMENT.

Lou Dotoli first believed that he was prohibited by the Non-Competition Agreement from competing with Beverage Systems of the Carolinas, LLC (hereafter "Beverage"), in the repair of beverage dispensing equipment anywhere in the states of North Carolina and South Carolina. He later learned that the geographical limitations described in the Non-Competition Agreement were so broad as to render it unenforceable under North Carolina law. Lou Dotoli then concluded that he had no contractual commitments under the Non-Competition Agreement.

8. Please describe in detail all communications, whether written or verbal, that you have had with Tim Mahoney of Bunn-O-Matic, including in your response the substance, date and location of each communication.

ANSWER: I discussed with Tim Mahoney, in a telephone call generated by him to me, that Beverage had vacated the building it bought from my parents. I told Mr. Mahoney how to contact Mr. Gandino. Mr. Mahoney told me during that conversation, which occurred in or about December, 2010, that

he never again desired to do any business with Mr. Gandino. I was on my cell phone when this conversation occurred. I have no idea where Mr. Mahoney was when he called me.

9. Please describe in detail all communications, whether written or verbal, that you have had with Baker Heard of Silver Service Refreshment, including in your response the substance, date and location of each communication.

ANSWER: Baker Heard called me on my cell phone when I was working for Beverage (I had been employed by Beverage for about six months after Beverage purchased assets of Imperial and Elegant). He made inquiry of me regarding the terms on which Beverage would repair an espresso machine. I told Mr. Heard that was a subject he would have to discuss with Mr. Gandino. I do not recall where I was when I received that call. I have no idea where Mr. Heard was when he placed the call.

10. Please describe in detail all services that Associated Beverage Repair, LLC, provides its customers.

ANSWER: Associated provides repair services to all makes and models of non-alcoholic beverage dispensing machines in fast food and other locations (i.e., convenience stores) in the geographic area served by Associated. The machines are owned by third parties, not by Associated.

11. Please describe in detail the process by which you solicit business from new customers.

ANSWER: Associated does not solicit business from new customers. New customers requiring the services of Associated contact us to engage our services.

12. Please describe in detail your former employment with either Elegant Beverage Products, LLC, or Imperial Unlimited Service, Inc., including in your response a description of position with said company(ies), a description of your job duties, a list of

the accounts and/or customers you serviced and the length of employment with said company(ies).

Lou Dotoli managed service technicians, and served as a service technician, for Imperial. Lou Dotoli sold coffee and tea products to the customers of Elegant. Lou called on customers of Elegant to sell, and he responded to calls that Elegant received. Lou sold coffee dispensing machines, filters, cups and lids to the customers of Elegant. Lou has no list identifying the names or addresses of prior customers of Imperial or Elegant. Lou has no record from which can be determined the length of time or on what date he called upon any particular account.

13. Please identify and specifically name any and all former customers of Elegant Beverage Products, LLC, or Imperial Unlimited Services, Inc., from which you have solicited business or called upon to gain their business.

ANSWER: None of the Defendants have called upon any of the former customers of Elegant or Imperial or otherwise done anything to solicit their business. Conversely, some of the former customers of Elegant and Imperial have contacted Associated, Lou Dotoli or Cheryl Dotoli to request the provision of services to said customers by Associated.

14. Please identify and specifically name any and all customers of Associated Beverage Repair, LLC, that were formerly customers of Elegant Beverage Products, LLC, or Imperial Unlimited Services, Inc.

ANSWER: Bunn-O-Matic, Reilly Foods, J. T. Davenport, U.S. Foods, North Georgia Beverage.

15. Identify and specifically describe in detail the factual basis supporting your denial of the allegations contained in Paragraph 55 of the Complaint.

ANSWER: The factual basis supporting Defendants' denial of paragraph 55 of the Complaint is that the Non-Competition Agreement to which paragraph 55 relates is not enforceable under established North Carolina law.

16. Identify and specifically describe the basis for your allegation in Paragraph 62 of your Answer in which you state that "It is admitted that Defendant Associated, with the help of Ludine Dotoli, intends to compete with Plaintiff; it is denied that such competition violates any Non-Competition Agreement".

ANSWER: The basis for Defendants' response to paragraph 62 of the Complaint is simply what the response says: Defendant Lou Dotoli intends to perform repair services for the customers of Associated in the geographic area serviced by Associated. Defendants believe that such services do not violate the Non-Competition Agreement, because the Non-Competition Agreement is invalid as to these Defendants under the law of North Carolina.

17. Identify and specifically describe in detail the factual basis supporting the allegation contained in Paragraph 66 of your Answer in which you state "the previous customers of Plaintiff sought out the services of the Defendants".

ANSWER: None of the Defendants has contacted or sought to contact any customers of Beverage for any purpose; any contact between a prior customer of Elegant or Imperial and any of the Defendants has been initiated by such prior customer's initiating the contact with Associated.

18. Identify and specifically describe in detail the factual basis supporting the allegation contained in Paragraph 5 of your First Further Defense in which you state that "Plaintiff never had any contract with any customer which gave to Plaintiff the right to provide repair services to said customer for any defined period;

that being so, Associated could not have interfered with any contract rights of the Plaintiff".

ANSWER: The Plaintiff acquired no contract rights owned by Elegant or Imperial. It is not the custom in the industry for the owner of beverage dispensing equipment to enter into contracts with repair companies by which services for repair are engaged other than on a case-by-case basis. For further evidence establishing the absence of any such contract rights, see Plaintiff's responses to Defendants' Requests for Production of Documents numbers 1, 2, 3, 4, 5 and 6.

19. Identify and specifically describe in detail the factual basis supporting the allegation contained in Paragraph 3 of your Second Further Defense in which you state that "the Ludine Dotoli in this cause . . . is not identified in that document as a Seller or a Shareholder".

ANSWER: A full explanation of Defendant Lou Dotoli's Second Further Defense is as set forth in the Answer filed by the Defendants in this cause.

20. Identify and specifically describe in detail the factual basis supporting the allegation contained in Paragraph 7 of your Second Further Defense in which you state that "the Non-Competition Agreement is void under North Carolina law, and therefore not enforceable against Defendant Ludine Dotoli".

ANSWER: The factual basis supporting the contention that the Non-Competition Agreement referenced to in this Interrogatory is void under North Carolina law is the case of Hejl v. Hood, Hargett & Associates, No. COA08-1065, 674 S.E. 2d 425 (N.C. App. 2009). Factually, the Defendant in Hejl sought to prevent the Plaintiff from competing with the Defendant anywhere in North Carolina or South Carolina, when the facts established that the Defendant had operated only in a limited area around Charlotte. So here, the Non-Competition Agreement seeks to prevent competition anywhere in North Carolina or South Carolina, when the facts show that Elegant

and Imperial (and Lou Dotoli as an employee of one or both of those entities) never operated throughout North Carolina and South Carolina.

This 18 day of September, 2013.

EISELE, ASHBURN, GREENE & CHAPMAN, PA

By: 

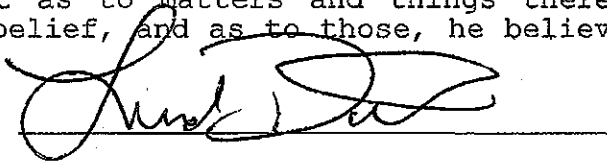
Douglas G. Eisele
N.C. State Bar #4930
Attorneys for Defendants
320 W. Broad Street
Statesville, NC 28677
Telephone: 704/878-6400
FAX No.: 704/924-9727

North Carolina

Iredell County

Ludine Dotoli, being first duly sworn, deposes and says:

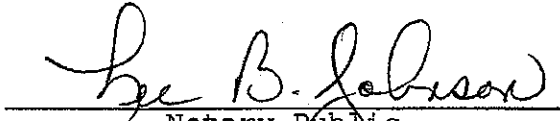
That he is one of the Defendants in the above-entitled action, and that he has read the foregoing Defendants' Responses to Plaintiff's First Set of Interrogatories and that the same is true of his own knowledge, except as to matters and things therein stated upon information and belief, and as to those, he believes them to be true.



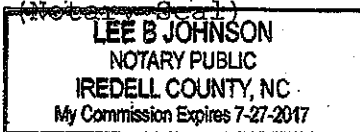
Sworn to and subscribed before me, this

18 day of September, 2013, said

Affiant being personally known to me.


Notary Public

My commission expires 7-27-17.



CERTIFICATE OF SERVICE

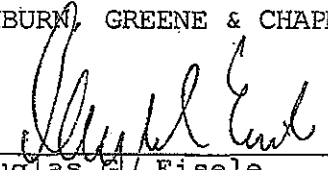
The attached Defendants' Answers to Plaintiff's First Set of Interrogatories was served upon Plaintiff by mailing a copy thereof to its attorney of record as follows:

Mr. Kevin C. Donaldson
Jones Childers McLurkin Donaldson
P.O. Box 3010
Mooresville, NC 28115

This 18 day of September, 2013.

EISELE, ASHBURN, GREENE & CHAPMAN, PA

By: _____


Douglas G. Eisele
N.C. State Bar #4930
Attorneys for Defendants
320 W. Broad Street
Statesville, NC 28677
Telephone: 704/878-6400
FAX No.: 704/924-9727

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO: 12 CVS 1519

BEVERAGE SYSTEMS OF THE
CAROLINAS, LLC,

Plaintiff,

vs.

ASSOCIATED BEVERAGE REPAIR,
LLC, LUDINE DOTOLI, and CHERYL
DOTOLI,

Defendants.

AFFIDAVIT OF MARK GANDINO
IN OPPOSITION OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

Mark Gandino, as a Member-Manager of Plaintiff, being first duly sworn, deposes and says that:

1. I am a citizen and resident of Iredell County, North Carolina.
2. I am over 18 years of age and suffer from no mental deficiency.
3. I have personal knowledge of the statements contained herein, and I am making this Affidavit based solely on my personal knowledge.
4. I am a Member-Manager of Plaintiff, Beverage Systems of the Carolinas, LLC.
5. As a part of my role with Plaintiff, I was directly involved with the execution of the asset purchase agreement (the "Agreement") on July 20, 2009, between Plaintiff and Imperial Unlimited Services, Inc. ("Imperial"), Elegant Beverage Products, LLC ("Elegant"), Loudine Dotoli, Thomas Dotoli and Kathleen Dotoli, pursuant to which Plaintiff bought the businesses and assets of the above-listed parties, including the good will of Imperial and Elegant.
6. Defendant, Loudine Dotoli ("Loudine Dotoli"), is the son of Thomas and Kathleen Dotoli, and it is my understanding that he was heavily involved in the day-to-day operations of both Imperial and Elegant, and that he owned a percentage of Elegant, which allowed him to develop a close and intimate relationship with the customers of both Elegant and Imperial.
7. As a condition of the Agreement, Loudine Dotoli, Thomas Dotoli and Kathleen Dotoli signed a Non-Competition, Non-Solicitation and Confidentiality

Agreement (the "Non-Compete"), pursuant to which they covenanted that they would not, among other things, compete with the business of Plaintiff in the geographic areas of North Carolina and South Carolina, which were the territories in which Elegant and Imperial operated.

8. The Non-Compete was a condition precedent to the Agreement because, as Member-Manager of Plaintiff, I felt that it was necessary to protect the legitimate business interests of Plaintiff because the purchase of Elegant and Imperial would have been substantially less valuable if the Dotolis were able to reenter the same markets and compete with Plaintiff. (See ¶ 5.02(d) of the Agreement, attached hereto and incorporated herein as Exhibit A)

9. Pursuant to the Agreement, Plaintiff purchased the business, goodwill and equipment of Imperial and Elegant, specifically including, any and all customers and customer lists. (See ¶ 1.01 of Exhibit A)

10. As a result of this transaction, Plaintiff had the exclusive right to continue the on-going business relationships that Imperial and Elegant had fostered with their customers, inasmuch as Plaintiff purchased the customers and business relationships of Imperial and Elegant.

