BULKY DOCUMENTS

(exceeds 300 pages)

Proceeding/Serial No: 91167151

Filed: 09-28-2007

Title: Opposer's First Notice of Reliance

Part 1 of 6

Processed by Duane Foster

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September 28, 2007

VIA EXPRESS MAIL

Commissioner for Trademarks
U.S. Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

Re: *Flowers Bakeries Brands, Inc. v. Independent Marketing Alliance LP*
Opposition No.: 91167151
Our Ref. No.: FI001/321679

Dear Sir or Madam:

Enclosed please find **Opposer's First Notice of Reliance** in connection with the referenced opposition.

Please acknowledge receipt of the enclosures by initialing and dating the enclosed postcard and returning it to me.

Thank you for your assistance.

Sincerely,

Olivia Maria Baratta

OMB
Enclosures

cc: Holland C. Kirbo, Esq.
Theodore H. Davis Jr., Esq.

09-28-2007
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #72

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

FLOWERS BAKERIES BRANDS, INC.,	)	
	)	
Opposer,	)	Opposition No. 91167151
	)	
v.	)	Serial No. 78/432,642
	)	
INDEPENDENT MARKETING ALLIANCE LP,	)	Published 9/20/2005
	)	
	)	
Applicant.	)	
	)	

OPPOSER'S FIRST NOTICE OF RELIANCE

Pursuant to Trademark Rules of Practice 2.122(d)(2) and 2.122(e), Opposer Flowers Bakeries Brands, Inc. gives notice to Applicant Independent Marketing Alliance LP that it offers and intends to rely upon the following evidence at trial:

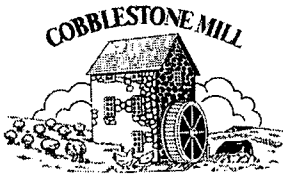
A. Certified copies of the following registrations, which are owned by Opposer:

1. Registration No. 1,991,258, registered August 6, 1996, of the mark COBBLESTONE MILL for "bakery products, namely bread, buns and rolls" in International Class 30 (Exhibit 1).

2. Registration No. 2,762,164, registered September 9, 2003, of the mark depicted below

for "bakery products," in International Class 30 (Exhibit 2).

3. Registration No. 1,326,230, registered on March 19, 1985, of the mark depicted below



for "bakery products – namely, bread, buns and rolls," in International Class 30 (Exhibit 3).

B. True and correct copies and/or printouts of the following discovery responses:

1. Applicant's Answers to Opposer's First Set of Interrogatories (Exhibit 4);

2. Applicant's Response to Opposer's First Requests for Production of Documents (Exhibit 5).

C. True and correct copies of the following discovery depositions and exhibits thereto:

1. Janice Anderson, Vice President of Marketing of Opposer Flowers Bakeries Brands, Inc. (Exhibit 6);

2. Bob Fontana, Director of Marketing and General Merchandising of Applicant Independent Marketing Alliance LP (Exhibit 7); and

3. Robert D. Planck, President of Applicant Independent Marketing Alliance LP (Exhibit 8).

D. True and correct printouts from Opposer's web site at www.cobblestonemill.com (Exhibit 9).

E. A true and correct printout showing the Network Solutions WHOIS record for the domain www.cobblestonemill.com, relevant to show ownership of the domain by Opposer's parent company (Exhibit 10).

F. True and correct copies of the following reports by Information Resources Inc.:

1. Flowers Industries Monthly Fresh Breads Through February 8, 1998 (Exhibit 11); and

2. Flowers Industries Monthly Fresh Breads and Rolls Update Through March 7, 1999 (Exhibit 12).

G. True and correct copies of the following reports by Packaged Facts:

1. The Bread Market, dated March 1996 (Exhibit 13); and

2. The U.S. Bread Market, dated May 1998 (Exhibit 14).

H. A true and correct copy of Flowers Bakery Division FY'86 Marketing Plan-Review (Exhibit 15).

I. A true and correct copy of Flowers Bakery Division marketing plan and budget for Fiscal Year 1986, including Brand Strategy for Fiscal Year 1987 (Exhibit 16).

J. A true and correct copy of Flowers Bakeries Inc. Market Audit, dated June 28, 1999 (Exhibit 17).

K. A true and correct copy of Cobblestone Mill Package Design Assessment, dated August 6, 1999 (Exhibit 18).

L. A true and correct copy of Flowers Bakeries Marketing Review 4th Quarter, FY 2002, dated January 14, 2003 (Exhibit 19).

M. A true and correct copy of a March 26, 2002 letter from Life Packaging & Promotions Creative, Inc. to Greg Jenkins of Flowers Industries regarding and enclosing artwork for COBBLESTONE MILL packaging (Exhibit 20).

N. True and correct copies of advertisements and promotional materials showing use of the COBBLESTONE MILL mark (Exhibit 21).

O. A true and correct copy of a photograph displaying COBBLESTONE MILL bagels in packaging featuring the COBBLESTONE MILL mark (Exhibit 22).

P. A true and correct copy of Independent Marketing Alliance's Merchandising Policy (Exhibit 23).

Q. A true and correct copy of the April 13, 2004 email from Bartt Thompson to "Doug" regarding search for "Cobblestone Corner" for deli items "similar to Boars Head Brand" (Exhibit 24).

R. A true and correct copy of the April 15, 2004 email exchange between Bob Planck, Rob Ahrensdorf, and Sandy Klein regarding the preliminary search for "Cobblestone" (Exhibit 25).

S. A true and correct copy of the April 21, 2004 Memorandum from Bartt Thompson to Bob Planck regarding the availability of the mark "Cobble Stone" or "Cobblestone" (Exhibit 26).

T. True and correct copies of advertising proofs for COBBLESTONE MARKET products, including order forms for promotional items (Exhibit 27).

U. A true and correct copy of the November 2, 2004 email from Bob Planck to Bartt Thompson regarding the "potential infringement" by "Cobblestone Gas Station/Car Wash" (Exhibit 28).

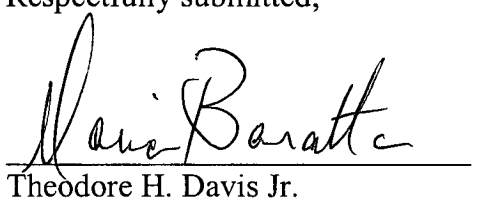
V. A true and correct copy of the November 2, 2004 email from Bob Fontana to Bartt Thompson regarding the "potential conflict" between the "Cobblestone Market Brand" and "Cobblestone Gas Station/Car Wash" (Exhibit 29).

W. A true and correct copy of the August 1, 2005 email exchange between Bob Fontana and Bartt Thompson confirming that "sandwiches" should be listed in the description of goods covered by Serial No. 78/432642 (Exhibit 30).

X. A true and correct copy of the Examiner's Amendment entered August 2, 2005 amending the description of goods covered by Serial No. 78/432642 to include "vegetables" in Class 29 and "sandwiches" in Class 30 (Exhibit 31).

This 26th day of September, 2007.

Respectfully submitted,



Theodore H. Davis Jr.
Olivia Maria Baratta
Alicia Grahn Jones
KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530
Telephone: (404) 815-6500
Facsimile: (404) 815-6555

Attorneys for Opposer

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

FLOWERS BAKERIES BRANDS, INC.,	)	
	)	
Opposer,	)	Opposition No. 91167151
	)	
v.	)	Serial No. 78/432,642
	)	
INDEPENDENT MARKETING ALLIANCE LP,	)	Published 9/20/2005
	)	
Applicant.	)	
	)	

CERTIFICATE OF SERVICE

This is to certify that on this date, the foregoing document was served upon Applicant by depositing a copy thereof in the United States mail as first class mail, postage pre-paid, addressed as follows:

Martyn B. Hill, Esq.
Pagel, Davis & Hill, P.C.
1415 Louisiana, 22nd Floor
Houston, Texas 77002

This the 28th day of September, 2007.

Olivia Maria Baratta

Exhibit 1

7087818

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

September 18, 2007

THE ATTACHED U.S. TRADEMARK REGISTRATION *1,991,258* IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF *10* YEARS FROM *August 06, 1996*
1st* RENEWAL FOR A TERM OF *10* YEARS FROM *August 06, 2006
SECTION 8 & 15
SAID RECORDS SHOW TITLE TO BE IN:
FLOWERS BAKERIES BRANDS, INC
A DE CORP

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

P. R. GRANT
Certifying Officer

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 1,991,258

United States Patent and Trademark Office Registered Aug. 6, 1996

TRADEMARK
PRINCIPAL REGISTER

COBBLESTONE MILL

FLOWERS FAMILY BAKERIES, INC. (DELAWARE CORPORATION)
WILMINGTON TRUST CENTER
1100 NORTH MARKET SQUARE, SUITE 780
WILMINGTON, DE 19801

FOR: BAKERY PRODUCTS, NAMELY BREAD, BUNS AND ROLLS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 8-19-1983; IN COMMERCE 8-19-1983.

OWNER OF U.S. REG. NOS. 1,326,230, 1,836,321 AND OTHERS.

SER. NO. 74-712,640, FILED 8-8-1995.

JULIA S. SHIELDS, EXAMINING ATTORNEY

Exhibit 2

7087818

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

September 18, 2007

THE ATTACHED U.S. TRADEMARK REGISTRATION *2,762,164* IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF *10* YEARS FROM *September 09, 2003*

SAID RECORDS SHOW TITLE TO BE IN:

FLOWERS BAKERIES BRANDS, INC.

A SC CORP

By Authority of the

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

P. R. Grant

P. R. GRANT

Certifying Officer

Int. Cl.: 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,762,164

Registered Sep. 9, 2003

TRADEMARK
PRINCIPAL REGISTER

FLOWERS BAKERIES BRANDS, INC. (SOUTH CAROLINA CORPORATION)
1925 FLOWERS CIRCLE
THOMASVILLE, GA 31757

FOR: BAKERY PRODUCTS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 4-0-2000; IN COMMERCE 4-0-2000.

OWNER OF U.S. REG. NOS. 1,326,230, 1,991,258, AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "QUALITY BREADS, A FAMILY OF BAKERS SINCE 1919, SAN FRANCISCO SOURDOUGH" AND "RECIPE", APART FROM THE MARK AS SHOWN.

THE LINING IS A FEATURE OF THE MARK AND DOES NOT INDICATE COLOR.

SN 76-039,444, FILED 5-2-2000.

KARAN CHHINA, EXAMINING ATTORNEY

Exhibit 3

7087818

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

September 18, 2007

THE ATTACHED U.S. TRADEMARK REGISTRATION *1,326,230* IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF *20* YEARS FROM *March 19, 1985*
1st* RENEWAL FOR A TERM OF *10* YEARS FROM *March 19, 2005
SECTION 8 & 15
SAID RECORDS SHOW TITLE TO BE IN:
FLOWERS BAKERIES BRANDS, INC.
A DE CORP

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

P. R. Grant

P. R. GRANT
Certifying Officer

Int. Cl.: 30

Prior U.S. Cl.: 46

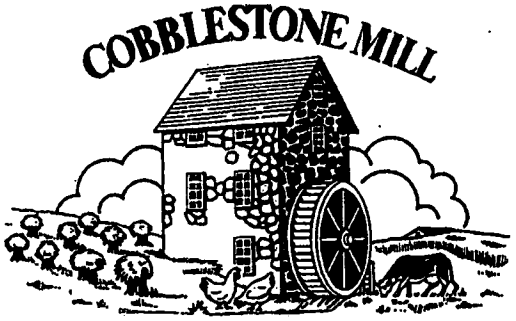
Reg. No. 1,326,230

United States Patent and Trademark Office

Registered Mar. 19, 1985

TRADEMARK

Principal Register



Flowers Industries, Inc. (Georgia corporation)
P.O. Box 1338
U.S. Hwy. 19 S.
Thomasville, Ga. 31792

For: BAKERY PRODUCTS—NAMELY, BREAD, BUNS AND ROLLS, in CLASS 30 (U.S. Cl. 46).

First use Aug. 19, 1983; in commerce Aug. 19, 1983.

Owner of U.S. Reg. No. 1,145,490.

The lining and/or stippling shown in the mark on the drawing is a feature of the mark and does not indicate color.

Ser. No. 442,931, filed Sep. 8, 1983.

LINDA J. SWIFT, Examining Attorney

Exhibit 4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

FLOWERS BAKERIES BRANDS, INC., Opposer, v. INDEPENDENT MARKETING ALLIANCE LP, Applicant.	Opposition No. 91167151 Serial No. 78/432,642 Published 9/20/2005

APPLICANT'S ANSWERS TO OPPOSER'S FIRST SET OF INTERROGATORIES

Applicant Distribution Marketing Services, L.P., f/k/a Independent Marketing Alliance, LP ("Applicant") answers to Opposer's First Set of Interrogatories in the above and styled opposition as follows:

ANSWERS TO INTERROGATORIES

1. Identify each Person involved in Applicant's selection, adoption, clearance, or first use of the Opposed Mark, and describe each such Person's knowledge thereof.

ANSWER

Robert Fontana
Bob Planck
Independent Marketing Alliance
c/o Pagel, Davis & Hill, P.C.

Rob Ahrensdorf
Rob Goluba
Ed Sanford
Ceil Enault
Phil Morgan
Stephen Krefft
Brent Cady
c/o Pagel, Davis & Hill, P.C.
All are employees of Independent Marketing Alliance Member Companies and representative of those companies to the Marketing Advisory Council

of Independent Marketing Alliance.

Sandy Klein
Barb Walker
Newhall Klein, Inc.

Bartt G. Thompson
Pagel, Davis & Hill, P.C.

2. Describe the procedure by which Applicant selected the Opposed Mark, including all steps taken by Applicant to determine whether the Opposed Mark was available for use before filing Application Serial No. 78/432,642.

ANSWER

Responsive documents are being produced which demonstrate the procedures utilized to consider various Marks including the Opposed Marks, and efforts to avoid use of any mark likely to cause confusion. A trademark search was conducted through Independent Marketing Alliance ad agency Newhall Klein, Inc., and recommendations were based on the review of the search.

3. List each separate product on or in connection with which Applicant is using or intends to use the Opposed Mark.

ANSWER

Foodservice Pack Sizes of Deli Meats, Foodservice Pack Sizes of Cheeses, Food Service Pack Sizes of Pickles, Foodservice Pack Sizes of condiments, Prepared Salads, grab and go chips and Soups Also, see Application and other documents being produced by Applicant, including promotional materials related to same.

4. Describe the typical or target customer to whom Applicant intends to offer or is offering its goods under the Opposed Mark.

ANSWER

Regarding customer types, our client is not in the bread business and has no intention of entering the bread business. Our client focuses on foodservice with sales to the hospitality industry, not retailers like grocery stores. It is not intended and would be highly unlikely for a consumer to find COBBLESTONE MARKET branded products on grocery store aisles or in "coffin" cases. However, some grocery stores now have foodservice/deli operations within their

stores. Also, foodservice/deli operations may display this brand to enhance their operations.

Our client sells Deli Meats, Cheeses, Pickles, Prepared Salads, grab and go chips and Soups under the COBBLESTONE MARKET brand. There is no intention to sell sandwiches under this brand, but the sandwich may include branded Deli Meats, Cheeses and Pickles as components of such a sandwich.

5. Identify the geographic region where Applicant or its distributors, agents or sales representatives has sold, offered for sale, or intends to offer for sale its goods that currently bear the Opposed Mark.

ANSWER

Geographically, current sales involve a large geographical territory. It would not be practical to limit sales to any particular locality, as our client intends on selling or at least having the right to sell throughout the entire United States.

6. Describe through what media (i.e. television, radio, newspapers, magazines, brochures, Internet, etc.) Applicant has advertised or intends to advertise or promote products under the Opposed Mark.

ANSWER

Internal point of sale material designed for use on a one on one basis by sales personnel in presenting to individual operator accounts and in internal sales publication of Independent Marketing Alliance member companies, as well as promotional publication of those companies targeted to end user "business to business" accounts.

7. Identify each Person currently or previously employed or engaged by Applicant who has participated or will participate in the creation or placement of advertisements or promotional material for the products sold or intended to be sold under the Opposed Mark.

ANSWER

Robert Fontana
Bob Planck
Independent Marketing Alliance

Ed Sanford
Rob Ahrensdorf
Brent Cady

Ceil Enault
Bryan Simnitt
Independent Marketing Alliance Member Companies – Marketing Advisory Council

8. Identify each advertising agency that Applicant has retained to advertise or promote the sale of products or services in connection with the Opposed Mark, and for each such agency identify the Person responsible for the advertising or promotion of products bearing the Opposed Mark, and describe the role each such Person played in such activities.

ANSWER

There have been no traditional advertisements through Independent Marketing Alliance and may well never do so for the product line in dispute. Sales tools have been produced for use by the sales force employed by each Independent Marketing Alliance member company. Newhall Klein, Inc designed the materials as well as packaging for the products.

9. Identify all uses or proposed uses of the Opposed Mark by Applicant other than use in traditional forms of advertising or promotion, including but not limited to use on letterhead, stationary, office supplies, buildings, or equipment.

ANSWER

The name brand may appear in locally generated flier, publications, letterheads, napkins, sandwich bags, buttons, caps, aprons, banners, signage, and similar tools used to help market these items to our members end user customers. Independent Marketing Alliance is in a business to business environment and its member's customers sell their products to the public.

10. Identify each Person currently or previously employed or engaged by applicant who has participated or will participate in the licensing, franchising, or assignment of the Opposed Mark.

ANSWER

Robert Fontana
Jim Nesbitt
Ernie Livaditis
Mike Gentry
Bob Planck

11. Identify all disputes, potential disputes, or negotiations between Applicant and any person other than Opposer concerning the Opposed Mark, including without limitation, notices or complaints of infringement and unfair competition, investigations into third-party use of arguable similar marks, and court and agency proceedings of any type. For each dispute, identify the parties involved, the trademarks involved, the date of the dispute/investigation, and the current status of the dispute/investigation.

ANSWER

There are none at this time.

12. Identify all third-party marks of which you are aware and that you contend are sufficiently similar to the Opposed Mark or Opposer's Marks as to bear on the issue of a likelihood of confusion between the Opposed Mark and Opposer's Marks.

ANSWER

See documents produced in response to discovery, including especially the trademark search results.

13. For each mark identified in response to the preceding Interrogatory:

a. State whether the mark is currently in use in the marketplace; and

ANSWER

Objection as calling for additional legal work at this time, which has not yet been completed. Subject to same, the mark is being used as evidenced by the documents being produced. Applicant will also supplement.

b. If you answer the preceding sub-part affirmatively, describe with particularity the basis for your knowledge that the mark is currently in use, including the manner in which the mark is being used.

ANSWER

Objection as calling for additional legal work at this time, which has not yet been completed. Subject to same, see documents being produced. Applicant will supplement.

14. Identify the Person or Persons to whom communications from customers, or members of the public regarding products offered in connection with the Opposed Mark are routed or will be routed.

ANSWER

Objection as overbroad and vague. Subject to same, communications regarding brands and brand confusion (assuming that such communications were to exist, which are disputed as it relates to the Opposer's mark and the Applicant's mark in question) are directed through

Robert Fontana
Jim Nesbitt
Ernie Livaditis
Mike Gentry
Bob Planck

15. State the circumstances under which Applicant first became aware of Opposer or Opposer's Marks, including the date on which such awareness occurred.

ANSWER

Objection as vague. Subject to such objection, see Search results and analyses of same which identified Applicant's mark without belief that use of Applicant's mark was likely to cause confusion. Applicant's first knowledge of any alleged claim by Opposer occurred upon receipt of a demand letter from Opposer's counsel.

16. State whether, prior to the initiation of this Opposition proceeding, representatives of Applicant have engaged in communications referencing or relating to Opposer's Marks or any other mark bearing the designation COBBLESTONE MILL or a variation thereof, and, if so, describe with particularity the substance of such meetings or conversations, and Identify the Person(s) in such meetings or conversations.

ANSWER

See documents produced.

17. Describe any instance of which you are aware in which a Person has suggested, implied, or inferred in any way that any products or services offered or to be offered in connection with the Opposed Mark originated from or are sponsored by, licensed by, or otherwise affiliated with Opposer and/or products or services offered under Opposer's Marks, and include an identification of the Person(s) involved in any such instance, the date of such instance, and the manner in which the incident came to your attention.

ANSWER **None.**

18. Identify each Person whom you intend to call as an expert witness in this proceeding and, with respect to each such expert, describe with particularity the subject matter about which the expert is expected to testify.

ANSWER

Unknown at this time. Applicant will supplement.

19. Identify any and all Persons who participated in any way in the preparation of responses to the Interrogatory questions set forth herein.

ANSWER

Robert Fontana

Barb Walker

Bob Planck

Bartt G. Thompson

Martyn B. Hill

20. Identify any and all predecessors, successors, parent companies, subsidiaries, fictitious business names, trade names, and former names of Applicant.

ANSWER

Distribution Marketing Services, LP, d/b/a Independent Marketing Alliance

Respectfully submitted,

Martyn B. Hill
Bartt G. Thompson
PAGEL, DAVIS & HILL, P.C.
1415 Louisiana, 22nd Floor
Houston, Texas 77002
Telephone: 713-951-0160
Facsimile: 713-951-0662
ATTORNEYS FOR APPLICANT

VERIFICATION

State of Texas)
)
County of Harris)

On this day appeared before me Robert Fontana, who having been duly sworn upon his oath deposed and said that he had read Independent Marketing Alliances Answers to Opposer's First Set of Interrogatories, and that the facts stated therein were within his personal knowledge and are true and correct.

Robert Fontana

Sworn to and subscribed before me on this 7th day of February 2006.

CHERYL J. MARTIN
Notary Public, State of Texas
My Commission Expires
October 28, 2007

Notary Public, State of Texas

email w/ followup by mail after obtaining verification

CERTIFICATE OF SERVICE

This is to certify that on this the 6th day of February, 2006, the foregoing was served on Opposer by depositing a copy thereof in the United States first class mail, postage pre-paid addressed to:

Theodore H. Davis Jr.
Olivia Maria Baratta
KILPATRICK STOCKTON LLP
1100 Peachtree Street
Atlanta, Georgia 30309-4530

Martyn B. Hill

S:\PDH Files\Active\IMAL01\IMAL01L-Litigation\Flowers-Cobblestone\DRA\DISORRG20060206. IMAL'S Answers to 1st Set of Rogs.doc

Exhibit 5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

FLOWERS BAKERIES BRANDS, INC.,	)	
	)	
Opposer,	)	Opposition No. 91167151
	)	
v.	)	Serial No. 78/432,642
	)	
INDEPENDENT MARKETING ALLIANCE LP,	)	Published 9/20/2005
	)	
Applicant.	)	

APPLICANT'S RESPONSE TO OPPOSER'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS

Applicant Distribution Marketing Services, L.P., f/k/a Independent Marketing Alliance, LP ("Applicant") responds to Opposer's First request for Production of Documents in the above and styled opposition as follows:

RESPONSES TO DOCUMENT REQUESTS

Preliminary Response: Responsive Documents are in the process of being accumulated and bates stamped. They will be sent to Opposer's counsel shortly on a CD and likely in batches. Note that some documents have already been produced based on a desire to quickly communicate certain requested information to Opposer, but those documents will be included within the formally produced documents after being bates stamped as appropriate.

1. Documents responsive to Opposer's First Set of Interrogatories or that prove or contain information responsive thereto.

RESPONSE

Such documents have been produced and will be supplemented.

2. Documents that describe, discuss, refer, or relate to the creation, development, selection, design, or adoption of the Opposed Mark, including but not limited to trademark searches, investigations, market research or studies, written reports, artwork, sketches, drafts, drawings, or images.

RESPONSE

Such documents have been produced and will be supplemented.

3. All documents relating to any opinion that Applicant received concerning its right to adopt, use and/or register the Opposed Mark in the United States.

RESPONSE

Such documents have been produced and will be supplemented.

4. All documents that describe, discuss, or relate to any alternative marks or logos that were considered at the time of Applicant's selection of the Opposed Mark.

RESPONSE

Such documents have been produced and will be supplemented.

5. All documents that describe, discuss, or relate to any changes, modifications, or variations in the Opposed Mark since Applicant first adopted it.

RESPONSE

Such documents have been produced and will be supplemented.

6. Documents that consist of, refer, or relate to applications filed by or on behalf of Applicant in the United States Patent and Trademark Office or with any state government to register the Opposed Mark.

RESPONSE

Objection as overbroad and vague. Subject to same, documents have been produced which relate to the mark in question and the products associated with such mark.

7. Documents that describe, discuss, or relate to the decision by Applicant to apply for a trademark registration covering the Opposed Mark in the United States.

RESPONSE

Such documents have been produced and will be supplemented.

8. Documents sufficient to show Applicant's bona-fide intent-to-use the Opposed Mark on each product listed in the application (Serial No. 78/432,642) to register the Opposed Mark.

RESPONSE

Such documents have been produced and will be supplemented.

9. Documents that constitute, evidence, describe, discuss or relate to licenses, assignments, proposed assignments or other agreements referring or pertaining to the Opposed Mark or to products offered under the Opposed Mark.

RESPONSE

Objection as overbroad, vague and subject to confidentiality issues. Subject to same, responsive documents likely to lead to the admission of relevant evidence as related to this dispute have been produced and will be supplemented.

10. Documents sufficient to show the specific states in which Applicant has sold, are selling or intend to sell each product listed in the application (Serial No. 78/432,642) in connection with the Opposed Mark.

RESPONSE

Such documents have been produced and will be supplemented.

11. Documents that evidence, describe, refer or relate to the date(s) or proposed date on which Applicant commenced use or will commence use of the Opposed Mark for each separate category of products on which they have been used.

RESPONSE

Such documents have been produced and will be supplemented.

12. Representative samples of all products sold or intended to be sold by Applicant in connection with the Opposed Mark.

RESPONSE

Objection as unreasonable and overbroad. Deli meats are not easily transported and produced in litigation. Representative literature has been produced and will be supplemented. Should Opposer desire a personal inspection of such meats and cheeses and other goods in association with the Opposed Mark, arrangements can be made mutually satisfactory to both parties.

13. Representative samples of each different advertisement, proposed advertisement or other promotional or proposed promotional material of Applicant referring to the Opposed Mark, including but not limited to invitations, brochures, proposals, direct mail advertisements, Internet and electronic mail advertisements and promotional materials.

RESPONSE

Such documents have been produced and will be supplemented.

14. Representative samples of each different press release or article referring to the Opposed Mark.

RESPONSE

Such documents have been produced and will be supplemented.

15. Documents sufficient to show Applicant's advertising or promotional expenditures or proposed advertising or promotional expenditures relating to the products sold, offered for sale, or intended to be offered for sale under the Opposed Mark.

RESPONSE

Objection as overbroad, vague and subject to concerns of confidentiality. Subject to same, such documents have been produced and will be supplemented.

16. Documents sufficient to show the price or proposed price of each product offered by Applicant or intended to be offered by Applicant under the Opposed Mark.

RESPONSE

Objection as overbroad, vague and subject to concerns of confidentiality. This request is simply not intended to elicit information reasonably calculated to lead to the discovery of admissible evidence. Pricing is highly proprietary and complex. Retail prices which correspond to Opposer's mark's products at the retail level are set by others.

17. Documents sufficient to show dollar sales or proposed dollar sales of each separate product sold or intended to be sold under the Opposed Mark from the date of first use of the mark to the present.

RESPONSE

Objection as overbroad, vague and subject to concerns of confidentiality. Subject to same, redacted and summarized versions of such documents have been produced or will be produced and supplemented

18. Documents that evidence, describe, refer or relate to the channels of trade through which Applicant distributes, has distributed, or intends to distribute products under the Opposed Mark, including but not limited to documents identifying the wholesalers, retailers, distributors, Internet, or other outlets through which the products sold under the Opposed Mark are, have been or will be sold, and the geographic areas in which they are, have been or will be distributed.

RESPONSE

Objection as overbroad, vague and subject to concerns of confidentiality. Subject to same, redacted and summarized versions of such documents have been produced or will be produced and supplemented

19. Documents that evidence, describe or relate to any actual or potential customers or the characteristics of any actual or potential customers of the products sold or intended to be sold under the Opposed Mark.

RESPONSE

Objection as overbroad, vague and subject to concerns of confidentiality. Subject to same, redacted and summarized versions of such documents have been produced or will be produced and supplemented

20. Documents that evidence, describe or relate to actual or threatened disputes, litigation or administrative proceedings involving allegations of trademark or service mark infringement, unfair competition, or dilution to which Applicant is or was a party and which involved the Opposed Mark or any mark owned by Applicant including the designation

RESPONSE

None, other than COBBLESTONE MARKET, including but not limited to any cease and desist letters or other correspondence.

21. Documents that describe, discuss, refer or relate to any searches involving the designation COBBLESTONE MARKET or any variation thereof.

RESPONSE

Such documents have been produced and will be supplemented.

22. Documents that describe, discuss, refer or relate to any third-party uses or registrations incorporating the designation COBBLESTONE MARKET or a variation thereof with respect to any good or service.

RESPONSE

Objection as vague and overbroad, burdensome, and requiring Applicant to identify information not currently available to it. To the extent that such documents are related to the Mark in question and in the care or custody of Applicant, such documents have been produced and/or will be supplemented.

23. Documents that describe, discuss, refer or relate to Opposer, Opposer's Marks, or the products sold under Opposer's Marks, including but not limited to minutes of any meeting at which Opposer, Opposer's Marks, or the products and/or services sold under Opposer's Marks were discussed or any searches, investigations or reports regarding Opposer or its adoption or use of Opposer's Marks.

RESPONSE

Such documents have been produced and will be supplemented.

24. Documents that consist of, evidence, contain, describe, discuss, refer or relate to any inquiry regarding, suggesting or inferring an association, connection, affiliation or confusion between Applicant, the Opposed Mark, or any of the products sold under the Opposed Mark on the one hand and Opposer, Opposer's Marks or the products sold under Opposer's Marks on the other hand, including but not limited to any questions, inquiries, statements or beliefs by any Person concerning a possible relationship, affiliation, connection, or sponsorship between Opposer and Applicant, Opposer's Marks and the Opposed Mark, or the products sold under Opposer's Marks and the products sold under the Opposed Mark.

RESPONSE

None

25. Documents that consist of, describe, refer or relate to any business, franchise or marketing plans that concerns, refers or relates to any past, present or intended future use of the Opposed Mark or products sold or intended to be sold under the Opposed Mark.

RESPONSE

Objection as overbroad. Subject to same, such documents have been produced and will be supplemented.

26. Communications to or from any third-party that refer to or relate to the Opposed Mark, Opposer or Opposer's Marks, or any mark incorporating the designation COBBLESTONE MARKET or any variation thereof.

RESPONSE

Such documents have been produced and will be supplemented.

27. Documents that consist of, evidence, describe, refer or relate to any market or consumer research performed by or on behalf of Applicant in connection with the Opposed Mark and/or products sold under the Opposed Mark, including but not limited to any focus group studies, consumer surveys, test marketing or other consumer tests.

RESPONSE

Such documents have been produced and will be supplemented.

28. Any newspaper, magazine, internet or other media reference(s) to the Opposed Mark.

RESPONSE

Objection as overbroad. However, to the extent that Applicant can locate such information it has been or will be produced.

29. Documents that evidence, refer, or relate to any plans for new products which Applicant intends to sell under the Opposed Mark.

RESPONSE

Such documents have been produced.

30. Documents that evidence, refer or relate to any investigation conducted by Applicant or on its behalf concerning any matter relating to this Opposition proceeding.

RESPONSE

Objection as overbroad. However, to the extent that Applicant can locate such information it has been or will be produced

31. Documents that set forth the opinion of any experts engaged by Applicant in this matter, including drafts of the same, communications with such expert, and Documents relied on by the expert for the opinions, whether or not such expert will actually testify in this matter.

RESPONSE

Such documents have been or will be produced.

32. Documents upon which Applicant intends to rely to support any defense or claim that confusion or mistake between the Opposed Mark and Opposer's Marks is unlikely to occur.

RESPONSE

Objection as too early in this litigation to fully respond to this request. Nonetheless, such documents have been or will be produced and will be supplemented.

33. Documents that evidence, describe, refer or relate to or that tend to prove or disprove any affirmative defense upon which Applicant intends to rely.

RESPONSE

Objection as too early in this litigation to fully respond to this request. Nonetheless, such documents have been or will be produced and will be supplemented.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that on this the 6th day of February, 2006, the foregoing was served on Opposer by depositing a copy thereof in the United States first class mail, postage pre-paid addressed to:

by email w.th follow up after obtain ver.tication

Theodore H. Davis Jr.
Olivia Maria Baratta
KILPATRICK STOCKTON LLP
1100 Peachtree Street
Atlanta, Georgia 30309-4530

Martyn B. Hill

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Exhibit 6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Opposition No. 91167151

FLOWERS BAKERIES BRANDS, INC.,

Opposer,

vs.

COPY

INDEPENDENT MARKETING ALLIANCE, LP,

Applicant.

DEPOSITION OF:	JANICE ANDERSON
TAKEN AT INSTANCE OF:	The Applicant
DATE:	August 17, 2006
TIME:	Commenced at 9:06 a.m. Concluded at 12:05 p.m.
LOCATION:	14138 Highway 19 South Thomasville, Georgia
REPORTED BY:	CHRISTI K. COLE Certified Professional Reporter

PREMIER REPORTING
TALLAHASSEE, FL 32312
(850) 894-0828

APPEARANCES:

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PREMIER REPORTING

INDEX

WITNESS	PAGE
JANICE ANDERSON	
Direct Examination by Mr. Hill	4
Cross Examination by Mr. Davis	95

EXHIBITS

MARKED	PAGE
*1	75
*2	77
*3	81

(*All exhibits marked confidential and provided to counsel under seal.)

CERTIFICATE OF OATH	97
CERTIFICATE OF REPORTER	98

STIPULATIONS

The following deposition of JANICE ANDERSON was taken on oral examination, pursuant to notice, for purposes of discovery, and for use as evidence, and for other uses and purposes as may be permitted by the applicable and governing rules. Reading and signing is not waived.

* * *

Thereupon,

JANICE ANDERSON

was called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HILL:

Q Would you state your name for the record, please, Ms. Anderson?

A Janice Anderson.

Q How are you employed?

A Flowers Bakeries, Flowers Foods, Flowers Bakery Group.

Q Is that the formal name of the company, Flowers Bakery Group, Inc.?

A That is the division that I work for, Flowers Bakeries.

Q Is there a parent company?

A Flowers Foods.

Q So Flowers Foods, Inc., owns Flowers Bakery Group --

A Correct.

Q -- Inc., and you work for Flowers Bakery Group?

A That's correct.

Q Have you ever had your deposition taken before?

A No.

Q Just, in general, she's transcribing the testimony and the questions, you understand that?

A Right.

Q She will try to take down what I ask as a question and what you answer as an answer so that it's a question-and-answer format. You understand that, right?

A Right.

Q So if we both talk at the same time, it becomes difficult. So I will try to finish my question and I'll try to let you finish your answer, okay?

A Okay.

Q And if I cut you off, which I sometimes do, or if you cut me off, we will try to fix the record so that we know what the complete question was and we know what the complete answer is. Is that fair?

A That's fair.

Q Also, you're nodding your head, which I understand what you're doing when you are nodding your head, but for the purposes of the record, it's better if we verbalize the answers. So yes or no, something like that. I think you're already doing that.

A Okay.

Q As I understand it, you received a notice of a deposition which lists certain types of testimony or scope of testimony that you may be called upon to testify to today?

A That's correct.

Q Did you have a chance to review those eight paragraphs?

A Yes, I did.

Q Is there any of those paragraphs that you think that someone other than you would have better information or better knowledge?

A No.

MR. DAVIS: Marty, could we put that in front of her just to --

MR. HILL: I'm sorry. Sure.

MR. DAVIS: We have a clean copy, I think, maybe a clean copy.

MR. HILL: If you have a clean copy, let's use

your clean copy.

MR. DAVIS: Let's use that.

MR. HILL: If there's ever a document in this deposition that you think is helpful for her to look at, you feel free to give that to her. I don't think you're going to be coaching in an adverse way, and if you do and we get out of here quicker, well, so what?

BY MR. HILL:

Q So you have had a chance to review the 30-B notice of deposition of Flowers Bakeries Brands, Inc., is that right?

A Correct.

Q Is that actually the formal name of the company that you work for, Flowers Bakeries Brands, Inc.?

A I'm not certain exactly how to answer that. I work for the -- we consider it the Flowers Foods Bakeries Group.

Q So Flowers Bakeries Brands, Inc., may actually be a subsidiary or a different company?

A I can't totally tell you the correct legal name, as what the legal records are, but I work for the Flowers Bakeries Group of Flowers Foods.

MR. DAVIS: Marty, for purposes of

clarification, it may be easier if we have our in-house counsel just jump in and respond.

MR. HILL: That's fine. Yes, go ahead.

MS. KIRBO: Janice works for Flowers Foods Bakeries Group, LLC, which is -- the parent is Flowers Foods, Inc. Flowers Bakeries Brands, Inc., actually owns the trademark.

MR. HILL: Okay.

MS. KIRBO: But it, too, is a subsidiary of Flowers Foods, Inc., and Bakeries -- Janice's Bakeries Group utilizes the trademark.

MR. HILL: So at the top we have got Flowers Foods?

MS. KIRBO: Right.

MR. HILL: And as one subsidiary directly underneath that, we have the Flowers Bakeries Group?

MS. KIRBO: Right.

MR. HILL: And a different subsidiary that I guess is a direct subsidiary of Flowers Foods is Flowers Bakeries Brand, Inc.?

MS. KIRBO: Flowers Bakeries Brands, Inc., yes.

MR. HILL: Then Flowers Bakeries Brands, Inc., allows all the different affiliated entities within

the Flowers Food Group -- or Flowers Foods to use the brands under certain brands?

MS. KIRBO: Within the Flowers Foods Bakeries Group, yes.

BY MR. HILL:

Q And with that clarification, not only for the company that you actually work for, but the affiliated companies that we just described, you are still the person with the best knowledge?

A That's correct.

Q You filed or caused your attorneys to file an Opposition, which was filed, I believe, in October of 2005 to the application for a trademark for Cobblestone Market filed by Independent Marketing Alliance, correct?

A That's correct.

Q And did you have a chance to review the application of what we call IMA, which is short for Independent Marketing Alliance?

A I did not review it in detail, but I am very familiar with it.

Q And what did you know about it at the time that you made a decision to oppose the mark?

A We felt that it was much too close to our brand to be comfortable with them going forward.

Q What specifically did you know about in terms

of how close it was to your brand, both in terms of the types of products, the market itself, that sort of thing just in general?

A The brand itself and that they would be residing in the same retail market that Cobblestone Mill resides.

Q With regard to the Cobblestone Mill in paragraph 2 of your Opposition, you lay out what appears to be three different versions of the mark registered at three different times. The first is, as is laid out, it's actually not in chronological order -- if you don't have it in front of you, I can show it to you. Do you see paragraph 2 of your Opposition?

A Yes.

Q The first mark listed is actually just the word mark Cobblestone Mill, as I understand it, from that Opposition, is that right?

A That's correct.

Q And so it's just spelled out Cobblestone Mill, and that appears to date from August the 6th, 1996, is that right?

A Correct.

Q From looking at that, is it the case that prior to that, back in 1985, you had the stylistic mark for the logo that you see as the second line of the list

of marks?

A That's correct.

Q And in that one it appears to -- again, it says, Cobblestone Mill, but then the featured part of the stylistic mark or the featured item seems to be an old-fashioned gristmill?

A Correct.

Q It actually sort of seems to dominate the mark with the term Cobblestone Mill above it, right?

A Correct.

Q That was back in 1985. Is that the mark that you used back in 1985?

A That's correct.

Q How long have you been with the company?

A Forty-one years.

Q Then in September 9, 2003, if I read your Opposition correctly, since I'm also reading it upside down, it appears that you have another stylistic mark or logo which shows Cobblestone Mill again, still shows the same gristmill, but the featured part of the mark relating to the gristmill has been reduced substantially in size, is that right?

A That's correct.

Q And you have added a sort of big curve or half circle at the top sort of outlining the mark, is that a

fair description?

A Yes.

Q And it appears that you have added a place below the mark so that as you label each product and place your mark on the product you are able to -- when I say you, I mean the company, is that fair --

A That's fair.

Q -- you're able to describe the product that the mark is associated with. For example, the one that's listed, I think it says -- what does it say, sourdough?

A Yes.

Q Does that generally describe the progress of your mark from the old gristmill to the word itself to a sort of new stylistic mark that has these additional features I just described?

A Yes, it does.

Q Is it fair to say that the mark sort of transitioned over time even though at all times it continued to use the word Cobblestone Mill?

A Yes.

Q What was the purpose for the transition of the mark?

A To better present ourselves in the market, a more readable brand identity, as opposed to graphics and

pictures, that the brand itself was more easily readable.

Q Well, the size of the wording -- let's go down through them a minute. I guess we could call it the 1996 mark. And that's just really the words themselves, right?

A That's correct.

Q I assume that didn't actually change the way that you marketed anything, that just, from your perspective, gave you some protection for the word itself, is that basically right?

A That's correct.

Q Let's call it the 1985 mark, that being the stylistic mark that featured the gristmill, right?

A Yes.

Q How would you generally describe what Flowers was trying to convey to the marketing public when they used this mark of the Cobblestone Mill, if anything, with the feature of the gristmill?

A Well, once Cobblestone Mill was established as our name, we were trying to make it a place.

Q And the old-fashioned gristmill was the place that you tried to make it?

A That's correct.

Q So that people would identify it being the

sort of old-fashioned gristmill where they grind wheat and things like that to make them into flour? Is that basically the issue?

A That was the thought process at that time.

Q Did some type of market study or research tell you at some point that it would be better to feature something other than just the gristmill, or what told you -- you said at that time, so I'm taking it from that, that sort of changed the theory.

A It was a combination of research and the fact that as time progresses, you realize that the market changes and your identification needs to adjust accordingly. And we felt that the Cobblestone Mill name was more important than the description of the place.

Q So the new stylistic mark that was originated in September of 2003 is the one -- it still keeps the gristmill, but its feature is a little less prominent?

A That's correct.

Q Now, I notice, though, that you said that you wanted to be able to focus more on the word, but the size of the word Cobblestone Mill, at least in terms of what was presented in the Opposition, does not appear any larger in terms of the wording or not much larger than the one above it, which was the 1985 one.

A We found it to be more readable.

Q Did you change the font as well as the size of the Cobblestone Mill wording?

A Yes.

Q What font do you use?

A I can't answer that. I don't know.

Q But you still have the gristmill just to the right of the word mill, right?

A In a much smaller proportion, yes.

Q Is the concept of mill still important to Flowers?

A Yes.

Q So that if someone were to create a mark that you used the word mill in it which related to bakery goods, that might give you some consternation?

A A brand that used cobblestone or mill would give us some consternation.

Q Either one?

A Yes.

Q I received this stack of documents from your attorneys, which you're welcome to look at if you need to. I assume you assembled the document production?

A I did.

Q Is there anything significant that you would need to provide to us other than what you have already provided?

A I don't believe so.

Q I was going to say, which would further sustain your position in paragraph 4 that Cobblestone Mill -- excuse me, and Flowers has spent a lot of money developing this brand and has developed a high degree of recognition, fame and distinctiveness?

A Well, we continue to work on our brands and modify -- continue to do research and modify the logo as we feel is appropriate.

Q Well, other than the three that are listed in paragraph 2, have you now come up with a different logo?

A That is correct, yes.

Q What does the new logo look like? Is it in these documents?

A I don't believe it is.

Q Can you generally describe it?

A It is a larger Cobblestone Mill and a much smaller representation of the mill. And rather than having the full mill, it is a wheel.

Q And why did you do that?

A To further enhance the brand of Cobblestone Mill and downplay the graphics.

Q Are you the one that's been making the decisions on that primarily at Flowers, or has it been sort of a group of you? How does that work?

A I am the one in charge of setting up research, making the arrangements, providing the documents for research. I receive the research reports. I receive the design reports. When we have design work done, those come to me; and from those, we conduct our research. Certainly, it's not an empire. I don't make all the decisions, but I facilitate the decision-making.

Q You are the Vice President of Marketing?

A That is correct.

Q You have held that title for how long?

A I've been Vice President of Marketing about two or two-and-a-half years. I've been in marketing since '85.

Q Was there a Vice President of Marketing before you?

A Yes.

Q Who was that?

A David Roach.

Q Is he still there or did he retire?

A He's still there.

Q Briefly what's your educational background?

A One year of college.

Q And where was that?

A Valdosta.

Q What was your focus, if any, when you were in

college?

A Education.

Q Prior to becoming the Vice President of Marketing two or two-and-a-half years ago, you said that you were involved in marketing. What was your title at that time?

A Director of marketing.

Q And then at that time you reported to the Vice President of Marketing?

A That's correct.

Q How long were you the director of marketing for?

A Probably six or eight years.

Q And before that what did you do?

A I held various marketing positions, brand manger, marketing coordinator, a number of different marketing positions.

Q Does Flowers have a lot of different brands?

A Yes.

Q What are some of the other major brands?

A Nature's Own White Wheat, and we have multiple white bread brands, Sunbeam, Bunny, Evangeline Maid, Dandee, Betsy Ross, ButterKrust. We also have cake brands. The brand of cake is BlueBird.

Q Are you involved in all of those brands?

A Yes.

Q As I understand it, all of those brands are actually held by Flowers Bakeries Brands, Inc., that's the owner registrant?

A I believe that would be correct, but counsel would need to confirm.

Q Within your affiliated group, the bakeries group, as I understand it, they are allowed to utilize the brands?

A That's correct.

Q From looking at your various papers filed and discovery responses, it seems that you also do a lot of licensing of your brands, is that true, to other companies?

A On a very limited basis.

Q So when there's a reference in the discovery responses or in the pleadings to, 'and licensees,' to the extent that you're aware, is it referring them to licensing within the affiliated group of Flowers companies as opposed to a separate company?

A I believe that would be correct, yes.

Q Have you ever licensed the Cobblestone Mill brand to any other company that you're aware of?

A Not outside Flowers, no.

Q By the way, if you need to break at any point

for any reason, just tell me.

A Thank you.

Q You're not enslavened to be here forever. The Cobblestone Mill marks, whether it be the original mark or the mark as it has transitioned over time, right -- so when I call it Cobblestone Mill, I'll be referring to the original mark and then the transition as you have changed it over the years, is that fair?

A That's fair.

Q Including now the one that I don't think we saw in the discovery responses, but just focuses on the old gristmill wheel, but not -- the little shack itself is not there anymore, is that right?

A That's correct.

Q So with regard to the Cobblestone Mill brand that we're talking about, it's placed only on bakery goods, is that right?

A That is correct.

Q Within bakery goods, is it placed on all bakery goods or just certain types of bakery goods?

A It is not placed on any sweet goods, it is on breads, buns, rolls and breakfast items, bagels and English muffins and breakfast bread.

Q Do you have any intention to extend it to any other products that you are aware of?

A I am not aware of anything today.

Q And you have other brands that Flowers uses for the other products, for example, in your sweet breads, is that right?

A Yes, we do.

Q Your white bread is Sunbeam?

A We have multiple white bread brands. That is one of them.

Q That's really the biggest one, isn't it?

A Yes, it is.

Q Do you know just roughly what the sales of products with the Cobblestone Mill brand on it totalled for any particular year?

A 2006 projections are $100 million annually at retail.

Q Does that mean what you're charging or does that mean what the grocery stores are charging the customers when you say --

A That is what the -- what the customer pays is $100 million.

Q When we say customer, we mean the customer, retail customer?

A The consumer, the shopper.

Q When we talk about the consumer, these are consumers who go into grocery stores?

A That's correct.

Q And that is the, at least, lion's share of the Cobblestone Mill brand, is that right?

A That's correct.

Q Is that really all of it or is there some other?

A There's a very small amount sold in food service, but it's maybe 5 percent.

Q I think in looking at some of your materials, I think you guys have a term, the bread row or bread aisle?

A Bread aisle, that's correct.

Q Bread aisle. What's the bread aisle?

A The bread aisle is the place in the store that the shopper would go to purchase bread.

Q That's usually when you go into a grocery store, you look and you've got all kinds of different brands like hot dog buns, hamburger buns, all kinds of different breads?

A That's correct.

Q Some stores also seem to have an area where you can get bread that's supposed to be healthier for you, it's got more nuts in it and less flour or whatever, I don't know; but it leads you to believe, at least, if you eat it, it's a little healthier, is that

true?

A That is true.

Q Is that still on the bread aisle or is that in a different section typically in your experience?

A In our experience it's typically on the same aisle.

Q So the specialty part would still be called the bread aisle even though all the healthy breads might be in a certain section of the bread aisle?

A That's correct.

Q Is it generally true that people who want to buy your bread in order to do that have to go to the bread aisle?

A That is correct, unless there is an off-rack display somewhere in the store, which would be a temporary location.

Q That would be like one of these big end-aisle type of cardboard things or whatever?

A Correct.

Q Sort of rack it up and give a promotion or talk about something special about the product?

A Correct.

Q Do you do that very often with the Cobblestone Mill brand?

A Probably three to four times a year.

Q Do you try to feature that in all of the grocery stores that would support your end-aisle advertising?

A Yes.

Q Is that end-aisle display of the Cobblestone Mill breads still going to generally be in the bread aisle area?

A Not necessarily. It sometimes is, but it could be -- if you're doing English muffins, you might be close to the eggs. But it could be anywhere, really.

Q So other than the -- what did you call these things, end-aisle, or what did we call these things, off --

A Off-rack.

Q Off-rack?

A Off-rack.

Q When you do the off-rack displays, do you provide marketing materials to the grocery stores?

A Yes.

Q Are these basically some kind of a big rack that's going to have Cobblestone Mill at the top?

A That's correct. It could be a wooden rack, it could be a wire rack or a corrugated rack.

Q Does it have anything on the rack other than Cobblestone Mill brand breads?

A It could, or it could have another brand with it or it may be only Cobblestone Mill.

Q So if it had another brand other than Cobblestone Mill, would the other brand be something that still Flowers Bakeries owned?

A Yes.

Q So, for example, you might do one that had the Sunbeam white bread on one side and the Cobblestone Mill on the other side of this off-rack display?

A That's possible, not likely with Sunbeam, but possible.

Q You'd pick other things that were closer to Cobblestone Mill?

A That's correct.

Q Like what would be the other sort of --

A Nature's Own.

Q Is that the one that's supposed to be healthy?

A Yes.

Q Just in general, if you have got $100 million total in sales for Cobblestone Mill breads -- and by breads I mean everything that you defined, breads, buns, rolls and breakfast breads, okay?

A (Nodding head.)

Q You said about 5 percent is food service. So that leaves about $95 million in grocery stores. And we

know most of that is sold in the bread aisle, but then we know there's an exception sometimes three to four times a year for these off-rack sales, right?

A That is correct, but I would like to go back and say that the real Cobblestone Mill projection for 2006 is 105.

Q Okay.

A So the 100 million that I gave you is in-store sales as opposed to food service.

Q Well, I assume -- what was 1995 sales of the Cobblestone Mill brand?

A I don't have that retail number with me, but we have increased each year since 1995. But I don't have that number with me.

Q I don't mean 1995. I'm sorry. I'm a decade -- I'm getting older. I'm in the wrong decade. I meant 2005.

A 2005, we've probably got 5 to 7 percent growth this year, so --

Q So maybe 2005 was around 100 million?

A Right.

Q 2006 projected to be about 105 million?

A That's correct.

Q And the numbers are not as -- I mean, they're important, but one of the issues is just sort of

percent-wise. What I was trying to get to is, as a percentage of the sales that are in the grocery stores, we know that the vast majority are on the bread aisle and not in these racks, right?

A That's correct.

Q What percentage do you think is sold on these off-rack displays that you talked about, of your total sales?

A I would be hard pressed to give you a good answer on that. I can say that at the time that is going on, a huge percentage of the sales would be coming from the off-rack display, but then it would be a temporary situation.

Q When we talk about a huge percentage, is that 20 percent?

A Yes, probably 20 to 30 percent would be off of that display.

Q I assume that a lot of times this display, you can actually get the same bread over on the normal bread aisle because some people go there and don't see the display, right?

A That's possible.

Q So it's hard to track because you've got bread on the bread aisle and you've got bread in the rack and it comes out the same at the grocery -- at the cash

register?

A That's correct.

Q Plus, when you ship it it's the same, there's no distinction between the two?

A That's correct.

Q How long does these off-rack sales go for each time, typically a week, a month?

A Anything from two weeks to four weeks.

Q Is it fair to say that the retail consumer from your perspective who goes to the off-rack to look for your -- or to determine if they want to buy some of your Cobblestone Mill bread is intending to buy bread?

A They are probably intending to buy bread. They may not be intending to buy Cobblestone Mill bread.

Q And when they go to the bread aisle, they surely are intending to buy bread of some kind, maybe not your brand, but somebody else's brand?

A Correct.

Q So it's not the case that it's an impulse item, it's sort of an intention -- a consumer has to have an intention to want to buy bread in order to even go down the bread aisle, right?

A That's correct.

Q Then the question becomes, once they get in the bread aisle, I assume, to distinguish your breads

and convince the consumer to buy the Cobblestone Mill brand of bread as opposed to, I don't know -- who are your competitors? I think I saw something. Who are your top couple of competitors?

A Pepperidge Farm and Arnold.

Q So when people go down the bread aisle, they look and they want to buy bread, and you're trying to come up with a logo to promote the brand Cobblestone Mill in such a way that people will want to buy Cobblestone Mill-branded bread as opposed to Pepperidge Farm or Arnold, right?

A Correct.

Q As you over the years have transitioned from making the old gristmill the focus of your mark, the picture itself, to now the picture being less and less important, have you tried to give a different impression to the consumer of it not being the old-fashioned mill or -- I'm trying to understand what the motivation for that transition is.

A The motivation is just to continually update the logo.

Q Is the connotation still supposed to be given with the logo even though the old shack is not on there anymore and now you have just got a big wheel? Is it to still suggest to the consumer that this is a bread

that's associated, at least, with some kind of an old gristmill, the concept of milling grain to be able to produce the bread?

A A mild power of suggestion, but the brand itself is more important than the graphic.

Q Even the brand itself, when you say the brand itself as opposed to the graphic, that's right, there's two ways to get there, I guess, the one is the picture of the wheel now, right?

A Right.

Q Which suggests an old gristmill, right?

A Right.

Q And then the word itself, Cobblestone Mill --

A Right.

Q -- means a gristmill?

A That's correct.

Q So you still want to convey that same image, but now you're going more with the mark of the word part of the mark as opposed to the picture part of the mark, is that a --

A That's true.

Q But still conveying the same image of an old-fashioned gristmill that people mill wheat, make it into flour and from the flour they make bread, still the same concept, right?

A It is the same concept except that we don't think -- we have no reason to believe that the consumer is making that big leap every time they look at Cobblestone Mill. I'm not sure that they are going to a gristmill.

Q With regard to the food service part, I saw you listed some national chains that you sell to, is that right?

A That's correct.

Q And do you sell to these national chains the Cobblestone Mill brand or other brands or all of the above?

A You're speaking of food service only?

Q Right.

A Our food service on the Flowers Bakeries business is primarily fast food restaurants that may serve deli sandwiches or specialty sandwiches. But we do not have national distribution on Cobblestone Mill.

Q What do you mean by that, you do not have national distribution on Cobblestone Mill?

A Flowers Bakeries is not national, and we only distribute Cobblestone Mill where Flowers Bakeries serves.

Q Which location? Are those the 16 states or whatever that you listed?

A Yes, that's correct.

Q Which is primarily in the southeast, but then you've got some other states that are outside the southeast?

A That's correct.

Q So if you sign a contract with -- I can't remember -- one of these restaurants -- Denny's? Do you have a contract with Denny's? It's some restaurant. I can't remember which one it was. You have some restaurant chains that you have signed contracts with?

A Yes, that's correct.

Q Can you give me an example of one?

A Olive Garden.

Q If you sign a contract with Olive Garden -- this is the food service part of the Flowers business we're talking about now, right?

A Right.

Q With regard to Olive Garden, is it fair to say then that Flowers Bakeries only supplies Olive Gardens in the areas where Flowers Bakeries has bakeries -- what do you call them, factories?

A That's correct, or where we have distribution. But now I did not say that we served Cobblestone Mill to Olive Garden. You just asked me to give you a name.

Q Right, you're right.

A Okay.

Q Then we will come back and say -- we might as well go ahead and clarify that right now. I understand that Flowers Bakeries provides products to the food service industry, although it's a very small component of Flowers Bakeries' overall business, right?

A Right.

Q You said it's about 5 percent?

A No, I said it's a small part of the Cobblestone Mill food service business.

Q Within Cobblestone Mill, it's about 5 percent?

A I'm guessing, yes.

Q And are you telling me that Olive Garden is not one of the chains that buys the Cobblestone Mill-branded bread?

A I do not know which chains we serve with Cobblestone Mill, but I do not believe we serve Olive Garden.

Q Do you remember any chain that you serve or sell Cobblestone Mill-branded bread to?

A No.

Q When you sell your branded bread to the food service industry, is it to the chains exclusively?

A No.

Q The chains are a big component of the food

service?

A They're a big component of the food service, but not necessarily a big component of Cobblestone Mill.

Q How do you sell Cobblestone Mill-branded bread to the food service industry?

A It will be local, almost deli shops, mom-and-pop type of places, a convenience store that has a sandwich rack or something like that.

Q How would they go and how would they buy your product?

A It is delivered by our distributor system.

Q Your distributor system, my recollection is from the past work, can involve people who basically get a truck and you load the truck and you sort of do an inventory of what's on the truck and they're sort of jobbers?

A They're independent. They own their territory. They are independent businessmen.

Q Usually they're really a truck driver with a truck, who, rather than becoming an employee, is designated as an independent contractor of Flowers, right?

A Well, we think of them as more than a truck driver. In the literal sense, that probably is true, but they're representing our company.

Q Then you basically charge them for the bread that they sell, and if they bring the bread back and they're not able to sell it, they get some kind of credit for it and you sort of keep an accounting?

A Correct.

Q When you talk about your distribution system, is that the distribution system you're talking about?

A That's correct.

Q Is that the same distribution system that you follow for the grocery stores?

A Yes.

Q The large grocery stores?

A Yes.

Q So even if you want to do business with Krogers or Randall's or whomever, you still utilize this distribution system we just described, right?

A That's correct.

Q And roughly you believe that through that distribution system 95 percent of the Cobblestone Mill-branded breads ultimately are sold on the shelves of grocery stores, retail grocery stores?

A That is an estimate.

Q And roughly you think around 5 percent of the sales of Cobblestone Mill-branded breads end up being sold through this distribution system to the mom and pop

restaurants and chains?

A Correct.

Q Do you have any idea what percentage of the food service sales end up being purchased by what you call the mom and pop restaurants or delis versus the chains?

A No.

Q Do you guys at Flowers negotiate contracts with the chains directly?

A Yes.

Q So essentially you would tell a distributor, look, we have a particular chain -- it might be Denny's or Olive Garden, whoever -- and so all of those restaurants within your territory, Mr. Distributor, you need to take care and deliver bread to?

A That is correct. But, again, we would not negotiate that brand to be Cobblestone Mill, for a chain.

Q You would not negotiate that?

A We would not sell Cobblestone Mill to a chain under any kind of contractural arrangement. If we sold a chain food service product it would be under the Flowers food brand, it would not be Cobblestone Mill.

Q Is there a reason for that?

A Cobblestone Mill is intended as a retail

brand, it's not intended as a food service brand.

Q So it might be the same product being sold to food service, but it wouldn't be the same brand?

A That's correct.

Q I take it then, as far as you know, no restaurant or deli sells its sandwiches by referring to the fact that the sandwich includes a Cobblestone Mill slice of bread or loaf of bread?

A That's correct.

Q Also, in your Opposition you reference that what you find most offensive about the Cobblestone Market application is the fact that it has the same word cobblestone followed by a word that begins with the letter M, is that fair?

A That's fair.

Q Does the word itself market create an impression in your mind that's anything close to the old-fashioned gristmill that we've been talking about?

A No.

Q So it's just the fact that the second word starts with an M?

A And that the first word is identical.

Q The first word is cobblestone in both marks and the first letter of the second word starts with an M?

A Yes, but we would also object to perhaps cobblestone with a word that didn't start with an M. We are very protective of the brand itself in its entirety.

Q Well, when I saw your discovery responses -- they're here somewhere -- I thought that there's other cobblestones out there that you did not object to. Is that true?

A I can't answer that. I don't know.

Q Do you know if there's any preceding that you're objecting to anyone's application for any mark that includes the word cobblestone other than the present one, the one with IMA?

A I am not certain at this time.

Q Are you aware of any objections that you have made -- or when I say you, I mean Flowers and you -- to anyone else's use of the word cobblestone prior to the IMA objection?

A I don't recall.

Q In Discovery Interrogatory Number 4 -- I will hand it to you in just a second -- it lists -- I'll go through them -- Cobblestone Bread owned by Leo Toril Thomas apparently filed an application for an intent to use and then he subsequently abandoned it. Then there's Cobblestone Kitchens, which includes food, beverages and staple goods; Cobblestone Restaurant and Bar; there's

Cobblestones Restaurant and Lounge; another Cobblestones for restaurant services; another Cobblestone for spices and extract; a Cobblestone bake shop for retail bakeries in Pennsylvania; another Cobblestone bakery in Spokane, Washington; a Cobblestones for confectionary candy, a Cobblestone Cookery and Imports; another Cobblestone Kitchen for bakeries in Arcadia, Oklahoma; a Cobblestone Diner for seafood; and a Cobblestone Gifts for health and diatetic foods. I will hand you those just to refresh your recollection. You can study them for a second.

A (Witness complies.)

Q Now that you have studied the responses to Interrogatory 4, has it refreshed your recollection as to whether Flowers has taken any action to prohibit or stop any of these uses of the word cobblestone?

A I cannot recall a specific incidence, but I would refer to counsel on that.

Q At least in the last eight or ten years since you've been Vice -- well, you've been Vice President of Marketing or Director of Marketing for the last eight or ten years?

A Right.

Q You're not aware of any personal involvement in disputing any of these, is that right?

A That's correct.

Q To the best of your knowledge, has any of these uses of cobblestone harmed your brand or cost you any sales, as far as you know?

A I don't know.

Q So it's fair to say you are not aware of any harm to your brand or to your sales from the use of these other cobblestone marks that I described to you in Interrogatory 4, though it may be the case, you just don't know?

A That's correct.

Q I will hand you this. If you need to look at a document I'm looking at, I will be happy to hand it to you. Just tell me, you know, don't ask me what a document says and not show it to me. So I will show it to you in just a second.

In Interrogatory Number 8 you responded to the complaint about Cobblestone Market and the belief that it causes some confusion with the mark Cobblestone Mill by sort of listing certain categories of possible confusion. And the first category is the fact that the mark is similar, and we just discussed that a minute ago?

A Right.

Q The Cobblestone Mill is a mark which obviously

has the same first word as Cobblestone Market, right?

A Right.

Q And it has the first letter of the second word being market, which is the same M --

A Right.

Q -- as we have with Cobblestone Mill? Now, I will let you look at that just to make sure I have accurately described what the similarity is.

A Number 8 we're talking about?

Q Yes, your response to Number 8. And there's some other issues we're going to go into, like, for example, trade channel or venue, some other things, but right now I'm just focused on the similarity of the mark.

A Okay.

Q Other than what we have just discussed, do you see any other similarity?

A Nothing other than what you have indicated we will discuss further as far as distribution.

Q Trade channels and distribution?

A Yes, correct.

Q Is it the case that when you think about the word Cobblestone Market, does it suggest to you a market where people buy things? Is that the first impression that you get when you hear Cobblestone Market?

A Yes.

Q And assuming that the consumer still thought of Cobblestone Mill, your brand, as being a gristmill, would the first image be different between the first impression of Cobblestone Mill as opposed to Cobblestone Market, which is the first impression one gets as that it's a market where people buy things?

A I believe that where people buy the product affects their perception of what the brand means.

Q Explain that.

A They're both bought in a grocery store. And so if you are in a grocery store environment, then you have an interpretation of what that brand stands for.

Q What if I did no business in grocery stores, would that affect your thinking in terms of whether there was any possibility of a conflict between Cobblestone Mill and Cobblestone Market?

A If the Cobblestone Mill/Market appeared at a place where a consumer purchased food, then I still see a conflict.

Q If it's not in a grocery store, then there's not a conflict in the grocery store, right?

A (No response.)

Q Go to the next part. If there is a food counter within a grocery store and a little deli area,

let's say, and the deli area markets and sells Cobblestone Market sandwiches, then is what you're telling me that you -- because someone is buying a Cobblestone Market sandwich, that they might be confused with the fact that there is a Cobblestone Mill brand of bread on the bread aisle, you know, maybe 50 feet away?

A Well, and coupled with the fact that there could also be a temporary Cobblestone Mill display adjacent to the deli.

Q So that's one instance where there's a possibility that a consumer in your mind -- and I'm trying to paraphrase what you're saying -- would, possibly because it's the same consumer in the same general area, would see Cobblestone Mill-branded bread on a display rack that you just talked about, but yet maybe right next door there is this delicatessen within the grocery store that sells Cobblestone Market-branded sandwiches, and that's something that would bother you?

A Yes.

Q If the sandwich were not sold as a Cobblestone Market-branded sandwich -- we're focused now on the grocery store context -- would that any longer bother you?

A If the Cobblestone Mill/Market appeared anywhere in the deli and the consumer was aware that

there was a Cobblestone Mill brand in that -- Cobblestone Market brand in that deli, that would bother me.

Q What if the Cobblestone Market brand were only on the deli meats and cheeses and not on the sandwich itself, but it's just -- it's a Cobblestone Market ham, turkey, you know, American cheese, cheddar cheese, whatever?

A I believe that's what is at issue now anyway. That does bother me, that there is a product that I would consider to be confusing to the consumer between Cobblestone Market and Cobblestone Mill.

Q So the fact that there is meats and cheeses being sold under the Cobblestone Market brand in a delicatessen that's in the same grocery store that you may have Cobblestone Mill-branded bread being sold is at least one aspect of where you think there's a likelihood of confusion?

A Yes.

Q Have you done any kind of a market survey to see if that is, in fact, the case to the consuming public?

A No.

Q Other than your impression in discussions with counsel and other people within Flowers, have you done

anything else to determine whether the scenario you just depicted as creating a likelihood of confusion, in fact, exists?

A No.

Q Are you aware of the sales of IMA's brand, Cobblestone Market?

A No.

Q Have you seen it anywhere?

A No.

Q Have you any reports of it anywhere?

A No.

Q Have you to date had a single instance of actual confusion between Cobblestone Market and Cobblestone Mill?

A No.

Q So I take it everything that you're aware of that serves as a basis for Flowers' objection to IMA's use of Cobblestone Market in the application is based on your subjective anticipated analysis of a possibility of some confusion at some point in the future?

A That's correct.

Q Following up on our grocery store example for a moment, if the grocery store buyer were going to buy the Cobblestone Market-branded turkey and cheese, as an example, were to make that decision to buy that cheese

and that cold meat but not to display it in their delicatessen rack to the consuming public, would that then bother you?

A If the Cobblestone Mill/Market product was going to be anywhere that the consumer could see it, it would bother me a great deal. I would need to have more detail as to what the other intentions are.

Q So if the use of the Cobblestone Market brand were limited to the wholesale purchaser at the grocery store level, making a selection of that particular brand, Cobblestone Market, and not to display a Cobblestone Market-branded meat and cheese in the delicatessen counter, that the same consumer who is walking somewhere else in a grocery store and may see your bread, if that wholesale buyer were to make a decision to buy that brand, Cobblestone Market, but not display it to the retail consuming public, then you would not have a problem?

A I don't have a real high comfort level that that would happen. But if it was never ever seen, it would put a different light on it. But we still would be, I believe, in a position to just not be comfortable with the Cobblestone Market brand in a retail environment regardless.

Q And that really is -- it's the issue of the

Cobblestone Market brand in what you call a retail market, right, that's the issue?

A Primarily.

Q Because, I think you said a moment ago, the Cobblestone Mill brand is a Flowers brand that is designated for the retail public, it's not a wholesale brand?

A That's correct.

Q It's not a food service brand?

A That's correct.

Q Is it focused on the retail consumer?

A That's correct.

Q When you say you -- you still may not be 100 percent comfortable, I think is what I hear you saying, is that because you're concerned that if IMA were to be successful in achieving its registration with regard to the Cobblestone Market brand at the wholesale level, and even selling, for example, to the delicatessen within the grocery store, that at some point you might see a transition to the retail consumer who would end up seeing that as a Cobblestone Market-branded product? Is that the issue?

A That, plus the fact that I'm not certain that once Cobblestone Market sells that product to their end user that they have any control over where that end user

puts it or displays it.

Q So the same issue that I just described as your sort of second issue, except you're saying even if you had the best intention in the world at IMA, you may not have control?

A That's correct.

Q The second aspect -- and we've kind of already been touching on it a little bit -- which is the Interrogatory 8 response, which is your objection, after we talk about, which we already have, the similarity of the mark, we've discussed the similarity of the goods in that I think I hear you saying that if it -- even though it may be cheese and meat, if the retail public sees it, do you think they might believe that the Cobblestone Market meat and cheese is actually associated with Flowers?

A Yes.

Q Just because somebody who produces bread might logically at some point in the future transition into selling meet or cheese?

A That, but we would object to the Cobblestone Market brand in a retail environment if it were not that closely associated with bread.

Q And the reason there then, it must go beyond the likelihood of confusion, it must be this issue of

dilution?

A Both.

Q Let's focus on them one at a time. With regard to the likelihood of confusion, is it conceivable in your mind that a consumer could think, well, the same people who have this old-fashioned wheel now and have had this mill concept for a long time, Cobblestone Mill, suddenly expanded their business model from making bread to processing cheese and meat?

A That's possible.

MR. DAVIS: Marty, we're aware of your travel schedule, but we've been going at it for an hour. Could we take a break when you get a chance?

MR. HILL: Sure.

(Brief break.)

BY MR. HILL:

Q Ms. Anderson, I think when we took a break we had already gone over two basic aspects to the Flowers objection to the Cobblestone Market application for registration, the first being the similarity of the marks which we talked about, right?

A Right.

Q And then the similarity of the goods. And I think you have acknowledged that the turkey, for example, meats and cheeses are not the same as bread

obviously, but yet because they could go into a sandwich it's your opinion that it's possible that a consumer could believe that the meat or the cheese originated with Flowers?

A That's correct.

Q Though you have no evidence of that other than just basic sort of like gut reaction to it?

A Correct.

Q Then the next aspect in your interrogatory answer was the similarity of the trade channels. And you generally understand what we're talking about when we are talking about the similarity of trade channels, right?

A Yes.

Q As I understand it, the trade channel for the Cobblestone Mill brand is to grocery stores, and that brand is aimed squarely at the retail consumer, right?

A That is correct.

Q And we talked about some of your concerns within a grocery store, how the use of a deli in the grocery store which sells the cheeses and meats of IMA's brand, Cobblestone Market, you believe could create some likelihood of confusion --

A Correct.

Q -- because the same consumer is in the same

grocery store even if it's in a different section, right?

A That's correct.

Q Other than your assumption and belief based on whatever we may have submitted or whatever the application states in terms of the trade channel including these delicatessens, markets within a grocery store, do you have any other impression of the trade channel utilized by IMA?

A No.

Q So to the extent that you believe that there was a similarity of trade channels that caused angst to Flowers regarding the Cobblestone Market brand, it's because of the trade channel within the retail grocery store or the delicatessen part that we discussed a moment ago?

A That's correct.

Q And nothing else, at least, that you know of at this time?

A Nothing that I know of at this time.

Q Then the next aspect of your response to Interrogatory Number 8 states, the relatively limited amount of consideration by consumers when purchasing the type products -- I assume that means type of products -- covered by opposer's and applicant's mark. You can read

that if you -- if I didn't read it correctly, you can read it.

A This was number -- which one?

Q We're still on 8. Lawyers go slow. So, okay, that's the question. And then the answer I'm reading is the part that is after -- it's after the trade channel part. That's the sort of next -- I think it's a dependent clause.

A Your question again is what?

Q I just referenced another aspect of the Opposition, which is the relatively limited amount of consideration by consumers when purchasing the type of products covered by opposer's and applicant's marks, right?

A Right.

Q And to the extent that you have any idea who the applicant's target consumers are, the ones you're referring to in this reference, I assume, means the people who may be eating sandwiches in the retail grocery store?

A Correct.

Q Or does it also include the people who are buying the meats and cheeses in the grocery store at the wholesale level, in other words, the buyer of the --

A Absolutely.

Q So do you think that the buyer, let's say, works for -- give me a grocery store that you guys do a lot of business with.

A Publix.

Q Publix?

A Uh-huh.

Q Do you think the buyer at Publix for the meats and cheeses in the deli section who buys meats and cheeses from an IMA-affiliated company, part of the consortium of food companies, would be likely to be confused that that is the same company as this buyer buys breads from Flowers or Flowers -- these independent distributors of Flowers?

A I think that is possible, but I am less concerned about that buyer than I am our retail consumer in the grocery store.

Q It's back to that issue of the retail consumer, if he sees a Cobblestone Market-branded product on the shelf in a grocery store, in your opinion he may be confused with Cobblestone Mill-branded bread --

A Correct.

Q -- and may incorrectly assume or believe, in your opinion, that it derives from the same source, that being Flowers?

A That is correct. And we have found in consumer research that our consumers -- and this is the purchaser.

Q The retail consumer?

A The retail consumer often refers to our mark as just Cobblestone.

Q Is that research within this stack of --

A It would be in that research, but the specific reference would not. Those are research findings.

Q The discovery that you produced to us that starts with FBI -- at first I thought it was the Government, but then I saw it must be Flowers Bakeries, Incorporated, FBI 0001 --

A Flowers Bakeries, Inc., that's correct.

Q -- through whatever the end of the discovery is. As far as you know, there is no documents that were produced that explained this reference to only Cobblestone, is that what you're saying?

A That's correct.

Q But you have other research that you have not produced that you think --

A No, it was not a research topic, it was just simply referenced the way the consumers refers to the brand.

Q So it's not documented in research anywhere?

A That's correct.

Q Who got that impression from talking to consumers, researchers or you or somebody at Flowers?

A Anyone at Flowers, yes.

Q So kind of anecdotal evidence?

A That's correct.

Q So there's no document and there's no study that demonstrates that?

A That's correct.

Q It's sort of anecdotal within Flowers that at this point you think a lot of the consumers focus on the cobblestone by itself without even the mill or the wheel or the little gristmill shack?

A That is correct. The point being that we are as protective of cobblestone as we are of the word mill.

Q Let's go back to that phrase, the little amount of consideration by consumers. I'm not sure -- does that basically mean that you think that you generally have unsophisticated retail consumers?

A No.

Q So when it says the relatively limited amount of consideration by consumers when purchasing the type of products covered, what is that referring to?

A Let me read that again, if you don't mind. The reference there would be that through research we

have sort of named the bread aisle the zoom aisle, and that oftentimes a loyal consumer knows when she goes to the grocery store she's going to buy Cobblestone Mill onion rolls and she knows where they are and she goes and she picks them up without specific thought to, oh, this is a Cobblestone Mill. She knows where it is. It's a habit.

Q I saw something in the documents that you did tender as part of your request for production response which seemed to say that some of the consumers in doing these question and answer sessions in terms of what do they look for and whatever, was that to the extent that you want to focus on a brand, something bigger and bolder that stands out would be easier to see, is that a fair --

A Yes.

Q That's kind of an issue that's come up is how can you make it bigger and bolder because it's hard -- with all of this plastic wrap is what it appears in, right?

A That's correct.

Q It's kind of hard to see it under the plastic wrap?

A That's correct.

Q So you have tried to do certain things to

enhance the ability of the consumer to detect it?

A That's correct.

Q But that phrase that you just described a moment ago when we talked about the limited amount of consideration, you're saying that you're focused on the fact that the consumer goes to this -- what do you call it, bread aisle or bread --

A Bread aisle. We refer to it as the zoom aisle --

Q Zoom aisle, that's what it was.

A -- because so many times consumers know when they get there what their purchase is going to be. But that's not always the case, and you want to -- for the consumer, there's perusing the bread aisle and trying to make a decision, and then your package needs to stand out from the crowd.

Q Is there anything else that that phrase is supposed to describe other than what you just testified to?

A I don't believe so.

Q Then the next phrase talks about the fame of the Flowers' Cobblestone Mill marks. We have talked a little bit about that previously, right?

A Right.

Q How famous is the Cobblestone Mill mark if

there is an objective way of determining that?

A Our consumer awareness is very high, and when we do studies, we find that consumers, although they may not be purchasers of Cobblestone Mill, they are familiar with Cobblestone Mill.

Q There was some study that was in here that of the different brands -- it had Cobblestone Mill at the bottom of the list of awareness. And that's not to criticize your brand, it's just -- is that familiar with your understanding of these documents?

A Well, it depends on when that study was done. The awareness of the brand has grown, you know, over the years. I am not sure which study you're referring to, but it is certainly better known now than it was ten years ago or five years ago or even three years ago.

Q Is the document marked FBI 000048 an example of this off-shelf display rack that we were talking about a moment ago?

A Yes, it is.

Q Rather than me looking through those documents, since you created them maybe it would be faster for you to look through them. Do you know which study would give us the most recent objective documentation to suggest how much awareness the consuming public has of your brand?

A I'm not sure which studies you have there. It would be whichever one is the most recent.

MR. HILL: I don't care if you hand it to her and help. That's fine.

MR. DAVIS: We have --

THE WITNESS: These all appear to be internal documents here.

MR. DAVIS: We just have an index. I think it may help her go through.

MR. HILL: Go ahead and give her the index and let her look at it. Has that index been produced or is that just for your sort of internal purposes?

MR. DAVIS: That's for our internal purposes.

MR. HILL: That's fine, let her.

THE WITNESS: The most recent research I see on here on this list is 1999, which would be misleading as to the awareness of the brand in 2006.

BY MR. HILL:

Q Well, I don't want to say your discovery was misleading, but are you saying there's something more out there that we don't have that you think exists and you just failed to produce, or are you saying what you produced is all you have documented but it's misleading and not reflective of what you believe the truth to be?

A No, what I'm saying is that the brand has grown from 1995 to 2006. So it would be a given, if the brand has grown, the awareness has grown.

Q Or that people just eat more bread. Maybe your percentage of the market hasn't grown, it's just that the overall pie grew, that's a possibility, right?

A I suppose that's a possibility.

Q And all we can work with is what evidence we have. So what's the latest study that you have to show what the -- is it the 1999 or 1995 study?

A I would have to --

Q You can look at the list that he has. You can go ahead and look through their notes. I mean, you guys can discuss it if you want to.

A In looking at this, 1999 is the most recent research we have that was provided to you. But all I'm saying is, that since that time, the brand has grown.

Q Sales have grown?

A Sales have grown, that's correct.

Q So it's your assumption because sales have grown probably awareness has grown?

A Absolutely.

Q Although we don't have any documented proof of it?

A That's correct.

Q Let's look at 1999. Can you figure out which one that is?

A Which one is --

Q Go ahead. If you need me to leave for a second I can if you want to talk about it.

A Okay.

MR. HILL: Is this from mine or is this from yours?

MS. BARATTA: That was from ours.

MR. DAVIS: That's from our production.

MR. HILL: Is this an extra copy or is this what you guys need?

MR. DAVIS: I think we can probably use this to locate what I think you're looking for --

MR. HILL: Go ahead.

MR. DAVIS: -- in your documents --

MR. HILL: Go ahead.

MR. DAVIS: -- if you were asking about the 1999 study.

MR. HILL: If that's the latest one, I thought we ought to look at it.

THE WITNESS: It's going to be towards the bottom. It may be this one that doesn't -- the top page is not -- what is that right there? No, that's not it -- well, it may be. Yes, there's

something else on top of it.

BY MR. HILL:

Q I'll put these sideways. It looks like somebody paper-clipped them to sort of keep them in order rather than anything else. This report, which starts FBI 00344, it says prepared by Greg Rathjen, R-A-T-H-J-E-N --

A Correct.

Q -- of Marketecture?

A Marketecture.

Q Which is M-A-R-K-E-T-E-C-T-U-R-E. August 6, 1999?

A Correct.

Q That's the latest report --

A That's the latest, yes.

Q -- or study? Do you remember generally what -- or could you generally summarize what the -- let's call this the 1999 report, the one that we're studying. We'll call it the 1999 study, the one that starts with FBI 00344. Is that fair?

A Okay.

Q What was the general summary of what this 1999 study told you?

A Well, this was to assess a proposed new package design. And we recruited consumers who were in

the -- what we refer to as the specialty bread category, which is where Cobblestone Mill lives, along with the competition. And the aim was to get the consumer feedback on whether they liked our present design or whether they liked some of the proposed new designs.

And as a part of that study we established who we were talking to, what their primary bread of choice was and their perception of the Cobblestone Mill brand.

Q As a result of this study, is it fair to say that that's at least one of the motivating factors for you to change the stylistic mark?

A That's correct.

Q And to emphasize the wheel and to sort of deemphasize, actually remove the gristmill shack from the trademark?

A No, that was not that study. This study went from the mark that you showed me in the beginning, that evolution. There were -- what you originally showed me was just the words Cobblestone Mill and then two designs.

Q We've got the -- let's call it the 1985 mark.

A Right.

Q It's the one that prominently displays the gristmill?

A That's correct.

Q We will call it the '85 mark. And then the '96 was when you, for whatever reason, decided to go ahead and trademark the word?

A Right.

Q Then in 2003 is when you changed to -- I'm sorry, you're right -- you minimized the size of the gristmill, but it still appears on there basically the same as it had previously?

A Right.

Q Now, which we don't have yet, but maybe we're getting a copy of sort of a new logo which has just the wheel with the words Cobblestone Mill, right?

A Right.

Q So what I should have said was, is the 1999 study and results of it in the analysis by Flowers what sort of led to the 2003 version of the trademark?

A Yes.

Q A moment ago when you said -- I may be misquoting you, so correct me if I'm wrong -- that the Cobblestone Mill brand resides within the specialty bread section, is that what you said?

A Yes.

Q What specialty bread versus just bread?

A The bread aisle is divided into, in most cases, white bread, soft variety bread and specialty

bread, and Cobblestone Mill resides in the specialty bread section of the bread aisle.

Q Is it a little more expensive, a little heavier bread?

A Typically, yes.

Q Is that in there with some of the other breads that talk about having nuts in them and --

A That's correct. But that category also includes specialty buns and rolls, it's not exclusive to sliced bread.

Q So when we talk about a percentage of specialty bread, that's a sub-category of the category of bread?

A Correct.

Q You probably don't know this answer exactly, but just in general, what percentage of bread does specialty bread compose, if that's a fair question?

A Are you speaking of specialty sliced bread or the specialty category which includes buns and rolls? Just the sliced bread portion of it?

MR. DAVIS: Marty, let me ask for a clarification. Are you talking about the market generally or for the Flowers lines of goods?

BY MR. HILL:

Q I was talking about in general, not just -- if

you know. We can go through this however, and feel free to correct me so we get it right, whatever it takes, there is a specialty bread section which has more than just sliced bread in it in a grocery store, right?

A Uh-huh.

Q I was wondering just in general what percentage of overall sliced breads -- excuse me, of overall bread sales, whatever that category is, is the specialty breads section? And if we can't do it that way, we can go --

A I would be afraid to make a guess. And it would be a guess.

Q Do you have any rough idea or any --

A Maybe 20 percent.

Q So then if we talk about just the sliced bread as a category, and within sliced bread as a category there's a sub-category of specialty bread that's sliced, is that right?

A Uh-huh.

Q And what percentage, if you know, of the sliced bread does the specialty sliced bread compose, about the same?

A Anything I tell you is going to be a guess.

Q Well, just the best estimate that you have.

A Probably 15 or 20 percent, yes.

Q Cobblestone Mill doesn't even sit over in the regular sliced bread section, it only sits in the specialty bread section?

A That's correct.

Q Within the specialty bread section, does the 1999 study show, at least within whatever the target markets are, what percentage of the market that Cobblestone Mill brand specialty sliced bread occupies as compared to -- I shouldn't just say sliced bread because you actually have more than just sliced bread, right?

A That's correct.

Q So go ahead and answer.

A The research was not aimed at answering that question. That answer is in these IRI documents that you have that give market share by variety. And that's in the IRI documents that we provided you.

Q That's a different company than this other one. What's the most recent one on the IRA (sic) documents, do you know?

A I don't know what the most recent one is that you have there, but we get it monthly.

Q That would tell you what your sales are as a percentage of whatever the market is, the IRA (sic) documents, right?

A That's correct.

Q But it wouldn't necessarily tell you the importance or lack of importance of the brand as being the reason that people buy or don't buy your product versus somebody else's?

A That's correct. It's just hard data.

Q The 1999 study was designed to examine and focus on your mark and how you might improve your mark to actually eventually improve the numbers, is that --

A That's correct.

Q And did the 1999 study compare the strengths of various people's marks?

A Yes.