11. Subsequent to the execution of the Agreement and purchase of the businesses of Imperial and Elegant, on or about April 7, 2011, Cheryl Dotoli, wife of Loudine Dotoli, formed Associated Beverage Repair, LLC ("Associated"), in an effort to circumvent the Non-Compete and directly compete with Plaintiff.

12. Loudine Dotoli is directly involved with the day-to-day operations of Associated, but he did not list himself as an officer of Associated in an effort to circumvent the Non-Compete.

13. Shortly after forming Associated, Loudine Dotoli began to solicit the business of the customers of Plaintiff that were former customers of Imperial and Elegant, which were specifically included on the customer lists included in the Agreement, in an effort to have them switch their business from Plaintiff to Associated.

14. Specifically, Loudine Dotoli approached or called on BunnServe/Bunn-O-Matic, PF Chang's, Reiley, U.S. Foods, J.T. Davenport, Silver Service, and Tetleys. (See pp. 66-76 of Deposition of Loudine Dotoli, attached hereto and incorporated herein as Exhibit B.)

15. The customer's listed above had engaged in a regular course of conduct and business relationships with Imperial and/or Elegant since at least 2007.

16. These customers and business relationships were transferred to Plaintiff as a part of the Agreement, and the Non-Compete prevented Loudine Dotoli from directly soliciting and/or interfering with these customers.

17. It is my understanding that the Non-Compete has never been adjudicated as unenforceable by a North Carolina court.

18. It is my further understanding that Imperial and Elegant did business throughout the entire State of North Carolina.

19. Loudine Dotoli admitted in a deposition held on or about March 6, 2012, that he believed that the Non-Compete was valid when he signed the Non-Compete. (See ¶ 2, p. 51 of Exhibit B)

20. Loudine Dotoli further admitted during the deposition that he was currently, at that time, acting in violation of the Non-Compete. (See ¶ 7, p. 48 of Exhibit B)

21. Loudine Dotoli further admitted during the deposition that he solicited the customers of Plaintiff in an effort to have them switch their business to Associated. (See pp. 63-66 of Exhibit B)

22. It is my belief that Loudine Dotoli was at all times fully aware that an ongoing business relationship existed between Plaintiff and the above-named customers, and that he acted with the sole intention of taking business away from Plaintiff in order for Associated to gain said business.

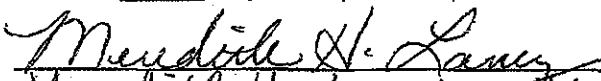
23. As a direct result of Loudine Dotoli's interference with Plaintiff's customers, the gross receipts from those customers has been reduced drastically.

This the 25th day of September, 2013.



Mark Gandino

Sworn to and subscribed before me,
this the 25th day of September, 2013.


Meredith H. Laney Notary Public
My commission expires: Mar. 16, 2018

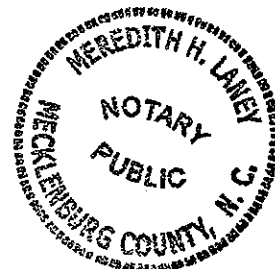


EXHIBIT A: ASSET PURCHASE AGREEMENT

Duplicate Copy. Set forth in its entirety R pp 101-121.

1 STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
2 COUNTY OF IREDELL SUPERIOR COURT DIVISION
3 10-CVS-3676
4

5 BEVERAGE SYSTEMS of the CAROLINAS, LLC,)

6 Plaintiff,)

7 vs.)

8 ELEGANT BEVERAGE PRODUCTS, LLC,)
9 IMPERIAL UNLIMITED SERVICES, INC.,)
10 KATHLEEN DOTOLI, THOMAS DOTOLI AND)
11 LUDINE DOTOLI,)

12 Defendants and Third-Party Plaintiffs,)

13 vs.)

14 MARK GANDINO,)

15 Third-Party Defendant.)
16

17 DEPOSITION

18 OF

19 LUDINE DOTOLI

20 SELECTED PAGES, PP. 48, 51, 63-76
21
22

23 Tuesday, March 6, 2012
24 At Mooresville, North Carolina
25 Reporter: Anita Ingram



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1 Q. Did you understand that you were not to engage in any
2 competing business with Beverage Systems of the
3 Carolinas after closing once this document was signed?

4 A. I understood it, yes.

5 Q. And you would agree with me that you are competing with
6 Beverage Systems of the Carolinas as we sit here today?

7 A. Yes.

8 Q. And you understand that would be a violation of this
9 Agreement?

10 A. No.

11 Q. Why is it not a violation of this Agreement?

12 A. Two things. The covenant of the thing was -- I did an
13 investigation and I went under an attorney to make sure
14 that I didn't do something wrong as far as this
15 covenant of noncompete. I went online, investigated
16 attorneys, also got Doug's advice that the covenant is
17 not valid in the State of North Carolina under the way
18 it's drawn up; that it's out of its parameters, and
19 also that the fact that Mr. Gandino was in breach of
20 contract that none of this -- any of this mattered
21 because of the fact that he stopped payment and broke
22 the contract as a buyer of the company of under Elegant
23 Beverage.

24 Q. Well, let's go back to that then, the second one there.
25 So you're taking the position that by the failure of



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1	knowing that it was invalid when you signed it?
2	A. No, not at the time. I was under counsel that it was
3	perfectly valid.
4	Q. And you intended to be bound by it?
5	A. I intended to, yes. I had every intention of doing it,
6	and you could see that I started up a refrigeration
7	company and I went every direction that I possibly can
8	to avoid until I was given the go-ahead that this was
9	not valid.
10	Q. And then when you found out this may not be valid, you
11	were like, great, lucky for me?
12	A. No, I just thought it -- I saw it as an opportunity to
13	expand and for me and my wife to make some money and be
14	able to live our life.
15	Q. But you believed it to be valid when you signed it?
16	A. Correct.
17	Q. And you intended to be bound by it?
18	A. I did.
19	Q. But because it may or may not be valid, you believe
20	it's fair to go ahead and compete?
21	A. I understand it to be not valid now.
22	Q. Did you understand that in March of 2011 when you
23	started Associated Beverage?
24	A. I did.
25	Q. You realize that there had not been any court rulings



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1 A. My wife.

2 Q. But she didn't know any of these people, did she?

3 A. No, I had more of the contacts than she does, but
4 anything that we worked on, we worked on together as
5 partners.

6 Q. In fact, you had all the contacts, you had Tim Mahoney
7 at Bunn?

8 A. Uh-huh.

9 Q. You had Mike McGinnis at Reily Equipment?

10 A. Uh-huh.

11 Q. You had Tom Bassid (phonetic)?

12 A. Bazzle.

13 Q. Bazzle, yeah. I can't spell. Bazzle at U.S. Foods,
14 correct?

15 A. That's correct.

16 Q. And your father called on these folks too, didn't he?

17 A. He spoke to Bunn, and it was about equipment that was
18 going to his -- Mark had abandoned the building, not
19 Mark. Beverage Systems had abandoned a building, and
20 they were looking to find where this equipment was to
21 be placed.

22 And my father had at that point got in touch with
23 Tim Mahoney, and nobody knew what was going on at the
24 time because we didn't know why the building had been
25 abandoned, but that's what the discussions happened



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1 with my father and Bunn. And that led us to me
2 communicating with Tim Mahoney and taking -- and
3 building a bridge.

4 Q. And actually had that equipment delivered to your
5 father's house, right?

6 A. Yeah, it was delivered because it was a delivery that
7 they accepted and they had -- I had nothing to do with
8 this. They dropped it off at an account with one of
9 the Beverage Systems' technicians at an account nearby
10 in Mooresville.

11 Q. And your father and mother don't have anything to do
12 with this company because they're under a noncompete
13 also, aren't they?

14 A. They don't have anything to do with what company?

15 Q. Associated Beverage.

16 A. No.

17 Q. Because they're under this non-compete agreement right
18 here, aren't they?

19 A. That's something that's between them. To me, again,
20 this non-compete agreement is not enforceable, is not
21 in North Carolina. So yes, they are subject to the
22 same thing I am.

23 Q. So you're telling me they're not involved with
24 Associated Beverage in any way?

25 A. No.



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1 Q. Other than Mr. Dotoli made some calls for you initially
2 to get you some customers?

3 A. Yeah, and also -- Well, let's go back. And we were
4 using their garage as a storage location to accept
5 deliveries that come in because you need to have a
6 point of reference for those FedEx deliveries, UPS
7 deliveries. Trucks come in, you need somebody to sign
8 for that equipment and let us know it arrived.

9 Q. Other than the paperwork for the company, you pretty
10 much do everything else for Associated Beverage, don't
11 you?

12 A. No. I do the service. I take care of the accounts. I
13 do exactly what I mentioned to you earlier; equipment
14 comes in, I let her know, it gets scheduled, make sure
15 that -- I'm just -- I run the -- I'm installing the --
16 I'm the technician. I install the equipment. I take
17 care of the accounts. I do the service calls. I don't
18 do anything with the office.

19 Q. You essentially do exactly what you were doing when you
20 were working for Imperial, aren't you?

21 A. Similar, yeah, except that I'm the one that's
22 running -- I'm doing the service calls, not running the
23 service technicians.

24 Q. But ideally you'll grow the company one day and you'll
25 be sending technicians out?



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1 A. That's the goal.

2 Q. Are there any other accounts that were Beverage System

3 accounts that you've taken that you're pursuing?

4 A. When you say "taken" --

5 Q. Wouldn't you agree you've taken Bunn, Reily, J.T.

6 Davenport, U.S. Foods from Beverage Systems of the

7 Carolinas?

8 A. No, they came to me.

9 Q. They just magically came to you?

10 A. That wanted service, yeah. They want service. The

11 didn't want --

12 Q. How did they know to come to you?

13 A. Because they were used to dealing with me and they know

14 that -- they realized that Cheryl and I were in this

15 business; they got word of mouth out, and they called

16 me up and said, "We heard you're in service business

17 again."

18 Q. Because you and your parents called them and contacted

19 them and said, "Hey, we're in the business, come and

20 let us do some work for you"?

21 A. No, my father talked to Tim Mahoney about that. Again,

22 it was from the equipment that was trying to be

23 delivered, and that's how Tim Mahoney found out about

24 us. And then we grew the business from there.

25 Q. But you acknowledge that these accounts were accounts



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1 that Beverage Systems purchased as part of this deal
2 right here on Exhibit 1, right?

3 A. Oh, yes. I see that, yes. But when you say "taken,"
4 it wasn't taken. They were a business and a part of
5 the Associated -- as part of Beverage Systems at the
6 time.

7 Q. Do you think if you hadn't called them and said, "Hey,
8 we've started up a new business, come on over to our
9 shop," that they would have left Beverage Systems?

10 A. Again, I didn't call them. They called me. They
11 contacted us.

12 Q. And when they called you, you said, "Yes, I'm in
13 business and I'm happy to take your business;" is that
14 right?

15 A. I said, we'll be happy to help you out any which way we
16 could, like any other service company would out there.
17 There's five or six other companies that were right
18 behind me to take the business away from him as well.

19 It just so happened it had been me because I have
20 a good relationship and I do great business for people
21 and people understood that through my management skills
22 through what I did throughout all those years.