Q Not necessarily sales, but the strength of the marks?

A That's correct.

Q I remember -- I don't know if it was the 1999 study or some of the others, but in reviewing some of these documents -- for example, on the FBI 00372 it has the Cobblestone Mill mark. And that mark actually would be the 2003 mark, but the largest wording is Hearty Recipe on this particular page as opposed to being actually the brand. Do you see that?

A That is a brand that we tested. We never used that brand. That was one of the marks that we were

testing in research. But we did not move forward with it.

Q And some of these breads even like Earth Grains, I assume they did use -- on FBI 00375 by comparison you see the Earth Grains registered mark, right?

A That is their actual mark, correct.

Q And then under it, which I assume is not part of the mark, is Honey Wheatberry? Is that what it says?

A Right.

Q Did the 1999 study or any other study that you do analyze the importance of the description of the product, meaning in this case it's a honey wheatberry premium bread, whatever that means, versus the brand, in this case being Earth Grains on FBI 375? Did anybody do a comparison to see how important that description is in terms of a consumer's decision to buy the product versus the brand?

A We did not probe that in the study.

Q Do you have any anecdotal opinions on that?

A Consumers want to be able to easily determine what the variety is that they're purchasing. They don't want to have to search for it. So it needs to be large enough that they don't have to get their glasses out to find it. But it's a combination. It's a balancing act

of logo size versus product description.

Q I notice in both the case of Earth Grains and at least in the FBI 370 -- well, yes, 374 being Pepperidge Farm, same issue, the description of the product is much larger than that the reference to the brand of Pepperidge Farm, right?

A Yes.

Q Does that seem to be the most significant determining factor then when a consumer wants to buy a bread product is what type of bread are they buying, are they buying honey bread or are they buying wheat bread, that's the first big issue?

A Yes.

Q And then the secondary or tertiary issue is what brand it is?

A I wouldn't always call it secondary because some consumers are very brand-loyal. We have brand-loyal consumers that are going to buy Cobblestone Mill, and within Cobblestone Mill they're going to find the variety they're looking for.

Q Does the '99 study deal with how much brand loyalty --

A No.

Q -- there is?

A It was purely a package assessment.

Q And the IRA (sic) documents would only show you market share pure numbers, it won't show how much brand loyalty there is, right?

A That is correct.

Q On any of the documents that you have produced, does it show the brand loyalty opinions of consumers?

A Only to the degree that that will come out. And if that information is available, it will be in that report as to what consumer feedback was. But, again, it was not a loyalty study, it was a package design study, which is different.

Q When you say that report, we're talking about the 1999 study, right?

A Right.

Q Can you just tell me when we talk about the 1999 study -- I know it starts on FBI 00344 -- what's the last Bates number so that we know what comprises that study?

A That's the study.

Q So you have handed me what's Bates stamped on the first page FBI 00344 through FBI 00397. And we've denominated that as the 1999 study, right?

A Right.

Q Again, the intention of the 1999 study was to

focus on how you might improve the packaging of your brand, not to determine how strong the Cobblestone Mill brand was in the market?

A That's correct.

Q Is there any documents that you have produced or that you are aware of that show the importance of the Cobblestone Mill brand in the target market, that being the retail consumer, regarding the Cobblestone Mill brand purchase decision?

A If you're asking if we have done an attitude and awareness study, we have not.

Q Well, not only that, but any documents that would reflect it, even if it's not a formal study, other than the fact that you have significant sales of Cobblestone Mill-branded products, right?

A Right.

Q But there's no documents that tell us why you have --

A That's correct.

Q -- right -- substantial sales?

A Correct.

Q It might be you're the cheapest?

A It's not, but that's correct.

Q It might be that you taste the best?

A Right.

Q You weren't going to say no on that, right?
A That's a given.
Q And it might be because of the brand? It's sort of a combination of reasons, right?
A Right.
Q And you really don't know sitting here today why, other than some combination of quality, price --
A And package.
Q -- distribution, packaging and branding --
A Correct.
Q -- all combine to give you a relatively significant market share of specialty-branded breads under the Cobblestone Mill market to the retail consumer, right?
A That's correct.
MR. HILL: I don't think we need to make these as exhibits since we know what the documents are. You're not going to dispute later if we say 344 through whatever it is?
MR. DAVIS: I don't think we'll be disputing that.
MR. HILL: Not to save too much money on deposition costs, but --
BY MR. HILL:
Q Let's look then at the actual sales of the

products and see if we can determine the percentages from the other documents that you have provided that I think you said are the IRA (sic) documents.

A IRI.

Q IRI?

A We have IRI, which is syndicated data that we buy; and then we have internal data that is obviously more accurate because it is internal data. IRI data is a measuring stick.

Q Which is more accurate, the IRA (sic), which is internal or the IRI, which is syndicated?

A Internal is not 'I' anything. Internal is what we refer to as SDW, which is sales data warehouse. The internal data is exactly what we sold. The IRI is projectable data.

Q Does that basically mean if there are ten brands the IRI tells you roughly who is selling what percentage?

A That is correct.

Q That would be the best way to determine market share --

A Correct.

Q -- of the evidence that we have available to us, right?

A That's correct.

Q What's the most recent IRI data then that we can look at to determine the answer to that question?

A This IRI information is all by individual market, so there's going to be a specialty report for probably a dozen different markets. And I'm pulling out those that relate to the specialty category.

MR. HILL: It may be most efficient then to mark that as an exhibit. You will make some extra money after all.

(Exhibit No. 1 was marked for identification.)

(Brief break.)

BY MR. HILL:

Q Let's go back a second because I marked a different exhibit first. It's probably better to go in sequential order. I was handed during the break something I've identified as Anderson Exhibit Number 1. Let me ask you to identify that document.

A This document represents the latest version of our Cobblestone Mill logo.

Q And this is the one we talked about a moment ago where the actual old gristmill has been removed, and now it's just the wheel from the gristmill along with the Cobblestone Mill mark, correct?

A That's correct.

Q And do you know if you have filed an application yet to trademark this new stylistic mark or new logo?

A I believe that has been -- is in the works.

Q It hasn't been granted yet?

A I'm not sure where the process is, but it has been provided.

Q Your intention is at least to pursue this?

A Absolutely.

Q As you pursue this Cobblestone Mill mark, assuming that you get the registration, will it be the intention to then transition to this mark?

A That's correct.

Q And so you will still want to keep as your history the old marks, but you will stop using the prior stylistic marks and you will start branding everything with the new transition mark, right?

A That's correct.

Q And this talks about, as you have been talking about all along, the specialty baked foods segment of, I guess, breads or baked goods. Can you just generally describe what makes it a specialty baked product versus a non-specialty. What is the distinguishing characteristic?

A The primary difference is that oftentimes

consumers purchase these products for a specific occasion. It may not be their everyday bread, but they know they're going to have corned beef and they want rye bread or they know they're having guests for dinner and they want a specific kind of sandwich roll or they're going to have spaghetti and they want French bread.

In the older segment of the population, the loaf bread is frequently their regular bread, but oftentimes it is in addition to what their other regular bread purchase might be.

Q That's the only thing we buy is specialty breads, so I still -- I probably am in the older section.

A I'm not going to go there.

Q But still we only buy specialty breads. All right. We will sit that over there.

A Okay.

(Exhibit No. 2 was marked for identification.)

BY MR. HILL:

Q Now, Exhibit Number 2 is what?

A This is IRI syndicated data through 1998. And this shows the Birmingham market and our dollar share of the category.

Q Now, it says through 1999, and you said we

only asked -- we only asked back as far as '98, or did we only ask for '97 and '98? That seems hard to believe, but who knows.

A I can't answer that. I don't know.

Q You have these same kind of data all the way through 2005 or maybe even into 2006, right?

A That's correct.

Q You don't think we asked for it?

A I don't believe so.

Q Anything is possible. Well, let's just make sure we understand what this means then. You have different markets that you do business in, you being Flowers, right?

A That's correct.

Q And if I look in the far left-hand column of Anderson Exhibit Number 2, I see about 10 different markets, is that right?

A That's correct.

Q And are those your 10 markets?

A That is the 10 markets -- that is the 10 IRI markets that were available to us at that time. IRI does not cover 100 percent of our territory. They have clearly defined markets that you buy sales data for.

Q We talked about earlier we thought that there was about 16 states that some of your paperwork suggests

that you do business in?

A Right.

Q Would it be fair to say that the IRI numbers, as referenced in Exhibit Number 2, are consistent with what market conditions are in markets that IRI does not cover?

A I think that's fair, yes.

Q So if we look at the 1997 market share in Birmingham, if I read this right, does it mean that 26.2 percent of the specialty market is Cobblestone Mill?

A That's correct.

Q So presumably about 73.8 percent of people who buy specialty breads in the grocery stores in Birmingham, Alabama, buy somebody's brand other than Cobblestone Mill, right?

A That's correct. Well, that is dollar share, it's not people. That's the dollar share of the market.

Q Okay. And then down, for example, toward the bottom of Anderson Exhibit Number 2 it shows the Miami market, and that shows 6.9 percent for the four weeks ended February 9, 1997, is held by Cobblestone Mill, right?

A Right.

Q And it says at the bottom, 8.3 percent total Flowers markets. So I take it by that for that

four-week period ending February 9, 1997, in the markets surveyed by Infoscan, on average 8.3 percent of the dollars spent on specialty breads involved the sale of Cobblestone Mill-branded specialty breads?

A That's correct.

Q I have no idea why we would not have asked for something more recent than this, but maybe that's what we did.

MR. DAVIS: Marty, if I could break in there.

MR. HILL: Okay.

MR. DAVIS: This is the document that we have most recently provided to you which contains summaries of the sales not broken down by market.

MR. HILL: Okay.

MR. DAVIS: That is FBI 000879.

MR. HILL: Okay. Now, you have marked this one as highly confidential, and I have no purpose for this other than this proceeding, so if you don't want this -- are the documents -- we need to deal with this eventually, if we produce any documents, we use them at the PTO as documents or we need to do them under seal or you need to tell me how you want to do that because I don't want to violate them. But tell me later how you want to do that. And I have no reason to want to disclose

this to anybody that you don't want it disclosed to, okay?

MR. DAVIS: We'll address that later.

MR. HILL: Let's mark this one as the next one then. That's Anderson Number 3.

(Exhibit No. 3 was marked for identification.)

BY MR. HILL:

Q Let me hand you, Ms. Anderson, what's marked as Anderson Exhibit Number 3 and ask you to explain that then, that document.

A Okay.

Q What does it mean?

A This means that beginning in the far right, 1999 forward to 2006, this is our net. And I should write -- can I write on here?

Q Go right ahead.

A This is wholesale dollars.

Q Probably still aimed for the retail market, but --

A That's correct, but we capture what our income was when we sold it to the retailer. So this is the money that we gained from selling to the retailer. And then in order to get the retail dollars, which I addressed to you earlier, our retailer gets 25 percent

markup. So if you divide these dollars by .75 you get the retail value.

And then I made a reference over here to the 105 million. And I took this 42 million -- this is through week 28, through our week 28 -- for 2006, divided this by 28, multiplied it by 52, divided it by .75 to get our annual retail dollars.

Q Then it comes out to around 105 million?

A That's correct. And then this is the units, obviously.

Q Now, when you talk about the wholesale and the 25 percent markup, I'm not trying to get into the details of that, but you actually go through these independent contractor distributor guys, right?

A Right.

Q Is this how much they're paying you or is this what the --

A That is correct, that is our wholesale dollars. I can't address all the internal workings of how we get to that number, but that is our wholesale dollars out of your sales data warehouse.

Q That's all I really need to know, is what your sales are. I guess we can look at it that way rather than retail sales. But if we add -- is it 25 percent markup or 25 percent gross margin?

A Gross margin.

Q So if we just added 25 percent gross margin factored to the numbers in Anderson Exhibit Number 3 we can basically get to what the retail sales of the product -- of the Cobblestone Mill sales are, right?

A Right.

Q Does Anderson Exhibit Number 3 tell us what percentage of the specialty breads category of bread sales is attributable to Cobblestone Mill versus other brands?

A No.

Q So could we look -- it says, total CSM net dollars. That's the money that Flowers received in each of those categories, right?

A Right.

Q Do you know if the Infoscan, which is Exhibit Number 2, exists for '99 through 2006? I think you said it did.

A Yes, it does.

Q Do you know if the percentages increased or decreased of Cobblestone Mill market share over the years?

A It would have increased.

Q I know that the dollars increased because we can see that.

A Right.

Q In addition to your dollars increasing, your market share in the territories that you sell and distribute into increased?

A It's going to vary by market.

Q But overall it increased?

A I believe it has. I feel confident it has, but without something in front of me to confirm that, I would hesitate to be absolute on it.

Q We see on average -- it looks like in 1997 on average Cobblestone Mill-branded specialty bread products held about 8.3 percent of the market in the markets at year end, right?

A Uh-huh, that's correct.

Q Do you know if today you hold, you think, a little more than 8.3 percent?

A I believe we do.

Q Is it above 10 percent or you just don't know?

A I would rather not say.

Q Because it's a secret or just because you're not sure?

A No, because I'm not sure.

Q Could we just put a blank line on your deposition and have you go back and then look?

A Sure.

Q For each year, let's do a blank line for each year, and I'll list the years in a minute. Tell me what percentage that would correspond to this total percentage of the share of the specialty breads category that Cobblestone Mill holds which would only be reflective of the markets in which you actually participate as a seller and would also be limited then to those markets that Infoscan actually analyzes, which we know is not all of them --

A Right.

Q -- but we believe that would be reflective, right?

A Yes.

Q So I would like to do a blank line for 1998 _____, '99 _____, 2000 _____, 2001 _____, 2002 _____, 2003 _____, 2004 _____, 2005 _____, and 2006 _____, just as a summary sort of annual summary totals. Is that fair?

A That's fair.

MR. DAVIS: Marty, would it be easier if we just went back and produced corresponding reports for those years, or would you rather do it with the blank-line method?

MR. HILL: We could do either, but as far as I'm concerned, that gives me sort of the summary

total of everything. And I'm not going to get into analyzing one market versus another.

MR. DAVIS: Okay.

MR. HILL: I will do it either way that you want to do it. If you guys want to do it that way instead, I can go from those documents and analyze it myself. Whatever is easier for you guys. How about that?

MR. DAVIS: Okay.

THE WITNESS: The thing that we need to be aware of is that since 1998 we have entered new markets with our brand, and therefore, they're not going to be as mature as these markets are, which could dilute the bottom line.

BY MR. HILL:

Q And then I suppose it's also possible that Infoscan may have picked up additional markets or may not be doing the same markets that they analyzed back in 1997?

A They could have changed their geography, that's correct.

Q Let's do both. Let's do your summary totals, and then if we get the documents, that will help us tell what specific changes there are. Because if you added three new markets and you only have a small percentage,

actually your sales has grown, yet the total percentage may have decreased, I think is what you're -- it would have had an adverse effect on your market share?

A That's correct.

Q We're still working on Question Number 8. And the last phrase was -- we're talking about why Flowers has opposed the application of IMA -- it says, and the very small number of third-party marks in use on similar goods. You can read that if you want to, but I think you understand what I read. Could you explain that phrase or the relevance of it to the issue of IMA's application?

A Well, I think, you know, the top line is that Flowers has a concern with anyone, regardless of their size, infringing on our Cobblestone Mill brand. Does that answer your question?

Q Maybe. Regardless of their size, you mean regardless of applicant size, in this case IMA?

A Right.

Q Do you know which food companies constitute IMA?

A No.

Q Does that have any effect on your thinking one way or the other, in other words, how national they are, how large they are versus how small they are?

A No.

Q So regardless of the size of IMA or of anybody who wanted to register a mark, you're saying you have a concern about a mark, which I think you have already said earlier, that at least in your view has the potential to lead to some consumer confusion to the extent that that retail consumer may eventually see that mark?

A That and the fact that it would have the potential to dilute our mark.

Q Now, would it dilute your mark if retail -- because retail consumers are your targets. So if retail consumers didn't see the mark, it wouldn't dilute your mark, would it?

A That's correct.

Q So, again, it goes back to if retail consumers at the retail level see any mark that contains the word cobblestone in it, it's your view that that would be dilution of your mark?

A Potentially, yes.

Q Or if any mark used the word mill?

A Yes.

Q At least any kind of food service product?

A Correct.

Q Now, to the specific phrase we talked about,

it says, the small number of third-party marks in use on similar goods. I understood that to mean that you didn't have that many different competing marks in the specialty bread sector, you had Pepperidge Farm, you had Arnold? I don't know what else.

A That's correct. There's Arnold, there's Earth Grains, there's Sara Lee, there's Martins. And many of the stores have their own store brand of specialty bread. And then there are many regional brands of specialty bread that today we may not compete against, but are in the market.

And then there are others that -- for instance, in the northeast there are retail specialty brands that we compete against that are not in Texas.

Q So when it says the very small number of third-party marks on similar goods, does that mean that generally speaking there's not very many -- you don't have very many competitors with brands within your market niche? Is that what that's intended to say?

A There are typically four to five specialty bread brands in any given market.

Q And it's Flowers' contention that because that's a relatively small number, 4 or 5, as opposed to, let's say there were 50, that that small number of competing brands in that specialty market -- I think you

called it the zoom aisle -- would tend to make it more easy for consumers to be confused, or is it because of the dilution effect?

A I don't think there would be any confusion between the four or five brands. I'm not sure where you're going with this.

Q Well, I'm trying to understand -- the question was, why do you think the Cobblestone Market brand as proposed and applied for by IMA would cause likelihood of confusion with your Cobblestone Mill brand? And the answer -- we went over some of the areas, the similarity --

A Right.

Q -- the trade channels, that sort of thing. But then this last phrase says: And the very small number of third-party marks in use on similar goods. And I'm trying to get an explanation of what that means. Why is it, for example, that having a small number of third-party marks, yours being one of those small number, would tend to cause more confusion in the marketplace rather than less?

A I think any time you've got -- I'm not sure I can answer that question to your satisfaction. We're just simply stating that regardless of the number of players in the market, whether it's two or a dozen, we

are defending our mark and anything that we perceive to be a confusion to the consumer as to what our mark is and what it stands for.

Q Other than what you have already testified to in response to my questions, is there any other basis that you have -- and we went through your discovery answers in some detail on this -- for making the claim that IMA's proposed mark Cobblestone Market either is likely to cause confusion in the marketplace or would have a dilution effect on your mark?

A I don't believe I have anything to add to what's already been said.

Q And we have already said that there's no study or documentation regarding recognition, fame of the Cobblestone Mill brand, no documented study on that, right?

A Correct.

Q And you have given some testimony, some anecdotal opinions about it. Other than what you have already testified to, is there anything else that you need to add in order to share with me what you may testify to at some point regarding the claim that Cobblestone Mill has acquired a high degree of recognition, fame and distinctiveness?

A I don't believe so.

Q I think you testified earlier that you have no instances that you are aware of of any actual confusion between IMA's mark, Cobblestone Market; and Flowers' mark, Cobblestone Mill, right?

A That's correct.

Q Is there anything else that you're aware of, that you can testify about today, that would tend to approve or support the notion that the public would likely be confused from IMA's use of its mark?

A No.

Q Also, we already talked about the fact, IMA's mark is intended to be associated with meats and cheeses, though the application does include sandwiches that may derive from those components, right?

A Right.

Q Other than what you have already testified to, is there anything else in terms of the actual similarity of the products that you know of, at least at this point, that you may testify about regarding that similarity that would tend to suggest that there's going to be either confusion or dilution?

A No.

Q Now, we have already talked in some detail about the fact that your Cobblestone Mill brand is aimed squarely at the retail consumer and that the trade

channel, although it's through your distributors, it ends up being in retail grocery stores. Is there anything that you need to add or clarify about that in terms of that trade channel being similar to the trade channel of IMA as you understand it?

A I don't believe so.

Q And to summarize that, the testimony on your similar trade channel issue, as I understood it, was primarily that if IMA's brand, Cobblestone Market, either directly or indirectly ends up in a grocery store being displayed to the retail consumer, even if it's associated with meats and cheeses, especially if it ends up in a sandwich with that mark either on the sandwich or even in the deli counter at a grocery store, that's the primary focus of your concern with the applicant's request to have the trademark Cobblestone Market, correct?

A That's correct.

Q Is there anything that you need to add to that to clarify your concerns about it?

A No, other than just to clarify the position. I know that oftentimes in deli shops where we sell our bread, it is frequently on the counter in clear view of the consuming public as the person there that's making the sandwich. She's clearly taking it from a

Cobblestone Mill package. So the same could be assumed might happen with the meat.

Q So even if the sandwich weren't wrapped with the Cobblestone Market wrapper on the sandwich, your concern extends to the fact that it's a possibility that some type of a labeled product could be sitting on the counter where the consumer -- the retail consumer that you're focused on could actually see that box of meat --

A Correct.

Q -- and think that the meat derives from the same source?

A Correct.

Q Anything else in that regard?

A I don't believe so.

Q Is there any question that I did ask you that in retrospect either I asked a bad question or you would like to supplement now to be able to clarify the record to make sure that we have got clear testimony as to each of the questions?

A I can't think of anything.

MR. HILL: In that case, I will pass the witness.

MR. DAVIS: Can we take about five minutes?

MR. HILL: Sure.

MR. DAVIS: I think we only need about five

minutes, and we will wrap it up and get out of here.

MR. HILL: Go right ahead.

(Brief break.)

CROSS EXAMINATION

BY MR. DAVIS:

Q We will go ahead and try to wrap things up fairly quickly. Ms. Anderson, you testified earlier about the zoom aisle --

A Right.

Q -- and that there is a certain percentage of consumers that arrive at the zoom aisle with a specific brand in mind?

A That's correct.

Q Is there a percentage of consumers who arrive at the zoom aisle without a specific brand in mind?

A Yes, that is especially true if consumers are shopping for a special occasion bread as opposed to their regular typical sandwich bread, which would fall into their zoom purchase.

But if they have a special occasion in mind, then they're going to be looking for a bread that fits that particular occasion, at which point they may very well shop brands looking for a specific item.

Q And then we talked earlier about the marketing

study that begins on Bates number FBI 00344. We did not mark this as an exhibit, so I just want to clarify what it is. And I would like to ask you to read off the title.

A Cobblestone Mill New Package Design Assessment.

Q And so is this study a study of the new package design?

A It is a study of a proposed new package design.

Q And not of the Cobblestone Mill brand?

A That's correct.

MR. DAVIS: Your witness again.

MR. HILL: I don't think I have any more questions at this time.

(Deposition concluded at 12:05 p.m.)

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF LEON)

I, the undersigned authority, certify that said designated witness personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 18th day of August, 2006.

CHRISTI K. COLE
Certified Professional Reporter
(850) 894-0828

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, CHRISTI K. COLE, Professional Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 98 are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 18th day of August, 2006.

CHRISTI K. COLE
Notary Public
(850) 894-0828

Exhibit 1

Flowers Foods

Flowers Foods Web Sites: Select a site

Our Brands

Our popular brands are backed by delicious, quality baked foods and more than 80 years of baking experience.

Cobblestone Mill

Select a Brand: Cobblestone Mill

Cobblestone Mill is a premium brand of specialty baked foods with hearty flavors and textures.

With more than 40 different varieties, Cobblestone Mill offers something delicious for every taste and meal of the day—from garlic bread sticks to sub rolls to wheatberry bread.

Cobblestone Mill makes any meal special.

New From Cobblestone Mill!

Three new tasty varieties have joined the Cobblestone Mill line-up. Perking up breakfast are **Multi-Grain Bagels**, made with whole grains, and **Cinnamon Swirl Breakfast Bread**. For great sandwiches anytime, try new Cobblestone Mill **12-Grain Sub Rolls**, also made with whole grain. Look for these new items at your supermarket today!

Brand Facts

PENGAD 800-631-6989

EXHIBIT

Anderson 1

Exhibit 2

InfoScan Market Dollar Share Analysis

Category: Class 3 - Cobblestone Mill

TOTAL COBBLESTONE MILL	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98
Flowers Birmingham														
$ Share: Specialty	26.2	25.9	27.1	26.7	25.2	24.3	24.1	23.7	24.9	23.4	24.4	26.6	26.4	26.2
$ Share: Specialty Chg	NA	-4.5	-3.2	-2.7	-1.9	-0.8	-2.7	-5.2	-5.2	-3.0	-2.8	-1.6	-1.4	0.0
Flowers - East Tenn.														
$ Share: Specialty	15.6	15.5	15.7	15.7	15.3	15.7	15.2	14.7	14.4	15.5	15.4	16.7	17.4	16.7
$ Share: Specialty Chg	NA	-0.1	-0.9	-1.8	-0.4	-1.5	-1.8	-2.1	-2.5	-0.8	0.2	-1.9	0.8	1.1
Flowers - Atlanta														
$ Share: Specialty	16.5	16.1	16.3	15.8	14.9	15.0	14.4	14.6	14.6	14.3	13.9	16.7	16.2	15.4
$ Share: Specialty Chg	NA	-1.2	-2.0	-2.7	-2.8	-2.4	-2.7	-2.6	-3.0	-2.6	-2.9	-0.4	-0.4	-1.1
Raleigh/Greensboro														
$ Share: Specialty	15.3	14.9	14.5	13.8	13.3	13.2	12.5	12.8	14.1	14.2	13.9	14.0	15.7	13.8
$ Share: Specialty Chg	NA	-2.0	-2.6	-3.5	-3.4	-3.6	-3.8	-3.2	-2.6	-2.2	-1.8	-2.0	-1.1	-1.6
Roanoke, VA														
$ Share: Specialty	9.9	9.2	10.1	9.9	9.4	9.5	9.7	9.7	10.8	10.3	10.2	13.0	14.0	12.4
$ Share: Specialty Chg	NA	-2.0	-1.6	-0.6	-1.1	-0.3	-0.6	-0.5	0.5	0.2	0.1	-0.3	2.7	2.5
Charlotte, NC														
$ Share: Specialty	13.8	13.9	14.6	13.8	13.4	13.1	12.8	12.7	12.5	11.3	11.7	12.5	12.9	12.1
$ Share: Specialty Chg	NA	-1.8	-1.5	-2.1	-1.8	-2.1	-2.1	-2.9	-3.8	-5.7	-4.1	-2.8	-2.5	-1.6
Flowers New Orleans-Mobile														
$ Share: Specialty	9.9	10.5	9.3	9.2	9.5	9.5	9.0	9.6	9.5	9.4	9.4	9.4	9.7	10.5
$ Share: Specialty Chg	NA	0.8	-1.9	-2.0	-1.6	-1.1	-2.7	-1.9	-1.3	-1.8	-1.2	-0.2	0.5	0.6
South Carolina														
$ Share: Specialty	7.9	8.3	9.0	9.2	9.2	8.9	9.0	8.9	9.6	9.0	8.6	9.7	10.6	10.4
$ Share: Specialty Chg	NA	3.9	4.2	4.6	2.7	3.3	3.5	2.9	2.7	2.5	1.6	2.5	3.4	2.5
Richmond/Norfolk														
$ Share: Specialty	11.8	10.9	11.8	10.5	10.7	11.0	9.6	9.4	9.1	10.7	10.1	12.1	13.3	10.3
$ Share: Specialty Chg	NA	-3.6	-2.0	-2.4	-3.1	-2.2	-3.1	-4.1	-4.5	-1.9	-2.4	0.7	2.3	-1.5
Flowers Miami														
$ Share: Specialty	6.9	6.5	7.0	6.5	6.0	6.2	5.5	5.8	5.5	5.5	5.7	6.9	6.8	8.9
$ Share: Specialty Chg	NA	-1.7	-1.5	-2.0	-2.3	-1.8	-2.4	-2.1	-2.0	-1.5	-1.2	-0.1	0.1	2.0
Total Flower's Markets														
$ Share: Specialty	8.3	7.9	8.3	8.0	8.0	8.0	7.9	7.7	7.8	7.8	7.5	8.6	8.7	8.6
$ Share: Specialty Chg	NA	-1.1	-1.0	-1.1	-1.0	-0.8	-0.9	-1.5	-1.2	-0.8	-1.2	-1.0	0.0	0.3

EXHIBIT Anderson 2

ENGAD 800-631-6989

Report 6a - Market Ranking - Specialty

Markets Ranked by Current Period

Source: Information Resources, Inc., 1996

FBI 00633

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FBI 006344

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InfoScan Market Dollar Share Analysis

Category: Class 3 - Cobblestone Mill

TOTAL COBBLESTONE MILL

	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98
Flowers Jacksonville														
$ Share: Specialty	8.2	7.9	8.3	8.3	8.1	8.3	7.9	7.8	8.2	7.6	6.9	7.7	7.7	8.1
$ Share: Specialty Chg	NA	-1.1	-0.9	-0.7	-1.0	-0.9	-1.1	-1.9	-0.4	-1.4	-1.8	-1.7	-0.5	-0.2
Flowers Tampa														
$ Share: Specialty	6.4	6.1	6.5	6.2	6.5	6.5	6.3	6.2	6.5	7.7	7.0	7.9	8.4	7.5
$ Share: Specialty Chg	NA	-2.9	-3.5	-2.4	-2.2	-2.2	-2.1	-2.4	-1.1	0.7	-0.1	-1.2	1.2	1.0
Orlando, FL														
$ Share: Specialty	6.8	6.6	6.8	6.9	6.8	6.8	6.5	6.3	6.8	6.6	6.1	6.7	6.9	7.3
$ Share: Specialty Chg	NA	-1.4	-1.3	-0.5	-0.4	-0.3	-0.5	-1.2	0.4	-0.1	-0.9	-1.2	0.3	0.5
Flowers San Antonio														
$ Share: Specialty	6.9	5.8	6.1	5.7	6.3	6.0	5.6	5.8	6.3	6.1	5.6	6.6	6.6	6.6
$ Share: Specialty Chg	NA	1.3	1.2	1.1	1.6	0.9	0.3	0.6	0.8	-0.5	-0.9	-0.3	0.0	-0.3
Memphis, TN														
$ Share: Specialty	5.3	5.0	4.8	4.5	5.0	4.3	4.4	3.9	4.7	4.9	4.0	4.3	5.1	5.5
$ Share: Specialty Chg	NA	4.1	3.9	3.5	4.1	3.3	3.5	3.0	3.4	1.0	-2.6	-2.0	-0.1	0.2
Dallas/Ft Worth														
$ Share: Specialty	5.9	4.5	4.9	4.7	4.5	5.5	9.2	5.8	5.4	4.6	4.1	5.8	5.9	4.7
$ Share: Specialty Chg	NA	2.7	3.4	3.2	3.3	3.9	7.1	2.8	2.2	1.3	-0.1	-4.0	-1.1	-1.2
Flowers Houston														
$ Share: Specialty	3.7	3.6	3.9	3.6	4.2	4.1	4.3	4.3	4.7	4.4	4.3	4.4	4.6	4.1
$ Share: Specialty Chg	NA	-0.7	0.0	-0.4	0.5	0.3	0.5	0.1	0.5	0.5	-0.1	0.8	0.7	0.4
Nashville, TN														
$ Share: Specialty	2.4	2.5	2.7	2.5	2.2	1.8	1.7	1.7	1.8	1.6	1.4	1.3	1.6	1.6
$ Share: Specialty Chg	NA	2.5	2.7	2.5	2.2	1.6	1.4	1.4	1.4	1.3	1.0	0.1	-0.8	-0.8

Flowers Industries Birmingham - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Birmingham	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	224	223	227	228	218	215	214	210	198	193	192	201	235	203	2,757
Dollars (000)	$428	$427	$436	$445	$426	$417	$423	$418	$400	$385	$388	$400	$446	$419	$5,431
Avg Price per Unit	$1.92	$1.91	$1.92	$1.95	$1.95	$1.94	$1.98	$1.99	$2.03	$2.00	$2.01	$1.99	$1.90	$2.07	$1.97
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Dist	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	57	56	62	61	55	52	51	49	47	46	47	58	71	52	706
Dollars (000)	$112	$111	$118	$119	$107	$101	$102	$99	$100	$90	$95	$106	$118	$110	$1,376
Avg Price per Unit	$1.98	$1.98	$1.92	$1.96	$1.96	$1.96	$1.99	$2.02	$2.12	$1.95	$2.03	$1.83	$1.66	$2.10	$1.95
Unit Share	25.3	25.0	27.2	26.5	25.1	24.1	23.9	23.4	23.9	23.9	24.3	28.9	30.2	25.8	25.6
ACV Weighted Dist	95.8%	93.7%	94.7%	94.5%	94.5%	93.3%	92.6%	92.7%	92.7%	93.0%	93.2%	95.6%	96.0%	95.6%	96.0%
PEPPERIDGE FARM															
Units (000)	37	37	35	42	40	39	39	42	41	44	42	43	51	47	542
Dollars (000)	$80	$78	$75	$87	$86	$83	$84	$90	$89	$93	$92	$92	$106	$102	$1,157
Avg Price per Unit	$2.13	$2.11	$2.13	$2.10	$2.14	$2.15	$2.13	$2.15	$2.15	$2.13	$2.18	$2.15	$2.08	$2.18	$2.14
Unit Share	16.8	16.5	15.6	18.2	18.4	18.1	18.3	19.9	20.9	22.7	21.9	21.4	21.6	23.1	19.7
ACV Weighted Dist	76.9%	72.2%	80.0%	80.6%	81.8%	81.8%	77.5%	88.2%	81.9%	81.8%	78.6%	82.3%	85.9%	83.7%	88.2%
Arn/Oro/Fran															
Units (000)	36	36	39	40	37	35	35	36	34	32	31	30	35	36	456
Dollars (000)	$75	$74	$81	$86	$81	$75	$75	$76	$70	$69	$66	$65	$74	$80	$974
Avg Price per Unit	$2.07	$2.08	$2.07	$2.13	$2.16	$2.16	$2.15	$2.12	$2.09	$2.14	$2.12	$2.17	$2.14	$2.22	$2.13
Unit Share	16.2	15.9	17.3	17.7	17.1	16.2	16.3	17.1	17.0	16.8	16.3	14.9	14.8	17.8	16.5
ACV Weighted Dist	96.6%	96.7%	93.1%	93.1%	95.7%	94.8%	91.6%	95.2%	90.9%	93.8%	90.9%	87.5%	87.5%	83.5%	96.7%
EARTH GRAINS															
Units (000)	23	24	23	22	22	23	23	22	21	23	24	19	19	17	280
Dollars (000)	$48	$50	$47	$46	$45	$47	$49	$46	$45	$47	$48	$41	$42	$37	$589
Avg Price per Unit	$2.07	$2.07	$2.08	$2.09	$2.04	$2.08	$2.11	$2.11	$2.13	$2.05	$2.04	$2.21	$2.18	$2.21	$2.10
Unit Share	10.4	10.8	10.1	9.6	10.1	10.5	10.9	10.3	10.6	11.9	12.3	9.3	8.3	8.2	10.2
ACV Weighted Dist	87.4%	83.3%	87.2%	84.3%	87.1%	87.3%	87.3%	88.7%	84.4%	88.0%	85.4%	85.6%	84.7%	84.8%	88.7%

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FBI 00760

Source: Information Resources, Inc., 1996

Flowers Industries Birmingham - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Birmingham	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Harvest Ridge															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Dollars (000)	$0	$0	$0	$0	$0	$0	$0	$1	$1	$1	$1	$1	$1	$1	$5
Avg Price per Unit	$.00	$.00	$.00	$.00	$.00	$.00	$1.85	$1.85	$1.83	$1.84	$1.82	$1.82	$1.82	$1.81	$1.83
Unit Share	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.2	0.1	0.2	0.2	0.2	0.2	0.1
ACV Weighted Dist	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	3.2%	6.0%	6.9%	6.1%	6.6%	5.3%	7.2%	7.3%	7.3%
PL/GENERIC															
Units (000)	13	15	14	13	12	13	13	13	10	9	12	10	11	13	158
Dollars (000)	$18	$20	$18	$17	$16	$16	$17	$17	$14	$13	$15	$13	$14	$17	$208
Avg Price per Unit	$1.36	$1.31	$1.29	$1.32	$1.30	$1.30	$1.29	$1.31	$1.38	$1.37	$1.28	$1.31	$1.29	$1.30	$1.31
Unit Share	6.0	6.9	6.1	5.8	5.7	5.9	6.2	6.0	5.3	4.9	6.0	4.8	4.7	6.3	5.7
ACV Weighted Dist	50.9%	35.2%	35.5%	38.6%	37.5%	34.6%	32.1%	32.5%	31.4%	32.2%	31.5%	31.6%	31.5%	32.1%	38.6%

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FBI 00761

Flowers Industries Atlanta - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers - Atlanta	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	453	444	414	425	457	434	424	458	450	487	471	473	486	448	5,870
Dollars (000)	$910	$904	$840	$862	$927	$891	$878	$908	$928	$965	$996	$957	$960	$967	$11,984
Avg Price per Unit	$2.01	$2.04	$2.03	$2.03	$2.03	$2.05	$2.07	$1.98	$2.06	$1.98	$2.11	$2.03	$1.97	$2.16	$2.04
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Dist	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	83	75	70	70	71	68	62	73	65	90	66	94	102	71	976
Dollars (000)	$150	$146	$137	$136	$138	$134	$126	$132	$135	$138	$139	$160	$155	$148	$1,825
Avg Price per Unit	$1.81	$1.96	$1.96	$1.96	$1.96	$1.96	$2.03	$1.81	$2.07	$1.53	$2.11	$1.70	$1.52	$2.10	$1.87
Unit Share	18.3	16.8	16.9	16.4	15.5	15.7	14.7	16.0	14.5	18.5	14.0	19.9	21.0	15.8	16.6
ACV Weighted Dist	99.1%	99.1%	99.2%	99.2%	99.2%	99.2%	97.4%	97.3%	97.3%	97.3%	97.5%	97.2%	97.2%	96.5%	99.2%
ARN/ORO/FRAN															
Units (000)	87	85	84	83	89	87	88	96	88	85	85	79	81	89	1,119
Dollars (000)	$179	$176	$173	$181	$192	$187	$189	$191	$187	$180	$180	$171	$175	$197	$2,379
Avg Price per Unit	$2.07	$2.09	$2.07	$2.17	$2.16	$2.15	$2.15	$1.99	$2.13	$2.13	$2.12	$2.15	$2.15	$2.20	$2.13
Unit Share	19.1	19.0	20.2	19.6	19.4	20.0	20.7	21.0	19.6	17.4	18.1	16.8	16.7	19.9	19.1
ACV Weighted Dist	92.1%	92.0%	89.5%	89.6%	90.1%	89.9%	89.2%	89.1%	89.2%	89.7%	89.2%	87.8%	87.7%	87.9%	92.0%
EARTH GRAINS															
Units (000)	63	61	61	64	70	68	72	75	72	71	74	73	72	71	902
Dollars (000)	$129	$125	$128	$123	$144	$143	$148	$152	$153	$157	$169	$152	$149	$160	$1,902
Avg Price per Unit	$2.06	$2.06	$2.08	$1.94	$2.07	$2.11	$2.05	$2.02	$2.12	$2.22	$2.28	$2.09	$2.09	$2.26	$2.11
Unit Share	13.9	13.6	14.8	14.9	15.3	15.7	17.0	16.4	16.0	14.5	15.7	15.4	14.7	15.8	15.4
ACV Weighted Dist	98.7%	98.6%	98.7%	96.6%	98.6%	98.6%	98.5%	98.6%	98.6%	98.6%	98.6%	97.9%	96.7%	96.7%	98.7%
PEPPERIDGE FARM															
Units (000)	104	114	89	95	97	93	91	93	103	118	109	102	105	107	1,319
Dollars (000)	$222	$238	$191	$201	$208	$200	$195	$199	$219	$249	$240	$224	$225	$235	$2,824
Avg Price per Unit	$2.15	$2.09	$2.13	$2.11	$2.14	$2.14	$2.13	$2.13	$2.12	$2.11	$2.20	$2.19	$2.14	$2.20	$2.14
Unit Share	22.9	25.6	21.6	22.4	21.4	21.5	21.5	20.4	23.0	24.2	23.1	21.7	21.6	23.9	22.5

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Flowers Industries Atlanta - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

owers - Atlanta	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
ptn John Derst Variety															
Units (000)	2	2	2	2	2	2	2	2	2	2	1	1	2	2	22
Dollars (000)	$3	$3	$3	$3	$3	$3	$3	$3	$3	$3	$3	$2	$3	$3	$37
Avg Price per Unit	$1.70	$1.70	$1.71	$1.72	$1.72	$1.72	$1.72	$1.63	$1.72	$1.72	$1.74	$1.74	$1.73	$1.73	$1.71
Unit Share	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
ACV Weighted Dist	2.4%	2.4%	3.5%	3.5%	3.5%	3.4%	3.2%	3.1%	3.0%	3.2%	3.2%	3.2%	3.7%	3.7%	3.7%
ivate Label															
Units (000)	781	664	613	695	694	663	755	808	708	662	699	671	598	619	8,849
Dollars (000)	$908	$773	$714	$709	$783	$796	$780	$870	$818	$720	$722	$685	$660	$717	$9,746
Avg Price per Unit	$1.16	$1.17	$1.16	$1.02	$1.13	$1.20	$1.03	$1.08	$1.15	$1.09	$1.03	$1.02	$1.10	$1.16	$1.10
Unit Share	51.3	46.4	45.6	47.0	46.6	42.8	46.3	49.1	47.3	43.8	45.7	44.9	40.0	40.6	45.1
ACV Weighted Dist	97.8%	97.8%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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Source: Information Resources, Inc., 1996

Flowers Industries Charlotte - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Charlotte, NC	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	251	237	235	225	234	215	217	224	226	234	236	237	253	247	3,021
Dollars (000)	$443	$431	$429	$416	$429	$398	$401	$406	$414	$431	$436	$444	$466	$467	$5,569
Avg Price per Unit	$1.77	$1.82	$1.83	$1.85	$1.84	$1.85	$1.85	$1.81	$1.83	$1.84	$1.84	$1.87	$1.84	$1.89	$1.84
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL COBBLESTONE MILL															
Units (000)	33	32	34	31	31	28	28	28	28	29	27	33	36	32	396
Dollars (000)	$61	$60	$63	$57	$58	$52	$51	$52	$52	$49	$51	$56	$60	$57	$716
Avg Price per Unit	$1.87	$1.86	$1.86	$1.86	$1.86	$1.87	$1.86	$1.86	$1.86	$1.71	$1.87	$1.67	$1.65	$1.79	$1.81
Unit Share	13.0	13.5	14.3	13.6	13.2	13.0	12.8	12.4	12.3	12.2	11.6	14.0	14.4	12.9	13.1
ACV Weighted Distribution	87.1%	89.1%	91.9%	92.1%	89.6%	89.6%	89.4%	89.8%	90.1%	89.7%	89.4%	87.3%	87.4%	87.4%	92.1%
TTL ARNOLD/ORO/FRAN															
Units (000)	40	40	38	37	38	37	38	41	37	37	37	38	40	38	496
Dollars (000)	$81	$80	$79	$78	$80	$77	$81	$83	$79	$79	$76	$80	$82	$84	$1,037
Avg Price per Unit	$2.03	$2.00	$2.05	$2.09	$2.13	$2.10	$2.13	$2.01	$2.10	$2.10	$2.08	$2.13	$2.07	$2.19	$2.09
Unit Share	15.9	16.9	16.3	16.5	16.1	17.1	17.4	18.4	16.6	16.0	15.5	15.9	15.7	15.4	16.4
ACV Weighted Distribution	85.1%	85.1%	85.0%	84.9%	84.1%	85.9%	86.2%	84.7%	83.9%	85.1%	83.6%	84.7%	83.6%	83.7%	86.2%
TTL PEPPERIDGE FARM															
Units (000)	52	54	49	47	46	41	41	42	48	54	50	50	53	52	624
Dollars (000)	$110	$111	$104	$101	$98	$87	$89	$90	$102	$114	$107	$109	$109	$111	$1,332
Avg Price per Unit	$2.10	$2.07	$2.15	$2.14	$2.15	$2.14	$2.16	$2.15	$2.14	$2.11	$2.16	$2.18	$2.07	$2.15	$2.13
Unit Share	20.8	22.6	20.7	21.0	19.6	18.9	19.0	18.7	21.1	23.0	21.0	21.0	20.8	20.9	20.7
ACV Weighted Distribution	90.0%	92.6%	92.6%	92.6%	94.7%	92.9%	93.8%	94.0%	94.1%	95.0%	94.0%	89.5%	89.6%	87.5%	95.0%
Harvest Ridge															
Units (000)	2	2	3	3	2	2	2	3	3	2	2	2	2	2	32
Dollars (000)	$4	$4	$5	$5	$4	$4	$4	$5	$5	$4	$4	$4	$4	$3	$56
Avg Price per Unit	$1.83	$1.77	$1.73	$1.62	$1.77	$1.79	$1.84	$1.78	$1.66	$1.79	$1.80	$1.80	$1.70	$1.68	$1.75

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Flowers Industries Charlotte - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

harlotte, NC	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
ivate Label															
Units (000)	263	243	237	239	253	245	241	251	230	225	231	227	231	238	3,089
Dollars (000)	$303	$285	$279	$285	$303	$297	$289	$298	$276	$279	$285	$283	$293	$307	$3,758
Avg Price per Unit	$1.15	$1.17	$1.18	$1.19	$1.20	$1.21	$1.20	$1.19	$1.20	$1.24	$1.23	$1.25	$1.27	$1.29	$1.22
Unit Share	30.7	30.1	28.9	28.6	29.1	29.4	26.9	28.1	27.3	27.9	27.0	27.3	27.1	29.0	28.2
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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Flowers Industries Raleigh/Greensboro - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Raleigh/Greensboro	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	283	262	243	254	270	251	248	255	271	284	271	288	320	302	3,519
Dollars (000)	$545	$507	$473	$497	$530	$490	$487	$496	$532	$545	$529	$561	$609	$596	$6,849
Avg Price per Unit	$1.93	$1.93	$1.95	$1.96	$1.96	$1.96	$1.97	$1.94	$1.96	$1.92	$1.95	$1.95	$1.90	$1.97	$1.95
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL COBBLESTONE MILL															
Units (000)	45	41	37	37	38	35	33	34	41	46	40	47	58	46	531
Dollars (000)	$84	$75	$69	$68	$71	$65	$61	$63	$75	$77	$73	$78	$96	$82	$953
Avg Price per Unit	$1.86	$1.85	$1.85	$1.86	$1.86	$1.85	$1.85	$1.85	$1.85	$1.70	$1.86	$1.68	$1.64	$1.78	$1.80
Unit Share	15.9	15.5	15.2	14.5	14.1	13.9	13.3	13.4	14.9	16.0	14.6	16.2	18.2	15.2	15.1
ACV Weighted Distribution	94.3%	91.8%	91.9%	91.9%	93.0%	93.0%	93.4%	95.3%	95.3%	95.3%	95.6%	95.5%	95.5%	95.3%	95.6%
ARN/ORO/FRAN															
Units (000)	77	75	72	74	78	71	73	73	75	72	72	73	79	78	965
Dollars (000)	$162	$157	$152	$160	$170	$157	$159	$156	$163	$156	$153	$160	$167	$175	$2,085
Avg Price per Unit	$2.10	$2.10	$2.12	$2.16	$2.19	$2.19	$2.17	$2.14	$2.16	$2.16	$2.13	$2.20	$2.12	$2.25	$2.16
Unit Share	27.4	28.6	29.6	29.2	28.7	28.5	29.4	28.5	27.8	25.5	26.6	25.4	24.7	25.7	27.4
ACV Weighted Distribution	84.6%	84.4%	84.5%	85.0%	86.4%	86.5%	86.6%	87.6%	87.6%	87.5%	90.4%	91.7%	91.7%	92.1%	92.1%
TTL WONDER/BRD DJ															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	1	0	1	4
Dollars (000)	$1	$0	$0	$0	$0	$1	$1	$0	$0	$1	$1	$1	$1	$1	$9
Avg Price per Unit	$2.02	$2.04	$1.89	$2.06	$2.03	$1.91	$1.89	$1.88	$1.87	$1.91	$2.02	$1.80	$1.97	$2.09	$1.94
Unit Share	0.2	0.1	0.1	0.1	0.1	0.1	0.2	0.1	0.1	0.1	0.2	0.3	0.1	0.2	0.1
ACV Weighted Distribution	18.5%	18.1%	10.8%	8.9%	11.6%	11.7%	18.0%	15.3%	9.0%	17.6%	23.1%	27.9%	18.5%	26.8%	27.9%
TTL PEPPERIDGE FARM															
Units (000)	71	70	60	65	69	65	64	66	76	81	75	77	84	85	938
Dollars (000)	$150	$144	$129	$140	$148	$139	$138	$143	$162	$171	$164	$170	$178	$184	$2,009
Avg Price per Unit	$2.12	$2.07	$2.14	$2.15	$2.15	$2.14	$2.15	$2.15	$2.13	$2.12	$2.19	$2.19	$2.12	$2.15	$2.14

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Flowers Industries Raleigh/Greensboro - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Raleigh/Greensboro	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Unit Share	25.0	26.6	24.8	25.7	25.5	25.9	25.9	26.1	28.0	28.4	27.6	26.9	26.2	28.2	26.6
ACV Weighted Distribution	95.0%	98.1%	96.9%	96.9%	97.1%	97.1%	97.1%	96.8%	98.8%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Harvest Ridge															
Units (000)	3	3	3	3	3	2	2	2	2	2	2	2	3	2	32
Dollars (000)	$6	$5	$5	$5	$5	$4	$4	$4	$4	$4	$4	$4	$5	$4	$56
Avg Price per Unit	$1.83	$1.81	$1.70	$1.62	$1.83	$1.82	$1.84	$1.81	$1.67	$1.84	$1.81	$1.80	$1.71	$1.71	$1.76
Unit Share	1.2	1.1	1.3	1.2	1.0	0.9	1.0	0.9	0.9	0.7	0.7	0.7	0.9	0.7	0.9
ACV Weighted Distribution	39.5%	34.3%	33.5%	38.1%	38.5%	38.8%	38.9%	38.9%	36.5%	38.8%	41.3%	41.0%	41.0%	40.9%	41.3%
TTL PL/GENERIC															
Units (000)	23	18	20	22	28	27	24	29	24	29	31	29	31	34	345
Dollars (000)	$35	$27	$29	$29	$40	$38	$36	$43	$36	$42	$45	$45	$48	$50	$509
Avg Price per Unit	$1.51	$1.53	$1.46	$1.37	$1.45	$1.39	$1.49	$1.47	$1.50	$1.46	$1.47	$1.55	$1.53	$1.47	$1.47
Unit Share	8.3	6.7	8.2	8.5	10.2	10.8	9.7	11.4	8.9	10.3	11.3	10.2	9.8	11.3	9.8
ACV Weighted Distribution	76.9%	78.3%	85.0%	79.3%	87.1%	86.8%	86.6%	87.6%	92.4%	95.5%	94.9%	96.3%	98.7%	98.9%	98.9%

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FBI 00787

Flowers Industries East Tennessee - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers - East Tenn.	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	92	95	97	102	100	101	96	101	105	109	102	99	113	104	1,326
Dollars (000)	$173	$180	$184	$193	$190	$191	$182	$191	$197	$203	$192	$186	$203	$195	$2,488
Avg Price per Unit	$1.87	$1.89	$1.89	$1.89	$1.89	$1.89	$1.90	$1.88	$1.88	$1.87	$1.89	$1.88	$1.80	$1.87	$1.88
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL COBBLESTONE MILL															
Units (000)	16	15	15	16	15	16	15	15	15	18	16	18	22	18	214
Dollars (000)	$27	$28	$29	$30	$29	$30	$28	$28	$28	$31	$30	$31	$35	$33	$391
Avg Price per Unit	$1.73	$1.87	$1.87	$1.86	$1.88	$1.87	$1.88	$1.89	$1.91	$1.77	$1.89	$1.75	$1.60	$1.79	$1.82
Unit Share	16.9	15.7	15.9	15.9	15.4	15.8	15.4	14.7	14.2	16.3	15.4	18.0	19.7	17.5	16.2
ACV Weighted Distribution	73.7%	74.9%	73.8%	72.3%	70.5%	70.3%	70.8%	71.5%	71.8%	72.8%	72.9%	73.0%	73.1%	71.6%	74.9%
TOTAL COOPERS MILL															
Units (000)	6	7	10	9	10	10	8	10	11	11	10	9	11	11	127
Dollars (000)	$11	$13	$17	$17	$18	$18	$15	$17	$19	$19	$18	$17	$19	$20	$227
Avg Price per Unit	$1.84	$1.86	$1.77	$1.81	$1.76	$1.76	$1.81	$1.74	$1.78	$1.71	$1.85	$1.78	$1.77	$1.77	$1.78
Unit Share	6.4	7.2	10.0	9.1	10.2	10.1	8.7	9.7	10.1	10.0	9.7	9.6	9.7	10.6	9.6
ACV Weighted Distribution	74.3%	84.7%	85.0%	85.3%	85.6%	85.5%	85.2%	85.1%	84.9%	84.7%	85.3%	85.3%	89.3%	89.7%	89.7%
ARNLD/ORO/FRAN/S-MD															
Units (000)	1	2	1	1	1	1	1	1	1	1	1	1	1	1	16
Dollars (000)	$4	$4	$4	$4	$4	$3	$4	$4	$3	$3	$3	$3	$3	$3	$45
Avg Price per Unit	$2.87	$2.90	$2.88	$2.87	$2.90	$2.91	$2.85	$2.57	$2.88	$2.82	$2.81	$2.83	$2.83	$2.82	$2.83
Unit Share	1.6	1.6	1.4	1.3	1.2	1.1	1.4	1.5	1.1	1.0	1.1	1.0	0.9	1.1	1.2
ACV Weighted Distribution	77.0%	83.9%	66.3%	67.2%	66.7%	66.7%	73.2%	73.1%	61.8%	60.9%	66.0%	66.0%	64.1%	67.2%	83.9%
TTL PEPPERIDGE FARM															
Units (000)	25	27	24	28	27	28	25	27	28	30	25	24	27	27	346
Dollars (000)	$54	$57	$54	$60	$59	$60	$56	$58	$61	$64	$55	$53	$56	$59	$753
Avg Price per Unit	$2.21	$2.15	$2.21	$2.17	$2.19	$2.18	$2.19	$2.18	$2.14	$2.14	$2.24	$2.20	$2.08	$2.20	$2.17
Unit Share	26.7	28.0	25.2	26.9	26.9	27.2	26.3	26.4	27.0	27.6	24.4	24.1	23.9	25.7	26.1

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Inc., 199
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Flowers Industries East Tennessee - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

owers - East Tenn.	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
ACV Weighted Distribution	96.1%	95.5%	94.5%	96.3%	95.5%	95.5%	94.6%	94.5%	94.3%	93.9%	94.5%	94.8%	94.9%	94.8%	96.3%
INBEAM															
Units (000)	5	6	6	6	6	9	8	7	7	7	7	6	8	8	92
Dollars (000)	$10	$10	$11	$12	$11	$13	$12	$11	$12	$12	$12	$11	$13	$13	$150
Avg Price per Unit	$1.85	$1.76	$1.79	$1.89	$1.67	$1.48	$1.54	$1.65	$1.63	$1.63	$1.63	$1.63	$1.62	$1.50	$1.63
Unit Share	1.5	1.5	1.7	1.6	1.4	2.0	1.6	1.5	1.8	1.7	1.8	1.5	1.9	2.0	1.7
ACV Weighted Distribution	84.9%	78.2%	78.0%	78.2%	79.3%	79.4%	85.0%	85.6%	88.9%	89.8%	87.7%	87.0%	87.3%	87.7%	89.8%
erns															
Units (000)	25	25	20	23	21	21	24	16	14	16	12	13	12	10	227
Dollars (000)	$30	$31	$28	$31	$30	$29	$31	$25	$22	$24	$18	$19	$19	$17	$324
Avg Price per Unit	$1.19	$1.26	$1.40	$1.34	$1.38	$1.37	$1.28	$1.61	$1.57	$1.51	$1.57	$1.50	$1.51	$1.71	$1.43
Unit Share	6.8	6.7	5.5	5.9	4.8	4.9	5.3	3.5	3.5	3.7	2.7	3.0	3.0	2.3	4.2
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
rivate Label															
Units (000)	94	103	94	110	100	107	112	117	114	120	108	112	105	130	1,433
Dollars (000)	$110	$118	$112	$125	$112	$121	$128	$132	$131	$137	$126	$129	$121	$142	$1,684
Avg Price per Unit	$1.17	$1.15	$1.19	$1.14	$1.13	$1.13	$1.14	$1.13	$1.15	$1.14	$1.16	$1.15	$1.15	$1.09	$1.14
Unit Share	25.7	27.7	26.1	28.2	22.1	24.6	24.5	26.0	27.6	28.0	25.7	26.8	25.6	30.2	26.3
ACV Weighted Distribution	100.0%	100.0%	99.4%	99.4%	99.5%	99.5%	99.5%	99.5%	99.5%	99.6%	99.6%	99.6%	99.6%	99.5%	100.0%

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Source: Information Resources, Inc., 1996

Pepperidge Industries Richmond/Norfolk - Monthly IntoScan Sales Analysis

Category: Class 3 - Specialty

Richmond/Norfolk	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	466	458	446	443	416	405	398	413	425	454	438	422	447	453	5,619
Dollars (000)	$841	$825	$795	$820	$762	$732	$719	$751	$773	$816	$796	$759	$790	$812	$10,151
Avg Price per Unit	$1.80	$1.80	$1.78	$1.85	$1.83	$1.81	$1.80	$1.82	$1.82	$1.80	$1.82	$1.80	$1.77	$1.79	$1.81
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL COBBLESTONE MILL															
Units (000)	56	48	53	46	44	44	36	37	37	48	43	53	63	44	596
Dollars (000)	$99	$90	$94	$86	$81	$81	$69	$70	$71	$88	$80	$92	$105	$83	$1,089
Avg Price per Unit	$1.78	$1.86	$1.78	$1.87	$1.87	$1.82	$1.90	$1.92	$1.91	$1.81	$1.87	$1.74	$1.66	$1.89	$1.83
Unit Share	11.9	10.5	11.8	10.4	10.5	10.9	9.1	8.9	8.7	10.6	9.8	12.5	14.2	9.7	10.6
ACV Weighted Distribution	99.2%	99.2%	100.0%	100.0%	100.0%	100.0%	98.2%	98.0%	98.1%	98.1%	98.1%	98.1%	98.1%	98.1%	100.0%
TTL PEPPERIDGE FARM															
Units (000)	81	92	76	88	75	69	66	75	82	88	83	71	76	79	1,021
Dollars (000)	$188	$211	$178	$203	$174	$159	$151	$173	$190	$205	$195	$166	$171	$186	$2,360
Avg Price per Unit	$2.32	$2.29	$2.32	$2.29	$2.30	$2.31	$2.31	$2.32	$2.30	$2.33	$2.35	$2.32	$2.26	$2.35	$2.31
Unit Share	17.4	20.1	17.2	20.0	18.1	17.0	16.5	18.0	19.4	19.3	18.9	16.9	16.9	17.5	18.2
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	99.2%	99.2%	100.0%
TOTAL MAMA KAYERS															
Units (000)	16	16	16	17	16	18	17	17	16	16	15	14	15	19	211
Dollars (000)	$32	$31	$31	$34	$31	$34	$34	$33	$32	$32	$30	$27	$29	$34	$412
Avg Price per Unit	$1.98	$1.98	$1.98	$1.97	$1.97	$1.96	$1.96	$1.96	$1.97	$2.00	$1.97	$1.98	$1.94	$1.82	$1.96
Unit Share	3.5	3.4	3.5	3.9	3.8	4.3	4.3	4.1	3.8	3.6	3.4	3.3	3.3	4.1	3.7
ACV Weighted Distribution	52.2%	52.5%	56.0%	54.9%	56.9%	56.6%	55.3%	54.1%	55.8%	55.7%	55.4%	55.7%	52.4%	50.6%	56.9%
Arno/Oroweat															
Units (000)	67	66	60	62	57	53	52	57	53	51	54	50	49	56	721
Dollars (000)	$140	$136	$126	$133	$124	$114	$110	$118	$112	$109	$115	$109	$104	$125	$1,536
Avg Price per Unit	$2.09	$2.05	$2.11	$2.15	$2.16	$2.14	$2.12	$2.06	$2.11	$2.13	$2.13	$2.17	$2.15	$2.22	$2.13

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Flowers Industries Richmond/Norfolk - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Richmond/Norfolk	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Unit Share	14.4	14.5	13.4	14.0	13.8	13.1	13.0	13.9	12.5	11.3	12.3	12.0	10.9	12.4	12.8
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	99.5%	99.5%	99.5%	99.0%	100.0%	100.0%	100.0%	98.1%	100.0%
Harvest Ridge															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Dollars (000)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$1
Avg Price per Unit	$1.71	$1.73	$1.58	$1.69	$1.79	$1.79	$1.79	$1.69	$1.64	$1.79	$1.79	$1.79	$1.70	$1.65	$1.72
Unit Share	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
ACV Weighted Distribution	2.7%	3.1%	3.7%	3.6%	3.7%	3.7%	3.1%	3.5%	3.0%	2.8%	2.8%	2.8%	2.8%	2.8%	3.7%
Martins															
Units (000)	45	38	37	38	34	34	34	36	38	45	44	40	40	42	501
Dollars (000)	$80	$67	$65	$71	$64	$63	$64	$68	$71	$79	$79	$76	$76	$80	$924
Avg Price per Unit	$1.79	$1.74	$1.78	$1.88	$1.88	$1.88	$1.88	$1.88	$1.84	$1.75	$1.81	$1.89	$1.89	$1.89	$1.85
Unit Share	9.6	8.4	8.2	8.5	8.2	8.3	8.6	8.7	9.0	9.9	10.0	9.5	9.0	9.4	8.9
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL PL/GENERIC															
Units (000)	77	71	70	67	69	72	79	74	73	77	84	80	77	88	980
Dollars (000)	$93	$83	$84	$78	$80	$84	$96	$91	$91	$96	$103	$99	$94	$109	$1,188
Avg Price per Unit	$1.20	$1.18	$1.19	$1.18	$1.17	$1.17	$1.21	$1.24	$1.23	$1.25	$1.22	$1.24	$1.23	$1.24	$1.21
Unit Share	16.5	15.4	15.7	15.0	16.5	17.8	19.9	17.8	17.3	17.0	19.2	19.0	17.2	19.4	17.4
ACV Weighted Distribution	77.7%	78.4%	77.1%	88.9%	97.1%	100.0%	100.0%	96.2%	100.0%	100.0%	100.0%	100.0%	97.3%	95.3%	100.0%

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FBI 00813

Source: Information Resources, Inc., 1998

Flowers Industries Jacksonville - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Jacksonville	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	655	661	629	617	584	589	600	590	582	609	653	631	667	703	8,115
Dollars (000)	$1,082	$1,080	$1,045	$1,020	$965	$964	$971	$954	$957	$1,007	$1,065	$1,018	$1,060	$1,163	$13,270
Avg Price per Unit	$1.65	$1.64	$1.66	$1.65	$1.65	$1.64	$1.62	$1.62	$1.64	$1.65	$1.63	$1.61	$1.59	$1.66	$1.64
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Dist	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	51	49	50	48	45	45	42	41	44	49	42	49	57	59	619
Dollars (000)	$89	$86	$87	$85	$78	$80	$77	$75	$79	$76	$74	$78	$81	$94	$1,050
Avg Price per Unit	$1.75	$1.76	$1.76	$1.76	$1.75	$1.77	$1.81	$1.83	$1.79	$1.57	$1.76	$1.59	$1.44	$1.60	$1.70
Unit Share	7.7	7.4	7.9	7.8	7.7	7.7	7.0	6.9	7.6	8.0	6.4	7.8	8.5	8.3	7.6
ACV Weighted Dist	99.0%	99.5%	99.6%	99.4%	99.2%	98.7%	98.7%	99.3%	99.6%	100.0%	99.4%	99.0%	99.1%	99.2%	100.0%
PEPPERIDGE FARM															
Units (000)	146	164	139	134	128	127	124	124	139	149	141	132	147	157	1,806
Dollars (000)	$304	$330	$296	$284	$270	$267	$260	$261	$284	$312	$310	$287	$305	$342	$3,806
Avg Price per Unit	$2.09	$2.01	$2.12	$2.12	$2.11	$2.09	$2.10	$2.11	$2.04	$2.09	$2.20	$2.18	$2.08	$2.18	$2.11
Unit Share	22.2	24.9	22.2	21.7	21.9	21.6	20.7	21.0	23.9	24.5	21.6	20.9	22.0	22.4	22.3
ACV Weighted Dist	98.5%	98.8%	99.3%	99.3%	99.3%	99.3%	99.3%	99.3%	99.3%	99.3%	99.3%	99.4%	99.3%	99.3%	99.4%
ARN/ORO/FRAN															
Units (000)	94	98	91	87	80	88	87	88	80	81	87	82	84	91	1,123
Dollars (000)	$182	$184	$181	$177	$163	$170	$172	$169	$160	$169	$180	$170	$169	$196	$2,262
Avg Price per Unit	$1.93	$1.88	$1.99	$2.04	$2.05	$1.94	$1.99	$1.92	$2.01	$2.08	$2.07	$2.08	$2.02	$2.16	$2.02
Unit Share	14.4	14.8	14.4	14.1	13.6	14.9	14.4	15.0	13.7	13.3	13.3	13.0	12.6	12.9	13.8
ACV Weighted Dist	97.8%	98.1%	98.1%	97.8%	97.9%	97.0%	97.0%	97.0%	97.1%	97.2%	97.2%	97.1%	97.1%	96.2%	98.1%
Bread Du Jour															
Units (000)	3	6	3	2	2	2	2	2	2	2	3	3	4	5	38
Dollars (000)	$6	$7	$5	$4	$4	$3	$3	$4	$4	$3	$4	$5	$6	$7	$60
Avg Price per Unit	$1.75	$1.22	$1.82	$1.81	$1.82	$1.82	$1.82	$1.82	$1.82	$1.82	$1.57	$1.54	$1.51	$1.39	$1.60
Unit Share	0.5	0.9	0.5	0.4	0.4	0.3	0.3	0.3	0.3	0.3	0.4	0.5	0.6	0.7	0.5
ACV Weighted Dist	38.1%	38.6%	37.0%	36.8%	35.5%	35.6%	33.7%	35.6%	34.6%	33.4%	57.0%	69.4%	68.8%	71.7%	71.7%

FBI 00731
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Flowers Industries Jacksonville - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

)wers Jacksonville	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
vate Label/Generic															
Units (000)	499	503	457	502	470	445	454	457	431	450	494	455	454	496	6,069
Dollars (000)	$577	$582	$535	$556	$544	$518	$528	$524	$495	$511	$565	$521	$523	$566	$6,968
Avg Price per Unit	$1.16	$1.16	$1.17	$1.11	$1.16	$1.16	$1.16	$1.15	$1.15	$1.14	$1.14	$1.14	$1.15	$1.14	$1.15
Unit Share	33.3	34.0	31.1	33.6	34.4	30.6	29.5	30.9	28.9	30.7	32.6	32.6	32.5	32.2	31.8
ACV Weighted Distribution	99.6%	99.6%	99.7%	99.7%	99.7%	99.7%	99.5%	99.5%	99.5%	100.0%	100.0%	100.0%	100.0%	99.7%	100.0%

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FBI 00730

Flowers Industries Jacksonville - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Jacksonville	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Harvest Ridge															
Units (000)	4	3	5	5	4	4	4	4	4	5	6	5	6	6	60
Dollars (000)	$7	$6	$9	$8	$7	$8	$7	$6	$6	$8	$10	$9	$10	$10	$104
Avg Price per Unit	$1.80	$1.79	$1.75	$1.53	$1.79	$1.69	$1.81	$1.70	$1.62	$1.71	$1.81	$1.83	$1.71	$1.73	$1.75
Unit Share	0.6	0.5	0.9	0.9	0.7	0.8	0.6	0.6	0.7	0.7	0.8	0.8	0.9	0.8	0.7
ACV Weighted Dist	49.2%	45.9%	55.1%	48.7%	49.0%	51.9%	52.0%	51.9%	50.8%	61.3%	63.6%	60.4%	63.9%	63.9%	63.9%
PRIVATE LABEL/GENERIC															
Units (000)	178	176	178	172	174	173	176	169	155	160	198	184	194	211	2,321
Dollars (000)	$220	$216	$220	$212	$212	$210	$213	$205	$192	$198	$237	$223	$233	$253	$2,824
Avg Price per Unit	$1.24	$1.23	$1.24	$1.23	$1.22	$1.21	$1.21	$1.21	$1.24	$1.23	$1.20	$1.21	$1.20	$1.20	$1.22
Unit Share	27.2	26.6	28.3	27.9	29.8	29.3	29.3	28.7	26.7	26.3	30.3	29.2	29.2	30.0	28.6
ACV Weighted Dist	99.3%	99.3%	99.4%	99.4%	98.1%	98.3%	98.1%	98.1%	97.7%	98.4%	97.8%	98.3%	99.4%	99.3%	99.4%

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Flowers Industries Jacksonville - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Flowers Jacksonville	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
TTL CLASS 4 - BUNS															
Units (000)	565	595	646	639	803	769	908	690	714	580	584	469	492	584	8,474
Dollars (000)	$597	$630	$661	$670	$765	$754	$846	$677	$683	$592	$586	$484	$517	$589	$8,452
Avg Price per Unit	$1.06	$1.06	$1.02	$1.05	$.95	$.98	$.93	$.98	$.96	$1.02	$1.00	$1.03	$1.05	$1.01	$1.00
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
SUNBEAM/FLOWERS															
Units (000)	52	69	85	87	100	102	109	92	92	80	80	64	70	72	1,102
Dollars (000)	$72	$83	$94	$96	$109	$111	$119	$100	$101	$87	$87	$70	$76	$83	$1,214
Avg Price per Unit	$1.38	$1.20	$1.11	$1.10	$1.09	$1.09	$1.09	$1.09	$1.09	$1.08	$1.09	$1.09	$1.08	$1.15	$1.10
Unit Share	9.2	11.5	13.2	13.6	12.4	13.2	12.0	13.3	13.0	13.8	13.8	13.7	14.2	12.4	13.0
ACV Weighted Distribution	73.1%	75.0%	75.3%	79.1%	81.1%	80.4%	85.8%	85.2%	86.0%	87.5%	86.5%	83.7%	83.8%	83.6%	87.5%
Interstate															
Units (000)	61	63	65	65	74	90	114	83	82	76	74	68	76	88	1,017
Dollars (000)	$88	$91	$94	$89	$94	$107	$127	$100	$100	$93	$92	$81	$88	$103	$1,260
Avg Price per Unit	$1.43	$1.46	$1.45	$1.37	$1.27	$1.19	$1.11	$1.21	$1.23	$1.23	$1.25	$1.19	$1.16	$1.18	$1.24
Unit Share	10.9	10.5	10.0	10.2	9.3	11.7	12.6	12.0	11.4	13.0	12.6	14.6	15.4	15.1	12.0
ACV Weighted Distribution	97.4%	97.5%	98.1%	97.3%	97.7%	97.0%	96.8%	96.9%	96.8%	96.7%	96.9%	96.4%	96.6%	97.0%	98.1%
WONDER															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Dollars (000)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$1
Avg Price per Unit	$1.29	$1.29	$.00	$.00	$.00	$.99	$.99	$.99	$.99	$.99	$.99	$.99	$1.06	$1.09	$1.05
Unit Share	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
ACV Weighted Distribution	0.5%	2.1%	0.0%	0.0%	0.0%	1.5%	1.8%	0.3%	0.3%	0.3%	0.3%	0.3%	2.0%	0.3%	2.1%
COUNTRY HEARTH															
Units (000)	10	8	10	13	18	22	17	18	14	15	12	9	10	11	178
Dollars (000)	$15	$14	$15	$18	$23	$27	$23	$21	$19	$19	$17	$14	$15	$17	$242
Avg Price per Unit	$1.49	$1.68	$1.55	$1.38	$1.25	$1.19	$1.34	$1.16	$1.41	$1.32	$1.45	$1.51	$1.48	$1.47	$1.36
Unit Share	1.7	1.4	1.5	2.1	2.3	2.9	1.9	2.7	1.9	2.5	2.0	1.9	2.1	2.0	2.1

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Flowers Industries San Antonio - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers San Antonio	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	433	510	508	516	482	453	457	468	456	509	513	499	531	492	6,393
Dollars (000)	$716	$792	$793	$793	$742	$710	$709	$740	$746	$794	$818	$798	$846	$799	$10,081
Avg Price per Unit	$1.65	$1.55	$1.56	$1.54	$1.54	$1.57	$1.55	$1.58	$1.64	$1.56	$1.60	$1.60	$1.59	$1.63	$1.58
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	99.7%	99.7%	100.0%	100.0%	99.7%	99.6%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	24	22	23	21	22	20	18	20	22	22	21	29	32	26	299
Dollars (000)	$49	$46	$49	$45	$47	$42	$39	$43	$47	$49	$46	$53	$56	$53	$615
Avg Price per Unit	$2.04	$2.11	$2.11	$2.11	$2.11	$2.12	$2.14	$2.15	$2.16	$2.18	$2.17	$1.82	$1.73	$2.06	$2.06
Unit Share	5.6	4.3	4.5	4.2	4.6	4.4	4.0	4.3	4.7	4.4	4.1	5.8	6.1	5.2	4.7
ACV Weighted Distribution	92.4%	93.2%	94.1%	93.8%	93.9%	93.3%	91.4%	91.3%	91.9%	91.9%	93.1%	93.8%	95.1%	91.5%	95.1%
ARN/ORO/FRAN/S-MD															
Units (000)	97	97	88	96	83	85	79	91	93	88	98	94	98	108	1,199
Dollars (000)	$196	$197	$185	$197	$170	$173	$164	$189	$198	$190	$212	$207	$213	$232	$2,528
Avg Price per Unit	$2.02	$2.03	$2.10	$2.05	$2.05	$2.03	$2.09	$2.08	$2.12	$2.16	$2.17	$2.20	$2.17	$2.15	$2.11
Unit Share	22.4	19.1	17.4	18.6	17.2	18.8	17.2	19.4	20.5	17.3	19.0	18.9	18.5	22.0	18.7
ACV Weighted Distribution	79.7%	81.1%	81.4%	81.5%	80.7%	80.3%	79.3%	81.1%	81.0%	81.2%	83.8%	88.8%	88.6%	87.1%	88.8%
TTL PEPPERIDGE FARM															
Units (000)	41	47	45	47	41	39	37	38	42	44	42	40	44	48	556
Dollars (000)	$85	$97	$95	$93	$85	$83	$79	$81	$90	$90	$90	$83	$92	$100	$1,157
Avg Price per Unit	$2.07	$2.05	$2.10	$1.97	$2.06	$2.10	$2.11	$2.11	$2.12	$2.06	$2.13	$2.10	$2.08	$2.08	$2.08
Unit Share	9.5	9.3	8.9	9.1	8.6	8.7	8.2	8.2	9.3	8.6	8.2	7.9	8.3	9.8	8.7
ACV Weighted Distribution	71.5%	71.8%	72.8%	72.5%	72.0%	75.0%	74.8%	76.0%	76.1%	75.3%	74.7%	75.3%	75.8%	76.8%	76.8%
TOTAL EARTH GRAINS															
Units (000)	39	38	37	39	40	36	35	37	41	40	42	40	43	43	511
Dollars (000)	$77	$76	$77	$80	$82	$75	$73	$77	$84	$80	$85	$81	$88	$89	$1,047
Avg Price per Unit	$1.98	$2.02	$2.05	$2.05	$2.07	$2.07	$2.07	$2.06	$2.05	$2.03	$2.00	$2.03	$2.06	$2.08	$2.05

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Flowers Industries San Antonio - Monthly InfoScan Sales Analysis

Flowers Industries San Antonio - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

ers San Antonio	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CV Weighted Distribution	95.0%	95.4%	95.6%	97.6%	97.4%	98.4%	98.3%	98.8%	98.7%	98.5%	97.9%	98.3%	98.3%	98.5%	98.8%
o/Colonial															
its (000)	75	74	71	68	68	71	68	70	78	85	80	78	78	86	977
llars (000)	$117	$112	$111	$106	$104	$104	$104	$109	$119	$123	$125	$122	$122	$126	$1,487
g Price per Unit	$1.55	$1.52	$1.55	$1.55	$1.53	$1.46	$1.54	$1.56	$1.52	$1.45	$1.55	$1.56	$1.57	$1.46	$1.52
it Share	5.0	4.8	4.5	4.4	4.3	4.7	4.3	4.5	5.0	5.2	5.0	5.1	4.8	5.0	4.7
CV Weighted Distribution	95.0%	96.7%	95.4%	97.5%	97.2%	97.1%	96.0%	96.5%	96.4%	97.4%	97.8%	97.9%	97.9%	97.9%	97.9%
te Label															
its (000)	761	757	763	752	756	754	784	792	773	744	767	730	763	827	9,961
llars (000)	$615	$613	$618	$605	$593	$602	$623	$631	$614	$594	$610	$576	$603	$652	$7,934
g Price per Unit	$.81	$.81	$.81	$.81	$.78	$.80	$.79	$.80	$.79	$.80	$.80	$.79	$.79	$.79	$.80
it Share	51.0	49.0	47.8	48.2	48.4	49.8	49.8	51.0	48.9	45.7	47.8	47.5	47.2	47.6	48.3
CV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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Flowers Industries Dallas - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Dallas/Ft Worth	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Unit Share	10.4	10.2	11.9	10.8	11.4	10.4	10.9	11.8	11.6	10.9	11.8	11.2	9.7	9.7	10.9
ACV Weighted Distribution	98.7%	98.8%	98.8%	98.8%	98.2%	98.2%	98.0%	98.0%	98.3%	98.7%	98.6%	98.5%	97.9%	99.0%	99.0%
TOTAL MRS BAIRDS															
Units (000)	42	38	37	43	49	37	38	36	34	32	32	30	36	32	475
Dollars (000)	$72	$66	$64	$70	$75	$63	$65	$63	$62	$58	$59	$55	$64	$59	$823
Avg Price per Unit	$1.74	$1.75	$1.73	$1.62	$1.53	$1.72	$1.71	$1.75	$1.81	$1.80	$1.82	$1.81	$1.77	$1.84	$1.73
Unit Share	5.2	4.7	4.8	5.4	6.5	4.8	4.7	4.5	4.3	4.2	4.0	3.8	3.9	3.6	4.5
ACV Weighted Distribution	93.7%	92.6%	92.2%	92.2%	90.1%	90.0%	90.6%	90.6%	90.7%	92.9%	92.9%	90.9%	90.8%	90.6%	92.9%
Bread Du Jour															
Units (000)	3	3	3	2	2	2	3	2	3	2	3	3	3	3	33
Dollars (000)	$6	$7	$6	$4	$5	$4	$6	$5	$6	$5	$7	$6	$6	$6	$73
Avg Price per Unit	$2.22	$2.23	$2.23	$2.23	$2.09	$2.12	$1.87	$2.24	$2.23	$2.23	$2.23	$2.24	$2.24	$2.25	$2.18
Unit Share	0.4	0.4	0.4	0.3	0.3	0.3	0.4	0.3	0.3	0.3	0.4	0.3	0.3	0.3	0.3
ACV Weighted Distribution	73.9%	73.6%	65.3%	60.5%	59.6%	56.8%	58.6%	53.9%	54.5%	51.0%	59.5%	54.3%	51.8%	58.5%	73.6%
TTL PL/GENERIC															
Units (000)	221	233	226	219	222	215	221	236	248	251	260	249	318	325	3,223
Dollars (000)	$272	$283	$274	$263	$264	$253	$261	$278	$317	$307	$320	$323	$407	$405	$3,955
Avg Price per Unit	$1.23	$1.22	$1.22	$1.20	$1.19	$1.18	$1.18	$1.17	$1.28	$1.22	$1.23	$1.30	$1.28	$1.25	$1.23
Unit Share	27.6	29.0	29.4	27.6	29.3	27.7	27.6	29.2	31.1	32.1	32.2	30.8	34.2	36.9	30.7
ACV Weighted Distribution	84.9%	84.5%	86.2%	83.0%	81.9%	87.6%	91.1%	90.9%	88.7%	90.0%	90.0%	91.2%	90.3%	91.3%	91.3%

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Flowers Industries Dallas - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

as/Ft Worth	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
ASS 3 - SPECIALTY															
nits (000)	801	805	766	795	757	774	801	811	796	779	805	809	930	880	10,508
ollars (000)	$1,415	$1,419	$1,361	$1,383	$1,331	$1,366	$1,380	$1,428	$1,426	$1,415	$1,456	$1,476	$1,649	$1,574	$18,663
vg Price per Unit	$1.77	$1.76	$1.78	$1.74	$1.76	$1.76	$1.72	$1.76	$1.79	$1.82	$1.81	$1.82	$1.77	$1.79	$1.78
nit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
CV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	98.8%	100.0%	100.0%
BLESTONE MILL															
nits (000)	47	31	33	34	30	37	89	43	38	32	29	50	65	36	548
ollars (000)	$83	$63	$66	$65	$60	$74	$126	$82	$77	$64	$60	$86	$98	$73	$996
vg Price per Unit	$1.76	$2.01	$1.99	$1.90	$2.00	$2.00	$1.42	$1.93	$2.00	$2.01	$2.03	$1.74	$1.52	$2.03	$1.82
nit Share	5.9	3.9	4.3	4.3	4.0	4.8	11.1	5.3	4.8	4.1	3.7	6.1	6.9	4.1	5.2
CV Weighted Distribution	63.4%	62.0%	61.9%	62.1%	62.1%	62.4%	62.1%	62.1%	61.5%	61.7%	63.7%	64.6%	63.6%	63.8%	64.6%
I/ORO/FRAN/S-MD															
nits (000)	158	161	136	160	133	174	134	164	141	130	144	138	151	160	1,926
ollars (000)	$322	$323	$282	$315	$277	$340	$288	$335	$295	$290	$318	$309	$338	$354	$4,063
vg Price per Unit	$2.03	$2.01	$2.08	$1.96	$2.09	$1.96	$2.15	$2.04	$2.09	$2.23	$2.21	$2.24	$2.23	$2.21	$2.11
nit Share	19.8	19.9	17.7	20.2	17.5	22.5	16.7	20.2	17.7	16.7	17.9	17.1	16.3	18.2	18.3
CV Weighted Distribution	96.8%	95.9%	96.8%	95.9%	97.4%	96.5%	95.7%	95.4%	96.0%	95.5%	96.6%	96.9%	97.4%	97.4%	97.4%
PEPPERIDGE FARM															
Units (000)	114	131	119	131	118	117	113	117	124	137	120	118	130	130	1,605
Dollars (000)	$243	$269	$253	$266	$254	$250	$243	$251	$264	$298	$266	$260	$281	$284	$3,441
Avg Price per Unit	$2.13	$2.05	$2.13	$2.02	$2.15	$2.14	$2.15	$2.15	$2.13	$2.18	$2.23	$2.20	$2.16	$2.18	$2.14
Unit Share	14.3	16.3	15.5	16.5	15.6	15.1	14.1	14.4	15.6	17.5	14.8	14.6	14.0	14.8	15.3
ACV Weighted Distribution	90.7%	88.6%	90.6%	90.6%	91.5%	91.4%	90.8%	91.2%	90.7%	91.2%	90.8%	91.4%	92.3%	92.3%	92.3%
OTAL EARTH GRAINS															
Units (000)	84	82	91	86	86	80	87	96	92	85	95	90	90	85	1,146
Dollars (000)	$173	$175	$188	$181	$182	$173	$177	$198	$192	$184	$198	$187	$190	$181	$2,407
Avg Price per Unit	$2.07	$2.14	$2.07	$2.11	$2.11	$2.16	$2.03	$2.07	$2.07	$2.17	$2.08	$2.07	$2.12	$2.12	$2.10