23 Q. Except for the Franke account that you all lost?

24 A. The Franke account, I had nothing to do with that.

25 Again, I was -- I explained to you that these people



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1 were coming to me for decisions and I didn't have any
2 answers for them at that time.

3 Q. If I had witnesses that say the Franke account was lost
4 because of you, they would be mistaken?

5 A. I would love to see them to say that. I know exactly
6 why the account was lost.

7 Q. Why was it lost?

8 A. There was five invoices. And this is something that
9 was part of my management, and there was five invoices
10 billed out for one location in Lenoir. And I had
11 mentioned to Marygrace, I says that -- People are
12 human, I understand that. You know, you can't fix
13 things the first time. Sometimes it's a little bit
14 familiar to technicians. And I made sure that I asked
15 them not to send out five invoices for the same
16 location. They didn't listen. They sent the five
17 invoices anyway. Again, because there was also that --
18 I was not looked at the same as it was when it was
19 Imperial now that the new company took over.

20 And they sent five invoices out and then I got the
21 call that this is uncalled for from the -- you know,
22 because they reached out to me. They called out and
23 they says, "Well, why did you bill out for five
24 locations? The manager is up in arms."

25 I says, "I didn't know about that."



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1 And I asked Marygrace, I said, "Marygrace, did you
2 bill out five invoices for the same location?"

3 And I was told yes. I threw my arms up, and that
4 was the end of that account.

5 Q. What do you mean five invoices for one location?

6 A. What happens is if a service technician follows up for
7 a service tech call, they'll go back out again and
8 he'll follow up with something maybe he missed. And it
9 was my job to make sure that this stuff didn't happen
10 when it was Imperial; that this wouldn't -- that five
11 invoices wouldn't go out for the same location; that
12 now that I didn't have any control over that, what
13 happens is, is that when the technician was following
14 back up with -- he couldn't diagnose the machine
15 properly. And what happened was the billing, every
16 time he went there, they write up an invoice, the
17 invoice gets processed through paperwork, paperwork
18 then bills it out and it bills out to Franke, Franke
19 bills the McDonald's. When you send out five invoices
20 for the same problem, you're going to lose a customer.

21 Q. So over this one incident, you think Franke just
22 bolted?

23 A. Oh, yeah. It's all they need. In the service
24 industry, it's tough.

25 Q. Franke is not a customer of yours currently, are they?



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1	A.	No, I have nothing to do with them.
2	Q.	Have you tried to get Franke as a customer?
3	A.	No.
4	Q.	Why not?
5	A.	I couldn't handle that kind of work.
6	Q.	Why?
7	A.	It's over my head. I can't focus. I focus in on just
8		what I can handle. It's my business decision.
9	Q.	You said it's over your head. Does that mean you're
10		not qualified for that equipment?
11	A.	No, it means it's too much. It's called growing pains.
12		If you take too much on at one time, you can't focus on
13		the customers you have right now. That's my own
14		business ideals and when we started.
15	Q.	You couldn't handle the volume, is that what you're
16		saying?
17	A.	Oh, yeah, without a doubt. You'd have to train people
18		quickly. It's a very involved piece of equipment.
19		There's many reasons. We can go into a whole nother
20		conversation about that.
21	Q.	Didn't you testify earlier you were out selling coffee
22		the day this account was lost?
23	A.	That is correct, yes, but I received still phone calls
24		from management.
25	Q.	Did you tell them they needed to talk to the owner or



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1 somebody else?

2 A. I did. I immediately referenced them to Mr. Gandino to
3 see what we can do as far as recovering the business at
4 that time. It was just --

5 Q. But you were the service manager at the time, weren't
6 you?

7 A. Yes, but I wasn't in control. I was technically the
8 service manager, but I really had no say on what was
9 going on. It was -- And that's what we call -- that's
10 why we say "demoted." This is all my opinion and, you
11 know, everything that has happened.

12 Q. Any testimony given about how the finances of the
13 company, being Associated Beverage, are handled, would
14 you defer that type testimony to your wife?

15 A. Anything as far as money wise, she handles everything;
16 billing, ordering, finances, personal finances. She's
17 the magic maker. She's the one that takes care of all
18 of that.

19 Q. So whatever she testified to today about how the
20 finances are handled for Associated Beverage, you would
21 defer to her on that?

22 A. Yeah. Yeah, she handles that, and I really don't
23 have -- You know, I have discussions as far as things.
24 It's not like it's completely in the dark. She
25 discusses with me and asks me for opinions, but, you



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1	know, what -- but that's just what a team would do.
2	Q. Before you started Associated Beverage but after you
3	left Beverage Systems, did you do any work for U.S.
4	Foods?
5	A. Yes, I did -- taking care of with the refrigeration. I
6	maintained their juice machines, slushy machines,
7	anything to do with -- you know, they have a lot of
8	refrigeration equipment. So I was helping them out
9	with that as far as fixing, like replacing compressors
10	and --
11	Q. When were you doing that?
12	A. That was with Echo Air.
13	Q. But you were also servicing their equipment?
14	A. Refrigeration part of the equipment, yeah.
15	Q. And nothing else?
16	A. Huh-uh.
17	Q. Any other work you did for U.S. Foods?
18	A. No.
19	Q. Do you know anything about a server or computer that
20	had been left at the building, "the building" being a
21	building purchased by Beverage Systems of the
22	Carolinas, and then that server going missing?
23	A. I do not.
24	Q. You don't have any knowledge of that?
25	A. No.



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1	Q.	So you acknowledge that in March of 2011, that you were
2		actively pursuing and obtaining accounts with
3		Bunn-O-Matic and these other entities we've talked
4		about?
5	A.	Correct.
6	Q.	You're not denying that a second, are you?
7	A.	No.
8	Q.	Do you know who Baker Heard is?
9	A.	I do.
10	Q.	Who is that?
11	A.	That's a gentleman that is part of a company that is --
12		he does espresso equipment for China -- What's that
13		Chinese place that they have down at Exit 18? I can't
14		remember.
15	Q.	P.F. Chang's?
16	A.	P.F. Chang's, yes. He's a distributor for espresso
17		equipment for P.F. Chang's.
18	Q.	And what is your involvement with him?
19	A.	Nothing.
20	Q.	You've never done any work for his company?
21	A.	No.
22	Q.	Never done any work in the P.F. Chang's?
23	A.	No.
24	Q.	Has your father done any work in P.F. Chang's?
25	A.	No.



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1 Q. And you acknowledge being involved with Tetley through
2 Bunn, right?

3 A. Yes.

4 Q. And pursuing that in March --

5 A. Uh-huh.

6 Q. -- of 2011?

7 A. That's correct.

8 Q. How far west have you done work with Associated
9 Beverage?

10 A. We go out to Albemarle, west. You can go as far as a
11 point to Pageland on the south end of the west end and
12 as far as Greensboro/Burlington area on the north --
13 Wait. That's east. I'm sorry.

14 West end is Greenville, Forest City for midwest.
15 Greenville, South Carolina, as far as southwest. And
16 then as far as northwest, Morganton. And then it hooks
17 back up into Boone.

18 Q. Did you try to obtain the business from any other
19 customers of Beverage Systems that you've been
20 unsuccessful in obtaining their business?

21 A. I did not.

22 Q. So everybody that you've gone after, you've gotten?

23 A. Yes, correct.

24 Q. And did you target these five entities because they
25 were the ones you had the longest standing relationship



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1	with?
2	A. I had relations with all of them, yeah, built bridges
3	with them, those companies that I knew, yeah, sure.
4	Q. Are there other accounts that you're pursuing that
5	Beverage Systems purchased?
6	A. No accounts at this time.
7	Q. Are you sort of at the max of what you can do based on
8	your size of your company right now?
9	A. Yeah, we're planning on moving ahead.
10	Q. Do you know Kyle Snoddy?
11	A. I do.
12	Q. How do you know him?
13	A. I know him through IFH.
14	Q. And do you ever do any work with Mr. Snoddy?
15	A. Yes.
16	Q. How do you do that? How does that work?
17	A. He's a distributor of International Foodhouse in
18	Hickory, and he handles Tetley tea and he does Kraft
19	and Reilly Foods, Luzianne Tea. So he'll schedule work
20	through Bunn-O-Matic. I don't have a direct dealing
21	with him as far as -- But communication wise, he'll
22	call me and ask me if there's something that was
23	completed or something that's on the schedule.
24	Q. So he calls Bunn to say "I need some work at 'X'
25	location"?



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1 A. Uh-huh.

2 Q. And then Bunn calls you?

3 A. Correct.

4 Q. And he knows that Bunn is calling you?

5 A. That's correct.

6 Q. How does he know that?

7 A. They have a service agreement with Bunn. This is
8 something that they do. I don't know how that works,
9 but somehow or another Bunn has a service agreement
10 with them that they'll take care of all their work for
11 them.

12 Q. But how does he know that Bunn calls you versus
13 Mr. Gandino's company?

14 A. Oh, he doesn't. He probably has a say, but I don't
15 think he knows because there's other -- there's been
16 other companies that got service calls from IFH that
17 I've never seen that he asked me about and I said I
18 don't know.

19 And it just so happened Southern Beverage would
20 have been one of those people that installed one of the
21 pieces of the equipment, or Beverage Systems of the
22 Carolinas could have installed it. I have no way of
23 knowing.

24 Q. So how does he know to call you?

25 A. He'll call me through -- He'll ask Bunn who did the



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CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing AFFIDAVIT OF MARK GANDINO IN OPPOSITION OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT was made upon the attorney of record for the Defendants by the deposit of a true copy of same in the United States mail, postage prepaid, addressed as follows:

Douglas G. Eisele
Eisele, Ashburn, Greene & Chapman, P.A.
320 W. Broad Street
Statesville, NC 28677

This the 25th day of September, 2013.

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC
Attorneys for the Plaintiff

By: Kevin C. Donaldson

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NORTH CAROLINA
IREDELL COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 Cvs 1519

Beverage Systems of the)
Carolinas, LLC,)
)
Plaintiff)

vs.)

Associated Beverage Repair,)
LLC, Ludine Dotoli, and)
Cheryl Dotoli,)
)
Defendants)

DEFENDANTS' BRIEF SUPPORTING MOTION
FOR SUMMARY JUDGMENT

Defendants file this Brief, with supporting documents, in support of their Motion for Summary Judgment to dismiss all claims in this action. Movants show:

FACTS

Plaintiff is a North Carolina Limited Liability Company whose Articles of Organization were filed in the office of the Secretary of State for North Carolina on May 27, 2009. (Complaint, par. 12).

Plaintiff was created by Mark Gandino, a citizen and resident of Somerset County, New Jersey. (Complaint, pars. 8, 12). Plaintiff supplies, installs, and services beverage products and beverage dispensing systems in North Carolina. (Complaint, par. 13).

Prior to the creation of Plaintiff, there existed in Statesville, North Carolina, one company known as Imperial Unlimited Services, Inc. (hereafter "Imperial"), and another company known as Elegant Beverage Systems, LLC. My father, Tom Dotoli, owned and operated Imperial, a corporation which was

engaged in the business of servicing beverage dispensing equipment such as soft drink dispensers in establishments like McDonald's, Burger King and other fast-food stores. My father and I were the principal technicians for Imperial, which had operated since 1999 (Lou Dotoli Affidavit, pp. 1, 2, 4).

Elegant Beverage Products, LLC (hereafter "Elegant"), on the other hand, was a Limited Liability Company created by my mother, Kathy Dotoli, and me in 2008. Elegant was in the business of selling high-end coffee and tea products to hotels, commercial restaurants and other institutions which sold high quality coffee and tea to their clientele. (Lou Dotoli Affidavit, p. 1).