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Montly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries West TexNew Mex - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers West Tex-New Mex	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	285	299	292	298	291	304	322	327	322	296	288	286	304	294	3,922
Dollars (000)	$537	$557	$558	$568	$558	$572	$612	$625	$624	$574	$553	$552	$584	$564	$7,499
Avg Price per Unit	$1.88	$1.87	$1.91	$1.91	$1.92	$1.88	$1.90	$1.91	$1.94	$1.94	$1.92	$1.93	$1.92	$1.92	$1.91
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	98.2%	98.2%	98.2%	98.3%	98.2%	98.1%	98.0%	98.2%	98.2%	98.2%	98.2%	98.2%	98.2%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	6	6	7	6	5	5	5	6	6	6	6	6	8	6	76
Dollars (000)	$13	$12	$14	$12	$11	$10	$11	$13	$14	$13	$12	$12	$15	$13	$164
Avg Price per Unit	$2.11	$2.19	$2.16	$2.17	$2.17	$2.17	$2.18	$2.18	$2.18	$2.18	$2.19	$2.07	$1.94	$2.17	$2.14
Unit Share	2.1	1.9	2.3	1.9	1.8	1.5	1.6	1.8	2.0	2.0	2.0	2.1	2.6	2.1	1.9
ACV Weighted Distribution	27.9%	27.9%	33.3%	33.3%	32.8%	32.6%	32.0%	32.0%	32.4%	32.4%	32.4%	32.4%	32.5%	35.1%	35.1%
ARNOLDS/OROWEAT															
Units (000)	67	74	68	70	69	77	80	81	77	71	68	73	73	75	955
Dollars (000)	$156	$168	$158	$163	$162	$175	$186	$190	$183	$170	$160	$167	$177	$180	$2,238
Avg Price per Unit	$2.32	$2.29	$2.34	$2.32	$2.33	$2.27	$2.33	$2.34	$2.38	$2.40	$2.36	$2.28	$2.43	$2.40	$2.34
Unit Share	23.5	24.6	23.1	23.5	23.9	25.5	24.8	24.8	23.9	24.0	23.5	25.5	23.9	25.4	24.4
ACV Weighted Distribution	76.7%	77.0%	75.3%	75.1%	74.9%	74.3%	74.3%	74.2%	74.2%	75.3%	75.5%	76.5%	75.1%	75.0%	77.0%
EARTH GRAINS															
Units (000)	51	51	57	61	58	58	63	60	62	57	55	54	55	50	742
Dollars (000)	$122	$120	$134	$142	$137	$137	$147	$143	$148	$137	$133	$130	$131	$123	$1,763
Avg Price per Unit	$2.37	$2.34	$2.33	$2.34	$2.35	$2.36	$2.34	$2.39	$2.38	$2.42	$2.42	$2.40	$2.39	$2.43	$2.38
Unit Share	18.0	17.2	19.6	20.5	20.1	19.1	19.5	18.3	19.4	19.1	19.2	18.8	18.1	17.2	18.9
ACV Weighted Distribution	92.7%	92.9%	88.3%	88.0%	88.7%	88.5%	88.6%	88.5%	88.6%	89.0%	89.1%	89.2%	89.8%	89.9%	92.9%
MRS. BAIRDS															
Units (000)	2	2	2	2	3	2	2	2	2	2	2	2	2	2	29
Dollars (000)	$3	$3	$3	$4	$4	$4	$3	$4	$4	$4	$4	$3	$4	$4	$48
Avg Price per Unit	$1.66	$1.63	$1.62	$1.52	$1.54	$1.60	$1.59	$1.63	$1.66	$1.73	$1.72	$1.73	$1.65	$1.80	$1.64

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FBI 00680

Flowers Industries West TexNew Mex - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers West Tex-New Mex	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Unit Share	0.7	0.7	0.7	0.8	0.9	0.8	0.7	0.7	0.7	0.7	0.7	0.7	0.8	0.8	0.7
ACV Weighted Distribution	12.5%	12.6%	12.6%	12.5%	12.4%	12.4%	12.4%	12.6%	12.7%	12.6%	12.5%	12.6%	12.6%	12.7%	12.7%
PRIVATE LABEL															
Units (000)	95	97	89	86	85	93	103	105	104	96	96	89	97	100	1,240
Dollars (000)	$106	$104	$98	$95	$93	$99	$114	$117	$122	$110	$110	$103	$109	$113	$1,387
Avg Price per Unit	$1.11	$1.07	$1.10	$1.10	$1.09	$1.07	$1.11	$1.11	$1.18	$1.15	$1.15	$1.15	$1.12	$1.13	$1.12
Unit Share	33.3	32.4	30.4	29.0	29.3	30.7	32.1	32.2	32.2	32.3	33.3	31.1	31.9	34.1	31.6
ACV Weighted Distribution	38.8%	38.8%	38.8%	41.4%	40.8%	40.7%	40.9%	42.0%	41.2%	41.5%	40.5%	41.6%	41.6%	41.7%	42.0%

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FBI 00681

Flowers Industries Nashville - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Nashville, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	161	168	159	162	161	165	165	171	165	166	165	158	175	161	2,140
Dollars (000)	$306	$317	$303	$309	$309	$316	$317	$326	$322	$320	$320	$305	$327	$299	$4,091
Avg Price per Unit	$1.90	$1.89	$1.90	$1.91	$1.92	$1.92	$1.92	$1.91	$1.95	$1.93	$1.94	$1.93	$1.88	$1.86	$1.91
Unit Share	14.1	15.1	14.5	14.3	13.3	12.4	12.2	12.4	12.9	13.3	12.9	12.8	12.6	11.9	13.1
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	4	4	4	4	3	3	2	3	3	3	2	2	3	2	37
Dollars (000)	$7	$8	$8	$8	$7	$6	$5	$5	$6	$5	$4	$4	$5	$5	$77
Avg Price per Unit	$2.06	$2.08	$2.08	$2.08	$2.08	$2.09	$2.14	$2.15	$2.29	$1.98	$2.15	$2.10	$1.68	$2.13	$2.07
Unit Share	0.3	0.3	0.4	0.3	0.3	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
ACV Weighted Distribution	15.8%	15.6%	15.4%	14.3%	14.4%	12.4%	12.3%	12.6%	13.9%	13.9%	12.3%	9.4%	12.3%	12.7%	15.6%
BREAD DUJOUR/WONDER															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Dollars (000)	$0	$0	$0	$0	$0	$1	$0	$0	$0	$0	$0	$0	$0	$0	$2
Avg Price per Unit	$2.02	$1.97	$2.04	$1.97	$2.06	$2.00	$2.02	$2.01	$1.99	$2.04	$1.99	$1.99	$1.99	$1.99	$2.00
Unit Share	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
ACV Weighted Distribution	9.0%	9.0%	6.9%	6.8%	6.8%	14.5%	15.0%	15.0%	13.7%	4.1%	2.4%	2.4%	4.9%	5.0%	15.0%
EARTH GRAINS															
Units (000)	22	22	21	21	22	25	26	27	24	23	26	24	25	20	305
Dollars (000)	$46	$47	$46	$45	$49	$54	$56	$58	$52	$50	$57	$53	$53	$44	$664
Avg Price per Unit	$2.15	$2.16	$2.16	$2.17	$2.20	$2.18	$2.15	$2.17	$2.20	$2.19	$2.20	$2.17	$2.09	$2.21	$2.17
Unit Share	1.9	1.9	1.9	1.8	1.8	1.9	1.9	1.9	1.8	1.8	2.0	2.0	1.8	1.5	1.9
ACV Weighted Distribution	92.5%	94.3%	94.3%	94.2%	94.0%	94.3%	94.2%	94.2%	91.6%	97.4%	91.6%	91.7%	91.7%	94.0%	97.4%
PEPPERIDGE FARM															
Units (000)	47	52	45	47	48	48	48	50	53	53	48	44	46	41	623
Dollars (000)	$102	$111	$97	$101	$103	$104	$104	$106	$113	$112	$106	$96	$98	$90	$1,340
Avg Price per Unit	$2.16	$2.14	$2.16	$2.14	$2.15	$2.15	$2.15	$2.13	$2.14	$2.13	$2.19	$2.18	$2.13	$2.18	$2.15
Unit Share	4.1	4.6	4.1	4.2	3.9	3.6	3.6	3.6	4.1	4.2	3.8	3.6	3.3	3.0	3.8
ACV Weighted Distribution	92.2%	92.9%	93.2%	92.8%	92.6%	93.6%	92.7%	92.9%	93.0%	98.9%	92.9%	93.0%	93.0%	92.9%	98.9%
ARNOLDS/OROWEAT															

FBI 00697

Flowers Industries Nashville - Month

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Flowers Industries Nashville - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

ville, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
nit Share	11.0	9.3	12.6	10.9	10.3	9.9	8.7	10.3	9.3	10.6	8.9	9.2	9.1	8.4	10.0
CV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
'ATE LABEL															
nits (000)	213	211	186	209	213	207	219	216	225	208	204	202	236	313	2,849
ollars (000)	$250	$247	$223	$244	$245	$246	$263	$257	$271	$249	$241	$238	$267	$318	$3,310
vg Price per Unit	$1.17	$1.17	$1.20	$1.17	$1.15	$1.19	$1.20	$1.19	$1.20	$1.19	$1.18	$1.18	$1.13	$1.02	$1.16
nit Share	18.7	19.0	16.9	18.4	17.6	15.6	16.2	15.7	17.5	16.7	16.0	16.4	17.1	23.2	17.6
CV Weighted Distribution	85.8%	86.7%	86.9%	94.4%	94.0%	85.7%	82.3%	82.4%	88.0%	89.0%	83.6%	84.9%	91.9%	94.0%	94.4%

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Flowers Industries Nashville - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

lashville, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Units (000)	0	1	1	1	0	0	0	1	1	1	2	1	1	1	11
Dollars (000)	$0	$1	$1	$1	$1	$1	$1	$1	$2	$2	$4	$2	$2	$4	$23
Avg Price per Unit	$2.36	$2.32	$2.32	$2.33	$2.32	$2.36	$2.36	$2.35	$2.37	$2.42	$1.65	$2.06	$2.46	$2.47	$2.20
Unit Share	0.0	0.1	0.1	0.0	0.0	0.0	0.0	0.0	0.1	0.1	0.2	0.1	0.1	0.1	0.1
ACV Weighted Distribution	29.1%	30.0%	30.8%	25.9%	18.6%	15.8%	11.9%	15.5%	18.3%	30.2%	43.6%	39.6%	20.7%	30.4%	43.6%
PRIVATE LABEL															
Units (000)	37	41	37	41	38	34	32	35	34	36	33	33	39	45	478
Dollars (000)	$50	$53	$48	$57	$50	$44	$42	$46	$48	$51	$45	$47	$52	$58	$641
Avg Price per Unit	$1.37	$1.31	$1.31	$1.38	$1.31	$1.32	$1.31	$1.32	$1.40	$1.40	$1.35	$1.43	$1.35	$1.29	$1.34
Unit Share	3.2	3.7	3.3	3.6	3.1	2.5	2.3	2.5	2.7	2.9	2.6	2.7	2.8	3.3	3.0
ACV Weighted Distribution	83.5%	86.7%	85.5%	84.6%	85.3%	77.6%	75.6%	77.0%	82.4%	85.6%	76.8%	76.8%	85.5%	85.6%	86.7%

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Flowers Industries Nashville - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Nashville, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 4 - BUNS															
Units (000)	218	225	298	294	454	387	522	350	371	267	272	206	222	237	4,105
Dollars (000)	$239	$259	$296	$323	$423	$416	$494	$395	$354	$300	$279	$245	$264	$266	$4,313
Avg Price per Unit	$1.09	$1.15	$.99	$1.10	$.93	$1.07	$.95	$1.13	$.95	$1.13	$1.03	$1.19	$1.19	$1.12	$1.05
Unit Share	56.1	57.0	58.4	63.9	72.1	67.7	74.7	65.9	68.0	59.8	57.3	34.6	35.3	56.0	62.1
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
FLOWERS_SPECIAL HARVEST															
Units (000)	3	3	6	7	4	2	3	3	2	1	1	1	1	1	34
Dollars (000)	$4	$5	$7	$8	$4	$2	$4	$3	$2	$2	$1	$1	$1	$1	$42
Avg Price per Unit	$1.45	$1.45	$1.12	$1.10	$1.13	$1.09	$1.21	$1.24	$1.43	$1.44	$1.42	$1.43	$1.43	$1.43	$1.22
Unit Share	0.8	0.8	1.2	1.5	0.6	0.4	0.5	0.5	0.3	0.3	0.2	0.1	0.1	0.2	0.8
ACV Weighted Distribution	15.8%	15.6%	15.4%	14.3%	14.3%	12.4%	12.3%	12.6%	13.9%	12.3%	12.3%	12.2%	12.3%	12.3%	15.6%
Wonder															
Units (000)	0	0	0	0	0	1	1	1	1	1	1	1	0	0	9
Dollars (000)	$0	$1	$0	$1	$1	$2	$2	$2	$1	$1	$1	$1	$1	$1	$13
Avg Price per Unit	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49	$1.49
Unit Share	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.1	0.1	0.1	0.1	0.1	0.2
ACV Weighted Distribution	7.5%	7.6%	7.4%	7.2%	7.2%	15.1%	14.2%	16.2%	15.6%	15.2%	14.6%	14.0%	14.1%	7.3%	16.2%
RAINBO/COLONIAL															
Units (000)	21	25	23	26	36	49	61	45	32	30	29	27	21	19	423
Dollars (000)	$30	$33	$34	$36	$47	$66	$77	$63	$45	$43	$41	$41	$34	$30	$590
Avg Price per Unit	$1.40	$1.32	$1.47	$1.41	$1.29	$1.34	$1.26	$1.40	$1.41	$1.44	$1.42	$1.52	$1.58	$1.61	$1.40
Unit Share	5.4	6.3	4.6	5.6	5.8	8.5	8.7	8.5	5.9	6.7	6.1	4.5	3.4	4.5	6.6
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	97.0%	97.1%	96.9%	96.9%	94.3%	100.0%	94.3%	94.3%	94.3%	94.3%	100.0%
Bunny_Sunbeam															
Units (000)	24	28	34	38	61	51	55	45	42	42	47	33	38	36	550
Dollars (000)	$36	$42	$51	$55	$79	$74	$76	$61	$58	$57	$58	$48	$55	$53	$767
Avg Price per Unit	$1.52	$1.49	$1.48	$1.45	$1.30	$1.44	$1.39	$1.36	$1.39	$1.34	$1.24	$1.43	$1.46	$1.46	$1.39
Unit Share	6.1	7.2	6.7	8.2	9.7	9.0	7.8	8.4	7.6	9.5	9.8	5.6	6.1	8.5	8.3
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	98.8%	100.0%	100.0%	98.8%	100.0%	100.0%	100.0%	100.0%
PRIVATE LABEL															
Units (000)	147	139	208	194	308	251	362	221	269	169	175	126	141	160	2,722

Monthly Sales Trends

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Sales Analysis

FBI 00699

Flowers Industries Miami - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Miami	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	1,602	1,633	1,504	1,432	1,392	1,295	1,498	1,386	1,579	1,572	1,592	1,509	1,643	1,695	19,728
Dollars (000)	$2,737	$2,764	$2,594	$2,496	$2,393	$2,237	$2,431	$2,359	$2,676	$2,703	$2,795	$2,598	$2,763	$2,898	$33,706
Avg Price per Unit	$1.71	$1.69	$1.72	$1.74	$1.72	$1.73	$1.62	$1.70	$1.70	$1.72	$1.76	$1.72	$1.68	$1.71	$1.71
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TOTAL COBBLESTONE MILL															
Units (000)	114	105	105	94	83	80	78	81	86	110	98	122	136	188	1,367
Dollars (000)	$188	$181	$181	$163	$143	$139	$135	$138	$147	$149	$159	$180	$188	$257	$2,157
Avg Price per Unit	$1.65	$1.72	$1.72	$1.73	$1.73	$1.72	$1.72	$1.70	$1.72	$1.35	$1.63	$1.47	$1.38	$1.36	$1.58
Unit Share	7.1	6.4	7.0	6.6	6.0	6.2	5.2	5.8	5.4	7.0	6.1	8.1	8.3	11.1	6.9
ACV Weighted Distribution	99.6%	99.9%	100.0%	99.5%	99.0%	98.8%	98.8%	98.1%	98.9%	99.0%	99.1%	99.0%	99.1%	99.4%	100.0%
TOTAL PEPPERIDGE FARM															
Units (000)	405	453	380	367	318	307	308	291	346	370	372	368	404	412	4,694
Dollars (000)	$820	$887	$787	$743	$644	$625	$627	$594	$684	$762	$790	$776	$837	$886	$9,642
Avg Price per Unit	$2.03	$1.96	$2.07	$2.03	$2.03	$2.04	$2.04	$2.05	$1.97	$2.06	$2.12	$2.11	$2.07	$2.15	$2.05
Unit Share	25.3	27.7	25.3	25.6	22.8	23.7	20.5	21.0	21.9	23.5	23.4	24.4	24.6	24.3	23.8
ACV Weighted Distribution	99.7%	99.9%	100.0%	99.6%	99.1%	99.0%	99.0%	99.0%	100.0%	100.0%	100.0%	99.5%	99.6%	99.7%	100.0%
ARN/ORO/FRNSC/SNMD															
Units (000)	298	311	299	264	257	235	263	259	237	239	258	266	279	302	3,470
Dollars (000)	$606	$614	$608	$557	$526	$490	$515	$511	$496	$513	$549	$558	$580	$667	$7,185
Avg Price per Unit	$2.03	$1.98	$2.04	$2.11	$2.05	$2.08	$1.96	$1.97	$2.09	$2.14	$2.13	$2.10	$2.08	$2.21	$2.07
Unit Share	18.6	19.0	19.9	18.4	18.5	18.2	17.6	18.7	15.0	15.2	16.2	17.6	17.0	17.8	17.6
ACV Weighted Distribution	99.7%	99.9%	100.0%	99.6%	99.1%	99.0%	99.0%	99.0%	100.0%	100.0%	100.0%	99.5%	99.6%	99.7%	100.0%
TOTAL A&C ITALIAN BAKERIES															
Units (000)	6	6	7	6	5	5	5	5	5	5	5	5	5	5	69
Dollars (000)	$9	$9	$10	$8	$7	$7	$7	$7	$7	$8	$8	$8	$8	$8	$103
Avg Price per Unit	$1.42	$1.42	$1.42	$1.42	$1.42	$1.42	$1.41	$1.42	$1.42	$1.59	$1.62	$1.62	$1.62	$1.62	$1.49
Unit Share	0.4	0.4	0.5	0.4	0.4	0.4	0.3	0.4	0.3	0.3	0.3	0.3	0.3	0.3	0.4
ACV Weighted Distribution	28.0%	28.4%	28.5%	28.0%	27.5%	27.1%	26.7%	25.4%	33.9%	48.9%	49.6%	46.6%	42.3%	41.5%	49.6%
TOTAL EARTH GRAINS															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dollars (000)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Avg Price per Unit	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00	$.00
Unit Share	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
ACV Weighted Distribution	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Continental Specialty															

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Flowers Industries Miami - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

rs Miami	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
llars (000)	$37	$36	$35	$32	$34	$39	$35	$35	$36	$41	$51	$38	$38	$32	$481
g Price per Unit	$2.00	$1.99	$2.00	$2.01	$1.86	$1.60	$1.79	$1.69	$1.59	$1.55	$1.54	$1.75	$1.84	$1.83	$1.74
it Share	0.9	0.9	0.9	0.8	1.1	1.4	1.1	1.2	1.2	1.5	1.8	1.2	1.1	0.9	1.2
V Weighted Distribution	99.6%	99.9%	100.0%	97.5%	97.1%	96.9%	96.9%	98.1%	96.9%	97.1%	98.4%	97.3%	99.1%	99.4%	100.0%
te Label Variety															
its (000)	600	613	552	624	502	487	494	478	500	501	507	521	508	550	6,837
llars (000)	$692	$716	$649	$648	$584	$576	$582	$554	$583	$567	$592	$611	$589	$623	$7,873
g Price per Unit	$1.15	$1.17	$1.18	$1.04	$1.16	$1.18	$1.18	$1.16	$1.17	$1.13	$1.17	$1.17	$1.16	$1.13	$1.15
it Share	30.7	30.8	29.0	32.6	29.0	28.2	27.4	27.6	27.2	28.6	27.8	29.2	26.9	28.5	28.7
V Weighted Distribution	99.3%	99.7%	99.9%	99.1%	98.2%	97.8%	97.8%	97.1%	98.0%	98.2%	98.4%	98.6%	98.7%	99.1%	99.9%

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FBI 00707

Flowers Industries Miami - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Miami	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks, 98	Latest 52 Weeks
Units (000)	1	2	2	1	1	1	1	1	1	1	1	1	2	2	16
Dollars (000)	$3	$3	$3	$2	$2	$2	$2	$2	$2	$2	$2	$2	$3	$3	$28
Avg Price per Unit	$1.86	$1.50	$1.89	$1.90	$1.92	$1.93	$1.91	$1.93	$1.91	$1.91	$1.75	$1.75	$1.66	$1.53	$1.77
Unit Share	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
ACV Weighted Distribution	8.9%	9.1%	8.7%	9.2%	8.3%	9.6%	9.6%	9.0%	9.0%	9.0%	9.0%	9.2%	8.5%	9.4%	9.6%
TOTAL PRIVATE LABEL/GENERIC															
Units (000)	499	512	495	439	419	395	458	409	426	391	460	473	553	562	5,992
Dollars (000)	$625	$642	$620	$552	$516	$489	$534	$505	$536	$488	$565	$583	$681	$689	$7,401
Avg Price per Unit	$1.25	$1.25	$1.25	$1.26	$1.23	$1.24	$1.17	$1.23	$1.26	$1.25	$1.23	$1.23	$1.23	$1.23	$1.24
Unit Share	31.2	31.4	32.9	30.6	30.1	30.5	30.6	29.5	27.0	24.9	28.9	31.3	33.7	33.2	30.4
ACV Weighted Distribution	99.3%	99.7%	99.9%	99.1%	98.2%	97.8%	97.8%	97.1%	98.0%	98.2%	98.4%	98.6%	98.7%	99.1%	99.9%

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FBI 00709

Flowers Industries Miami - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Flowers Miami	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
TTL CLASS 4 - BUNS															
Units (000)	988	1,014	1,050	998	1,230	1,116	1,341	1,059	1,107	875	889	778	845	930	13,231
Dollars (000)	$1,106	$1,129	$1,168	$1,167	$1,262	$1,211	$1,353	$1,124	$1,141	$1,008	$1,010	$902	$999	$1,060	$14,535
Avg Price per Unit	$1.12	$1.11	$1.11	$1.17	$1.03	$1.08	$1.01	$1.06	$1.03	$1.15	$1.14	$1.16	$1.18	$1.14	$1.10
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
FLWR/DAND/SPCHRV															
Units (000)	121	104	112	125	144	140	149	102	112	105	112	94	102	98	1,502
Dollars (000)	$126	$109	$118	$130	$153	$149	$157	$105	$115	$108	$115	$97	$106	$110	$1,573
Avg Price per Unit	$1.04	$1.04	$1.05	$1.04	$1.06	$1.06	$1.06	$1.03	$1.03	$1.03	$1.03	$1.03	$1.04	$1.13	$1.05
Unit Share	12.3	10.3	10.7	12.5	11.7	12.6	11.1	9.7	10.1	12.1	12.6	12.1	12.1	10.5	11.3
ACV Weighted Distribution	69.1%	77.3%	72.5%	73.8%	89.8%	79.9%	87.7%	90.5%	93.4%	96.1%	92.3%	83.8%	83.6%	80.1%	96.1%
MERITA/TAYSTEE															
Units (000)	11	10	11	10	10	13	16	14	10	11	13	11	12	11	153
Dollars (000)	$20	$20	$22	$19	$19	$23	$25	$22	$19	$19	$21	$21	$23	$20	$272
Avg Price per Unit	$1.85	$1.96	$1.97	$2.00	$1.93	$1.76	$1.53	$1.58	$1.83	$1.71	$1.60	$1.87	$1.87	$1.81	$1.78
Unit Share	1.1	1.0	1.1	1.0	0.8	1.1	1.2	1.3	0.9	1.3	1.5	1.4	1.5	1.2	1.2
ACV Weighted Distribution	26.2%	27.7%	25.4%	25.7%	26.2%	26.5%	26.3%	26.3%	26.9%	27.7%	29.8%	30.1%	29.8%	32.0%	32.0%
HOLSUM															
Units (000)	27	28	29	29	34	40	53	34	32	29	29	23	27	30	417
Dollars (000)	$44	$45	$46	$46	$54	$60	$73	$48	$50	$45	$46	$36	$43	$48	$641
Avg Price per Unit	$1.59	$1.59	$1.59	$1.60	$1.60	$1.50	$1.38	$1.43	$1.55	$1.55	$1.59	$1.60	$1.60	$1.59	$1.54
Unit Share	2.8	2.8	2.8	2.9	2.7	3.6	4.0	3.2	2.9	3.3	3.3	2.9	3.2	3.3	3.2
ACV Weighted Distribution	98.1%	98.4%	96.8%	98.1%	98.5%	98.5%	97.3%	96.6%	96.6%	96.7%	96.8%	97.6%	97.7%	98.3%	98.5%
PRIVATE LABEL															
Units (000)	567	592	597	550	687	623	766	526	620	470	481	429	442	518	7,300
Dollars (000)	$474	$477	$474	$498	$520	$495	$562	$458	$454	$397	$395	$368	$396	$424	$5,917
Avg Price per Unit	$.84	$.81	$.79	$.91	$.76	$.79	$.73	$.87	$.73	$.84	$.82	$.86	$.89	$.82	$.81
Unit Share	57.4	58.3	56.9	55.1	55.9	55.8	57.1	49.6	56.0	53.7	54.1	55.1	52.4	55.6	55.2
ACV Weighted Distribution	99.6%	99.9%	100.0%	99.5%	99.0%	98.8%	98.8%	98.1%	98.1%	98.2%	98.4%	99.0%	99.1%	99.4%	100.0%

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FBI 00710

Monthly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Orlando - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Orlando, FL	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	695	695	654	649	608	623	641	631	604	641	705	690	728	764	8,632
Dollars (000)	$1,099	$1,088	$1,045	$1,031	$964	$978	$994	$973	$950	$1,010	$1,085	$1,060	$1,113	$1,211	$13,502
Avg Price per Unit	$1.58	$1.57	$1.60	$1.59	$1.59	$1.57	$1.55	$1.54	$1.57	$1.58	$1.54	$1.54	$1.53	$1.59	$1.56
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Dist	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	43	41	40	40	37	38	35	33	37	44	38	44	53	56	537
Dollars (000)	$75	$72	$71	$71	$65	$67	$64	$61	$64	$67	$66	$70	$77	$88	$903
Avg Price per Unit	$1.75	$1.77	$1.76	$1.77	$1.76	$1.77	$1.81	$1.83	$1.75	$1.52	$1.73	$1.59	$1.43	$1.59	$1.68
Unit Share	6.2	5.9	6.1	6.2	6.1	6.0	5.5	5.3	6.1	6.9	5.4	6.4	7.3	7.3	6.2
ACV Weighted Dist	97.6%	98.8%	99.0%	98.5%	98.2%	97.0%	97.0%	98.4%	99.0%	100.0%	98.7%	97.8%	98.0%	98.1%	100.0%
PEPPERIDGE FARM															
Units (000)	133	146	125	123	112	115	112	111	121	129	127	120	138	147	1,624
Dollars (000)	$273	$291	$261	$256	$235	$238	$233	$232	$243	$267	$277	$262	$283	$315	$3,394
Avg Price per Unit	$2.06	$2.00	$2.09	$2.09	$2.09	$2.08	$2.09	$2.10	$2.02	$2.07	$2.19	$2.18	$2.06	$2.14	$2.09
Unit Share	19.1	21.0	19.1	18.9	18.5	18.4	17.4	17.6	20.0	20.1	18.0	17.5	18.9	19.3	18.6
ACV Weighted Dist	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Ttl Arn/Oro/Fran															
Units (000)	101	106	97	94	86	97	93	95	82	84	91	86	91	98	1,198
Dollars (000)	$198	$200	$196	$195	$175	$184	$183	$184	$168	$176	$192	$183	$186	$215	$2,437
Avg Price per Unit	$1.95	$1.89	$2.02	$2.07	$2.05	$1.90	$1.98	$1.93	$2.05	$2.11	$2.10	$2.13	$2.05	$2.20	$2.03
Unit Share	14.6	15.2	14.8	14.5	14.1	15.5	14.4	15.1	13.6	13.0	12.9	12.5	12.5	12.8	13.9
ACV Weighted Dist	100.0%	99.7%	99.8%	99.7%	99.6%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
PRIVATE LABEL/GENERIC															
Units (000)	202	199	200	191	197	195	200	190	178	181	224	218	229	246	2,649
Dollars (000)	$251	$246	$250	$238	$241	$241	$247	$237	$225	$230	$274	$270	$281	$302	[illegible]
Avg Price per Unit	$1.24	$1.24	$1.25	$1.25	$1.23	$1.23	$1.23	$1.25	$1.26	$1.27	$1.22	$1.24	$1.23	$1.22	[illegible]
Unit Share	29.1	28.6	30.7	29.4	32.3	31.3	31.3	30.1	29.5	28.3	31.8	31.5	31.4	32.1	[illegible]

FBI 00718

Source: Inf

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Flowers Industries Orlando - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

ndo, FL	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
nit Share	13.1	10.7	10.9	10.1	11.8	10.5	10.3	11.4	10.9	10.3	10.4	10.6	13.3	12.0	11.0
CV Weighted Distribution	100.0%	99.7%	99.8%	99.7%	99.6%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
an Meal															
nits (000)	8	7	6	5	5	7	9	8	10	7	8	12	6	17	108
ollars (000)	$12	$11	$10	$9	$9	$11	$13	$12	$15	$11	$12	$19	$10	$20	$162
vg Price per Unit	$1.52	$1.58	$1.74	$1.77	$1.68	$1.54	$1.43	$1.52	$1.42	$1.57	$1.53	$1.61	$1.63	$1.17	$1.50
nit Share	0.7	0.6	0.5	0.4	0.5	0.6	0.7	0.7	0.9	0.6	0.7	1.0	0.6	1.4	0.7
CV Weighted Distribution	95.9%	96.9%	97.0%	92.8%	96.6%	95.4%	97.6%	97.6%	98.4%	97.6%	98.4%	97.6%	97.9%	96.9%	98.4%
rivate Label/Generic															
nits (000)	488	490	441	483	450	426	437	430	413	421	470	453	450	492	5,857
ollars (000)	$574	$576	$523	$545	$531	$503	$515	$506	$480	$490	$550	$531	$532	$575	$6,858
vg Price per Unit	$1.18	$1.18	$1.19	$1.13	$1.18	$1.18	$1.18	$1.18	$1.16	$1.16	$1.17	$1.17	$1.18	$1.17	$1.17
nit Share	41.5	40.3	36.7	39.9	41.5	36.4	35.4	37.4	35.9	36.3	39.3	39.1	39.2	38.8	38.2
CV Weighted Distribution	99.6%	99.7%	100.0%	100.0%	100.0%	100.0%	99.6%	99.6%	99.6%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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FBI 00717

Flowers Industries Orlando - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Orlando, FL	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
	99.6%	99.7%	100.0%	100.0%	100.0%	100.0%	99.6%	99.6%	99.6%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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FBI 00719

Flowers Industries Orlando - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Orlando, FL

	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
TTL CLASS 4 - BUNS															
Units (000)	489	526	558	550	711	678	795	596	608	493	486	406	439	514	7,360
Dollars (000)	$512	$553	$566	$580	$670	$652	$736	$576	$566	$495	$485	$417	$458	$511	$7,267
Avg Price per Unit	$1.05	$1.05	$1.02	$1.06	$.94	$.96	$.93	$.97	$.93	$1.00	$1.00	$1.03	$1.04	$.99	$.99
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
SNBM/FLWR/SPC HVST															
Units (000)	37	51	61	59	66	66	72	56	54	47	47	40	47	45	711
Dollars (000)	$48	$58	$67	$65	$71	$72	$77	$61	$58	$50	$50	$42	$49	$51	$771
Avg Price per Unit	$1.31	$1.14	$1.10	$1.09	$1.08	$1.08	$1.08	$1.08	$1.07	$1.06	$1.06	$1.07	$1.04	$1.14	$1.08
Unit Share	7.5	9.7	10.9	10.8	9.3	9.8	9.0	9.5	8.8	9.6	9.7	9.8	10.6	8.7	9.7
ACV Weighted Distribution	47.8%	52.3%	52.8%	56.5%	57.3%	59.6%	70.5%	70.4%	72.8%	76.4%	74.1%	66.5%	68.2%	67.4%	76.4%
MERITA/TAYSTEE/AUT GRN															
Units (000)	54	58	59	58	69	94	117	90	89	82	79	68	74	90	1,027
Dollars (000)	$75	$81	$81	$80	$85	$102	$122	$96	$93	$87	$85	$76	$81	$98	$1,168
Avg Price per Unit	$1.37	$1.39	$1.37	$1.38	$1.24	$1.09	$1.05	$1.07	$1.05	$1.06	$1.07	$1.11	$1.10	$1.08	$1.14
Unit Share	11.1	11.0	10.6	10.5	9.7	13.8	14.7	15.1	14.6	16.7	16.3	16.8	16.8	17.6	14.0
ACV Weighted Distribution	96.5%	97.5%	98.0%	96.9%	96.6%	95.5%	94.9%	95.9%	96.0%	95.5%	94.7%	94.7%	95.3%	96.3%	98.0%
COUNTRY HEARTH															
Units (000)	6	5	5	10	19	18	15	12	9	9	9	8	10	11	140
Dollars (000)	$9	$8	$8	$14	$21	$21	$19	$16	$12	$13	$13	$11	$14	$15	$186
Avg Price per Unit	$1.54	$1.74	$1.63	$1.36	$1.13	$1.17	$1.25	$1.27	$1.44	$1.40	$1.44	$1.45	$1.41	$1.38	$1.33
Unit Share	1.2	0.9	0.9	1.9	2.6	2.7	1.9	2.1	1.4	1.8	1.9	1.9	2.3	2.1	1.9
ACV Weighted Distribution	46.4%	46.4%	51.0%	62.1%	75.0%	79.4%	74.0%	71.4%	61.8%	61.3%	72.3%	72.3%	74.7%	72.7%	79.1%
WONDER															
Units (000)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Dollars (000)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$1
Avg Price per Unit	$1.29	$1.29	$.00	$.00	$.00	$.99	$.99	$.99	$.99	$.99	$.99	$.99	$1.06	$1.09	$1.04
Unit Share	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.0

FBI 00720
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Flowers Industries Memphis - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Memphis, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	102	103	91	103	86	95	87	106	97	91	101	97	110	114	1,280
Dollars (000)	$206	$205	$190	$206	$181	$193	$189	$219	$207	$197	$212	$210	$234	$231	$2,675
Avg Price per Unit	$2.02	$2.00	$2.09	$2.00	$2.11	$2.04	$2.17	$2.06	$2.12	$2.17	$2.09	$2.18	$2.13	$2.03	$2.09
Unit Share	9.2	9.6	8.9	9.4	8.1	8.4	7.4	8.5	8.4	8.3	9.0	8.2	8.9	9.0	8.7
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	5	5	4	4	4	4	4	4	4	4	4	4	6	5	57
Dollars (000)	$11	$10	$9	$9	$9	$8	$8	$9	$10	$10	$8	$9	$12	$13	$124
Avg Price per Unit	$2.09	$2.11	$2.13	$2.13	$2.12	$2.14	$2.23	$2.27	$2.34	$2.26	$2.21	$2.17	$2.03	$2.39	$2.19
Unit Share	0.5	0.5	0.4	0.4	0.4	0.3	0.3	0.3	0.4	0.4	0.3	0.4	0.5	0.4	0.4
ACV Weighted Distribution	73.2%	72.1%	72.0%	74.4%	76.6%	75.3%	72.3%	69.2%	77.0%	71.0%	77.3%	77.9%	80.5%	77.9%	80.5%
BREAD DUJOUR															
Units (000)	1	1	1	1	1	1	1	1	1	1	1	1	1	1	12
Dollars (000)	$2	$2	$2	$2	$2	$2	$2	$2	$2	$2	$2	$2	$3	$2	$25
Avg Price per Unit	$2.27	$2.28	$1.97	$2.27	$2.26	$2.28	$2.28	$2.28	$2.31	$1.95	$2.11	$1.69	$1.98	$2.26	$2.12
Unit Share	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
ACV Weighted Distribution	77.5%	68.4%	70.4%	67.2%	67.6%	68.7%	67.3%	73.7%	70.1%	73.4%	78.2%	85.4%	84.2%	76.7%	85.4%
EARTH GRAINS															
Units (000)	22	23	23	23	23	23	22	23	23	23	22	23	27	22	300
Dollars (000)	$48	$49	$51	$50	$50	$50	$49	$53	$51	$49	$48	$51	$59	$49	$659
Avg Price per Unit	$2.16	$2.15	$2.16	$2.19	$2.18	$2.19	$2.21	$2.25	$2.20	$2.15	$2.21	$2.23	$2.19	$2.23	$2.19
Unit Share	2.0	2.1	2.3	2.1	2.2	2.0	1.9	1.9	2.0	2.1	1.9	1.9	2.2	1.8	2.0
ACV Weighted Distribution	96.7%	95.8%	97.3%	96.0%	96.0%	96.0%	97.5%	97.3%	95.8%	95.8%	95.7%	95.7%	95.7%	97.4%	97.5%
ARNOLD/OROWEAT/SUNMAID															
Units (000)	26	30	20	32	16	27	18	27	24	18	30	17	17	39	315
Dollars (000)	$51	$57	$44	$60	$37	$51	$41	$54	$49	$44	$59	$42	$41	$71	$650
Avg Price per Unit	$1.98	$1.89	$2.18	$1.86	$2.33	$1.90	$2.31	$2.02	$2.07	$2.40	$1.96	$2.44	$2.46	$1.80	$2.06
Unit Share	2.3	2.8	2.0	3.0	1.5	2.4	1.5	2.1	2.0	1.7	2.7	1.5	1.4	3.1	2.3
ACV Weighted Distribution	81.4%	82.1%	77.3%	77.6%	77.7%	78.8%	81.3%	82.1%	83.2%	83.2%	84.9%	85.4%	83.5%	83.4%	85.4%
PEPPERIDGE FARM															

Category: Class 2 - Soft Variety

	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
S 2 - SOFT VARIETY															
ts (000)	390	378	361	398	376	379	416	459	405	374	407	448	460	445	5,306
lars (000)	$549	$532	$512	$549	$530	$540	$570	$621	$585	$534	$556	$579	$615	$588	$7,312
g Price per Unit	$1.41	$1.41	$1.42	$1.38	$1.41	$1.43	$1.37	$1.35	$1.45	$1.43	$1.37	$1.29	$1.34	$1.32	$1.38
it Share	35.3	35.3	35.4	36.5	35.3	33.7	35.5	36.5	35.1	34.0	36.1	38.0	37.2	35.3	35.7
V Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
RES OWN															
its (000)	19	17	20	23	28	19	19	21	20	17	15	19	33	23	274
llars (000)	$29	$25	$30	$35	$40	$32	$33	$36	$34	$29	$26	$31	$43	$41	$435
g Price per Unit	$1.54	$1.49	$1.54	$1.54	$1.46	$1.64	$1.72	$1.68	$1.72	$1.70	$1.75	$1.63	$1.31	$1.74	$1.59
it Share	1.7	1.6	1.9	2.1	2.6	1.7	1.6	1.7	1.7	1.6	1.3	1.6	2.6	1.8	1.9
V Weighted Distribution	78.8%	77.1%	78.7%	82.6%	82.6%	82.6%	83.5%	83.5%	84.2%	84.2%	84.4%	84.2%	100.0%	100.0%	100.0%
S															
its (000)	30	25	27	28	26	25	30	23	30	19	18	19	19	17	306
llars (000)	$42	$38	$40	$40	$39	$37	$45	$35	$40	$29	$27	$28	$29	$27	$455
g Price per Unit	$1.42	$1.52	$1.49	$1.43	$1.52	$1.50	$1.49	$1.50	$1.37	$1.53	$1.50	$1.50	$1.53	$1.55	$1.49
it Share	2.7	2.3	2.6	2.6	2.4	2.2	2.6	1.8	2.6	1.8	1.6	1.6	1.5	1.4	2.2
CV Weighted Distribution	84.0%	84.0%	84.0%	84.1%	84.1%	84.1%	82.6%	82.6%	83.8%	80.6%	82.7%	77.2%	80.6%	77.3%	84.1%
IDER/INTERSTATE															
nits (000)	64	58	63	64	54	56	63	65	67	59	55	57	56	61	779
ollars (000)	$107	$100	$105	$109	$95	$98	$105	$115	$112	$103	$95	$98	$100	$108	$1,341
vg Price per Unit	$1.67	$1.72	$1.66	$1.68	$1.74	$1.74	$1.67	$1.76	$1.67	$1.76	$1.72	$1.72	$1.78	$1.77	$1.72
nit Share	5.8	5.5	6.2	5.9	5.1	5.0	5.4	5.2	5.8	5.3	4.9	4.8	4.5	4.8	5.3
CV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
ONIAL															
Inits (000)	34	39	34	35	38	41	36	43	46	49	58	56	39	40	555
)ollars (000)	$55	$63	$59	$56	$62	$69	$64	$71	$78	$80	$91	$88	$70	$70	$922
Avg Price per Unit	$1.62	$1.62	$1.72	$1.58	$1.63	$1.67	$1.77	$1.66	$1.71	$1.64	$1.58	$1.57	$1.79	$1.73	$1.66
Unit Share	3.0	3.7	3.3	3.2	3.5	3.7	3.1	3.4	4.0	4.5	5.1	4.8	3.2	3.2	4.5
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

FBI 00846

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Category: Class 3 - Specialty

Memphis, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Units (000)	12	11	11	12	12	12	13	12	13	14	14	14	14	13	164
Dollars (000)	$25	$23	$23	$24	$24	$25	$26	$27	$29	$29	$29	$30	$30	$28	$347
Avg Price per Unit	$2.05	$2.06	$2.03	$2.08	$2.08	$2.10	$2.07	$2.13	$2.15	$2.15	$2.18	$2.16	$2.12	$2.22	$2.12
Unit Share	1.1	1.0	1.1	1.1	1.1	1.1	1.1	1.0	1.2	1.2	1.2	1.2	1.1	1.0	1.1
ACV Weighted Distribution	73.8%	73.7%	73.5%	73.5%	74.9%	73.5%	71.4%	71.5%	72.4%	72.5%	72.5%	72.9%	73.0%	73.1%	74.9%

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Flowers Industries Memphis - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Memphis, TN	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 4 - BUNS															
Units (000)	228	216	253	267	397	334	456	305	401	235	257	209	228	298	3,855
Dollars (000)	$229	$231	$262	$281	$366	$330	$424	$316	$405	$254	$247	$223	$252	$260	$3,850
Avg Price per Unit	$1.00	$1.07	$1.03	$1.06	$.92	$.99	$.93	$1.04	$1.01	$1.08	$.96	$1.07	$1.10	$.87	$1.00
Unit Share	64.8	63.8	57.0	68.7	76.5	74.4	79.3	70.9	75.6	65.5	66.5	38.7	41.5	68.7	67.5
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
FLOWERS SB,FL															
Units (000)	1	1	2	3	5	5	4	4	3	2	4	5	5	5	48
Dollars (000)	$1	$1	$2	$3	$6	$5	$5	$5	$4	$3	$4	$5	$6	$6	$56
Avg Price per Unit	$1.11	$1.04	$1.03	$1.07	$1.05	$1.09	$1.13	$1.16	$1.33	$1.40	$1.10	$1.05	$1.17	$1.33	$1.15
Unit Share	0.3	0.4	0.4	0.8	1.0	1.1	0.7	0.9	0.5	0.7	1.0	0.8	1.0	1.1	0.9
ACV Weighted Distribution	12.9%	15.6%	12.6%	48.4%	51.4%	53.5%	54.3%	58.3%	59.4%	58.8%	55.5%	55.4%	74.5%	71.2%	74.5%
Harts/Lewis Bake Shop															
Units (000)	2	3	3	4	5	4	4	6	5	4	3	4	5	6	56
Dollars (000)	$3	$3	$4	$5	$6	$5	$5	$7	$6	$5	$4	$4	$7	$7	$70
Avg Price per Unit	$1.29	$1.20	$1.17	$1.20	$1.26	$1.24	$1.30	$1.20	$1.23	$1.27	$1.28	$1.24	$1.30	$1.26	$1.24
Unit Share	0.6	0.8	0.7	1.1	0.9	1.0	0.7	1.4	0.9	1.1	0.9	0.7	0.9	1.4	1.0
ACV Weighted Distribution	26.9%	36.0%	34.3%	47.1%	47.1%	47.3%	46.3%	49.2%	48.5%	47.4%	43.1%	43.0%	43.0%	42.9%	49.2%
WONDER															
Units (000)	8	7	8	7	7	7	7	7	7	7	7	29	10	7	118
Dollars (000)	$12	$11	$12	$11	$11	$12	$11	$12	$11	$11	$11	$36	$15	$11	$175
Avg Price per Unit	$1.59	$1.59	$1.46	$1.57	$1.59	$1.60	$1.61	$1.62	$1.63	$1.55	$1.58	$1.21	$1.52	$1.63	$1.48
Unit Share	2.2	2.1	1.9	1.8	1.3	1.7	1.2	1.7	1.3	2.0	1.8	5.4	1.8	1.6	2.6
ACV Weighted Distribution	90.7%	94.2%	96.9%	91.5%	94.3%	93.1%	93.1%	94.3%	94.9%	95.1%	97.0%	92.0%	88.3%	88.3%	97.0%
Colonial															
Units (000)	19	19	23	22	24	21	24	23	27	19	20	18	23	21	285
Dollars (000)	$25	$25	$30	$29	$31	$28	$33	$31	$35	$28	$28	$25	$33	$30	$385
Avg Price per Unit	$1.31	$1.32	$1.31	$1.32	$1.32	$1.32	$1.36	$1.33	$1.31	$1.43	$1.40	$1.39	$1.40	$1.39	$1.35
Unit Share	5.3	5.7	5.2	5.6	4.5	4.7	4.2	5.4	5.0	5.4	5.2	3.4	4.2	4.9	4.9
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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Flowers Industries New Orleans- Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers New Orleans-Mobile	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks 98	Latest 52 Weeks
Unit Share	11.5	11.4	12.0	11.3	11.8	12.5	11.7	11.7	11.3	11.1	11.8	12.2	11.8	11.2	11.7
ACV Weighted Distribution	52.1%	52.2%	56.1%	61.1%	61.3%	61.1%	60.9%	59.7%	59.6%	59.6%	59.6%	59.9%	58.9%	58.8%	61.3%
ARNOLDS/OROWEAT															
Units (000)	11	12	11	10	9	10	10	10	10	10	11	10	12	13	141
Dollars (000)	$27	$30	$27	$25	$22	$24	$27	$26	$26	$26	$29	$27	$31	$34	$356
Avg Price per Unit	$2.45	$2.42	$2.45	$2.45	$2.42	$2.42	$2.57	$2.55	$2.59	$2.56	$2.59	$2.60	$2.61	$2.58	$2.53
Unit Share	2.6	3.0	3.1	2.7	2.6	2.8	2.7	2.7	2.8	2.8	2.9	2.7	2.9	3.4	2.9
ACV Weighted Distribution	46.8%	51.6%	51.6%	50.9%	49.0%	47.0%	47.0%	46.5%	48.4%	45.8%	45.8%	46.5%	45.3%	41.2%	51.6%
TTL PL/GENERIC															
Units (000)	176	169	140	154	149	145	157	159	143	144	150	144	157	150	1,959
Dollars (000)	$218	$208	$176	$188	$178	$180	$194	$191	$178	$178	$187	$180	$201	$186	$2,424
Avg Price per Unit	$1.23	$1.23	$1.26	$1.22	$1.19	$1.25	$1.24	$1.20	$1.24	$1.24	$1.25	$1.26	$1.28	$1.24	$1.24
Unit Share	41.9	41.2	38.0	40.4	42.9	40.9	41.4	42.1	39.1	39.6	39.2	37.0	38.6	38.5	39.9
ACV Weighted Distribution	85.0%	84.2%	82.5%	84.3%	85.3%	66.4%	65.7%	63.9%	67.1%	67.9%	65.0%	64.9%	60.6%	66.0%	85.3%
TOTAL ALL OTHERS															
Units (000)	64	59	55	51	46	47	50	49	47	47	50	59	57	48	665
Dollars (000)	$97	$90	$84	$80	$75	$77	$81	$80	$79	$79	$83	$98	$97	$78	$1,080
Avg Price per Unit	$1.53	$1.53	$1.52	$1.58	$1.62	$1.62	$1.64	$1.64	$1.67	$1.66	$1.66	$1.67	$1.70	$1.64	$1.62
Unit Share	15.1	14.4	15.0	13.3	13.3	13.4	13.1	12.9	13.0	13.1	13.0	15.2	14.1	12.3	13.5
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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FBI 00860

New Orleans - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers New Orleans-Mobile	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Unit Share	11.5	11.4	12.0	11.3	11.8	12.5	11.7	11.7	11.3	11.1	11.8	12.2	11.8	11.2	11.7
ACV Weighted Distribution	52.1%	52.2%	56.1%	61.1%	61.3%	61.1%	60.9%	59.7%	59.6%	59.6%	59.6%	59.9%	58.9%	58.8%	61.3%
ARNOLDS/OROWEAT															
Units (000)	11	12	11	10	9	10	10	10	10	10	11	10	12	13	141
Dollars (000)	$27	$30	$27	$25	$22	$24	$27	$26	$26	$26	$29	$27	$31	$34	$356
Avg Price per Unit	$2.45	$2.42	$2.45	$2.45	$2.42	$2.42	$2.57	$2.55	$2.59	$2.56	$2.59	$2.60	$2.61	$2.58	$2.53
Unit Share	2.6	3.0	3.1	2.7	2.6	2.8	2.7	2.7	2.8	2.8	2.9	2.7	2.9	3.4	2.9
ACV Weighted Distribution	46.8%	51.6%	51.6%	50.9%	49.0%	47.0%	47.0%	46.5%	48.4%	45.8%	45.8%	46.5%	45.3%	41.2%	51.6%
TTL PL/GENERIC															
Units (000)	176	169	140	154	149	145	157	159	143	144	150	144	157	150	1,959
Dollars (000)	$218	$208	$176	$188	$178	$180	$194	$191	$178	$178	$187	$180	$201	$186	$2,424
Avg Price per Unit	$1.23	$1.23	$1.26	$1.22	$1.19	$1.25	$1.24	$1.20	$1.24	$1.24	$1.25	$1.26	$1.28	$1.24	$1.24
Unit Share	41.9	41.2	38.0	40.4	42.9	40.9	41.4	42.1	39.1	39.6	39.2	37.0	38.6	38.5	39.9
ACV Weighted Distribution	85.0%	84.2%	82.5%	84.3%	85.3%	66.4%	65.7%	63.9%	67.1%	67.9%	65.0%	64.9%	60.6%	66.0%	85.3%
TOTAL ALL OTHERS															
Units (000)	64	59	55	51	46	47	50	49	47	47	50	59	57	48	665
Dollars (000)	$97	$90	$84	$80	$75	$77	$81	$80	$79	$79	$83	$98	$97	$78	$1,080
Avg Price per Unit	$1.53	$1.53	$1.52	$1.58	$1.62	$1.62	$1.64	$1.64	$1.67	$1.66	$1.66	$1.67	$1.70	$1.64	$1.62
Unit Share	15.1	14.4	15.0	13.3	13.3	13.4	13.1	12.9	13.0	13.1	13.0	15.2	14.1	12.3	13.5
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

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Flowers Industries Houston - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Houston	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks . 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	578	605	579	647	631	633	597	621	611	611	623	620	670	651	8,099
Dollars (000)	$1,015	$1,064	$1,020	$1,149	$1,108	$1,106	$1,059	$1,080	$1,079	$1,091	$1,125	$1,117	$1,207	$1,178	$14,382
Avg Price per Unit	$1.76	$1.76	$1.76	$1.77	$1.76	$1.75	$1.77	$1.74	$1.77	$1.79	$1.81	$1.80	$1.80	$1.81	$1.78
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
COBBLESTONE MILL															
Units (000)	19	19	20	21	23	23	22	22	25	25	24	26	32	24	307
Dollars (000)	$38	$38	$40	$41	$47	$45	$45	$46	$51	$48	$48	$49	$56	$49	$603
Avg Price per Unit	$1.97	$2.01	$2.00	$1.99	$2.01	$1.99	$2.04	$2.05	$2.04	$1.92	$2.02	$1.86	$1.77	$2.00	$1.97
Unit Share	3.3	3.1	3.4	3.2	3.7	3.6	3.7	3.6	4.1	4.1	3.8	4.3	4.7	3.7	3.8
ACV Weighted Distribution	71.1%	71.0%	71.3%	73.9%	76.9%	77.1%	77.4%	77.0%	76.6%	78.2%	78.4%	80.3%	80.9%	78.9%	80.9%
ARN/ORO/FRAN/S-MD															
Units (000)	125	133	119	147	122	147	111	146	134	113	122	121	128	135	1,677
Dollars (000)	$265	$280	$252	$314	$257	$295	$241	$293	$276	$252	$270	$268	$287	$302	$3,589
Avg Price per Unit	$2.12	$2.09	$2.12	$2.14	$2.11	$2.01	$2.17	$2.01	$2.07	$2.23	$2.22	$2.23	$2.25	$2.24	$2.14
Unit Share	21.7	22.1	20.6	22.7	19.3	23.1	18.6	23.5	21.9	18.5	19.5	19.5	19.1	20.7	20.7
ACV Weighted Distribution	73.6%	73.9%	74.0%	73.5%	73.9%	73.8%	71.4%	71.0%	70.7%	71.8%	81.1%	83.3%	84.1%	84.5%	84.5%
TTL PEPPERIDGE FARM															
Units (000)	93	104	101	119	117	108	107	110	114	120	116	114	123	118	1,470
Dollars (000)	$199	$224	$217	$250	$252	$234	$230	$237	$244	$263	$258	$251	$267	$259	$3,188
Avg Price per Unit	$2.14	$2.16	$2.15	$2.11	$2.16	$2.17	$2.14	$2.15	$2.15	$2.20	$2.22	$2.20	$2.18	$2.20	$2.17
Unit Share	16.1	17.1	17.5	18.3	18.5	17.1	18.0	17.8	18.6	19.6	18.7	18.5	18.3	18.1	18.2
ACV Weighted Distribution	77.5%	77.9%	78.4%	75.4%	71.2%	75.1%	74.9%	77.7%	77.6%	78.4%	76.9%	79.3%	79.7%	79.7%	79.7%
TOTAL EARTH GRAINS															
Units (000)	46	49	46	52	51	50	51	51	49	47	52	49	53	49	648
Dollars (000)	$91	$95	$92	$104	$104	$101	$103	$104	$99	$95	$104	$98	$108	$100	$1,307
Avg Price per Unit	$1.96	$1.95	$2.02	$2.00	$2.03	$2.02	$2.02	$2.03	$2.02	$2.02	$2.01	$2.01	$2.03	$2.05	$2.02

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FBI 00872

Flowers Industries Houston - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

owers Houston	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
ACV Weighted Distribution	97.7%	98.2%	98.1%	98.3%	98.5%	98.0%	98.0%	98.0%	98.0%	98.0%	98.3%	98.3%	98.6%	98.6%	98.6%
vate Label															
Units (000)	556	513	531	570	531	541	516	520	481	540	567	484	490	515	6,801
Dollars (000)	$611	$560	$577	$604	$576	$581	$546	$545	$487	$575	$590	$492	$530	$527	$7,191
Avg Price per Unit	$1.10	$1.09	$1.09	$1.06	$1.09	$1.07	$1.06	$1.05	$1.01	$1.06	$1.04	$1.02	$1.08	$1.02	$1.06
Unit Share	35.1	32.7	34.3	35.6	34.4	33.3	32.2	32.1	29.3	32.2	34.2	32.4	31.5	31.2	32.7
ACV Weighted Distribution	97.4%	97.9%	98.1%	97.5%	97.0%	97.2%	96.9%	97.1%	96.9%	98.8%	98.8%	98.8%	98.5%	98.8%	98.8%

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FBI 00871

Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Flowers Houston	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
Unit Share	8.0	8.0	7.9	8.0	8.1	7.9	8.5	8.3	8.0	7.7	8.3	7.9	8.0	7.5	8.0
ACV Weighted Distribution	90.4%	93.9%	91.7%	92.7%	92.9%	92.9%	93.0%	93.2%	93.4%	93.3%	94.8%	94.9%	95.0%	95.1%	95.1%
TOTAL MRS BAIRDS															
Units (000)	25	25	26	27	29	26	26	27	25	26	25	22	24	25	333
Dollars (000)	$49	$49	$49	$53	$55	$51	$51	$53	$51	$52	$49	$43	$46	$49	$651
Avg Price per Unit	$1.94	$1.96	$1.93	$1.93	$1.91	$1.94	$1.93	$1.98	$2.02	$1.99	$1.99	$1.98	$1.87	$1.98	$1.95
Unit Share	4.4	4.1	4.4	4.2	4.6	4.1	4.4	4.3	4.2	4.3	3.9	3.5	3.6	3.8	4.1
ACV Weighted Distribution	91.8%	91.7%	91.7%	97.5%	97.4%	97.4%	97.3%	96.6%	96.7%	96.6%	96.8%	96.8%	96.8%	93.7%	97.5%
TTL PL/GENERIC															
Units (000)	184	194	186	203	211	202	197	191	193	212	215	212	224	236	2,676
Dollars (000)	$217	$231	$220	$240	$249	$236	$236	$207	$222	$250	$260	$258	$273	$288	$3,169
Avg Price per Unit	$1.18	$1.19	$1.18	$1.18	$1.18	$1.17	$1.20	$1.09	$1.15	$1.18	$1.21	$1.22	$1.22	$1.22	$1.18
Unit Share	31.9	32.1	32.2	31.4	33.4	31.9	33.0	30.8	31.5	34.7	34.4	34.2	33.5	36.3	33.0
ACV Weighted Distribution	69.1%	66.4%	68.5%	67.7%	67.0%	67.6%	65.8%	63.6%	61.9%	67.7%	67.4%	67.9%	69.0%	69.1%	69.1%
TOTAL ALL OTHERS															
Units (000)	84	81	81	79	76	76	80	71	70	66	68	75	85	64	972
Dollars (000)	$154	$148	$149	$146	$141	$141	$149	$135	$132	$126	$131	$146	$168	$128	$1,840
Avg Price per Unit	$1.84	$1.82	$1.83	$1.86	$1.85	$1.86	$1.86	$1.89	$1.89	$1.91	$1.92	$1.95	$1.98	$2.01	$1.89
Unit Share	14.5	13.4	14.1	12.1	12.1	12.0	13.4	11.5	11.5	10.8	11.0	12.0	12.6	9.8	12.0
ACV Weighted Distribution	96.7%	98.3%	100.0%	96.7%	97.7%	97.8%	97.9%	98.0%	96.8%	98.0%	97.8%	98.0%	98.1%	98.1%	100.0%

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FBI 00873

Flowers Industries Houston - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Flowers Houston	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
TTL CLASS 4 - BUNS															
Units (000)	831	841	937	937	1,108	1,151	1,293	1,011	1,106	874	918	715	746	816	12,454
Dollars (000)	$912	$926	$965	$1,002	$1,126	$1,188	$1,248	$1,049	$1,081	$930	$952	$782	$826	$878	$12,953
Avg Price per Unit	$1.10	$1.10	$1.03	$1.07	$1.02	$1.03	$.97	$1.04	$.98	$1.06	$1.04	$1.09	$1.11	$1.08	$1.04
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Flowers															
Units (000)	41	42	50	53	61	77	78	66	52	47	42	37	40	42	685
Dollars (000)	$59	$64	$72	$81	$83	$91	$88	$81	$80	$71	$64	$56	$62	$64	$956
Avg Price per Unit	$1.43	$1.51	$1.44	$1.53	$1.38	$1.19	$1.13	$1.23	$1.54	$1.52	$1.53	$1.54	$1.53	$1.51	$1.40
Unit Share	5.0	5.0	5.3	5.6	5.5	6.7	6.0	6.5	4.7	5.4	4.5	5.1	5.4	5.2	5.5
ACV Weighted Distribution	45.6%	52.1%	52.0%	52.3%	52.2%	59.0%	59.3%	59.7%	59.0%	58.9%	56.4%	56.5%	56.6%	56.1%	59.7%
Mrs Bairds															
Units (000)	154	150	161	137	155	165	174	163	149	125	117	110	118	123	1,848
Dollars (000)	$237	$232	$245	$212	$224	$231	$242	$227	$217	$194	$179	$169	$183	$189	$2,744
Avg Price per Unit	$1.54	$1.54	$1.52	$1.54	$1.45	$1.40	$1.39	$1.39	$1.46	$1.55	$1.54	$1.53	$1.54	$1.54	$1.48
Unit Share	18.6	17.8	17.2	14.7	14.0	14.3	13.5	16.1	13.5	14.3	12.7	15.4	15.9	15.0	14.8
ACV Weighted Distribution	97.6%	97.6%	97.6%	97.7%	97.7%	97.7%	97.7%	97.8%	97.8%	97.8%	97.8%	97.7%	97.8%	97.8%	97.8%
Roman Meal															
Units (000)	14	15	15	15	18	18	17	17	17	15	16	14	14	15	205
Dollars (000)	$23	$23	$24	$24	$28	$28	$27	$26	$27	$24	$25	$22	$23	$23	$323
Avg Price per Unit	$1.58	$1.58	$1.58	$1.58	$1.58	$1.57	$1.57	$1.57	$1.57	$1.57	$1.56	$1.56	$1.57	$1.56	$1.57
Unit Share	1.7	1.8	1.6	1.6	1.6	1.5	1.3	1.7	1.5	1.8	1.7	1.9	1.9	1.8	1.7
ACV Weighted Distribution	69.2%	68.7%	69.5%	70.1%	75.8%	72.1%	67.0%	67.9%	69.1%	71.0%	70.7%	71.8%	73.5%	69.7%	75.8%
Rainbo/Colonial															
Units (000)	96	96	96	101	135	155	181	131	147	120	112	105	107	116	1,603
Dollars (000)	$124	$131	$135	$144	$176	$193	$218	$164	$174	$151	$140	$129	$135	$147	$2,038
Avg Price per Unit	$1.30	$1.36	$1.40	$1.42	$1.31	$1.25	$1.21	$1.25	$1.18	$1.27	$1.26	$1.23	$1.25	$1.27	$1.27
Unit Share	11.5	11.5	10.3	10.8	12.2	13.4	14.0	12.9	13.3	13.7	12.2	14.7	14.4	14.2	12.9

Flowers Industries Roanoke - Monthly InfoScan Sales Analysis

Category: Class 3 - Specialty

Roanoke, VA	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
CLASS 3 - SPECIALTY															
Units (000)	291	288	283	292	285	282	289	300	312	318	291	296	332	300	3,868
Dollars (000)	$515	$527	$517	$536	$528	$519	$535	$555	$570	$582	$538	$544	$594	$558	$7,103
Avg Price per Unit	$1.77	$1.83	$1.82	$1.84	$1.85	$1.84	$1.85	$1.85	$1.83	$1.83	$1.85	$1.84	$1.79	$1.86	$1.84
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL COBBLESTONE MILL															
Units (000)	27	25	29	28	26	27	27	28	32	34	28	39	52	37	413
Dollars (000)	$51	$49	$52	$53	$49	$49	$52	$54	$61	$60	$55	$71	$83	$69	$756
Avg Price per Unit	$1.89	$1.91	$1.81	$1.90	$1.91	$1.81	$1.89	$1.90	$1.92	$1.76	$1.93	$1.80	$1.59	$1.90	$1.83
Unit Share	9.3	8.8	10.1	9.5	9.1	9.6	9.5	9.4	10.2	10.7	9.8	13.3	15.6	12.2	10.7
ACV Weighted Distribution	87.8%	87.9%	87.9%	87.6%	87.7%	87.7%	89.3%	89.9%	90.0%	90.3%	94.2%	94.3%	94.7%	94.7%	94.7%
TTL PEPPERIDGE FARM															
Units (000)	76	84	74	82	80	80	82	85	96	97	84	84	96	91	1,116
Dollars (000)	$170	$182	$166	$182	$179	$179	$185	$191	$206	$215	$192	$188	$204	$204	$2,474
Avg Price per Unit	$2.22	$2.17	$2.25	$2.22	$2.24	$2.24	$2.24	$2.24	$2.14	$2.21	$2.28	$2.24	$2.13	$2.24	$2.22
Unit Share	26.2	29.1	26.1	28.2	28.0	28.4	28.5	28.5	30.8	30.7	28.9	28.4	28.9	30.4	28.9
ACV Weighted Distribution	96.3%	96.5%	96.5%	98.6%	94.7%	94.7%	94.7%	96.4%	96.3%	93.8%	93.7%	96.4%	96.5%	99.5%	99.5%
ARN/ORO/FRAN															
Units (000)	28	28	28	26	25	25	27	31	31	29	28	25	26	28	358
Dollars (000)	$56	$57	$58	$55	$52	$53	$57	$61	$63	$61	$57	$53	$53	$61	$740
Avg Price per Unit	$2.03	$2.01	$2.05	$2.09	$2.11	$2.10	$2.07	$1.98	$2.05	$2.08	$2.03	$2.12	$2.05	$2.15	$2.07
Unit Share	9.5	9.8	9.9	9.0	8.7	9.0	9.5	10.2	9.8	9.2	9.6	8.4	7.8	9.0	9.2
ACV Weighted Distribution	66.2%	65.3%	62.8%	59.9%	58.3%	58.4%	58.4%	61.4%	61.5%	61.0%	61.2%	60.9%	58.1%	61.2%	61.2%
Harvest Ridge															
Units (000)	1	1	1	1	1	1	1	1	1	1	1	1	1	1	13
Dollars (000)	$2	$2	$2	$2	$2	$2	$2	$2	$2	$2	$2	$2	$2	$2	$26

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Flowers Industries Roanoke - Monthly InfoScan Sales Analysis

Category: Class 2 - Soft Variety

anoke, VA	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks 98	Latest 52 Weeks
onial/Rain/Aut Grn															
Jnits (000)	2	2	5	9	5	10	8	6	6	4	3	3	4	5	70
Dollars (000)	$4	$4	$7	$11	$8	$14	$12	$10	$10	$7	$6	$5	$6	$7	$107
Avg Price per Unit	$1.78	$1.85	$1.38	$1.31	$1.67	$1.33	$1.57	$1.58	$1.53	$1.79	$1.75	$1.79	$1.67	$1.34	$1.52
Jnit Share	0.3	0.2	0.7	1.1	0.6	1.2	0.9	0.7	0.7	0.5	0.4	0.3	0.4	0.6	0.6
ACV Weighted Distribution	22.1%	19.7%	19.6%	19.6%	19.2%	18.7%	18.8%	19.1%	19.0%	18.8%	18.7%	21.4%	21.4%	20.9%	21.4%
ate Label															
Jnits (000)	365	342	342	374	378	377	363	385	383	374	363	370	370	389	4,812
Dollars (000)	$411	$376	$397	$422	$428	$415	$404	$433	$449	$423	$392	$407	$426	$420	$5,393
Avg Price per Unit	$1.13	$1.10	$1.16	$1.13	$1.13	$1.10	$1.11	$1.12	$1.17	$1.13	$1.08	$1.10	$1.15	$1.08	$1.12
Unit Share	45.5	43.1	44.7	45.7	45.2	45.9	41.7	42.0	42.9	44.0	44.5	43.7	42.9	43.6	43.8
ACV Weighted Distribution	99.3%	99.4%	95.3%	95.3%	95.4%	95.4%	95.4%	97.6%	97.6%	97.4%	96.7%	99.5%	100.0%	100.0%	100.0%

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FBI 00824

Monthly Sales Trends

Source: Information Resources, Inc., 1996

Flowers Industries Roanoke Monthly Historical Sales Analysis

Category: Class 3 - Specialty

Roanoke, VA	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks . 98	Latest 52 Weeks
ACV Weighted Distribution	14.7%	12.1%	11.3%	11.1%	10.7%	10.5%	8.8%	10.5%	10.3%	10.0%	8.1%	5.0%	5.1%	4.8%	12.1%
TTL PL/GENERIC															
Units (000)	64	56	57	56	58	57	56	59	58	62	61	59	59	58	756
Dollars (000)	$82	$82	$84	$81	$88	$84	$81	$89	$84	$88	$87	$84	$87	$81	$1,099
Avg Price per Unit	$1.29	$1.46	$1.47	$1.45	$1.51	$1.47	$1.45	$1.51	$1.44	$1.42	$1.43	$1.42	$1.49	$1.39	$1.45
Unit Share	21.9	19.5	20.2	19.0	20.3	20.2	19.3	19.8	18.6	19.4	20.9	20.0	17.6	19.4	19.5
ACV Weighted Distribution	85.3%	83.7%	82.5%	80.7%	79.9%	83.7%	81.6%	84.4%	83.4%	84.9%	84.4%	87.4%	87.3%	89.1%	89.1%

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Flowers Industries Roanoke - Monthly InfoScan Sales Analysis

Category: Class 4 - Buns

Roanoke, VA	4 Weeks Ending Feb 9, 97	4 Weeks Ending Mar 9, 97	4 Weeks Ending Apr 6, 97	4 Weeks Ending May 4, 97	4 Weeks Ending Jun 1, 97	4 Weeks Ending Jun 29, 97	4 Weeks Ending Jul 27, 97	4 Weeks Ending Aug 24, 97	4 Weeks Ending Sep 21, 97	4 Weeks Ending Oct 19, 97	4 Weeks Ending Nov 16, 97	4 Weeks Ending Dec 14, 97	4 Weeks Ending Jan 11, 98	4 Weeks , 98	Latest 52 Weeks
TTL CLASS 4 - BUNS															
Units (000)	588	594	671	781	1,025	1,010	1,239	895	824	657	573	508	528	591	9,897
Dollars (000)	$608	$622	$708	$812	$1,043	$1,054	$1,243	$923	$842	$697	$612	$544	$573	$610	$10,282
Avg Price per Unit	$1.03	$1.05	$1.05	$1.04	$1.02	$1.04	$1.00	$1.03	$1.02	$1.06	$1.07	$1.07	$1.09	$1.03	$1.04
Unit Share	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
ACV Weighted Distribution	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
TTL SNBM/FLW/SPC HRVT															
Units (000)	65	65	67	79	110	98	126	87	81	65	62	53	56	63	1,012
Dollars (000)	$74	$80	$86	$101	$143	$129	$158	$115	$111	$89	$85	$73	$76	$77	$1,325
Avg Price per Unit	$1.15	$1.24	$1.29	$1.28	$1.31	$1.31	$1.26	$1.33	$1.38	$1.37	$1.36	$1.38	$1.36	$1.21	$1.31
Unit Share	11.0	10.9	9.9	10.1	10.7	9.7	10.2	9.7	9.8	9.9	10.9	10.4	10.6	10.7	10.2
ACV Weighted Distribution	72.2%	73.7%	73.8%	74.0%	74.0%	74.0%	78.0%	75.1%	75.5%	77.8%	77.8%	78.1%	77.5%	77.5%	78.1%
TOTAL WONDER															
Units (000)	1	1	0	1	3	3	3	4	2	1	1	1	2	2	25
Dollars (000)	$1	$1	$0	$2	$3	$4	$4	$5	$3	$2	$1	$1	$2	$3	$31
Avg Price per Unit	$1.10	$1.25	$1.25	$1.10	$1.28	$1.28	$1.28	$1.15	$1.28	$1.28	$1.29	$1.29	$1.29	$1.29	$1.25
Unit Share	0.2	0.1	0.0	0.2	0.2	0.3	0.3	0.5	0.3	0.2	0.2	0.2	0.3	0.3	0.3
ACV Weighted Distribution	3.4%	2.7%	2.7%	11.3%	11.4%	11.4%	11.4%	11.4%	12.0%	7.2%	7.1%	4.7%	4.4%	4.3%	12.0%
Interstate															
Units (000)	28	27	29	34	40	44	51	38	37	27	23	20	25	24	420
Dollars (000)	$37	$36	$39	$46	$53	$57	$66	$49	$48	$39	$33	$28	$34	$33	$561
Avg Price per Unit	$1.30	$1.33	$1.33	$1.33	$1.30	$1.29	$1.29	$1.29	$1.31	$1.42	$1.41	$1.41	$1.40	$1.40	$1.34
Unit Share	4.8	4.6	4.3	4.4	3.9	4.4	4.1	4.2	4.5	4.1	4.0	3.9	4.6	4.0	4.2
ACV Weighted Distribution	57.1%	51.7%	51.5%	51.5%	51.3%	57.2%	55.4%	55.7%	57.3%	48.9%	48.6%	48.6%	50.2%	47.3%	57.3%
Private Label															
Units (000)	328	338	374	437	577	563	714	517	489	380	321	290	297	344	5,639
Dollars (000)	$280	$289	$315	$361	$460	$473	$569	$423	$387	$317	$268	$244	$253	$277	$4,635
Avg Price per Unit	$.85	$.85	$.84	$.83	$.80	$.84	$.80	$.82	$.79	$.83	$.84	$.84	$.85	$.81	$.82
Unit Share	55.8	56.9	55.6	55.9	56.3	55.7	57.6	57.7	59.3	57.9	56.0	57.1	56.3	58.1	57.0

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Exhibit 3

wholesale

Brand	2006 Net $ Sales	2005 Net $ Sales	2004 Net $ Sales	2003 Net $ Sales	2002 Net $ Sales	2001 Net $ Sales	2000 Net $ Sales	1999 Net $ Sales
Total CSM Net Dollars	$42,612,268	$77,024,959	$75,375,313	$72,816,046	$64,642,880	$60,083,850	$60,085,990	$55,939,353
Total CSM Net Units	26,230,523	47,951,576	50,104,968	51,859,291	45,463,466	39,962,383	41,709,450	41,038,143

2006 thru Q2

Shared 28

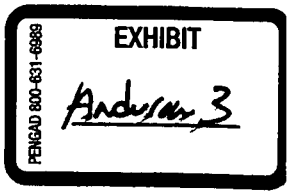

Exhibit 7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

FLOWERS BAKERIES BRANDS, INC., Opposer,	)	In the Matter of Application
	)	Serial No. 78/432642
vs.	)	Mark: COBBLESTONE MARKET
	)	
INDEPENDENT MARKETING ALLIANCE LP, Applicant.	)	Opposition No. 91167151

ORAL 30(B)(6) DEPOSITION
BOB FONTANA
August 22, 2006

ORAL 30(b)(6) DEPOSITION OF BOB FONTANA, produced as a witness at the instance of the Opposer and duly sworn, was taken in the above-styled and numbered cause on the 22nd day of August, 2006, from 2:10 p.m. to 3:17 p.m., before Laraine L. Toliver, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of Pagel, Davis & Hill, PC, 1415 Louisiana, 22nd Floor, Houston, Texas 77002, pursuant to the Federal Rules of Civil Procedure and the Trademark Rules of Practice.

APPEARANCES

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INDEX

	PAGE
BOB FONTANA	
Examination by Ms. Baratta	4
Signature Page	34
Court Reporter's Certificate	35

EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
1	E-mail string between Bob Planck and Bartt G. Thompson, Subject: Kiosks	9
2	4/21/04 memo, Bob Planck to Bartt Thompson, Re: Cobblestone Corner	13
3	Draft page of trademark application	15
4	E-mail string between Bob Fontana and Bartt G. Thompson, Subject: Cobblestone Market	18
5	E-mail string October 24 & 25, 2005, between Leslie Dye and Bartt G. Thompson, with attached Merchandising Policy	20
6	CM Merchandising Catalog	24
7	5/15/05 e-mail string between Bob Fontana and Bartt G. Thompson	28

BOB FONTANA,

having been first duly sworn, testified as follows:

EXAMINATION

Q. (BY MS. BARATTA) Hi, Mr. Fontana.

A. Hello.

Q. I hope you're doing well today.

I'm going to show you a copy of your amended notice of deposition which you should have received. If you could just look at that and tell me if you have seen it before.

A. I think so.

Q. Okay. And have you been deposed before?

A. Yes.

Q. And in connection with what?

A. It was an employment situation.

Q. Okay. And in what capacity were you called to be deposed?

A. You know, the -- the -- it ended in a settlement with a confidentiality agreement, so I hesitate to elaborate.

Q. Okay. So you're familiar with the deposition process?

A. Yes.

Q. Just as a reminder, if you -- it would be more helpful to the court reporter if you could answer yes or

no instead of nodding. And, of course, if you have any questions, just let me know, and if you need a break for anything, feel free to ask.

A. Okay.

Q. I have two more deposition notices to show you. One is a 30(b)(6) deposition, and this is where we had asked counsel to identify the appropriate representative who could address the numbered issues in that deposition. If you could look at that deposition notice, if you could look at that and tell me which areas you may have some familiarity or be able to discuss.

A. 1, 4, 5 and 6.

Q. Okay. And this is a second 30(b)(6) notice. There are two issues on here. If you could look at that and tell me if you are in a position to speak about either one of those issues.

A. 2.

Q. 2. Thank you.

Could you tell us a little bit about your educational background so we could have it in the record?

A. Sure. 1982 graduate of Cornell University, School of Hotel Administration, and then 20 years with Sysco Corporation and four years with IMA.

Q. And what is the title of your current position with IMA?

A. Director of marketing and general merchandising.

Q. And how long have you been in that position?

A. Approximately four years.

Q. And is that the only position that you have held with IMA?

A. Yes.

Q. And how would you describe the primary responsibilities that you have in that position?

A. There are several. One is to facilitate the marketing advisory council's activity and two is to coordinate and execute our internal marketing programs. Those would be the two major responsibilities.

Q. And do you have any responsibilities related to trademarks?

A. Yes.

Q. And what are those responsibilities?

A. They would be to make certain that the research process is conducted throughout the branding process.

Q. And that anticipates my next question, which would be whether your responsibilities include anything in connection with branding?

A. Yes.

Q. And is there anything in addition to the responsibilities you just referenced?

A. Yes.

Q. And what would those be?

A. Again, the facilitation of the marketing advisory coun -- the marketing advisory council oversees the marketing activities of IMA and I make sure that the committee carries these responsibilities out. So, it would also include point of sale reference material.

Q. And when you were with Sysco, what position did you hold with them, or positions?

A. There were several. Six years in an outside sales position, two years in a brand marketing position, and then for approximately 12 years overseeing purchasing and marketing responsibilities of their frozen food department out of their corporate headquarters.

Q. Now, you indicated that one of the areas you would -- you would have knowledge would be IMA's adoption and use of the Cobblestone Market mark; is that correct?

A. Correct.

Q. What can you tell us about how IMA decided to adopt this mark?

A. Okay. We utilize an ad agency called Newhall

Klein. Newhall Klein is tasked with providing ideas for brand names, on the direction of the marketing advisory council. So, typically, on any brand that -- that we develop, they'll provide a list of potential names. The marketing advisory council reviews those names, picks several names that they're comfortable with, and then the -- the search begins to make sure those marks are clear.

Q. And did Newhall Klein propose the Cobblestone Market mark?

A. Yes.

Q. In that version, Cobblestone Market?

A. Yes.

Q. Were there any other versions that Newhall Klein proposed?

A. Several.

Q. And do you recall what those were?

A. I don't.

Q. If we left a blank in the deposition transcript, do you think you would be able to provide us with that information --

A. I think it's --

Q. -- the different alternatives?

A. -- it's a matter of record that -- of what the names on the initial list were, so we could find that.

Q. Okay. Do you recall whether one of those marks was Cobblestone Corner?

A. I believe that was one initially.

Q. And do you recall the -- do you recall whether those two marks were proposed at the same time?

A. I don't.

Q. Okay. Do you recall how the choice was made or how the search process progressed to result in selection of the Cobblestone Market mark?

A. Not specifically, no.

Q. Do you recall why the Cobblestone Corner mark wasn't pursued?

A. No.

MR. HILL: You need a stapler?

MS. BARATTA: Stapler, yes.

MR. HILL: There's probably one back there in one of those drawers.

MS. BARATTA: I thought there was.

MR. HILL: Open either one of them. See it there?

MS. BARATTA: Okay, thanks.

Would you please mark this as Fontana Exhibit 1?

(Exhibit 1 marked)

Q. (BY MS. BARATTA) If you could take a look at

this document, please. This might be the first time you've seen that document.

And could you describe what that is?

A. I have seen it and I -- I am starting to recall exactly what it was. I thought it had to do with an end user, some kind of conflict with an end user in one of our marks, but that's all I can recall.

Q. Okay. This looks like a May 26th e-mail, that the most recent correspondence was from Bob Planck to Bartt Thompson, and in that e-mail there is a reference that Cobblestone Market is the most critical. Could you tell us why Mr. Planck has indicated that that mark would be the most critical?

A. I couldn't.

Q. Going back to the search process, you mentioned that Newhall Klein would propose a list of potential names and then the MAC would review that list of potential names. Do you recall any of the -- any of the results of the review by the MAC of the Cobblestone Market or Cobblestone Corner name?

A. Not specifically, no. They -- they generally pick a name based on really subjectively how they like it and their marketing folks, and then -- and then, you know, the search, the technical search process begins, so...

Q. And do you remember what technical search process was carried out for the Cobblestone Market mark?

A. Yes. Newhall Klein has a third party that does a search. If that search clears, we'll go to our firm and they will do a thorough search, and -- and then we'll take the recommendation of those two searches as to whether we proceed or not.

Q. Do you know what the name of that third party is that's retained by Newhall Klein?

A. I don't.

Q. Do you know what type of search it is that they do?

A. I don't.

Q. And when you say that you then would go to your firm, do you mean Pagel, Davis & Hill?

A. Yes.

Q. And do you know what type of search it is that they do to determine --

A. Not specifically, no.

Q. And what is your understanding about why the Cobblestone Market mark was selected?

A. Again, by a consensus vote of the marketing advisory council, they felt that that was the strongest brand name that was presented to them.

Q. And do you have any idea why they felt that was

the strongest brand name?

A. I don't.

Q. Do you think that the Cobblestone Market mark conveys any particular type of impression or connotation?

A. Yes.

Q. And what would that be?

A. That of an old fashioned marketplace, where you can get quality deli items.

Q. And what do you consider the predominant component of that mark?

A. It would first and foremost be "market."

Q. Do you know whether there was any search obtained to determine the availability of any mark that included the term "market"?

A. Not off the top of my head.

Q. Do you know whether there were any focus groups or other branding or advertising studies done in connection with the term "market"?

A. Not to my recollection.

Q. In the search process, do you remember whether the search revealed any marks owned or used by Flowers?

A. No.

Q. You don't recall or you recall that there weren't any cited?

A. Again, my -- my job is to make certain that the process goes forward and I take at face value the recommendations of our ad agency and our attorneys and do not drill down into the -- the how's and why's, only the final recommendation and effort to get to resolution on the project.

Q. Okay.

MS. BARATTA: Would you please mark this as Fontana Exhibit 2?

(Exhibit 2 marked)

Q. (BY MS. BARATTA) Okay. If you could take a look at this document and describe what it is, please.

A. It looks like correspondence to -- to Bartt Thompson on one of the initial considerations for the deli brand name and the different categories that we would use, along with a top line search of any potential complex.

Q. A top line search?

A. Yeah, it looks like that. Bob got a clearance from the ad agency and now they were coming to Bartt to do the second search.

Q. And if you could look at the third page of this document, the last paragraph, first sentence, which reads, "Assuming publication for opposition, the owner of the 'Cobblestone Mill' mark for bakery products, and

possibly the owner of 'Cobblestone Bread' mark for fresh baguette breads, could try to oppose registration -- note that the owner of 'Cobblestone Mill" mark is Flowers Bakeries Brands, Inc." Were you aware --

A. No.

Q. Thank you.

A. No.

Q. Sorry. I was going to ask whether you had seen this. I can't recall if you had said you did or you hadn't.

A. No.

Q. And do you know why Flowers Bakeries Brands, Inc., would have been noted in this memorandum?

A. I don't.

Q. In your role in connection with facilitating the adoption and selection and registration of these marks, would you have pursued the, in this case, Cobblestone Corner mark, in light of the fact that this memorandum suggests that Flowers could try to oppose registration?

A. I can take -- I take completely at face value, you know, what the recommendations are.

MS. BARATTA: Would you please mark this as Fontana Exhibit 3?

(Exhibit 3 marked)

MS. BARATTA: Thank you.

Q. (BY MS. BARATTA) If you could take a look at this and describe that, please. And if you could, read that first sentence of the last paragraph as it originally was drafted.

A. With the X-outs that are written through?

Q. No, just the first paragraph, with the last -- I'm sorry, first sentence of the last paragraph.

A. Okay.

Q. If you could go ahead and read that out loud.

A. "Assuming publication for opposition" -- read the part that's crossed out, too?

Q. As it originally was drafted.

A. Okay. "Assuming publication for opposition, IMA should anticipate that the owner of the 'Cobblestone Mill' mark for bakery products, and possibly the owner of the 'Cobblestone Bread' mark," that's enough? How much do you want me to read?

Q. If you could finish that sentence, please.

A. -- "possibly the owner of the 'Cobblestone Bread' mark for fresh baguette breads might oppose registration on the grounds of likelihood of confusion."

Q. Okay.

A. "Note that the owner" -- that's okay?

Q. That's fine. Thank you.

A. Okay.
Q. Now, if you were reading that, would you -- would that be any cause for concern to you regarding the adoption and selection of the Cobblestone Corner mark?
A. No, only because they're different items.
Q. Different items?
A. Right.
Q. Could you explain that?
A. Well, Cobblestone Market doesn't have bread items in it.
Q. Do you -- tell me what items or goods are covered by the Cobblestone Market mark.
A. Okay. To the best of my knowledge, meats, cheeses, pickles, salads, deli salads. I'm sure there's more, but I'm drawing a blank.
Q. And do you know whether, of those deli items -- well, do you know -- do you know where those items would be offered?
A. Yeah.
Q. And where would that be?
A. In an institutional food service environment.
Q. Okay.
A. A restaurant, a hotel, a college, institutional feeder type setting.
Q. Would they be offered in delis or in a deli

setting as well?