Both Imperial and Elegant operated from a building owned by my parents on Conifer Drive in Statesville, North Carolina. Throughout their history, the deepest penetration by either Imperial or Elegant for the conduct of business in South Carolina was Rock Hill, just to the south of Charlotte, and to Spartanburg, which lies to the southwest of Charlotte. Neither of the companies provided any sales or service in South Carolina east of Rock Hill, or to the south or southwest of Spartanburg. In North Carolina, Imperial's activities did not extend to the east of Stanly County; Elegant's eastern-most account was in Wake County. Neither company had any business within the large Piedmont, Sandhills, or eastern portions of South Carolina or in the Sandhills or eastern part of North Carolina. Neither company operated west of Gaffney in South

Carolina or west of Morganton in North Carolina. (Lou Dotoli Affidavit, pp. 1, 2, 4).

On July 20, 2009, Plaintiff entered into a contract (hereafter the "Asset Purchase Agreement") with Imperial and Elegant to purchase their assets, and with Tom and Kathy Dotoli to purchase their building on Conifer Drive in Statesville, for a gross purchase price of \$650,000. (Complaint, pars. 14, 16, 17, 19). Closing of the transaction occurred on September 30, 2009. (Complaint, par. 23). As part of the transaction, Imperial, Elegant, Tom Dotoli, Kathy Dotoli and Lou Dotoli signed a Non-Competition Agreement with Plaintiff. A copy of the Asset Purchase Agreement is attached to Lou Dotoli's Affidavit in this cause as Exhibit 1; a copy of the Non-Competition Agreement is attached to the Affidavit as Exhibit 2. Neither the Defendant Associated Beverage Repair, LLC, nor Cheryl Dotoli, is a party to the Asset Purchase Agreement or the Non-Competition Agreement. (See Lou Dotoli Affidavit, Exhibits 1 and 2).

There were not included in the asset sale by Imperial and Elegant any contracts, written or otherwise, by which either of those entities had the right to perform any services or to make any sales to any of their customers or accounts in North or South Carolina for any period of time. As to Imperial, the arrangement simply was that so long as Imperial provided its services competently and at reasonable rates, its customers kept calling

back for additional services. So long as Elegant called on its accounts and successfully promoted and sold the coffee and tea products provided to Elegant by its vendors, Elegant continued representing its suppliers. There were no written contracts which obligated any customer or supplier of either Imperial or Elegant to continue a business relationship with those firms. (Lou Dotoli Affidavit, p. 4). There is no reference in the Asset Purchase Agreement to the purchase by Plaintiff of any contract rights which either Imperial or Elegant is alleged to have had with its suppliers or customers. (Lou Dotoli Affidavit, p. 5).

Paragraph 1 of the Non-Competition agreement provides that none of the signatories (Imperial, Elegant, Tom, Kathy or Lou) would thereafter compete with Plaintiff "in the States of North Carolina or South Carolina" prior to October 1, 2014. The Agreement further provided, however, in paragraph 6, that if any of the terms of the Non-Competition Agreement should thereafter be determined to be unreasonable, then "the Court shall be allowed to revise the restrictions . . . to cover the maximum period, scope and area permitted by law".

On April 7, 2011, Cheryl Dotoli, the wife of Lou Dotoli, created the Defendant Associated Beverage Repair, LLC (hereafter "Associated"). Lou Dotoli thereupon began, as an unpaid employee of Associated, performing repair services on beverage dispensing equipment in the same geographic area as had been previously

served by Imperial.. Neither Cheryl nor Lou solicited business for Associated; rather, Associated received inquiries from former customers of Imperial and others, who were seeking someone to repair their machines. These inquiries led to the provision of those services by Lou Dotoli as an employee of Associated. (Lou Dotoli Affidavit, p. 4). Lou has neither solicited business from any customer of Plaintiff, nor requested that any customer of Plaintiff either cease using Plaintiff's services, refrain from entering into any contractual arrangement with Plaintiff, or terminate all or any part of a customer's relationship with Plaintiff. (Lou Dotoli Affidavit, p. 5).

Plaintiff filed this action on June 14, 2012, against Associated, Lou Dotoli and Cheryl Dotoli, alleging

a. Breach of contract by Lou Dotoli of the Non-Competition Agreement which he signed on September 30, 2009.

b. Preliminary and permanent injunctive relief and damages as to Lou Dotoli to prevent his competition with Plaintiff and to award Plaintiff damages for the alleged breach.

c. A claim against all Defendants for tortious interference "with the contracts and agreements of Beverage Systems with the intent to steal the customers away from Beverage Systems".

d. A claim for treble damages and attorney fees under the provisions of N.C. Gen. Stat. §75-1.1, et seq. against all Defendants.

e. A claim for tortious interference with a prospective economic advantage against all Defendants.

f. A claim for punitive damages against all Defendants.

Defendants have filed a Motion for Summary Judgment seeking the dismissal of all of Plaintiff's claims. This Brief presents the legal bases on which Defendants contend that all of Plaintiff's claims should be dismissed as a matter of law. The Brief will address the claims in the order alleged.

ARGUMENT

I

The Non-Competition Agreement is invalid under North Carolina law, because its scope (all of North Carolina and all of South Carolina) embraces an area far greater than is necessary to secure the business or good will of the Plaintiff.

The pleadings establish that Plaintiff was not organized until May 27, 2009. There is no pleading or proof that it operated anywhere in North Carolina or South Carolina prior to concluding purchase of the assets of Imperial and Elegant on September 30, 2009. At that time, the business of Imperial and Elegant was confined to an area generally within a 50 - 75 mile radius of Statesville. Neither company had ever operated in the remaining

vast areas of the Piedmont, the Sandhills, the Coastal Plain or the Mountains of either state.

In Hejl v. Hood Hargett & Associates, 196 N.C. App. 299, 674 S.E. 2d 425 (2009), the Plaintiff had executed a Non-Compete Agreement with Defendant which prohibited Plaintiff from dealing in insurance products in competition with the Defendant anywhere in North Carolina or South Carolina where Defendant was engaged in rendering its services for two years after Plaintiff terminated his employment with Defendant. The Defendant conducted its operations out of Charlotte. Noting that the Non-Compete Agreement "reaches not only clients, but potential clients, and extends to areas where Plaintiff had no connection or personal knowledge of clients", the Court said:

"... we hold the Agreement is invalid and unenforceable because the territory and customers encompassed by the Agreement are overly broad and not reasonably restricted to protect Defendant's legitimate business interests." 674 S.E. 2d 425, 430.

The Court commented in Hejl that

"A restriction as to territory is reasonable only to the extent it protects the legitimate interests of the employer in maintaining its customers." (Emphasis Ours) "... "To prove that a geographic restriction in a covenant not to compete is reasonable an employer must first show where its customers are located and that the geographic scope of the covenant is necessary to maintain those customer relationships. (Citing cases). The territory embraced [by the covenant] shall be no greater than is reasonably necessary to secure the protection of the business or good will of the employer. (Citing cases)." 674 S.E. 2d 425, 430.

Just prior to Hejl, our Court had stated in another non-compete case that (1) the reasonableness of a Non-Competition agreement is a matter of law for the Court to decide, and that (2) the party who seeks enforcement of the Covenant has the burden of proving the reasonableness of the agreement. Medical Staffing Network, Inc. v. Ridgeway, 194 N.C. App. 649, 670 S.E. 2d 321 (2009).

In a much earlier case, Noe, et al v. McDevitt, et al, 228 N.C. 242, 45 S.E. 2d 121 (1947), the Plaintiff was involved in the sale and distribution of equipment and supplies used in the business of beauty salons. The Defendant McDevitt went to work for Plaintiff as a salesman, pursuant to an Employment Agreement and Non-Competition Agreement that prevented Defendant, upon terminating his employment, from competing against Plaintiff anywhere in the States of North Carolina and South Carolina. The evidence showed that Defendant's services for Plaintiff during the employment were confined to "eastern" North Carolina.

On appeal from the Trial Court holding that the Non-Competition Agreement was invalid because of its scope, our Supreme Court affirmed, saying:

"... We concur in this conclusion. Giving the Plaintiff the benefit of very generous inferences, while he may have shown the conduct of business to some extent in eastern North Carolina, he has not definitely shown any clientele throughout the much broader territory here involved such as would correlate the protection sought with any need of his business ...". 45 S.E. 2d 121, 123.

Even when the Covenant Not to Compete is given in connection with the sale of a business, our Supreme Court has adhered to the rule that limitations on time and territory must both be considered in determining the reasonableness of each of the limitations. See, e.g., Jewel Box Stores Corporation v. Morrow, 272 N.C. 659, 158 S.E. 2d 840 (1968). There, the Court enforced against the seller of a jewelry business in Morganton a covenant that prohibited the Defendant from owning or operating a competing store for a period of ten (10) years within ten (10) miles of the City or Morganton. Jewel Box cites a series of cases involving Covenants Not to Compete given in connection with the sale of a business.

One of the cited cases is Thompson v. Turner, 245 N.C. 478, 96 S.E. 2d 263 (1957). In that case, the Defendant (much like Elegant here) sold to the Plaintiff a wholesale coffee and specialty business located in Lenoir. The seller gave the buyer a Covenant Not to Compete either within the City of Lenoir "nor the territory now covered" by the seller in his business. The Defendant contended that the Covenant Not to Compete was invalid because it did not define "the territory" in which Defendant was prevented from competing. However, the evidence at trial established that the "territory" was comprised of the counties of Alexander, Ashe, Avery, Burke, Caldwell, McDowell, Mitchell, Watauga, Wilkes and Yancey. The Trial Court and the Supreme Court held that parole evidence was admissible to establish those counties as "the territory", thus rendering the contract valid.

Apropos this case, the following language in Thompson supports Defendants' argument that the Non-Competition Agreement involved here is unenforceable because of its application to the entirety of two states as to which Plaintiff has no evidence that it ever conducted business:

"Contracts for the sale of a business containing as an incident to the sale a covenant not to engage in business in competition with the vendee in the area served by the business (emphasis ours) are recognized as valid when reasonable. The test of a covenant is its reasonableness in protecting the purchaser from competition from his vendor without detriment to the public." 96 S.E. 2d 263, 266.

There is nothing in the record here, except for the Affidavit of Lou Dotoli, to establish the specific areas in North and South Carolina where Imperial and Elegant conducted their operations. This is but a small portion of the much larger areas of all of North Carolina and all of South Carolina. Plaintiff has not adduced and cannot adduce any evidence that it had (or acquired from Imperial or Elegant) any business interest in any of that much broader area of the two Carolinas which it is necessary for Plaintiff to protect. The Non-Competition Agreement is therefore invalid as being too broad in its scope, and should be stricken as the basis for any claim in this case.

Plaintiff may argue, however, that under paragraph 6 of the Non-Competition Agreement, this Court has the right to redraw the agreement so as to render the territory covered by the agreement reasonable and therefore enforceable against the Defendants. Suffice it to say that under North Carolina's "blue pencil" rule,

the Trial Court will not amend an invalid Non-Competition Agreement for the purpose of making it enforceable under North Carolina law.

Noe, et al v. McDevitt, et al, 228 N.C. 242, 45 S.E. 2d 121 (1947); Hartman vs. W.H. Odell and Associates, Inc., 117 N.C. App. 307, 450 S.E. 2d 912 (1994); American Hot Rod Assoc., Inc. v. Carrier, 500 F. 2d 1269 (1974).

II

There is no basis in fact or law for the entry of injunctive relief against Defendant Lou Dotoli or for the imposition of damages against him based on breach of the Non-Competition Agreement.

Defendant Lou Dotoli has established in the first portion of this Brief that the Non-Competition Agreement upon which Plaintiff relies is too broad in its geographic scope to be determined a valid agreement under North Carolina law. Therefore, the agreement is void and cannot be the basis of a breach by Lou Dotoli of the Non-Competition Agreement.

Because there is no valid Non-Competition Agreement, there exists no basis for the granting of injunctive relief against Lou Dotoli or for the recovery of damages by Plaintiff against him based on a breach of the Non-Competition Agreement. This claim should therefore be dismissed.

III

There is no pleading or evidence to support Plaintiff's claim against any of the Defendants for the alleged tortious interference with any contract of the Plaintiff.

The law in North Carolina has for many years been that

"To establish a claim for tortious interference with contract, a Plaintiff must show: (1) a valid contract between the Plaintiff and a third person which confers upon the Plaintiff a contractual right against a third person; (2) the Defendant knows of the contract; (3) the Defendant intentionally induces the third person not to perform the contract; (4) and in doing so acts without justification; (5) resulting in damage to Plaintiff." Williams v. American Eagle Airlines, Inc., 208 N.C. App. 250, 702 S.E. 2d 541 (2010); Combs v. City Elec. Supply Co., 203 N.C. App. 75, 690 S.E. 2d 719 (2010); Sellers v. Morton, 191 N.C. App. 75, 661 S.E. 2d 915 (2008); Combs & Associates, Inc. vs. Kennedy, 147 N.C. App. 362, 555 S.E. 2d 634 (2001).

In this case, Lou Dotoli says in his Affidavit that neither Imperial nor Elegant had any contract with any of their customers or suppliers, either for the performance by Imperial of services or for the sale by Elegant of commodities. Therefore, when Plaintiff purchased the assets of Imperial and Elegant, there were no contracts which either of those entities could sell to Plaintiff. Indeed, the schedule of assets purchased by Plaintiff that Plaintiff attached as an exhibit to the Asset Purchase Agreement makes no reference to any such contracts. Plaintiff has not identified in the Complaint any contracts it had or has with third parties with which Defendants allegedly interfered.

Plaintiff's responses to Defendants' Request for Production of Documents are instructive on this issue. Attached as an exhibit to this Brief, the Requests and the Plaintiff's Responses establish that "there were no written agreements that were specifically transferred, but Plaintiff did purchase all of the accounts and customers of Elegant Beverage Products, LLC, as part of the Asset Purchase Agreement dated July 20, 2009". (Rule 34 Request No. 1, Response No. 1).

As to Imperial, Plaintiff says that "To Plaintiff's knowledge, there were no written agreements that were specifically transferred, but Plaintiff did purchase all of the accounts and customers of Elegant Beverage Products, LLC (sic) as part of the Asset Purchase Agreement dated July 20, 2009". (Rule 34 Request No. 2, Response No. 2).

When asked (Rule 34 Request No. 4, Response No. 4) to produce any document containing a representation by either Elegant or Imperial that any customer being served by either of said entities would remain a customer of Plaintiff after closing, Plaintiff refers to pages "BSC 6 through BSC 42" attached to its response. There is nothing in those pages constituting a representation that any customer of Imperial or Elegant would remain a customer of Plaintiff after the closing.

Plaintiff further says that after September 30, 2009 (the day of closing) it never entered into a written contract for the

provision of services by Plaintiff to any customer (Plaintiff's Response to Request No. 5) and that Plaintiff never gave notice to Defendants of the existence of any contract entered into between Plaintiff and a customer after September 30, 2009. (Plaintiff's Response to Request No. 6).

Lou Dotoli says in his Affidavit that Defendants had no knowledge of any contracts between Plaintiff and any third party. He says he doesn't even know who the customers of Plaintiff are. Finally, he says that he never induced any customer of Plaintiff not to perform its contract with Plaintiff. Plaintiff's response to Defendants' discovery presents no facts that are in conflict with Lou Dotoli's Affidavit on the tortious interference issue, and Plaintiff can produce no other contradicting evidence.

On these facts, Plaintiff has failed to allege and can offer no evidence sufficient to raise a genuine issue of fact to support the claim for tortious interference. This claim should therefore be dismissed.

IV

Plaintiff's claim against Lou Dotoli for damages and attorney fees under Chapter 75 should be dismissed because there is no showing that he violated a valid Non-Competition Agreement; the Chapter 75 claim against all Defendants based on the theory of tortious interference with a contract should be dismissed because there is no evidence to establish tortious interference.

Plaintiff's Chapter 75 claims (identified as Plaintiff's Fourth Cause of Action) rely upon Plaintiff's claims alleged in paragraphs 1 - 64 of the Complaint, which involve (1) Lou Dotoli's alleged violation of a Non-Competition Agreement, and (2) tortious interference by all of the Defendants "with the business of Beverage Systems" (Emphasis Ours), as distinguished from tortious interference with the contracts of Plaintiff. (Emphasis Ours).

Any Chapter 75 claim against Lou Dotoli based on breach of a Non-Competition Agreement should be dismissed because there is no evidence of a valid Non-Competition Agreement which he could have violated. Without the existence of a breach to generate the underlying violation of Chapter 75, this failed claim (breach of a Non-Competition Agreement) will not support a claim under Chapter 75.

Plaintiff's next effort is to find a violation of Chapter 75 in the alleged conduct of the Defendants described in the paragraphs of the Complaint (paragraphs 1 - 69) which precede the Chapter 75 claim (beginning at paragraph 70). The only other specific Cause of Action embraced in those preceding paragraphs (except for the unfounded claim for injunctive relief and damages against Lou Dotoli on the claim for breach of a Non-Competition Agreement) is for tortious interference with Plaintiff's contracts.

There is not alleged, and in fact North Carolina has not recognized, a claim denominated "tortious interference with {the

Plaintiff's} business". Thus, the gravamen of Plaintiff's claim under Chapter 75 against all Defendants is necessarily the Third Cause of Action for Tortious Interference with Contract.

Defendants have addressed the tortious interference claim in Section III of this Brief. Since, as appears from that argument, there has been no tortious interference with any contract of the Plaintiff, this basis for a Chapter 75 claim must lapse along with the claim against Lou Dotoli for breach of the Non-Competition Agreement. There simply is no underlying wrong for Chapter 75 to attach to as support for the Fourth Cause of Action. This claim should therefore be dismissed.

V

Plaintiff's claim against all Defendants for tortious interference with future economic advantage should be dismissed because (1) there are no allegations of fact to support this claim, and (2) there is no evidence to show that Defendants induced a third party to refrain from entering into a contract with Plaintiff without justification and that the contract would have ensued but for Defendants' interference.

The elements to support a claim for tortious interference with future economic advantage are that (1) the Defendants induced a third party to refrain from entering into a contract with Plaintiff without justification, and (2) the contract would have ensued but for Defendants' interference. S.N.R. Management Corp. v. Danube

Partners 141, LLC, 189 N.C. App. 601, 659 S.E. 2d 442 (2008);
Walker v. Sloan, 137 N.C. App. 387, 529 S.E. 2d 236 (2000).

It is clear from Walker v. Sloan, supra, that to make out a case for tortious interference with prospective economic advantage "the Plaintiffs must allege facts (emphasis ours) to show that the Defendants acted without justification in inducing a third party to refrain from entering into a contract with them which contract would have ensued but for the interference". See for the same pleadings requirement Guypton v. Son-Lan Development Co., Inc., 2058 N.C. App. 133, 695 S.E. 2d 763 (2010). It also is a requirement that Plaintiffs "assert some measurable damages resulting from Defendant's allegedly tortious activities, i.e., what 'economic advantage' was lost to Plaintiff as a consequence of Defendant's conduct". Walker v. Sloan, supra.

Here, there is not a single allegation of fact to identify what third party the Defendants induced to refrain from entering into a contract with the Plaintiff, or what the contract was about.

There is not a single allegation that, except for such inducement, the contract would have ensued. And except for alleging a monetary claim "in the minimal amount of \$10,000", there is not a word alleged about what economic advantage the Plaintiff suffered because of Defendants' alleged inducement. (Compare this allegation with the allegation in Walker v. Sloan that "Defendant's actions resulted in actual damages to the Plaintiff", which the

Court said was an insufficient allegation of damages justifying the dismissal of Plaintiff's action). Citing Thacker v. Ward, 263 N.C. 594, 599, 140 S.E. 2d 23, 28 (1965), the Sloan Court said:

"Our Supreme Court has stated that "'a' Defendant is entitled to know from the Complaint the character of the injury for which he must answer."

The Affidavit of Lou Dotoli makes clear why Plaintiff has not identified in its Complaint the name or names of any third parties whom any of the Defendants induced to refrain from entering into a contract with Plaintiff. The reason, as Lou Dotoli says, is that none of the Defendants ever did what they are alleged to have done, i.e., they never induced or sought to induce any third party to refrain from entering into a contract with Plaintiff.

On both the facts and the law, the Plaintiff's claim for tortious interference with a prospective business advantage should therefore be dismissed.

VI

The claim for punitive damages should be dismissed because on the facts and the law the Plaintiff is not entitled to recover actual damages on any theory alleged in the Complaint.

A Plaintiff may be awarded punitive damages if the proper basis therefore exists under the provisions of Chapter 1D of the General Statutes, but only if the Plaintiff establishes a right to compensatory (or actual) damages. Sellers v. Morton, 191 N.C. App. 75, 661 S.E. 2d 915 (2008). Since Plaintiff can prove no basis for

compensatory damages here, there is no underlying basis for the award of punitive damages.

This 18 day of September, 2013.

EISELE, ASHBURN, GREENE & CHAPMAN, PA

By: 

Douglas G. Eisele
N.C. State Bar #4930
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CERTIFICATE OF SERVICE

The attached Defendants' Brief Supporting Motion for Summary Judgment was served upon Plaintiff by mailing a copy thereof to its attorney of record as follows:

Mr. Kevin C. Donaldson
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P.O. Box 3010
Mooresville, NC 28115

This 18 day of September, 2013.

EISELE, ASHBURN, GREENE & CHAPMAN, PA

By: 

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STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO: 12 CVS 1519

BEVERAGE SYSTEMS OF THE
CAROLINAS, LLC,

Plaintiff,

vs.

ASSOCIATED BEVERAGE REPAIR,
LLC, LUDINE DOTOLI, and CHERYL
DOTOLI,

Defendants.

**PLAINTIFF'S BRIEF IN OPPOSITION
OF DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

NOW COMES Plaintiff, through counsel, submitting this brief in opposition of Defendants' Motion for Summary Judgment to dismiss all claims in this action. Plaintiff argues to the Court that Defendants' Motion should be denied for the reasons set forth herein.

FACTS

This action arises as a result of Defendant Loudine Dotoli's ("Lou Dotoli") violation of a Non-Competition, Non-Solicitation and Confidentiality Agreement (the "Non-Compete"), and as a result of Defendants' interference with the contractual relations and prospective contractual relations of Plaintiff. On or about July 20, 2009, Plaintiff executed an asset purchase agreement (the "Agreement"), with Imperial Unlimited Services, Inc. ("Imperial"), Elegant Beverage Products, LLC ("Elegant"), Lou Dotoli, Thomas Dotoli and Kathleen Dotoli, pursuant to which Plaintiff bought the businesses and assets of the above-listed parties. (Gandino Affidavit, ¶ 5). The Agreement provided for the sale by Elegant and Imperial and the purchase by Plaintiff

of the business, including but not limited to all assets, trade names, customer lists, accounts receivable, current customers and customer contracts and all equipment, of both Elegant and Imperial (hereinafter collectively referred to as the "Businesses"). (Complaint, ¶ 16).