A. Yes.

Q. Would breads be offered in a deli or deli setting?

A. Yes.

Q. So, would breads and any other products offered in a deli setting be related?

A. Say that again.

Q. Would breads and any other products offered in a deli setting possibly be related?

A. I'm not sure I follow your question.

Q. If the deli is offering breads and also offering other goods, such as deli meats and pickles and salads, would you consider those products related?

A. Not really, because you're coming into -- you're selling in a retail channel. You're selling packaged goods in a retail channel and this is a bulk institution, foods that are generally broken down and made into a product.

Q. So IMA is offering those components, those individual items?

A. Those are generally component items. Back of the house items, very seldom will a customer see a lot of those products.

Q. Would breads be considered another component

item?

A. Yes.

Q. Okay.

A. Without identification of the brand.

MS. BARATTA: If you could mark this as Fontana Exhibit 4, please.

(Exhibit 4 marked)

MS. BARATTA: Thank you.

Q. (BY MS. BARATTA) If you could take a look at this document, please, and if you could explain that second paragraph.

A. It just looks like Bartt was asking whether we wanted sandwiches in the -- included in the categories of -- of items we wanted to brand under the mark.

Q. And your response on August 1st, 2005, was, "We still want sandwiches listed as an item;" is that correct?

A. No, that's his response. I don't know if I responded.

Q. Actually, your response shows -- if you look at the first page, "See response below"?

A. Right.

Q. And then there are answers to each of Bartt's questions.

A. These are Bartt's. Where did I respond?

Q. On the first page you said, "See response below."

A. Where is my response?

Q. On the first para --

A. No, this is --

Q. And in the first paragraph --

A. This is from -- this looks like it's from Bartt.

Q. And the first paragraph reads, "The trademark office called to say they are withdrawing their objection based upon the response that was filed. They asked that we give them permission to reinsert the word 'refrigerated' before the description of salads as there was previously. I presume this is fine." And then in response to this is typed in, "Yes, this is fine."

And then in the second paragraph it reads, "They asked that we move the reference of sandwiches to another class. Would you please confirm you still wish sandwiches listed as an item and I will call that office back to give them approval for this and get the process moving again on this mark?" And in response it's typed in, "We still want sandwiches listed as an item."

A. Oh, boy, I can't verify for certain if I did make that response or not. Honest answer.

Q. And looking at the subject line of the most

recent e-mail in this correspondence, that shows that it is from you, correct?

A. It looks like it is, yes.

Q. And the only text in that message says "See response below;" is that correct?

A. Right.

Q. Thank you.

If you could take a look at Fontana Exhibit 1 again, please, in that first section, it references expanding the application of the brand and it specifically lists Cobblestone Market. Can you describe what's meant by expansion of the brand, expanding the application of the brand?

A. No, you'd -- you'd have to ask Bob that.

MS. BARATTA: Would you please mark this as Exhibit 5, please?

(Exhibit 5 marked)

MS. BARATTA: Thank you.

Q. (BY MS. BARATTA) If you could, take a look over this e-mail exchange that references the merchandising policy. Are you familiar with the attached merchandising policy?

A. Let me just spend a few minutes on it.

The only thing this pertains to is the fact that we like to control how and when one of our

marks is used, but we were attempting to give the company some flexibility locally to use a mark when they want to promote locally or do merchandising material that includes that mark.

Q. And the merchandising policy indicates that the Cobblestone Market name and logo may be used on point of sale materials, napkins, food wraps and containers; is that correct? It should be on the last page.

A. Yes.

Q. And do you know if it is, in fact, right now, being used on those items?

A. It is being used on some merchandising material. Specifically, I do not know what all those items are.

Q. And what would be the purpose of using the Cobblestone Market, the name and logo, on these types of items?

A. To merchandise your -- your concept.

Q. To merchandise the concept. In what way? Could you explain that just a little bit more?

A. Just to bring brand awareness to the end user on your -- on your concept.

Q. To the end user?

A. Right.

Q. And who would that end user be?

A. The -- the customer.
Q. The customer?
A. Yeah.
Q. So these Cobblestone Market products would be used to bring brand awareness to the end user or the customer?
A. Yes.
Q. Okay. Do you know about how much has been invested or -- or incurred in connection with advertising and marketing expenditures in connection with the Cobblestone Market mark?
A. Define advertising and marketing expenditures.
Q. Anything you do to promote brand awareness.
A. It would be a guess.
Q. Okay.
A. Probably $40,000.
Q. And is that a total number or is that just this year?
A. That's an approximate project total, total number.
Q. And when is the beginning date for that project?
A. Probably since the inception of the brand.
Q. And when would that have been?
A. Ooh, I'm not sure of the exact date, but I'm

sure it's in the documents someplace.

Q. Do you have any guess?

A. Couple years ago.

Q. Couple of years.

MS. BARATTA: Could we go ahead and take a five-minute break?

MR. HILL: Sure.

(Recess from 2:44 p.m. to 3:00 p.m.)

Q. (BY MS. BARATTA) A couple more questions about the merchandising policy that I showed to you. The merchandising policy lists different items, different approved merchandising items. Who are these items distributed to?

A. They could be distributed to the -- the operator, the owner of the establishment, or the school mom or the manager of the college feeding or the restaurant patron.

Q. And particularly with the napkins and food wraps, containers, anything like that, that's something that would ultimately be used by the restaurant patrons?

A. Yes.

Q. Be it the customers?

A. It would be used by both the -- our customer, the operator, and the restaurant patron.

Q. Okay. And who is it that distributes these? I

understand to whom they're distributed, but who is it that actually does the distribution?

A. They could be distributed along with an order or it could be brought by the salesperson. Probably those two avenues would be the most likely.

MS. BARATTA: If you could mark this as Fontana Exhibit 6.

(Exhibit 6 marked)

Q. (BY MS. BARATTA) If you could please take a look at these.

A. Okay.

Q. To me, these look like proposed materials, advertising materials. Is that correct?

A. Advertising materials, yeah, you could say that. It's probably --

Q. What would be a better description?

A. Merchandising materials.

Q. Merchandising materials?

A. Yeah.

Q. And are they proposed or are those actually in use right now?

A. These are in use right now.

Q. Exactly as they are depicted on those pages?

A. I'm not going to say exactly, but similar.

Q. Okay. So, all of those items depicted in those

merchandising materials are being distributed right now?

A. Well, some of them. I can't say all; okay?

Q. Uh-huh.

A. Some of them may have not come into fruition.

Q. Could you take a look at them and tell me which items are being distributed right now?

A. I couldn't. But, again, just brushing on the top of some projects, there's -- you know, I know that some of these are in use, some of them are in the process of being created, and some of them probably will not be created because of some difficulties in production.

Q. And is there any item in there that you know for certain whether it's in production or not?

A. Not for certain.

Q. You mentioned that, in connection with your job responsibilities, one of those job responsibilities is in connection with point of sale materials. Would -- what type of point of sale materials would those be?

A. Again, from a 20,000-foot view, the overall project management of the point of sale piece as it pertains to a project, is the point of sale piece being produced, has the project started, where is it, is it completed, what is the cost of the project, are we within budget on the project. The actual production of

the point of sale piece really falls in the hands of our ad agency.

Q. Are you involved in the design or creation of those point of sale materials?

A. No.

Q. Are you involved in the distribution of those point of sale materials?

A. No.

Q. Going back to the items that we discussed earlier being offered in connection with the Cobblestone Market mark, can you give me some examples of the typical price points that those products are being offered at?

A. Price points on a -- on a per pound, per case? What's the basis for your price point?

Q. Well, it would depend on the item. For example --

A. Because they're all different.

Q. Right. Deli meats, for example, on a per pound basis?

A. On a per pound basis, probably within the three-, four-, five-dollar-a-pound range, and the 20- or 30-pound case you could have 100-, 120-dollar-a-case product.

Q. And what about deli mustard, for example?

A. Well, we don't have it, so...
Q. Are you planning on offering that?
A. You know, I don't know if we are or not.
Q. What about cheeses?
A. Cheeses, again, probably in that three-, four-, or five-dollar-a-pound range. So, typically, a food service pack, 20-pound case, 30-pound case, $60, $70, $80 a case.
Q. And could one of your customers purchase these products by the pound?
A. Typically, we sell the operator in bulk and they use it as a component, to make something with it.
Q. Okay. And then the operator then would sell it to the consumers or end users on an item-by-item basis?
A. On an item-by-item, generic basis, unwrapped basis, a turkey sandwich.
Q. An unwrapped turkey sandwich?
A. Yeah, it's on a plate, like if you're in a restaurant.
Q. Would the napkins or food wraps or containers offered in connection with the merchandising policy showing the Cobblestone Market mark be used on any of those sandwiches?
A. Not to my knowledge. The napkin may accompany --

Q. What would the napkin --
A. The napkin would accompany the plate.
Q. The napkin would accompany the plate?
A. Right.
Q. And that plate might have a sandwich on it?
A. Right.
Q. And that sandwich could come in a food wrap or container as well?
A. Right.
MS. BARATTA: Could you please mark this as Fontana Exhibit 7?
(Exhibit 7 marked)
MS. BARATTA: Thanks.
Q. (BY MS. BARATTA) If you could take a look at this, please.
A. Okay.
Q. This appears to be an e-mail from you to Bartt Thompson dated May 25th, 2005. Does that look right?
A. Uh-huh, yes.
Q. And in that e-mail, you are advising Mr. Thompson the revised descriptions look okay; is that correct?
A. Correct.
Q. And on page 2 of that document, it states that the Cobblestone Market added a description of cooked

deli items, and then in quotation marks, sandwiches, soups and vegetables, end quotation marks; excluded macaroni, rice and pasta salads from the salad description; added additional description for frozen entrees. Is that correct?

A. That's correct. To the best of my recollection, initially, early on, sandwiches may have been conceptually part of the brand, but I don't -- we didn't go forward with it.

Q. Is there any intention to offer sandwiches in connection with the brand?

A. No.

Q. Going back to the first 30(b)(6) deposition notice that we looked at at the beginning --

A. Okay. Let me get back to it.

Q. You can look at this. It's actually part of the record, so it wouldn't be one of the exhibits.

A. Okay.

Q. But one of the items that you mentioned as having some knowledge or familiarity with would be applicant's adoption and use of the mark Cobblestone Market?

A. Okay.

Q. What would be the extent of your recollection regarding adoption of that mark?

A. The general process of ideation of the Cobblestone Market name from Newhall Klein, their initial search, the subsequent search by Pagel Davis and the approval of the -- of the brand, just again overseeing the -- the process in which the brand was created and adopted by the group.

Q. And were you involved in the decision making of that process or just overseeing the process itself?

A. I oversee the process. In conjunction with Bob Planck, we do review the findings of Newhall Klein and Pagel Davis and determine, as an organization, IMA, if we feel that we should go forward with the mark and make a recommendation to the group.

Q. And do you recall the Cobblestone Mill marks being cited during that search process?

A. I don't specifically, no.

Q. And I believe you may have answered this already, but do you recall why the Cobblestone Market mark was selected as opposed to the Cobblestone Corner mark?

A. I don't.

Q. Do you recall whether there was ever a search done for Cobblestone Market?

A. There had to have been a search for Cobblestone Market.

Q. There had to have been?
A. Yeah.
Q. Do you know who would have done that search?
A. Newhall Klein and/or Pagel Davis.
Q. Would you have filed an application for the mark without doing a search for it?
A. No.
Q. Why wouldn't you have filed an application without doing a search for it?
A. We would want to make sure that the mark was usable.
Q. And without obtaining a search for that mark, you might not know whether it was usable or available?
A. Yes, exactly.
Q. And I think we went over this as well before, but just to confirm that I have everything right, what products are being offered right now under the Cobblestone Market mark?
A. Deli meats, cheeses, pickles, refrigerated salads, and I believe that's what I recalled.
Q. Okay. And then are there any other products that IMA intends to offer -- I'm sorry, any other products that IMA intends to offer under that mark?
A. There probably is, but I'm drawing a blank on what they are right now.

Q. Okay. And going back to this list again, the fifth item in here is the target or typical customers of products offered or intended to be offered in connection with applicant's mark Cobblestone Market. Who would those target or typical customers be?

A. Institutional food service operators, specifically, again, colleges, institutional feeders, restaurants, hotels, schools.

Q. And who would the end consumers be who actually would purchase the products from the food service operations, colleges, restaurants, hotels, and schools?

A. In a school setting, students; in an operator restaurant setting, the -- the patron.

Q. And in a hotel, it would be the guests?

A. Exactly.

Q. Okay. Another issue you indicated was No. 6, applicant's advertising promotion, marketing, sales and distribution of products sold in connection with its mark Cobblestone Market. We talked a little bit about the advertising. We talked about the merchandising materials that you have in front of you.

A. Right.

Q. What are some other ways in which IMA is advertising or promoting or marketing its Cobblestone Market products?

A. This covers it.
Q. That covers it?
A. This is pretty much the encompassing point of sale and merchandising materials.
Q. And, also, in addition to any of the products covered under the merchandising agreement, correct?
A. Yes.
Q. And what about online or on the Internet.
A. There's a Web site that explains the brand and the -- the brand description in a paragraph. That's the extent of that.
Q. And is that Web site accessible to anyone?
A. The -- there is an unsecured section that's accessible to anyone. There's a secured section that's only accessible to certain people.
Q. Okay. And the information regarding the Cobblestone Market brand, that's on the unsecured section?
A. There is -- it's in both.
Q. It's in both.

MS. BARATTA: I think that's all we have. Your witness.

MR. HILL: We'll pass.

(Proceedings concluded at 3:17 p.m.)

I declare under penalty of perjury that the foregoing is true and correct.

_____

BOB FONTANA

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, by the witness, BOB FONTANA, on this the _____ day of _____, _____.

_____

NOTARY PUBLIC IN AND FOR

THE STATE OF _____

My Commission Expires: _____

STATE OF TEXAS

COUNTY OF HARRIS

REPORTER'S CERTIFICATE

ORAL 30(B)(6) DEPOSITION OF BOB FONTANA

August 22, 2006

I, the undersigned Certified Shorthand Reporter in and for the State of Texas, certify that the facts stated in the foregoing pages are true and correct.

I further certify that I am neither attorney or counsel for, related to, nor employed by any parties to the action in which this testimony is taken and, further, that I am not a relative or employee of any counsel employed by the parties hereto or financially interested in the action.

SUBSCRIBED AND SWORN TO under my hand and seal of office on this the _____ day of _____, _____.

_____

Laraine L. Toliver, CSR 433
Expiration: 12/31/2006
Esquire Deposition Services (#03)
3401 Louisiana, Suite 300
Houston, Texas 77002
713.524.4600; 713.524.4951 fax

Exhibit 1

From: Bob Planck <rdplanck@independentmarketingalliance.com>
To: Bartt G. Thompson <bgt@pdhlaw.com>
Date: Thursday, May 26, 2005 4:41:38 PM
Subject: Kiosks
Folder: Inbox - Known/MBH

The San Pablo mark for Reinhart is the mark we are operating under. If we get the St, Paul grill to give us a release, are we OK. It is important that we be able to get on with expanding the application of the Brands "San Pablo", Villa Frizzoni", and "Cobbelstone Market"...the later being the most critical.

Ed, is the St. Paul Grill a customer?

Robert D. Planck
President

Independent Marketing Alliance
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From: Bartt G. Thompson [mailto:bgt@pdhlaw.com]
Sent: Thursday, May 26, 2005 3:51 PM
To: Bob Planck
Subject: Kiosks

EXHIBIT
Indiana 1

Bob:

We asked the attorney who searched the Brickfire Bakery to look at the marks you thought about for kiosks. Attached is his initial letter and follow-up to my inquiry. There is a "The St Paul Grill" mark that is registered. This attorney seems to think that since San Pablo is translated to be St Paul, that the trademark office would reject the mark.

I have not heard back on the other two names yet, but there is a "Cobblestones Restaurant & Bar" which he may find to cause a concern as well.

Bartt

Exhibit 2

MEMORANDUM

To: Bob Planck
From: Bartt Thompson
Date: April 21, 2004
Re: Cobblestone Corner

IMA is considering adopting the use of the trademark "Cobblestone Corner" for deli items such as cooked deli items, cheese, refrigerated salads, refrigerated pickles, deli mustard, bagged potato chips and frozen soups and entrees. These items come under two of the classes for trademark registrations as follows:

Class 29 – Meats and Processed Foods
- Cooked deli items
- Cheese
- Refrigerated salads
- Refrigerated pickles
- Bagged potato chips
- Frozen soups and entrees

Class 30 – Staple foods
- Deli mustard

The Mark "Cobble Stone" or "Cobblestone"

A search for the mark "cobble stone" reveals that there are a few uses of the mark, in each case combined with another word, for products under Class 30:

Mark	Status	Class	Description
Cobblestone Bread	Pending	30	Fresh baguette breads
Cobblestone Mill	Registered	30	Bakery products, namely bread, buns and rolls
Cobblestone Mill Healthy & Hearty	Registered	30	Bakery products, namely Bread
Cobblestone Kitchens	Registered	30	Staple Goods, namely Hot Chocolate and Coffee

There are a couple of uses of the mark, in each case combined with another word, for products under Class 29:

Boston Cobblestone	Registered	29	Cheese
Cobblestone Kitchens	Registered	29	Dairy-Based Food Beverages

The search also revealed that "cobble stone" is in use for several other products or services outside of Classes 29 and 30. Some examples of these:

Cobblestone Pizza	Pending	42	Restaurant services
Cobblestone Creek	Pending	3	Cosmetic and cleaning (soaps)
Cobblestone Bridge	Registered	16	Paper goods and Printed Matter
" "	"	35	Advertising and Business
" "	"	28	Toys and Sporting goods
(plus several other registrations for Cobblestone Bridge)			
Cobblestone Small Group Tours			
	Registered	39	Transportation and Storage
Cobblestones	Registered	25	Clothing
Cobblestone	Registered	33	Wines and Spirits
Cobblestones	Registered	19	Non-metallic Building Materials
Cobblestone	Registered	42	Golf course services

The use of the mark Cobblestone has established several meanings through the registrations and pending registrations listed above.

The Mark "Cobblestone Corner"
The mark "Cobblestone Corners" was previously registered in 1975 under class 42 and cancelled in April 1982 (registrant was a third party).
The mark "Cobblestone Corner" was subsequently registered in October 1984 by Flowers Industries, Inc., which may be the owner of the mark "Cobblestone Mill" and "Cobblestone Mill Healthy & Hearty" under class 30 for bakery products-namely, breads, buns and rolls. The "Cobblestone Corner" mark was cancelled in February 1991. Finally, in April 2000 the Four Star International Trading Company registered the mark "Cobblestone Corners" under class 21 for collectible figures made of porcelain. This mark is live.

Analysis
As we have previously noted, the trademark rules emphasize the impression that is left with the viewer. When a mark is comprised of a word or words the dominant sounds that the viewer observes is the feature of the mark to be analyzed for purposes of determining likelihood of confusion.

When a word has been used in multiple classes it is said to be diluted since no single owner has sole ownership of the mark. With "cobble stone" or "cobblestone" the word has some dilution since there are several different owners of variations of marks containing the word cobblestone.

With the variations of cobblestone and the fact that the existing "cobblestone corners" is for a different product in a different class IMA should expect the trademark office to raise the existence of the "corner" mark in their investigation. IMA will have to be

prepared to respond that the goods are in different channels, and involve different buyers that are not only not identical, but are not even related.

The examiner will look for the similarity or dissimilarity of the marks as to appearance, sound, connotation and commercial impression and will compare the goods to see if they are related. We believe that IMA has a good chance at getting the mark "Cobblestone Corner" published for opposition under classes 29 and 30 for various deli items, but as you know the success of the registration process often depends on the individual examiner that is assigned the application.

Assuming publication for opposition, the owner of the "Cobblestone Mill" mark for bakery products, and possibly the owner of "Cobblestone Bread" mark for fresh baguette breads could try to oppose registration – note that the owner of "Cobblestone Mill" mark is Flowers Bakeries Brands, Inc. The owner of the "Boston Cobblestone" mark might try to oppose registration as well. We are curious as to why the trademark office did not require a disclaimer of the use of "Cobblestone" without the use of the other words in connection with these registrations. Should an opposition be filed, IMA would show the dissimilarities of the marks and the lack of confusion. We do not think IMA would be accused of trading upon the goodwill of any of these marks.

S:\PDH Files\Active\IMA01\Trademarks\Cobblestone Corner\MEM0.20040421.Cobblestone.doc

Exhibit 3

prepared to respond that the goods are in different channels, and involve different buyers that are not only not identical, but are not even related.

The examiner will look for the similarity or dissimilarity of the marks as to appearance, sound, connotation and commercial impression and will compare the goods to see if they are related. While we believe that IMA has a good chance at getting the mark "Cobblestone Corner" published for opposition under classes 29 and 30 for various deli items, the success of the registration process often depends on the individual examiner that is assigned the application.

Assuming publication for opposition ~~IMA should anticipate that~~ the owner of the "Cobblestone Mill" mark for bakery products, and possibly the owner of the "Cobblestone Bread" mark for fresh baguette breads ~~might~~ oppose registration ~~on the grounds of likelihood of confusion~~ – note that the owner of the "Cobblestone Mill" mark is Flowers Bakeries Brands, Inc. We note that the trademark office has sent some sort of letter to the applicant for "Cobblestone Bread"; the examiner may have found there to be a conflict with "Cobblestone Mill" due to both marks dealing with bread. ~~IMA's ability to successfully defeat any such opposition will be based on showing that the products (deli items) are not related to the bread or bakery products of either or both of these preexisting marks~~. The owner of the "Boston Cobblestone" mark might oppose registration as well; ~~IMA's ability to successfully defeat this opposition will be based upon showing that the marks are dissimilar.~~

We are curious as to why the trademark office did not require a disclaimer of the use of "cobblestone" ~~without~~ without the use of the other words in connection with these registrations.

Should an opposition be filed IMA would show the dissimilarities of the marks and the lack of confusion. Surely IMA would not be trading upon the good will of ~~any~~ any of these marks.

EXHIBIT
Fontana 3

Exhibit 4

From: Bob Fontana
<bfontana@independentmarketingalliance.com>
To: Bartt G. Thompson <bgt@pdhlaw.com>
Date: Monday, August 1, 2005 1:33:25 PM
Subject: Cobblestone Market
Folder: Inbox - Known/MBH

See response below

Bob Fontana

Director Marketing & General Merchandising
Independent Marketing Alliance
16000 Memorial Drive, Ste 200
Houston, TX 77079
Tel: 281-531-0007 Extn. 320
Fax: 281-531-0022
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www.independentmarketingalliance.com

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From: Bartt G. Thompson [mailto:bgt@pdhlaw.com]
Sent: Monday, August 01, 2005 2:30 PM
To: Bob Fontana
Subject: Cobblestone Market

Bob:

The trademark office called to say they are withdrawing their objection based upon the response that was filed. They asked that we give them permission to re-insert the word "refrigerated" before the description of salads as was there previously – I presume this is fine. Yes this is fine

They asked that we move the reference of sandwiches to another class. Would you please confirm you still wish sandwiches listed as an item and I will call that office back to give them approval for this and get the process moving again on this mark? We still want sandwiches listedas an item

Thanks.

Bartt

Exhibit 5

From: Leslie Dye <lrd@pdhlaw.com>
To: bgt@pdhlaw.com <bgt@pdhlaw.com>
Date: Tuesday, October 25, 2005 10:35:09 AM
Subject: Use of IMA Brand Logo's locally
Folder: Inbox - Known/MBH

Attached is a draft of the Merchandising Policy in which I have utilized the list provided by Mr. Fontana below. Please advise of any necessary changes.

Thanks,
Leslie

> ----- Original Message -----
> **From:** Bartt G. Thompson
> **To:** 'Leslie Dye'
> **Sent:** Tuesday, October 25, 2005 9:28 AM
> **Subject:** FW: Use of IMA Brand Logo's locally

I'm thinking about a paragraph or two or three. Just title it Merchandising Policy.

-----Original Message-----
From: Leslie Dye [mailto:lrd@pdhlaw.com]
Sent: Tuesday, October 25, 2005 8:49 AM
To: bgt@pdhlaw.com
Subject: Re: Use of IMA Brand Logo's locally

Are there any other emails that may be helpful to look at?

Mr. Fontana has indicated that the policy is to fit into the body of a letter. What is your suggestion of how long the policy should be?

----- Original Message -----
From: Bartt G. Thompson
To: 'Leslie Dye'
Sent: Monday, October 24, 2005 4:24 PM
Subject: FW: Use of IMA Brand Logo's locally

IMA wants us to come up with an short document to approve use of a trademark on merchandising items. The mark is Cobblestone Market. IMA has filed for a trademark registration for items such as deli foods. Below is our instruction to proceed. I will follow this e-mail up with some prior e-mails to bring you up to speed. Please start a draft of a document.

-----Original Message-----
From: Bob Fontana [mailto:bfontana@independentmarketingalliance.com]
Sent: Monday, October 24, 2005 9:42 AM
To: bgt@pdhlaw.com
Cc: rdplanck@independentmarketingalliance.com; Sameer Bhasin (Sameer Bhasin); Brent Cady;

EXHIBIT
Fontana 5

bsimnitt@nicholasandco.com; Cecelia E. Enault LDN, Rd; Cheryl.Ashton@Maines.Net; Ed Sanford FCP; gfossitt@ijcompany.com; jjeppesen@nicholasandco.com; Michelle Daley; Phil Morgan; Rob Ahrensdorf
Subject: Use of IMA Brand Logo's locally

Bartt, The MAC has submitted the following categories and items to be included on the list of approved items an IMA member can utilize the IMA brand logo's locally. Please incorporate into the body of a letter that will serve as IMA's policy on this matter:
Wearing apparel, smallwares, cups , mugs, sports equipment, golf balls, novelties, point of sale material, coupons, banners calendars, signage.
Service items (Napkins, food wraps, containers)
Business Items (briefcases, folio's)
Recognition items / awards

MAC , If there are items you would like to add please chime in ASAP.

Bob Fontana

Director Marketing & General Merchandising
Independent Marketing Alliance
16000 Memorial Drive, Ste 200
Houston, TX 77079
Tel: 281-531-0007 Extn. 320
Fax: 281-531-0022
email: bfontana@independentmarketingalliance.com
www.independentmarketingalliance.com

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MERCHANDISING POLICY

Independent Marketing Alliance ("IMA") has adopted the following Merchandising Policy to maintain the integrity of IMA's brand names, logos, slogans and other trademarks and to set forth the authorized methods for use of the Cobblestone Market trademark and logo.

IMA owns all rights in and to the Cobblestone Market name and logo. The Cobblestone Market name and logo may be used, locally, by members of IMA on the following approved merchandising items: wearing apparel, smallwares, cups, mugs, sports equipment, golf balls, novelties, point of sale material, coupons, banners calendars, signage; service items including napkins, food wraps, and containers; business items including briefcases, and folios; and recognition items and awards.

Reproduction or use of the Cobblestone Market name and logo in any manner other than as expressly authorized by IMA is strictly prohibited. Members of IMA shall not use the Cobblestone Market logo to defame IMA in any way, in connection with objectionable material, as determined by IMA, or in any way that is otherwise injurious to IMA.

S:\PDH Files\Active\IMA01\Trademarks\Cobblestone Market\Work-In-Process\DRA0.20051025.Merchandising Policy.doc

Exhibit 6

COBBLESTONE MARKET

Natural texture and homestyle taste

Already roasted or ready to cook

Skinless or skin on

Roast and breast sizes

Customer favorite

Cobblestone Market™ whole turkey products feature what you like best. Whether already roasted or ready to cook, count on us to make turkey convenient for you and appealing to patrons. Breasts and roasts can be sliced thick or thin, diced or julienne cut; they're great for everything from traditional sandwiches and wraps to party trays, entrées, soups and salads. Serve Cobblestone Market turkey with confidence in its flavor, quality and profit potential.

TURKEY

COBBLESTONE MARKET

Old-fashioned goodness for your latest applications

A real crowd-pleaser

Many whole-product choices, plus diced and chopped

Slow-smoked, tender and juicy

The slow-cured, savory flavor of Cobblestone Market™ ham. Our hams get the old-fashioned treatment with natural hardwood smoking for delicious taste and tender texture. Our complete line of superior-quality, fully-cooked products makes it simple to offer great gourmet sandwiches, delightful salads and excellent entrées. Cobblestone Market is your choice for great tasting, versatile ham and satisfied customers.

HAM

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DATE: 12/21/05 CLIENT: IMA LOCATION: RC	CLIENT/VENDOR APPROVAL
JOB REFERENCE: 4912 SHAM Merch Prod Catalog	☐ OK TO RELEASE ARTWORK
ARTWORK NAME: CM Merchandising Catalog 0-1.ai	☐ OK TO SUBMIT WITH ABOVE CORRECTIONS
SUBSTRATE: Catalog	☐ PLEASE SUBMIT NEW LAYOUT(S)
FONTS: Clearface, Futura, NewBaskerville	
DIMENSIONS: L n/a x W 5.5 x H 8.5	
QUALITY CONTROL / CREATIVE DIRECTOR / ACCOUNT MANAGER	DATE

MAGENTA YELLOW

BLACK CYAN

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EXHIBIT

Montana 6

COBBLESTONE MARKET

Your one-stop shop for quality cheeses

All the most popular flavors

Sliced, shredded and blocks

Adds perceived value as well as taste benefits

It's Cobblestone Market™ Superior quality, fresh flavor and wholesome ingredients–Cobblestone Market Brand offers nothing less. Plus versatile options such as Provolone, Swiss, Cheddar, American and Blue Cheese. Visit Cobblestone Market to stock up on delicious cheese for any time or any application, from wraps to salads, sandwiches to party trays.

CHEESE

COBBLESTONE MARKET

Add color, convenience and variety to your menu

Incredible selection of favorites

Premium, fresh ingredients

Quality sides increase the value of soups, sandwiches

With Cobblestone Market™ prepared salads, only high-quality, fresh ingredients are used. We ensure the finest flavor and texture in a quick, open-and-serve format for all your business needs. On-trend recipes, whether traditional favorites or bold ethnic flavors, are carefully researched and time-tested. You can offer your customers distinctive salad choices–just open and serve Cobblestone Market salads!

PREPARED SALADS

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DATE: 12/21/05 CLIENT: IMA LOCATION: RC	
JOB REFERENCE: 4912 SHAM Merch Prod Catalog	
ARTWORK NAME: CM Merchandising Catalog 4-5.ai	
SUBSTRATE: Catalog	
FONTS: Clearface, Futura, NewBaskerville	
DIMENSIONS: L n/a x W 5.5 x H 8.5	

CLIENT/VENDOR APPROVAL

- ☐ OK TO RELEASE ARTWORK
- ☐ OK TO SUBMIT WITH ABOVE CORRECTIONS
- ☐ PLEASE SUBMIT NEW LAYOUT(S)

QUALITY CONTROL	CREATIVE DIRECTOR	ACCOUNT MANAGER	DATE

MAGENTA YELLOW BLACK CYAN

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Trimmed, seasoned, and cooked just right

OSDA Choice and Select

Premium sandwich choices

Homestyle taste for foodservice needs

Whole product presents well

Cobblestone Market™ pot roast and prime rib are roasted with your customers' high expectations always in mind. Our roast beef, corned beef and pastrami are every bit as delicious—and just as convenient. It's easy to offer wonderful COP presentations, spectacular sandwiches, pleasing appetizers and delightful deli trays with Cobblestone Market.

PREMIUM MEATS

Sliced meats that will always please

Save prep time and labor

Authentic deli flavor and eye appeal

Great portion control

Cobblestone Market™ makes a great sandwich, terrific party tray or impressive appetizer. We select premium cuts of meat, then trim, cook, season and slice them for your satisfaction and convenience. From turkey to ham to roast beef, a variety of delicious options and handy pack sizes will meet your needs. Cobblestone Market Brand is the choice for sliced meats.

SLICED MEATS

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DATE: 12/21/05 CLIENT: IMA LOCATION: RC	CLIENT/VENDOR APPROVAL
JOB REFERENCE: 4912 SHAM Merch Prod Catalog	☐ OK TO RELEASE ARTWORK
ARTWORK NAME: CM Merchandising Catalog 2-3.ai	☐ OK TO SUBMIT WITH ABOVE CORRECTIONS
SUBSTRATE: Catalog	☐ PLEASE SUBMIT NEW LAYOUT(S)
FONTS: Clearface, Futura, NewBaskerville	
DIMENSIONS: L n/a x W 5.5 x H 8.5	
QUALITY CONTROL / CREATIVE DIRECTOR / ACCOUNT MANAGER	DATE

MAGENTA YELLOW BLACK CYAN

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COBBLESTONE MARKET

A warm bowl of satisfying soup is a cinch

Traditional and trendy options

Made from scratch flavor and appearance

No chopping or cooking!

We start with fresh, premium ingredients. Then preserve all that goodness in our state-of-the art freezing process. Whether you select boil-in-bag options or add your own water or milk, you'll find our selection perfect for soup du jour, a soup and salad bar, or the regular menu. Cobblestone Market™ soups help you save time and labor without compromising quality.

SOUPS

COBBLESTONE MARKET

Pickles are a deli tradition

Whole, spears and chips

Customer-pleasing, fresh taste

Convenient pack sizes!

Crisp and delicious is the best way to describe Cobblestone Market™ pickles. As an accompaniment, ingredient or condiment, our pickles add authentic flavor to deli favorites. Accent sandwiches, appetizers, salads and relish trays with the tasty crunch that we know and love. The best deli items come with Cobblestone Market pickles.

PICKLES

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DATE: 12/21/05 CLIENT: IMA LOCATION: RC	☐ OK TO RELEASE ARTWORK
JOB REFERENCE: 4912 SHAM Merch Prod Catalog	☐ OK TO SUBMIT WITH ABOVE CORRECTIONS
ARTWORK NAME: CM Merchandising Catalog 6-7.ai	☐ PLEASE SUBMIT NEW LAYOUT(S)
SUBSTRATE: Catalog	
FONTS: Clearface, Futura, NewBaskerville	
DIMENSIONS: L n/a x W 5.5 x H 8.5	

QUALITY CONTROL	CREATIVE DIRECTOR	ACCOUNT MANAGER	CLIENT/VENDOR APPROVAL
			DATE

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KIT #1

Great Basic Setup

- A. 1 Wall Poster (choose from 6)
- B. 1 Counter Talker (choose from 6)
- C. 1 Pickle Jar
- D. 5 Visors
- E. 5 Hats
- F. 12 Price Tags
- G. 12 Price Tag Holders
- H. 1 Door Static Cling 11" x 17" Reverse
- I. 2 Window Static Clings 4" x 5.5"
- J. 5 Aprons

KIT #2

Impress Customers

- A. 3 Wall Posters (choose from 6)
- B. 2 Counter Talkers (choose from 6)
- C. 1 Pickle Jar
- D. 8 Visors
- E. 8 Hats
- F. 24 Price Tags
- G. 24 Price Tag Holders
- H. 1 Door Static Cling 11" x 17" Reverse
- I. 4 Window Static Clings 4" x 5.5"
- J. 8 Aprons
- K. 1 Ceiling Dangler 11" circle, 4/C logo
- L. 5 Deli Case Static Clings 17" x 5.5"

A.

B.

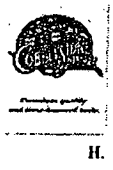
C.

D.

E.

F.

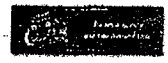
G.


H.

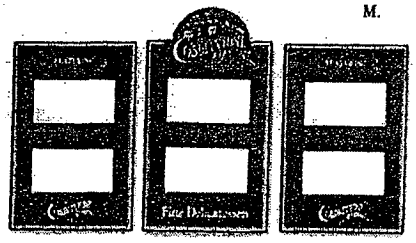
I.

J.

K.


L.

Outdoor Sign
M.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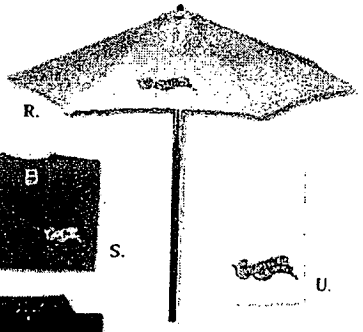
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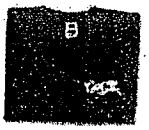
S.

U.

P.

Q.

T.

V.

KIT #3

Everything You Need

- A. 4 Wall Posters (choose from 6)
- B. 2 Counter Talkers (choose from 6)
- C. 1 Pickle Jar
- D. 10 Visors
- E. 10 Hats
- F. 24 Price Tags
- G. 24 Price Tag Holders
- H. 1 Door Static Cling 11" x 17" Reverse
- I. 4 Window Static Clings 4" x 5.5"
- J. 10 Aprons
- K. 2 Ceiling Danglers 11" circle, 4/C logo
- L. 10 Deli Case Static Clings 17" x 5.5"
- M. 1 Flexible Outdoor Sign 3' x 5' single sided w/banner grommets
- N. 1 Center Menu Board 20" x 37.5", 4/C logo
- O. 2 Side Menu Boards 20" x 32", 1/C logo
- P. 25, 2.25" Server Buttons

a la Carte

- Q. Sandwich Wrap 14" x 14", grease resistant
- R. Table Umbrella 105" x 56", 1/C logo
- S. Navy 50/50 Blend T-shirt 1/C logo
- T. Navy 65/35 Pique Knit Polo Shirt 4/C logo
- U. Luncheon Napkins 13" x 17", 2-ply, 1/6 fold 1/C logo
- V. Sandwich Wrap Stickers 2", 500 roll, 1/C logo

See order form for pricing.

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www.newhallklein.com
EMAIL: info@newhallklein.com
PHONE: 269.544.0844 • FAX: 269.544.0848

CLIENT/VENDOR APPROVAL

DATE: 01/06/06 CLIENT: IMA LOCATION: RC

JOB REFERENCE: 4912 SHAM Merch Prod Catalog

ARTWORK NAME: CM Merchandising Catalog 8-9.ai

SUBSTRATE: Catalog

FONTS: Clearface, Futura, NewBaskerville

DIMENSIONS: L n/a x W 5.5 x H 8.5

☐ OK TO RELEASE ARTWORK

☐ OK TO SUBMIT WITH ABOVE CORRECTIONS

☐ PLEASE SUBMIT NEW LAYOUT(S)

QUALITY CONTROL	CREATIVE DIRECTOR	ACCOUNT MANAGER
		DATE

MAGENTA YELLOW BLACK CYAN

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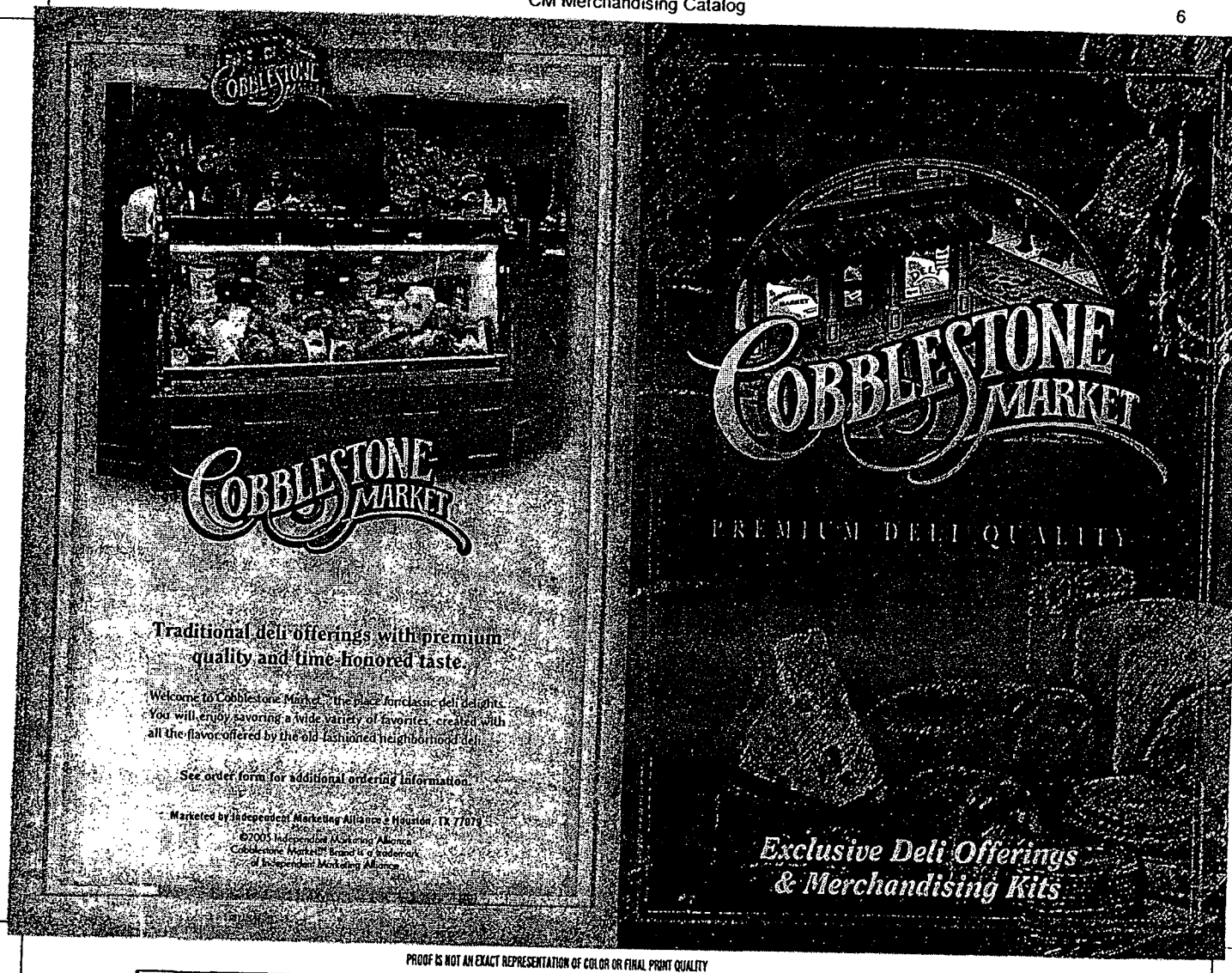

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DATE: 12/21/05 CLIENT: IMA LOCATION: RC	CLIENT/VENDOR APPROVAL ☐ OK TO RELEASE ARTWORK ☐ OK TO SUBMIT WITH ABOVE CORRECTIONS ☐ PLEASE SUBMIT NEW LAYOUT(S)
JOB REFERENCE: 4912 SHAM Merch Prod Catalog	
ARTWORK NAME: CM Merchandising Catalog Cov.ai	
SUBSTRATE: Catalog	
FONTS: Clearface, Futura, NewBaskerville	
DIMENSIONS: L n/a x W 5.5 x H 8.5	
QUALITY CONTROL / CREATIVE DIRECTOR / ACCOUNT MANAGER	DATE

MAGENTA YELLOW BLACK CYAN

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	QUANTITY	PRICE	TOTAL
Kit Replacement Items			
Wall Poster *(choose from 6, enter quantity in the spaces provided)* ___Pickles ___Sliced Meats ___Ham ___Prepared Salads ___Turkey ___Cheese			
Counter Talker *(choose from 6, enter quantity in the spaces provided)* ___Pickles ___Sliced Meats ___Ham ___Prepared Salads ___Turkey ___Cheese			
Pickle Jar			
Visor – Blue, 1/C logo			
Hat – Blue, 1/C logo			
Price Tag			
Price Tag Holder			
Door Static Cling – 11" x 17" reverse			
Window Static Cling – 4" x 5.5"			
Apron – Blue, 1/C logo			
Ceiling Dangler – 11" circle, 4/C logo on both sides & string hole			
Deli Case Static Cling – 17" x 5.5", 4/C logo with blue background			
Flexible Outdoor Sign – 3' x 5' single sided w/ banner grommets			
Center Menu Board – 20" x 37.5", 4/C logo			
Side Menu Board – 20" x 32", 1/C logo			
Server Button – 2.25" round, white, 1/C logo			
a la Carte ***Additional Items Available***			
T-shirt – 50/50 blend, blue, 1/C logo *(indicate size and quantity)* ___Small ___Medium ___Large ___ X-Large			
Polo Shirt – 65/35 pique knit, blue, 4/C logo *(indicate size and quantity)* ___Small ___Medium ___Large ___ X-Large			
Table Umbrella – 105" x 56", 1/C logo			
Luncheon Napkins – 13" x 17", 2-ply, 1/C logo, 1/6 fold			
Sandwich Wrap – 14" x 14", white, grease resistant			
Sandwich Wrap Stickers – 2" oval, 500 roll, 1/C logo			

Shipping & Handling:
Morbi commodo, ipsum sed pharetra gravida, orci magna rhoncus neque, id pulvinar odio lorem non turpis. Morbi commodo, ipsum sed pharetra gravida, orci magna rhoncus neque, id pulvinar odio lorem non turpis.