At the time of the execution of the Agreement, Lou Dotoli, the son of Thomas and Kathleen Dotoli, owned a certain percentage of Elegant and was heavily involved in the day-to-day operations of Imperial. (Gandino Affidavit, ¶ 6). As such, Lou Dotoli developed a close and intimate relationship with all of the customers of the Businesses. (Gandino Affidavit, ¶ 6).

In an effort to protect its legitimate business interests acquired from the Agreement, specifically, customer relationships and goodwill, Plaintiff made the execution of the Non-Compete by Lou Dotoli, Thomas Dotoli and Kathleen Dotoli, a condition precedent to the Agreement. (Gandino Affidavit, ¶ 8). This was due to the fact that the interests acquired pursuant to the Agreement would have been rendered substantially less valuable had the Dotolis been able to reenter the same markets and compete against Plaintiff. (Gandino Affidavit, ¶ 8)

Elegant, Imperial and Plaintiff were in the same industry, which was supplying and repairing beverage products and beverage equipment throughout North Carolina and South Carolina. (Defendants' Brief, pp. 1-2). As this industry is driven by customer relationships and customer service, the Dotolis could have very easily done substantial damage to Plaintiff's business had they been able to reenter the market and solicit business from the previous customers of Imperial and Elegant. Accordingly, to prevent

this from happening, Plaintiff had the Dotolis execute the Non-Compete as a part of the Agreement. (Gandino Affidavit, ¶ 8)

The Businesses operated from a building located in Statesville, North Carolina, and they both supplied and serviced customers throughout the entirety of North Carolina and into parts of South Carolina. (Defendants' Brief, p. 2). In North Carolina, the Businesses' operations extended as far west as Burke County and as far east as Wake County, as such a substantial portion of North Carolina was part of the geographic footprint of these companies' customer base. (Defendants' Brief, p. 2). Furthermore, the Businesses' serviced and supplied customers into the northern portions of South Carolina. (Defendants' Brief, pp. 2-3). Accordingly, the Non-Compete restricted the Dotoli's ability to reenter the market and compete with Plaintiff in North Carolina and South Carolina. (Gandino Affidavit, ¶ 7). The Non-Compete was effective from the date of the execution of the Non-Compete until October 14, 2014.

On or about March 11, 2011, Plaintiff learned that equipment which was supposed to be shipped to Plaintiff was in fact shipped to Thomas Dotoli under a new business, Associated Beverage Repair, LLC ("Associated"). (Comp. ¶ 26). Associated was organized on or about April 7, 2011, by Cheryl Dotoli, who is the wife of Lou Dotoli. (Gandino Affidavit, ¶ 7). This was the first time that Plaintiff became aware of any competing business being engaged in by any of the Dotolis. (Comp. ¶ 26).

Plaintiff soon became aware of that Lou Dotoli had approached and/or solicited business on behalf of Associated from the following customers of Plaintiff: BunnServe/Bunn-O-Matic, PF Chang's, Reiley, U.S. Foods, J.T. Davenport, Silver Service, and Tetley. (Gandino Affidavit, ¶ 14). These customers were previous

customers of the Businesses, and Lou Dotoli had previously fostered a close and intimate relationship with these customers. (Gandino Affidavit, ¶ 15).

In a separate legal matter involving many of the same parties, Lou Dotoli had his deposition taken, during which he stated under oath that he believed the Non-Compete was valid when he originally signed the Non-Compete and accepted the compensation for signing the Non-Compete. (Gandino Affidavit, ¶ 19). He further stated under oath during the deposition that since executing the Non-Compete, he has engaged in conduct that would be in violation of the Non-Compete, if the Non-Compete is enforced. (Gandino Affidavit, ¶ 20). Additionally, Lou Dotoli admitted in the deposition that he engaged in a course of conduct in which he contacted and/or solicited the former customers of the Businesses in an effort to obtain their business for Associated and to take it away from Plaintiff. (Gandino Affidavit, ¶ 21).

As a result of the aforesaid conduct, Plaintiff has suffered damages in the form of lost income and lost profits. For the reasons set forth herein, Plaintiff requests that this court deny Defendants' Motion for Summary Judgment.

SUMMARY JUDGMENT STANDARD

Upon a motion for summary judgment, the trial court first must determine whether there is a genuine issue as to any material fact. Only after the trial court determines that there is no genuine issue as to any material fact, can it dispose of the matter. Housing, Inc. v. Weaver, 37 N.C. App. 284, 246 S.E.2d 219 (1978), aff'd, 296 N.C. 581, 251 S.E.2d 457 (1979). However, even if no question of material fact exists, the inquiry is not over, the court must then determine whether the moving party is entitled to judgment as a matter of law. Gore v. Hill, 52 N.C. App. 620, 279 S.E.2d 102, cert. denied, 303

N.C. 710, 283 S.E.2d 136 (1981). When ruling on a motion for summary judgment, a court must view evidence presented by the parties in the light most favorable to the non-movant. Summey v. Barker, 357 N.C. 492, 586 S.E.2d 247 (2003).

ARGUMENT

I. THE NON-COMPETE IS A VALID AND ENFORCEABLE COVENANT NOT TO COMPETE UNDER PERTINENT NORTH CAROLINA LAW

a. Non-Competition Agreements Executed as a Part of the Sale of a Business are Granted More Latitude and Deference by North Carolina Courts.

North Carolina courts generally give more latitude to non-competition agreements executed as a part of the sale of business than covenants ancillary to employment contracts. See Jewel Box Stores Corp. v. Morrow, 272 N.C. 659, 663-64, 158 S.E.2d 840, 843-44 (1968); See also Mar-Hof Co. v. Rosenbacker, 176 N.C. 330, 331, 97 S.E. 169, 169 (1918) ("Such deals [covenants not to compete executed as part of the sale of a business] between individuals do not, as a rule, tend to unduly harm the public and are ordinarily sustained to the extent required to afford reasonable protection to the vendee in the enjoyment of property or proprietary rights he has bought and paid for and to enable a vendor to dispose of his property at its full and fair value.") This is due to the fact that the law favors the enforcement of contracts intended to protect legitimate business interests, as it is as much a public concern to see that valid non-competition agreements are enforced as it is to render oppressive ones unenforceable.

United Labs, Inc. v. Kuykendall, 322 N.C. 643, 655, 370 S.E.2d 375, 383 (1988).

Among reasons often given for the greater acceptability of 'sale of business covenants' are that covenants not to compete enable the seller of a business to sell his goodwill and thereby receive a higher price; and they also furnish a material inducement to the purchaser who purchases a business with the hope of retaining its customers.

Seaboard Indus., Inc. v. Blair, 10 N.C. App. 323, 333, 178 S.E.2d 781, 787 (1971). A valid covenant not to compete, while primarily for the advantage of the purchaser of a business, also inures to the benefit of the seller because it enhances the value of the goodwill of his business, which in turn enables the seller to obtain a better price for the sale of his business. Morehead Sea Food Co. v. Way, 169 N.C. 679, 86 S.E. 603, 605 (1915).

As the Non-Compete was executed as part of the sale of the Businesses to Plaintiff, it benefited both Plaintiff and the sellers of the Businesses, and as such, the Non-Compete should be granted more deference and leeway as to the reasonableness of its terms pursuant to the precedent cited hereinabove.

b. The Non-Compete's Geographic Restriction Contains Distinct and Separate Locations Which Can be Disregarded if One Location is Ruled Unenforceable.

If the geographic restriction of a covenant not to compete is divided into distinct and separate units, a court will enforce the covenant in as many of those units that may be reasonable to the court. Welcome Wagon International, Inc. v. Pender, 255 N.C. 244, 248, 120 S.E.2d 739, 742 (1961) (holding that where the territory embraced in restrictive employment covenants not to compete is unreasonable, but is expressed in divisible terms, the courts will enforce the covenant in as many of the units as are reasonable and disregard the remainder). This practice by a court, while potentially creating a similar end result as "blue penciling," is not barred by North Carolina's restrictive use of the "blue pencil rule." See Id.

In Welcome Wagon, the geographic restriction of the covenant not to compete was as follows,

(1) in Fayetteville, North Carolina, or (2) in any other city, town, borough, township, village or other place in the State of North Carolina, in which the Company is then engaged in rendering its said service, (3) in any city, town, borough, township, village or other place in the United States in which the Company is then engaged in rendering its said service, or (4) in any city, town, borough, township or village in the United States in which the Company has been or has signified its intentions to be, engaged in rendering its said service.

Welcome Wagon, 255 N.C. at 244, 120 S.E.2d at 739. The Court ruled that given that the parties had already separated the geographical restrictions into distinct and separate units, the court can enforce the covenant in as many of the units as are reasonable and disregard the remainder. Welcome Wagon, 255 N.C. at 248, 120 S.E.2d at 742.

In the case sub judice, the pertinent language of the Non-Compete is as follows, "Seller and Shareholder shall not . . . in the states of North Carolina or South Carolina." (Emphasis ours). Given that the Non-Compete already separates the geographical areas into two distinct and separate units, just as it was done in Welcome Wagon, it is indicative that the parties intended for the restrictions on the geographic areas to be distinct and separate restrictions. As such, under the holding of Welcome Wagon, should the Court rule that the Non-Compete is unenforceable as to South Carolina, the Non-Compete is not entirely invalid, as the unenforceable geographic unit can be disregarded.

c. Defendants' Argument that the Non-Compete is Too Broad in Geographic Scope is Flawed When Viewed in a Light Most Favorable to the Plaintiff

Defendants' argue in their brief that the Non-Compete is unenforceable as it encompasses an area far greater than is necessary to secure the business or goodwill of the Plaintiff. However, when taken in light of the deference and latitude afforded to

non-competition agreements executed as a part of a sale of a business, Defendants' position is flawed. The Non-Compete's geographic scope is reasonably necessary to protect the legitimate business interest it purchased from the Businesses.

It is the rule today that when one sells a trade or business and, as an incident of the sale, covenants not to engage in the same business in competition with the purchaser, the covenant is valid and enforceable (1) if it is reasonably necessary to protect the legitimate interest of the purchaser; (2) if it is reasonable with respect to both time and territory; and (3) if it does not interfere with the interest of the public. Jewel Box Stores Corp. v. Morrow, 272 N.C. 659, 158 S.E.2d 840 (1968); Beasley v. Banks, 90 N.C. App. 458, 368 S.E.2d 885 (1988).

The test as to reasonableness of the restricted territory is whether the agreed upon restraint is such as to afford a fair protection to the interest of the party in whose favor it is given by removing the danger to the purchaser of competition with the seller of the business, and not so large as to interfere with the interest of the public. Id. A business has a legitimate interest in protecting its relationship with its customers when said customers were long-standing, regular customers with whom the business had, over many years, developed a closeness and goodwill. See United Labs, Inc. v. Kuykendall, 322 N.C. 643, 655, 370 S.E.2d 375, 383 (1988).

In the case at hand, Lou Dotoli's was the "face" of the Businesses, in that he had a vast amount of customer contact and had the opportunity to build client relationships. His ability to compete with Plaintiff after the execution of the Agreement posed a very serious threat to Plaintiff's business. As such, Plaintiff required Lou Dotoli to execute the Non-Compete as a part of the Agreement, pursuant to which he was compensated

for the goodwill which was being sold to Plaintiff as a part of the transaction. The Non-Compete was negotiated through arms-length negotiations, and was expressly agreed upon by the parties to the Non-Compete, after they had ample time to consult with independent legal counsel.

The customers who were transferred to Plaintiff pursuant to the Agreement were long-standing, near permanent customers, and Defendants admit that as long the customers were provided competent and successful service, the business relationship continued to exist. (Defendants' Brief, pp. 3-4). This is the type of relationship that the law intends to protect as a legitimate business interest. See Kuykendall, 322 N.C. at 655, 370 S.E.2d at 383. Accordingly, the Plaintiff has a legitimate interest in taking reasonable efforts to protect these relationships from the competition of the sellers of the Businesses, wherever the relationships may exist. See Id.

Defendants' further admit that the Businesses operated throughout the entire State of North Carolina from as far west as Burke County to as far east as Wake County. (Defendants' Brief, p. 2). As such, when Plaintiff executed the Agreement, it resultantly purchased the goodwill of the Businesses throughout the entire State of North Carolina, and accordingly, Plaintiff has the right to protect the customer relationships and goodwill that it purchased from the Businesses throughout the State of North Carolina by enforcing the provisions of the Non-Compete. Furthermore, the industry in which the Businesses, Plaintiff and Defendants operate is a customer centric and relationship driven industry, which further amplifies the threat posed to Plaintiff's business interests by Lou Dotoli.

Defendants challenge the Non-Compete under the second prong of the above-referenced test, and argue that the Non-Compete encompasses too broad of a geographic area. However, Defendants' argument does not account for the general rule that covenants not to compete executed as a part of the sale of a business are afforded more latitude by the court, and are not subject to the same strictness as those covenants executed between an employee and his employer. Defendants argue that there is nothing in the record, aside from Lou Dotoli's affidavit, to establish the specific areas in North and South Carolina where the Businesses conducted their operations. However, by his own admission, Lou Dotoli stated that the Businesses operated across a very wide portion of North Carolina, from Burke County to Wake County. The fact that Defendants did not operate in the lesser populated areas of the state does not automatically render the Non-Compete invalid.

Two cases cited by Defendants in their brief, Jewel Box Stores Corp., v. Morrow, 272 N.C. 659, 158 S.E.2d 840 (1968) and Thompson v. Turner, 245 N.C. 478, 96 S.E.2d 263 (1957), support Plaintiff's contention that the geographic restriction of North Carolina is reasonable under the circumstances. Both of those cases state that in consideration for executing a covenant not to compete, the sellers of a business are rewarded with receiving a higher price for their business as a result of the goodwill of the business. Id. The cases go on to state that whether a geographic restriction is reasonable hinges on the attendant circumstances and facts of a particular case in regard to protecting the purchaser from competition from the seller. Id. In this matter, given that the Businesses operated over a wide portion of North Carolina, that Lou Dotoli had fostered close and intimate relationships with the customers, that the industry

is very customer centric and customer driven, the restrictions in the Non-Compete in regard to North Carolina are reasonable.

As a result of the aforesaid attendant circumstances surrounding the business interests that Plaintiff seeks to protect through the use of the Non-Compete, when viewed in a light most favorable to the non-moving party, and when afforded more latitude in reasonableness of its terms, the Non-Compete meets the requirements of a valid covenant not to compete under pertinent North Carolina law, and as such, the Non-Compete should be enforced to the fullest extent allowed by law within the pertinent geographic restriction, North Carolina, as Defendants are not entitled to judgment as a matter of law.

II. AS A RESULT OF LOU DOTOLI'S BREACH OF THE NON-COMPETITION AGREEMENT, ENTRY OF INJUNCTIVE RELIEF AND DAMAGES SHOULD BE GRANTED AGAINST LOU DOTOLI

A preliminary injunction will be issued when a plaintiff is able to show the likelihood of success on the merits of his case and if plaintiff is likely to sustain irreparable loss unless the injunction is issued, or if, in the opinion of the court, issuance is necessary for the protection of plaintiff's rights during the course of litigation. A.E.P. Industries, Inc. v. McClure, 308 N.C. 393, 401, 302 S.E.2d 754, 759-60 (1983). A plaintiff faces irreparable injury when the injury is one to which the complainant should not be required to submit or the other party permitted to inflict, and is of such continuous and frequent recurrence that no reasonable redress can be had in a court of law. Id.

Plaintiff has established in the first part of this brief that the Non-Compete is valid and enforceable in North Carolina, and given that Lou Dotoli has admitted to his actions that violate the Non-Compete (Gandino Affidavit, ¶ 20), Plaintiff has met its burden to

show the likelihood of success on the merits in this matter. Furthermore, given that Plaintiff paid a substantial sum to Lou Dotoli for the goodwill and business interests that are protected by the Non-Compete, Plaintiff faces irreparable injury in that Lou Dotoli is gaining a windfall in this transaction if he is allowed to continue his practice of violating the Non-Compete.

As such, when viewed in the light most favorable to the non-moving party, Plaintiff has met his burden of proof in regard to the imposition of preliminary and permanent injunctive relief.

III. PLAINTIFF HAS SET FORTH SUFFICIENT EVIDENCE TO CREATE A MATERIAL QUESTION OF FACT IN REGARD TO ITS CLAIM FOR TORTIOUS INTERFERENCE WITH A CONTRACT

To establish a claim for tortious interference with contract, a plaintiff must show: (1) a valid contract between the plaintiff and a third person which confers upon the plaintiff a contractual right against a third person; (2) defendant knows of the contract; (3) defendant intentionally induces the third person not to perform the contract; (4) and in doing so acts without justification; (5) resulting in actual damage to plaintiff. Williams v. Am. Eagle Airlines, Inc., 208 N.C. App. 250, 258, 702 S.E.2d 54, 5471 (2010). An implied-in-fact contract may be inferred from the conduct of the parties. Ellis Jones, Inc. v. Western Waterproofing Co., 66 N.C. App. 641, 312 S.E.2d 215 (1984). An implied in fact contract is a genuine agreement between parties; its terms may not be expressed in words, or at least not fully in words. Id. The term, implied in fact contract, only means that the parties had a contract that can be seen in their conduct rather than in any explicit set of words. Id.

In this matter, Plaintiff has shown through the affidavit of Mark Gandino, that as a result of the Agreement, Plaintiff acquired the customer relationships and business relationships that existed with the Businesses. (Gandino Affidavit, ¶ 8). For some period after the execution of the Agreement, the customers maintained that relationship with Plaintiff. Defendants admit that the business relationship with its customers continued indefinitely as long as competent and reasonable services were rendered. As such, even though there are no express, written contracts, Plaintiff has set forth sufficient evidence to show that there were implied-in-fact contracts between Plaintiff and its customers, which were interfered with by the actions of Lou Dotoli.

Lou Dotoli was fully aware of the relationship between Plaintiff and its customers, as he helped create the relationships that were transferred from the Businesses to Plaintiff. Further, Lou Dotoli has admitted that he took actions to induce the customers to quit doing business with Plaintiff and begin doing business with Associated. (Gandino Affidavit, ¶ 20). Additionally, his actions were in violation of the Non-Compete, and as such, his actions were not justified. Finally, Lou Dotoli's actions have caused Plaintiff to suffer damages in the form of lost business and lost profits. (Gandino Affidavit, ¶ 23).

Accordingly, for the reasons stated herein, a material question of fact exists as to whether implied-in-fact contracts existed between Plaintiff and its customers. As such, Defendants' motion for summary judgment must be denied.

IV. PLAINTIFF'S CLAIM FOR DAMAGES AND ATTORNEYS' FEES UNDER CHAPTER 75 SHOULD NOT BE DISMISSED AS LOU DOTOLI HAS INTENTIONALLY AND MALICIOUSLY VIOLATED A VALID NON-COMPETITION AGREEMENT AND HE HAS INTENTIONALLY AND MALICIOUSLY INTERFERED WITH THE CONTRACTUAL RELATIONSHIPS OF PLAINTIFF

It is well recognized that actions for unfair or deceptive trade practices are distinct from actions for breach of contract, and that a mere breach of contract, even if intentional, is not sufficiently unfair or deceptive to sustain an action under N.C. Gen. Stat. § 75-1.1. Watson Elec. Constr. Co. v. Summit Cos., LLC, 160 N.C. App. 647, 587 S.E.2d 87 (2003). However, if a plaintiff is able show substantial aggravating circumstances attending a breach of contract, he may recover under the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1 et seq. Id.

In this matter, since Plaintiff has shown that the Non-Compete is valid, and since Lou Dotoli has admitted to acting in violation of the Non-Compete, Plaintiff's Chapter 75 does not fail as a matter of law. Furthermore, since Plaintiff has set forth evidence tending to show sufficient aggravating factors surrounding the violation of the Non-Compete by Lou Dotoli, Plaintiff has met its burden of proof to show that sufficient aggravating factors are attendant to the violation of the Non-Compete in order to sustain an action under Chapter 75.

Furthermore, as set forth in section three of this brief, a material question of fact exists as to the existence of implied-in-fact contracts between Plaintiff and its customers. The Chapter 75 claim does not fail as a matter of law as there is an underlying claim upon which the Chapter 75 claim may attach.

Accordingly, given that there are material questions of fact that must be resolved regarding Plaintiff's underlying claims that support its Chapter 75 claim, summary judgment in favor of Defendants would be improper.

V. PLAINTIFF HAS SET FORTH SUFFICIENT EVIDENCE TO CREATE A MATERIAL QUESTION OF FACT IN REGARD TO ITS CLAIM FOR TORTIOUS INTERFERENCE WITH A PROSPECTIVE ECONOMIC ADVANTAGE

The North Carolina Supreme Court has held that "interference with a man's business, trade or occupation by maliciously inducing a person not to enter a contract with a third person, which he would have entered into but for the interference, is actionable if damage proximately ensues." Spartan Equip. Co. v. Air Placement Equip. Co., 263 N.C. 549, 559, 140 S.E.2d 3, 11 (1965). Plaintiff has specifically plead in its Amended Complaint sufficient evidence to establish a cause of action for Tortious Interference with Prospective Economic Advantage. Lou Dotoli has admitted under oath that he purposely and maliciously sought to obtain the business of the current customers of Plaintiff in an effort to gain business for Associated and take business away from Plaintiff. (Gandino Affidavit, ¶ 21; Deposition of Lou Dotoli, pp. 63-66). He further admits in his response to Plaintiff's Interrogatory No. 14 that Associated has obtained business from customers of Plaintiff that were transferred to Plaintiff from the Businesses.

In this matter, Plaintiff has set forth sufficient evidence to create a material question of fact as to whether Defendants' interference with the business relationships that existed between Plaintiff and its customers caused injury to Plaintiff as a result of the customers taking their business to Associated. As a material question of fact exists in regard to this claim, Defendants' Motion for Summary Judgment should be denied.

VI. CONCLUSION

For the reasons set forth hereinabove and at any oral argument of this matter, Defendants' Motion for Summary Judgment should be denied.

This the 25th day of September, 2013.

**JONES, CHILDERS, McLURKIN
& DONALDSON, PLLC**
Attorneys for the Plaintiff

By: Kevin C. Donaldson
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CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing **BRIEF IN OPPOSITION OF DEFENDANTS' MOTION FOR SUMMARY** was made upon the attorney of record for Defendants by facsimile transmission, addressed as follows:

Douglas G. Eisele
Eisele, Ashburn, Greene & Chapman, P.A.
P.O. Box 1108
Statesville, NC 28687-1108
Fax: (704) 924-9727

This the 25th day of September, 2013.

**JONES, CHILDERS, McLURKIN
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Attorneys for the Plaintiff

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NORTH CAROLINA
IREDELL COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
12 Cvs 1519

Beverage Systems of the)
Carolinas, LLC,)

Plaintiff)

vs.)

Associated Beverage Repair,)
LLC, Ludine Dotoli and)
Cheryl Dotoli,)

Defendants)

ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

BY  IREDELL CO. CLERK
2013 OCT -3 PM 4:09

FILED

This cause was before the Court on September 30, 2013, upon Motion filed by the Defendants for Summary Judgment seeking the dismissal of all of the claims alleged by the Plaintiff in this cause.

Upon review of the file, the Briefs filed by respective counsel for the parties, in support of and in opposition to the Motion, and upon consideration of oral argument of counsel for all the parties, it is

ORDERED, That the Motion for Summary Judgment filed by the Defendants on September 11, 2013, be and is hereby Granted in all respects.

This 3rd day of October, 2013.


Judge Presiding

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO: 12 CVS 1519

BEVERAGE SYSTEMS OF THE
CAROLINAS, LLC,

Plaintiff,

vs.

ASSOCIATED BEVERAGE REPAIR,
LLC, LUDINE DOTOLI, and CHERYL
DOTOLI,

Defendants.

NOTICE OF APPEAL

FILED
2013 OCT 28 A 10:18
IREDELL COUNTY, N.C.

TAKE NOTICE that Plaintiff, Beverage Systems of the Carolinas, LLC, pursuant to Rule 3 of the North Carolina Rules of Appellate Procedure, hereby gives notice of appeal to the North Carolina Court of Appeals from the Order signed October 3, 2013, by the Honorable A. Robinson Hassell, Superior Court Judge, and filed with the Iredell County Clerk of Superior Court on October 3, 2013, granting Plaintiff's N.C.R. Civ. P. 56 Motion for Summary Judgment on all claims alleged by Plaintiff in this matter.

This the 28th day of October, 2013.

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC

By: Kevin C. Donaldson

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CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing **NOTICE OF APPEAL** was made upon the attorney of record for Defendants by the deposit of a true copy of same in the United States mail, postage prepaid, addressed as follows:

Douglas G. Eisele
Eisele, Ashburn, Greene & Chapman, P.A.
P.O. Box 1108
Statesville, NC 28687-1108
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This the 28th day of October, 2013.

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC

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FILED
2013 OCT 28 A 10:18
REDELL COUNTY C.S.C.
BY _____

STATEMENT OF TRANSCRIPT OPTION

Per Appellate Rules 7(b) and 9(c), the transcript of the entire proceedings in this case, taken by Pamela A. Harris, Court Reporter, Iredell County Superior Court, on 30 September 2013, consisting of 24 pages, numbered 1-24, bound in one volume, will be electronically filed by Pamela A. Harris promptly once a docket number is assigned to this appeal.

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO: 12 CVS 1519

FILED
IREDELL CO. C.S.C.
NOV 11 2013
BY: [Signature]

BEVERAGE SYSTEMS OF THE
CAROLINAS, LLC,

Plaintiff,

vs.

ASSOCIATED BEVERAGE REPAIR,
LLC, LUDINE DOTOLI, and CHERYL
DOTOLI,

Defendants.

TRANSCRIPT DOCUMENTATION

Pursuant to Rule 7(a)(1) of the North Carolina Rules of Appellate Procedure, Plaintiff Beverage Systems of the Carolinas, LLC, through counsel, hereby files a copy of its agreement with Pamela Harris, Official Court Reporter, Iredell County Superior Court, 221 E Water St., Statesville, NC 28677 to contract for the transcription of the proceedings that took place on September 30, 2013, in this action. A copy of said contract is attached hereto and incorporated as Exhibit A.

This the 6th day of November, 2013

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC

By: Kevin C. Donaldson

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CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing **TRANSCRIPT DOCUMENTATION** was made upon the attorney of record for Defendants by the deposit of a true copy of same in the United States mail, postage prepaid, addressed as follows:

Douglas G. Eisele
Eisele, Ashburn, Greene & Chapman, P.A.
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Statesville, NC 28687-1108
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This the 6th day of November, 2013.

FILED
2013 NOV -6 PM 4:11
IREDELL CO., C.S.C.
BY IX

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC

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TRICIA L.R. LETARTE, OF COUNSEL



JONES CHILDERS McLURKIN DONALDSON
attorneys at law

November 6, 2013

Pamela Harris
Official Court Reporter
Iredell County Superior Court
221 E Water St.
Statesville, NC 28677

Re: *Beverage Systems of the Carolinas, LLC v. Associated Beverage Repair, LLC, Ludine Dotoli, and Cheryl Dotoli*
Iredell County Superior Court Case No: 12 CVS 1519

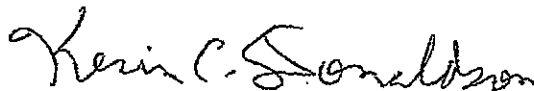
Dear Ms. Harris:

As we discussed by telephone earlier today, this letter confirms our contract for a transcript for the appeal in the above-referenced case. We have agreed that you will prepare a complete transcript of the proceedings that took place in this case on September 30, 2013. We have agreed that we will pay your usual and customary fees for this transcription.

Rule 7(b) of the North Carolina Rules of Appellate Procedure makes this transcript due in electronic "PDF" format sixty (60) days after service of this contract. We would appreciate receiving the transcript as soon as possible. If, however, circumstances arise that will make it difficult for you to meet that deadline, please let me know at once, and I will assist you in obtaining an extension. Please email a copy of the transcript to Kevin Donaldson at kevindonaldson@jcmdlaw.com, and Dennis Dorsey at dennisdorsey@jcmdlaw.com.

Sincerely,

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC


Kevin C. Donaldson

KCD/dwd

Ex. A

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
CASE NO. 12-CVS-1519

FILED

2013 DEC 27 P 1:02

BEVERAGE SYSTEMS OF THE CAROLINAS, LLC
IREDELL COUNTY, N.C.

Plaintiff,

BY _____

CERTIFICATE OF

VS.

DELIVERY

ASSOCIATED BEVERAGE REPAIR, LLC,
LUDINE DOTOLI and CHERYL DOTOLI,

Defendants.

This is to certify that the transcript of the motion hearing held on September 30, 2013 in the above-entitled case was requested of Pamela A. Harris on the 6th day of November, 2013 and was delivered via e-mail to the parties listed below on the 19th day of December, 2013.

Pamela A. Harris
Pamela A. Harris, RPR.
Official Court Reporter.

Dennis W. Dorsey,
Attorney at Law,
P.O. Box 3010,
Mooresville, NC 28117
On behalf of Plaintiff.

Douglas G. Eisele,
Attorney at Law,
P.O. Box 1108,
Statesville, NC 28677
On behalf of Defendants.

COPY

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO: 12 CVS 1519

**BEVERAGE SYSTEMS OF THE
CAROLINAS, LLC,**


Plaintiff-Appellant,

vs.

**ASSOCIATED BEVERAGE REPAIR,
LLC, LUDINE DOTOLI, and CHERYL
DOTOLI,**

Defendants-Appellees.

CERTIFICATE OF SERVICE

FILED
2013 DEC 30 P 4:22
IREDELL COUNTY, N.C.S.C.
BY 

The undersigned does hereby certify that he has this day duly served Defendants-Appellees' Counsel with a copy of the following documents: (1) Court Reporter's Certificate of Delivery, which was filed pursuant to Rule 7(b)(2) of the North Carolina Rules of Appellate Procedure, and (2) a hard-copy of the transcript of the hearing in this matter held on September 30, 2013, which is the subject of this appeal. Service was completed by a deposit of the documents with the United States Postal Service, postage prepaid, addressed to the Defendants-Appellees' attorney, to wit:

Douglas G. Eisele
Eisele, Ashburn, Greene & Chapman, P.A.
P.O. Box 1108
Statesville, NC 28687-1108

This the 27th day of December, 2013

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC

By: 

Dennis W. Dorsey
Attorneys for Plaintiff-Appellant
P.O. Box 3010
Mooresville, North Carolina 28117
(704) 664-1127
State Bar No. 44350
dennisdorsey@jcmdlaw.com

STIPULATION SETTling RECORD ON APPEAL

Counsel for the Appellant and Appellees stipulate as follows:

1. The proposed record on appeal was timely served on 23 January 2014. The certificate showing service of the proposed record may be omitted from the settled record.
2. The record on appeal was settled by stipulation of the parties on 7 February 2014.
3. All captions, signatures, headings of papers, certificates of service and documents filed with the trial court that are not necessary for an understanding of the appeal may be omitted from the record, except as required by Rule 9 of the Rules of Appellate Procedure.
4. The parties have undergone a reasonable search for duplicative or substantially similar documents in the record. For voluminous duplicates, a slip sheet has been inserted into the record indicating where in the record the exhibit is set forth in its entirety.
5. The parties stipulate that the following documents constitute the agreed-upon record on appeal to be filed with the Clerk of the Court of Appeals:
 - a. This printed record on appeal, consisting of pages i-iii and 1 to 261; and
 - b. The trial transcript described in the Statement of Transcript Option, (R p 7), (which will be submitted by the court reporter upon receipt of a docket number for the appeal).
6. That all documents contained in the record on appeal were timely served and that all hearings on motions filed with the trial court were properly noticed.

This 7th day of February, 2014.

For the Plaintiff-Appellant: Kevin C. Donaldson
Kevin C. Donaldson

For the Defendants-Appellees: Doug G. Eisele
Doug G. Eisele

ISSUE ON APPEAL

Pursuant to Rule 10 of the North Carolina Rules of Appellate Procedure, Plaintiff-Appellant intends to present the following proposed issue on appeal:

1. Did the trial court err in granting Defendants' Motion for Summary Judgment on all Issues pursuant to N.C. R. Civ. P. 56?

IDENTIFICATION OF COUNSEL FOR THE APPEAL

For the Appellant: Jones, Childers, McLurkin & Donaldson, PLLC

Kevin C. Donaldson
State Bar No.: 26663
(704) 664-1127
kevindonaldson@jcmdlaw.com

Dennis W. Dorsey
State Bar No.: 44350
(704) 664-1127
dennisdorsey@jcmdlaw.com

P.O. Box 3010
Mooresville, NC 28117

For the Appellees: Eisele, Ashburn, Greene & Chapman, P.A.

Douglas G. Eisele
State Bar No.: 4930
(704) 878-6400
gbleel1@gmail.com

P.O. Box 1108
Statesville, NC 28687-1108

CERTIFICATE OF SERVICE OF SETTLED RECORD ON APPEAL

I hereby certify that I served a copy of the foregoing Settled Record on Appeal on counsel for Defendants-Appellees by **DEPOSITING A COPY ENCLOSED IN A FIRST-CLASS POSTAGE PAID PACKAGE INTO A DEPOSITORY UNDER THE EXCLUSIVE CARE AND CUSTODY OF THE UNITED STATES POSTAL SERVICE** this 11th day of February, 2014, addressed as follows:

Eisele, Ashburn, Greene & Chapman, P.A.
Douglas G. Eisele
P.O. Box 1108
320 W Broad St.
Statesville, NC 28687-1108

JONES, CHILDERS, McLURKIN & DONALDSON, PLLC

By: Kevin C. Donaldson
Kevin C. Donaldson
Attorney for Plaintiff-Appellant
P.O. Box 3010
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State Bar No.: 26663
(704) 664-1127
kevindonaldson@jcmdlaw.com

By: Dennis W. Dorsey
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