TOTAL *(this side)*	
TOTAL *(from side 1)*	
SUBTOTAL	
SHIPPING & HANDLING	
TOTAL	

ORDER FORM

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NEWHALL KLEIN INC.
6109 WEST KL AVENUE
KALAMAZOO, MI 49009
www.newhallklein.com
EMAIL: info@newhallklein.com
PHONE: 269.544.0844 • FAX: 269.544.0848

DATE: 01/06/06 CLIENT: IMA LOCATION: RC

JOB REFERENCE: 4912 SHAM Merch Prod Catalog

ARTWORK NAME: CM MerCatalog OrderForm.ai

SUBSTRATE: Paper, front & back

FONTS: Clearface

DIMENSIONS: L x W 8.5" x H 11"

CLIENT/VENDOR APPROVAL

☐ OK TO RELEASE ARTWORK

☐ OK TO SUBMIT WITH ABOVE CORRECTIONS

☐ PLEASE SUBMIT NEW LAYOUT(S)

QUALITY CONTROL	CREATIVE DIRECTOR	ACCOUNT MANAGER

DATE

BLACK

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COBBLESTONE MARKET™

Customer Information

Name _____
Company _____
Street Address _____
City _____ State ____ ZIP ____
Phone ( ) _____
Email _____

Instructions:

Morbi commodo, ipsum sed pharetra gravida, orci magna rhoncus neque, id pulvinar odio lorem non turpis.
Morbi commodo, ipsum sed pharetra gravida, orci magna rhoncus neque, id pulvinar odio lorem non turpis.

KITS	PRICE
KIT 1: Great Basic Setup **1 Wall Poster** *(choose 1 from 6)* ☐ Pickles ☐ Sliced Meats ☐ Ham ☐ Prepared Salads ☐ Turkey ☐ Cheese **1 Counter Talker** *(choose 1 from 6)* ☐ Pickles ☐ Sliced Meats ☐ Ham ☐ Prepared Salads ☐ Turkey ☐ Cheese **1 Pickle Jar, 5 Visors, 5 Hats, 5 Aprons, 12 Price Tags, 12 Price Tag Holders,** **1 Door Static Cling, 2 Window Static Clings**	$XXX.XX ☐
KIT 2: Impress Customers **3 Wall Posters** *(choose 3 from 6)* ☐ Pickles ☐ Sliced Meats ☐ Ham ☐ Prepared Salads ☐ Turkey ☐ Cheese **2 Counter Talkers** *(choose 2 from 6)* ☐ Pickles ☐ Sliced Meats ☐ Ham ☐ Prepared Salads ☐ Turkey ☐ Cheese **1 Pickle Jar, 8 Visors, 8 Hats, 8 Aprons, 24 Price Tags, 24 Price Tag Holders,** **1 Door Static Cling, 4 Window Static Clings, 1 Ceiling Dangler, 5 Deli Case Static Clings**	$XXX.XX ☐
KIT 3: Everything You Need **4 Wall Posters** *(choose 4 from 6)* ☐ Pickles ☐ Sliced Meats ☐ Ham ☐ Prepared Salads ☐ Turkey ☐ Cheese **2 Counter Talkers** *(choose 2 from 6)* ☐ Pickles ☐ Sliced Meats ☐ Ham ☐ Prepared Salads ☐ Turkey ☐ Cheese **1 Pickle Jar, 10 Visors, 10 Hats, 10 Aprons, 24 Price Tags, 24 Price Tag Holders,** **1 Door Static Cling, 4 Window Static Clings, 2 Ceiling Danglers, 10 Deli Case Static Clings,** **1 Flexible Outdoor Sign, 1 Center Menu Board, 2 Side Menu Boards, 25 Server Buttons**	$XXX.XX ☐

ORDER FORM

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KALAMAZOO, MI 49009
www.newhallklein.com
EMAIL: info@newhallklein.com
PHONE: 269.544.0844 • FAX: 269.544.0848

DATE: 01/06/06 CLIENT: IMA LOCATION: RC
JOB REFERENCE: 4912 SHAM Merch Prod Catalog
ARTWORK NAME: CM MerCatalog OrderForm.ai
SUBSTRATE: Paper, front & back
FONTS: Clearface
DIMENSIONS: L x W 8.5" x H 11"

QUALITY CONTROL	CREATIVE DIRECTOR	ACCOUNT MANAGER

CLIENT/VENDOR APPROVAL

☐ OK TO RELEASE ARTWORK
☐ OK TO SUBMIT WITH ABOVE CORRECTIONS
☐ PLEASE SUBMIT NEW LAYOUT(S)

DATE

BLACK

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Exhibit 7

From: Bob Fontana
<bfontana@independentmarketingalliance.com>
To: Bartt G. Thompson <bgt@pdhlaw.com>
Date: Wednesday, May 25, 2005 2:09:38 PM
Subject:
Folder: Inbox - Known/MBH

Bartt revised descriptions look ok. What is your recommendation for the Cobblestone Market Kiosks

Bob Fontana
Director Marketing & General Merchandising
Independent Marketing Alliance
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From: Bartt G. Thompson [mailto:bgt@pdhlaw.com]
Sent: Wednesday, May 25, 2005 2:51 PM
To: Bob Fontana
Subject:

EXHIBIT
Fontana 7

Bob:

Attached are preliminary draft responses to the trademark office's initial objection letters regarding Cobblestone Market and Rejuve. Note that we revised parts of the descriptions of the goods to satisfy the trademark office's request in the following respects:

Cobblestone Market: added a description of cooked deli items – "sandwiches, soups and vegetables"; excluded macaroni, rice and pasta salads from the "salad" description (since rice, etc. is in another class we can add these salad types with a new application for that category); added additional description for frozen entrees – "entrees consisting primarily of meat, fish, poultry or vegetables".

Rejuve: added "drinking" to water; added "fruit" to punch

Please confirm these revised descriptions are acceptable. Also, let me know if you see anything that needs to be changed or added with regard to the attached responsive arguments.

Bob Planck had asked about using Cobblestone Market for restaurant kiosks. You will note that in the trademark office's letter regarding that mark, they mention a restaurant mark by the name "Cobblestones Restaurant & Bar".

Bartt Thompson

Pagel, Davis & Hill, P.C.
1415 Louisiana, 22nd Floor
Houston, Texas 77002

(713) 951-0160 ext. 109
(713) 951-0662 -- FAX

Exhibit 8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

FLOWERS BAKERIES BRANDS, INC., Opposer,	)	In the Matter of Application
	)	Serial No. 78/432642
vs.	)	Mark: COBBLESTONE MARKET
	)	
INDEPENDENT MARKETING ALLIANCE LP, Applicant.	)	Opposition No. 91167151

ORAL 30(b)(6) DEPOSITION
ROBERT D. PLANCK
August 22, 2006

ORAL 30(b)(6) DEPOSITION OF ROBERT D. PLANCK, produced as a witness at the instance of the Opposer and duly sworn, was taken in the above-styled and numbered cause on the 22nd day of August, 2006, from 9:12 a.m. to 12:00 noon, before Laraine L. Toliver, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of Pagel, Davis & Hill, PC, 1415 Louisiana, 22nd Floor, Houston, Texas 77002, pursuant to the Federal Rules of Civil Procedure and the Trademark Rules of Practice.

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INDEX

	PAGE
ROBERT D. PLANCK	
Examination by Mr. Davis	5
Signature Page	92
Court Reporter's Certificate	93

EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
1	Printout of Independent Marketing Alliance Web site	14
2	Printout of Product/Brands from IMA's Web site	20
3	4/13/04 e-mail, Bartt G. Thompson to Doug	22
4	4/15/04 e-mail, John A. Waters to Bartt G. Thompson, Subject: Cobblestone search	23
5	Trademark.com report on mark "cobble stone"	24
6	Thomson & Thomson trademark research report for mark "Cobblestone Corner"	25
7	4/21/04 memo, Bartt Thompson to Bob Planck, Re: Cobblestone Corner	26
8	Draft page from trademark application	32
9	5/26/05 memo, Bob Planck to Bartt G. Thompson, Subject: Kiosks	35

EXHIBITS (cont.)

EXHIBIT	DESCRIPTION	PAGE
10	Trademark/Service Mark Application, Principal Register, for mark Cobblestone Market, standard characters	40
11	TESS search, Cobblestone Market	42
12	Amendment A to application	52
13	E-mail string, Re: Cobblestone pictures	69
14	Partial e-mails re: Sysco's Hidden Cove mark	73

ROBERT D. PLANCK,

having been first duly sworn, testified as follows:

EXAMINATION

Q. (BY MR. DAVIS) Will you please state your name for the record?

A. Robert D. Planck.

Q. Have you ever been deposed before, Mr. Planck?

A. Yes.

Q. And what was that in connection with?

A. It was prior to my current employment as an expert witness in another trial.

Q. What type of case was that?

A. It was a lawsuit.

Q. What was the subject matter of the lawsuit?

A. It was relative to a dispute between a food service distributor and a restaurant chain.

Q. Trademark dispute or --

A. No, it was not trademark oriented.

Q. Mr. Hill, I suspect, has -- has gone through the rules of these things with you and it sounds like you are familiar with how these things go. Obviously, we all have an interest in making sure that the record is clear. If I ask you something that doesn't make sense or isn't clear, and Mr. Hill does not object to it, feel free to let me know and I will try and clarify

that. And, obviously, our court reporter is better at picking up verbal answers than head nods and that sort of thing.

Mr. Planck, are you currently employed?

A. Yes.

Q. By whom?

A. By Independent Marketing Alliance.

Q. And is Independent Marketing Alliance typically abbreviated IMA?

A. Yes, it is.

Q. And do you have any objections to us using that convention in this deposition?

A. No, I do not.

Q. What is your deposition with IMA?

A. I'm president of the company.

Q. And how long have you held that position?

A. Approximately five years.

Q. Were you with IMA before that time?

A. No, I was not.

Q. Were you with Sysco before that?

A. I was at one time, yes.

Q. Was there an intervening job between Sysco and IMA?

A. Yes.

Q. And what was that?

A. Well, there were a couple. I left Sysco 11 years ago, and I was in Australia as director or vice president, U.S. terms, of John Lewis Foodservice of Australia. And I was also general manager of Daymon, D-A-Y-M-O-N, & Associates Food Brokerage Company in the U.S.A., and I was also senior vice president of marketing and merchandising or purchasing at Ameriserve Corporation.

Q. Working backwards from IMA, which -- which of those companies were you with immediately before IMA?

A. Immediately before IMA, I actually was a consultant.

Q. Okay. An independent consultant?

A. Yes.

Q. And you had your own shop?

A. Yes.

Q. Okay. What was that called?

A. Interconnect Enterprises.

Q. So, immediately before IMA it was Interconnect, then John Lewis?

A. Ameriserve.

Q. Ameriserve. Then John Lewis?

A. Well, actually, between Ameriserve and John Lewis was -- I was both a professor of marketing at the University of Houston and general manager of Daymon, so

I taught marketing for a year and then John Lewis.

Q. Okay.

A. I was a busy guy during that 12 years or so.

Q. Was that full-time teaching or as an adjunct?

A. No, I was -- I was full-time teaching.

Q. Do you -- do you have a degree in marketing?

A. My bachelor's degree is in hotel and restaurant management.

Q. Okay. Any graduate work beyond that?

A. Yes, some graduate work at Chapman College on an MBA, but I didn't complete that.

Q. Okay. And -- and where did you get the undergraduate degree?

A. University of Houston, Conrad Hilton College.

Q. How old is IMA?

A. As a -- as a legal entity, it was founded September of -- it will be five years this September.

Q. So your -- your tenure with IMA, has it been co-extensive with the organization's history?

A. I joined IMA prior to its being -- becoming a corporation.

Q. Okay.

A. Before that, it was an informal organization.

Q. But it still went by the name IMA?

A. Yes.

Q. Okay. How many years before it was incorporated?

A. I can give you my impression, because I wasn't here. I think about five years. I'm not certain though.

Q. So, it's ten years old or so?

A. Approximately.

Q. Okay. And have you -- have you been president for the five years you have been with the company?

A. Yes.

Q. Could you give me an idea of what -- understanding that the responsibilities of a president are very broad, do you have any particular responsibilities for trademarks?

A. Well, you say correctly it's very broad. You know, I have general responsibility for everything the company does.

Q. Is there anybody beneath you in the company that -- that has specific responsibility for trademarks?

A. Yes, Bob Fontana, our director of marketing.

Q. Okay. Would Mr. Fontana have primary responsibility for branding?

A. Yes.

Q. Advertising, as well?

A. Well, in point of fact, we don't do any

advertising, but if we were, he would be responsible for it.

Q. Okay. I'd like to show you some notices of deposition that we served earlier in this case. These are what are called Rule 30(b)(6) notices, and Mr. Hill may have gone over this with you, but they basically ask the company to produce witnesses dealing with particular topics.

A. Uh-huh.

Q. We were given three names of individuals who might be able to answer questions on these topics and I'd like to see which of them apply to you. This is the first one. And you'll see that there are a list of enumerated items on there, and if you could just scroll through them and let me know which of those it's your understanding you may have been produced to discuss.

A. Well, in my capacity as president of the company, I would have involvement with all of those.

Q. And, just for the record, you have been looking at a notice of deposition that has six categories, and I point that out to distinguish it from this one, which only has two. If you could do the same thing for that one, I'd appreciate it.

A. Those two issues I would have the same involvement with as president as the first six.

Q. Thank you.

Mr. Planck, could you describe in just broad terms what it is that IMA does?

A. IMA is an alliance of independent food service distributors, all U.S.A.-based independent companies. We are -- the company is owned by those six entities, and our business is to develop products, brands, and be a purchasing and marketing intermediary on behalf of those companies.

Q. What -- what is the relationship of Distribution Marketing Services, LLC, to IMA?

A. Well, that's the official name of the company. IMA is a d/b/a for that name, and we've gone by IMA since that ten years ago, approximately.

Q. But IMA is a limited partnership?

A. IMA is a d/b/a for Distributor Marketing Services, which I believe is organized as a limited partnership.

Q. Okay. Would Distribution Marketing Services be the general partner in that partnership?

A. I would have to ask counsel to advise me on the corporate structure. I'm really not competent to -- prepared to answer that question.

Q. Okay. What -- what are the companies? You mentioned member companies a second ago. What are those

member companies?

A. The companies that are members/owners of IMA are Maines Food Service; Reinhart FoodService; Shamrock Foods Company; the Nicholas Company; the IJ Company, the IJ, letters I-J, Company; and Conco, C-O-N-C-O, Food Service.

Q. And I think a second ago you characterized these as independent food service distributors. Could you give me an idea of what companies that fall into that category do?

A. Yes. Independent -- independent food service distributors, first of all, implies you're not part of a public corporation. They're privately-owned companies and they all provide services to the food service marketplace, to restaurants, hotels, prisons, colleges, universities, daycare centers, hospitals, any place that food would be consumed in an either away-from-home environment or a captive environment, and they distribute food to those prop -- to those properties, food and food-related items.

Q. Some of your or some of IMA's press releases refer to IMA being an "alternative to," and I'm going to quote here, "massive corporate distributor groups."

A. Uh-huh.

Q. What -- what would those companies be?

A. Well, there are -- there are three major public corporations in our market segment: Sysco Corporation being the largest; U.S. Foodservice, a division of Ahold, being the second largest; and the Professional Food Group out of Richmond, Virginia, being the third smaller entity. There may be others. Those are the three I'm aware of that are public corporations.

Q. So, in terms of direct competitors, the companies you've just listed would be direct competitors?

A. Yes, they would.

Q. IMA's mission statement refers to -- and, again, I'm going to quote here -- "increasing efficiencies for member companies" as one of the benefits to IMA membership. How does IMA go about doing that?

A. Well, in many categories, we're able to help them amalgamate their buying power so that they can buy larger quantities of products, drive down freight costs and other costs associated with procurement.

Q. Do the companies making up IMA consider themselves competitors against each other?

A. No, they do not.

Q. They serve different -- different segments or --

A. No, they're all -- they all serve the same segments. They serve in different market areas, although there may be a little overlap in some cases.

Q. And by different areas, do you mean different product lines or --

A. Different geographic areas.

Q. Okay.

A. Not to say that their customer mixes are the same. They aren't identical, but they're in the same general market.

Q. Your Web site also refers to -- and I will quote, again, here direct from the quote -- "IMA offers national brand companies an alternative to the corporate giants with their near exclusive focus on their labels." When IMA uses the term "national brand company," what does it mean by that?

A. We're -- it would be appropriate to use actual companies as an example. If it were, I would say Heinz Corporation, Sara Lee Corporation, Tyson, Flowers Industries, who we distribute for, are national brands.

MR. DAVIS: I'd like to have this marked as Planck Exhibit 1.

(Exhibit 1 marked)

Q. (BY MR. DAVIS) I'd like you to take a look at that exhibit, which is a printout of some pages from the

IMA Web site. The third paragraph from the bottom of that first page reads, "IMA is quick to recognize market niches and pursues specific and targeted proprietary IMA or national brand programs to fill them." Do you see that, that statement?

A. Yes.

Q. What is the difference between a proprietary IMA program and a national brand program?

A. We have around 25 brands that we've developed of our own brands that we license, manufacture to sell to our member companies only, and we also represent relationships with national brand programs such as Hormel, such as Dartcup and others. So, we do have proprietary brands that are owned by -- by our entity.

Q. This litigation focuses on the Cobblestone Market trademark.

A. Uh-huh.

Q. Is that initiative considered a proprietary program or a national brand program?

A. It is a proprietary brand program.

Q. This -- this document, as well as other pages on your Web site, refer to the "third force." What -- what exactly is that?

A. Well, first of all, it's a fanciful marketing phrase, but our intention is that it means for the --

for the operator that -- well, for the distributor, that we are an alternative to becoming part of a corporate entity; i.e., sharing your -- selling your family business to the large corporation or belonging to a -- a more traditional buying group, which is very different than our alliance structure.

Q. How would a traditional buying group differ from what IMA has?

A. A traditional buying group would have many of the same functions; however, they would be -- consist of very -- a large number of very small distributors. For example, the largest one would have probably 350 to 400 different members. They would be quite small; whereas, IMA is a small number of quite large companies. And that's the primary differentiation.

Q. This will sound like a foolish question to you. So, third force really is a -- it's not an industry term of art; it's an IMA marketing slogan?

A. It is not an industry term; it's an IMA marketing slogan.

Q. Okay. This document also refers to Platinum Partners. Who are they?

A. Each year among our -- our vendors, both national branded and proprietary, a group of companies are invited to become Platinum Partners, which are our

most valued suppliers based upon the size, the relationship, the quality of the service, et cetera, and that's a group that's invited to become Platinum Partners.

Q. And so these -- these are the companies from whom IMA purchases?

A. Yes.

Q. How do they differ from select suppliers?

A. We have a program with -- a formalized buying program and marketing agreements with somewhere -- by the way, I will say the Web page you are using is dated, because our service reverted to an older Web page, so the statistics may not match. We're fixing that. But somewhere around 275 suppliers, where it says 250 in this document, that we have formal relationships with, that would include branded and proprietary branded products, producers, and, frankly, some that do both our brand and their own brands. And they would be basically a small percentage, actually less than 20 percent of those that are selected as the top suppliers.

Q. Okay. Several of the documents that have been produced in this case by IMA use the initials N-H-K.

A. Oh.

Q. Are you familiar with that abbreviation?

A. Yes.

Q. And what does that stand for?
A. Newhall Klein.
Q. Okay. What about the abbreviation M-A-C?
A. MAC is our internal term for our marketing advisory council.
Q. And who are the members of that?
A. Well, generically, they're the head marketing person from each of the six companies. The names change from time to time and we're in somewhat of a change period right now. I could tell you who was on the last call, but -- if you would like to know the specific names.
Q. I think we can probably do without them, but they -- they are -- the MAC is made up of representatives from the member companies; is that correct?
A. Each company has a vote on the marketing advisory council and that's whoever they have designated as their representative in that area of marketing.
Q. Mr. Planck, I'd like to ask you about a couple of names that we've seen in -- in the documents that we couldn't quite figure out who they are. One of them is Barb Walker.
A. Barb Walker is an employee of Newhall Klein.
Q. Okay. What about Sandy Klein?

A. Sandy Klein is the principal of Newhall Klein.

Q. Okay. And are Barb Walker and Sandy Klein IMA's primary contacts with Newhall Klein?

A. Yes, they are.

Q. And what -- what does Newhall Klein do for IMA?

A. Newhall Klein is an independent advertising and marketing agency that specializes in the food service market segment; and they assist us in brochure, point of sale development, ideation, sub-brand identifiers, marketing slogans for products, and, in the past, in developing our branded positions.

Q. Does IMA ever ask Newhall Klein to develop brands from the beginning of that process?

A. Yes, we have on several occasions.

Q. Does Newhall Klein ever suggest brands to IMA?

A. Newhall Klein ideates names, which we then focus in on and then evaluate their availability. So, they suggest potential names, yes.

Q. Do they attempt to determine the availability of names before they suggest them to IMA?

A. In the very first ideation sessions, no; however, before items are taken forward to serious consideration, they generally do a pre-search on those names of some sort.

Q. And do you know what is entailed by that

pre-search?

A. I would have to -- I'm not sure what their internal process or procedures are specifically.

MR. DAVIS: I'd like to have this marked as Planck No. 2.

(Exhibit 2 marked)

Q. (BY MR. DAVIS) Mr. Planck, if I could have you take a look at this, this is also a set of pages that I have printed off from your Web site. It may also have the same issue as the one you identified earlier.

A. Uh-huh.

Q. It is -- it appears to be a list of IMA's brands and, based on your earlier testimony, would it be correct to say that these are IMA's proprietary brands?

A. Yes, each of these in this exhibit are a brand that we developed and license through IMA.

Q. Okay. And, so, IMA would license use of these marks to its member companies?

A. We license the use of the marks to vendors and specify they can only sell them to our member companies.

Q. Okay. When the company seeks to register the proprietary brands, is it responsible for doing so as opposed to having its member companies do so?

A. Yes.

Q. And, ultimately, IMA is responsible for

clearing these trademarks?

A. Ultimately, we're responsible for making a business decision as to whether to proceed based on the evaluations that are done by our legal counsel and their recommendations.

Q. And that decision, as I understand it, would ultimately be made by the MAC?

A. The -- no, not really. If -- if I believe as president that there is -- that an area is a mistake, in terms of trademark liability, the MAC is aware they do not have the authority to make an adverse decision, so that becomes my decision.

Q. Okay. I'd like to move on to some issues more specific to this litigation and, in particular, the adoption and selection of the Cobblestone Market mark. Who first proposed that trademark?

A. Well, I have to first of all say I don't know if somebody sitting around the table mentioned the name first or second or last. The -- the idea of using Cobblestone something was originally, I think, offered by Newhall Klein. We discussed a lot of different names and zeroed in on Market because of the trade image of a marketplace that we were trying to -- trying to develop.

So, whether that Cobblestone Market in combination came from Newhall Klein or from one of the

members of the MAC, I honestly don't know who first said it.

Q. Do you recall any consideration of Cobblestone Corner?

A. Yes, we did consider Cobblestone Corner as one of the possible names.

Q. Would that also have had its genesis with both Newhall Klein and people inside the company?

A. It could have been either. Again, I'm not certain who first suggested the name.

Q. Okay.

MR. DAVIS: I'd like to have this marked Planck No. 3.

(Exhibit 3 marked)

Q. (BY MR. DAVIS) Mr. Planck, I'd like to have you take a look at -- at this document. I realize that this document does not appear to bear your name on it, so it may be the first time you've seen it, but if you could take a look at it for a second.

A. Okay.

Q. I'd like for you to take a look at the first page. This document appears to refer to Cobblestone Corner and then characterizes that mark as to be used with "Deli items similar to Boar's Head brand at retail." Is that an accurate description of what IMA

had in mind for Cobblestone Corner?

A. I don't know that it's a fully accurate representation, but we had in mind were cheeses and this whole series of products, and perhaps some others, that would be sold in a market environment, similar to each of our national brand -- national distributor competitors have a brand position for the food service trade under -- under their own proprietary brands. Boar's Head also sells to delis inside and outside of retail.

So, Boar's Head would be an example, but I couldn't characterize it as our target.

Q. Okay. But was Boar's Head a point of reference within the company for this program?

A. It has been on some occasions used as a point of reference, along with other brands.

Q. Okay.

MR. DAVIS: I would like to have this marked Planck 4, please.

(Exhibit 4 marked)

Q. (BY MR. DAVIS) If I could have you take a look at that, do you recognize this document?

A. No, I do not.

Q. Do you know the individual that sent that e-mail?

A. No, I do not know John Waters. I don't recall knowing John Waters.

Q. Do you know who might have asked Mr. Waters to conduct the search that is referred to in that e-mail?

A. I have no idea. I don't know who John Waters is.

MR. DAVIS: May I have this marked as Planck 5, please?

(Exhibit 5 marked)

Q. (BY MR. DAVIS) If you could take a look at that document, I'd appreciate it.

Have you ever seen that document before?

A. I've seen documents that are similar to this. I don't know if they're the same document or not. We -- we certainly did uncover and consider Cobblestone Mills in our search, but I'm not sure whether I've seen this particular document. I only looked at the first eight pages. It doesn't look dissimilar to some of the other search documents we have, but I'm not certain this is one I've seen or not seen. I just don't -- let me just flip through the pages.

Q. Okay.

A. I do know that some of these, Cobblestone Crossing and some of these other obscure different channel names, we did see, but I'm not sure it was this

document. So that's -- I don't know.

Q. Okay. Thank you.

This, this document, appears to me to be an online trademark availability search?

A. Uh-huh.

Q. Does IMA ever conduct those inhouse?

A. Generally, no. Sometimes members of our MAC look on some sites, but I'm sure that wasn't the case here. We usually rely on our legal counsel for -- for all levels of searches.

Q. So, as far as you know, this document was generated outside of the company?

A. As far as I know, it was.

Q. Okay.

MR. DAVIS: May I have this marked as Planck 6, please?

(Exhibit 6 marked)

Q. (BY MR. DAVIS) Here is another trademark availability search, this one from a different company. If you could, take a look at it and let me know whether this one is one with which you are familiar.

A. Yes, it is.

Q. So you have seen this document before?

A. Yes, this is the one I was thinking might be similar. This I have seen.

Q. Okay. And this appears to be a search to determine the availability of the Cobblestone Corner trademark, does it not?

A. Yes.

Q. Do you know who requested that this search be run?

A. No, I'm not certain. It might have been myself or Bob Fontana. I'm sure it was one of the two of us.

Q. And that request would have gone through Mr. Hill's law firm?

A. Yes, it would have gone through Pagel, Davis & Hill.

Q. So IMA would not have ordered this itself from the vendor?

A. No.

Q. Can you take a look at the goods described on the first page of this document?

A. Yes.

Q. Does that description include sandwiches?

A. No, it does not.

MR. DAVIS: I would like this marked as 7, please.

(Exhibit 7 marked)

MR. HILL: Just for clarification, this No. 6 is the same one we had yesterday, right, for John

Egbert?

MR. DAVIS: Yes, that's correct.

MR. HILL: Okay.

MR. DAVIS: We are --

MR. HILL: Killing a lot of trees.

MR. DAVIS: We are referring to a single --

MR. HILL: That's okay.

MR. DAVIS: -- Thomson & Thomson search for both depositions.

MR. HILL: Okay.

MR. DAVIS: The Trademark.com search, though, was not introduced yesterday.

MR. HILL: That's okay. I just -- I was going to make a copy for myself to make my own exhibit because I'm not going to duplicate it. I'll just make a copy as long as you tell me it's the same document.

MR. DAVIS: It is the same document.

MR. HILL: Okay.

Q. (BY MR. DAVIS) If you could take a look at Exhibit No. 7, is this a document that you recognize?

A. Yes, I do recognize it.

Q. Do you recall having received this document?

A. Yes.

Q. And you're aware that the -- the opposer in

this case, Flowers Bakeries Brands, is asserting rights to the Cobblestone Mill mark?

A. Yes.

Q. And do you see references to the Cobblestone Mill mark in this document?

A. Yes, we -- we became aware of that mark in this process and in this document.

Q. If you could take a look at the page numbered 140 in the lower right-hand corner. Do you see the reference to Flowers on that page?

A. Let me read it here.

Yes, I do.

Q. And that reference is set off with a dash?

A. Yes.

Q. Do you have any idea why, why that reference is set off with a dash?

A. No, I do not.

Q. Do you know why the author of this memo would have considered it important to, quote, note that the owner of the Cobblestone Mill mark is Flowers Bakeries Brands, Inc.?

A. Specifically, no, I do not.

Q. If you could turn back to the previous page with No. 139 in the lower right-hand corner, there is a reference to the word "Cobblestone" being diluted

because, and I'll quote here, there are "several different owners of variations of marks containing the word 'Cobblestone.'"

A. I was looking at the right corner and I didn't --

Q. I'm sorry.

A. You're talking about the last paragraph then? Which paragraph are you speaking of?

MR. HILL: Right there.

THE WITNESS: Middle, okay, second to the last.

Q. (BY MR. DAVIS) Do you see that language?

A. I'm reading it.

Yes, I do.

Q. Do you know, was there any investigation done to determine if the marks referenced by that sentence were being used?

A. I'll have to -- I'll have to refer that to legal counsel to agree. The document you referred to as Planck Exhibit No. 6 detailed a number of different companies using Cobblestone, so there was research done as to companies that either had or had not used that name and attempted to use it, applied for, and there were many different product categories.

I don't know, did I answer your question?

Q. Let me clarify the question, because it probably was confusing.

This -- this memo discusses the results of the -- the accompanying search report?

A. Uh-huh.

Q. Do you know if there was any independent research done to determine whether the names disclosed by the search report actually were out in the marketplace?

A. No, I do not know that.

Q. If you could turn back to No. 140 on the -- the next page, there is a reference in the last paragraph and it reads, "The trademark office has sent some sort of letter to the applicant for 'Cobblestone Bread.'" Was there any research done to determine what that letter said?

A. Not by me or my staff, no. I don't know whether Pagel, Davis & Hill did research or not.

Q. I'm sorry to keep jumping back and forth. If I could get you to turn back to page 139, and the second to the last paragraph of that, that page, there is a sentence reading in part, "When a mark is comprised of a word or words, the dominant sounds that a viewer observes is a feature of the mark to be analyzed for purposes of determining likelihood of confusion."

A. You said the second to the last paragraph? I didn't read it that way. You said 139, the next to the last paragraph?

Q. Second to the last paragraph. I may have the wrong one.

MR. HILL: He's right here.

A. Okay.

Q. (BY MR. DAVIS) I'm sorry. Looks like last complete paragraph.

A. Okay. I'm sorry, would you ask the question again?

Q. I was just asking if you saw that language.

A. I must have misunderstood what you said. I see the paragraph, second to the last, that starts with "When a word has been used in multiple classes" and ends with the word "Cobblestone," period. I did read that paragraph.

Q. I'm sorry, I may have the wrong paragraph. I'm sorry, I should have said the -- the second to the last complete paragraph.

A. "As we have previously noted"?

Q. The next sentence.

A. "When a mark is comprised of a word or words the dominant sounds that the viewer observes is in the feature of the mark to be analyzed for the purpose of

determining likelihood of confusion," yes, I see that.

Q. This, again, is a memo addressing the -- the Cobblestone Corner trademark. What would you consider to be the dominant component of that trademark?

A. Well, I think that the word "Corner," because it was looking toward a corner market, as we see in so many cities. And that's why we ultimately went to the word "Market" as the main marketing view of the product. In fact, I think you'll see our logo has a market on it. So, we were looking for that connotation.

Q. So what you'd consider to be the dominant component of the Cobblestone Corner market ultimately was dropped?

A. Yes, it was ultimately -- it was ultimately -- the word that was substituted that more clearly got to that meaning, "Market."

Q. Was there any consideration to putting the word "Market" first?

A. Market Cobblestone? No, it didn't sound very good. I don't think it was ever considered.

Q. Okay.

MR. DAVIS: I'd like to have this marked as the next exhibit, please.

(Exhibit 8 marked)

Q. (BY MR. DAVIS) Mr. Planck, I've handed you a

document that bears the number in the lower right-hand corner of 137. This is a document that appears to be one page of a larger document. This is how it was produced to us, so I apologize, I cannot give you the entire document.

I'd like for you to take a look at the first line of the second full paragraph.

A. Yes.

Q. Do you see the words "IMA should anticipate"?

A. Oh, that's -- okay, full paragraph. I was looking at the one above.

I do see that, yes.

Q. And that sentence, that sentence suggests that IMA should anticipate an opposition from Flowers Bakeries Brands, Inc.?

A. I do read the -- I do see the sentence, yes.

Q. Could I get you to compare the page that you're looking at now with the last page of Planck No. 7? Are -- is that language, "IMA should anticipate," present in the final copy, and, in particular, on page 140?

A. It does not seem to be present on 140.

Q. So, the prediction that IMA should anticipate an opposition from Flowers Bakeries Brands was deleted from what appears to be an earlier draft of the memo?

A. All I can state is that it's not on 140 and, to my knowledge, it was never presented to -- to IMA management.

Q. That anticipates my last -- my next question, which is: have you ever seen the single-page document that is Planck Exhibit No. 8 before?

A. To my knowledge, I've never seen this before and I don't know who wrote on it or -- I have no idea, so...

Q. That was my next question. You don't recognize the handwriting?

A. No, I do not.

Q. Okay. And you have no idea why those words would have been deleted?

A. I have no knowledge of this piece of paper, if there was a draft deleted. I just have no knowledge of it.

Q. Had you seen the earlier draft, would it have made a difference to you?

A. We rely on the advice of our attorneys to make a business decision and that's what we did, based on the trust and the experience with our counsel.

Q. Had you known that the initial conclusion of counsel was that an opposition should be anticipated, would that have made a difference to you?

A. If we felt confident it was -- we did this all in good faith. We never thought we infringed. If we thought we were infringing, we would not have pursued a name, any name.

Q. Okay.

A. Counsel, there is a commercial that talks about a guy having a going problem and I might have that. Could we take a brief recess or a break?

Q. We can take a recess for that or any other reason, that's fine.

A. Okay. Thank you.

(Recess from 10:01 a.m. to 10:07 a.m.)

Q. (BY MR. DAVIS) Mr. Planck, we have been talking about some documents. The last few exhibits all seem to bear the dates in mid April 2004.

MR. DAVIS: I'd like to have this document marked as an exhibit.

(Exhibit 9 marked)

Q. (BY MR. DAVIS) I'd like to have you take a look at a document that appears to bear the date of Thursday, May 26, 2005. Are you familiar with this document?

A. I vaguely remember it. I signed it and I'm familiar with it. Let me read the whole thing here for a minute.

Q. Okay.

A. Yes. Yeah, I remember most of the details around this, I think.

Q. That -- that document refers to the Cobblestone Market mark being, quote, most critical to IMA. Do you see that reference?

A. Let me -- yes.

Q. At what point was -- at what point did consideration evolve from -- I'm sorry. Let me withdraw that question.

At what point did the company begin consideration of Cobblestone Market as opposed to Cobblestone Corner?

A. I'd have to say it was between mid April and May 26. I'm not precisely sure. But this letter is dated May the 26th and we were -- it may be that we had actually launched the Cobblestone Corner search earlier. Cobblestone Corner search turned up all the things that would have conflicted, in our view, with Cobblestone Market. So, I'm not sure when we launched the search process versus when the report came down.

I would say by May 26 we had refocused on Cobblestone Market. Other than that it would be conjecture. I'm not certain.

THE WITNESS: You getting all that? That's pretty good.

Q. (BY MR. DAVIS) And you have anticipated my next question, which is, was a separate search run for Cobblestone Market?

A. We didn't feel it was necessary and one separate one was not run.

Q. Okay. And the reason for that was?

A. The voluminous Thomson & Thomson report on Cobblestone everything that you've got marked as Exhibit No. 6.

Q. Okay. So it was the company's determination that a search for Cobblestone was what was important?

A. We -- our determination was we believed every combination that used the word "Cobblestone" had been covered in the search, which would have also included Cobblestone Market, "Market" being our -- our primary focus. But that would have been covered, in our view, by the Cobblestone Corner search.

Q. I'd like to jump back to an earlier exhibit. And, I'm sorry, if I could refer to your copies very briefly --

A. Sure.

Q. -- I will -- I've lost track of which one it is.

Again, this is Exhibit 2 --

MR. HILL: Okay.

Q. (BY MR. DAVIS) -- the brand statement.
A. Uh-huh.
Q. On the second page of this document, there is a discussion of the Cobblestone Market mark, is there not?
A. Seems to be on the first page.
Q. I'm sorry, if it's on the first page. It may well be.
A. Yes, there is.
Q. And the description reads, in part, "Our premium quality and consistency will remind everyone of their favorite neighborhood deli taste." Do you see that language?
A. I think it says "Everyone of neighborhood deli." I don't see the word "taste" in this version.
Q. Okay, I'm sorry.

Is this mark intended to remind customers of a traditional deli?

A. It's intended to remind them of a market and of deli foods. The primary customer that we sell is restaurants and institutions, but even those accounts want to think of themselves as selling a premium product, which delis and markets conjure up.
Q. Okay. Does the word "Cobblestone" play any role in that?
A. Cobblestone plays a role or we wouldn't have

selected it. The role is of sort of old-timey tradition, and "Market" being the primary focus of our logo, with cobblestones around it.

Q. And would the presence of the word "Cobblestone" in the mark aid in getting your buyers -- or let me withdraw that question.

Would the presence of the word "Cobblestone" invoke the, quote, time honored taste that is referenced by that?

A. I -- I think that the term "Market" more so does that than Cobblestone. I think Cobblestone offers a soft, warm, historic feeling, more than the image of the market, which is what we're really -- really selling, deli items from a market.

Q. Okay. And I understand you have two separate words here that may --

A. Right. They both have a meaning that will have a use, but our primary focus is that it's a market, and Cobblestone offers softness and texture to that.

Q. Okay.

A. Let's see. One, two -- I hope you didn't take all this paper all the way from Georgia.

Q. We had it shipped, but, unfortunately, it all came from Georgia.

Let me -- let me ask just a cleanup

question about the -- the big trademark availability search.

A. Yes.

Q. The Thomson & Thomson one.

A. Uh-huh.

Q. Was there ever a search run for any mark, including the word "Cobblestone," for sandwiches?

A. No, not to my knowledge.

Q. Okay.

A. Nor do we sell sandwiches or intend to, so...

Q. Okay.

MR. DAVIS: I'd like to have this marked, please.

(Exhibit 10 marked)

MR. DAVIS: Marty, several of these documents I only have one copy of.

MR. HILL: That's fine.

MR. DAVIS: This is the original application.

Q. (BY MR. DAVIS) Mr. Planck, if I could have you take a look at that document, please.

A. Yes, sir.

Q. And once you've reviewed it, tell me if this is something with which you are familiar.

A. I'm familiar with the contents. I think I may

have seen the actual document before, but I'm not sure.

Yes, I signed it, so I'm familiar with it.

Q. Okay. So, that is your signature on the second page there?

A. Yes, it is, yeah.

Q. Do you know what this document is?

A. This is actually the trademark application registration, for registration, is my understanding, directed to the Commissioner of Trademarks.

Q. And are you aware that a trademark application, in addition to identifying the mark, needs to recite the goods and services that the mark will cover?

A. In a legal ter -- in terms of the legal meaning of that statement, I am not sure I am fully aware of it.

Q. Okay. And I'm obviously not asking you for legal conclusions. Let me --

A. Yes, we try to -- we try to present the categories. When we register a brand, we try to present the categories that we know or believe we may market under that brand.

Q. Okay. And that document you have in front of you on the first page does list goods in it?

A. Yes, it does.

Q. How did the company come up with that list of goods?

A. Well, I think, first of all, we looked at our competitors. We looked at Block & Barrel brand with Sysco and there is another brand with U.S. Foodservice, and we looked at the categories of products that they sold under those brands. And those were the ones we directed our attention to, so that we would be able to have a -- a deli quality product line to sell to our food service customers in competition with what those two mega corporations are doing to their customers.

Q. Okay. So, just to make sure I am straight on this, Block & Barrel is a trademark of Sysco?

A. Yes, it is.

Q. Okay.

A. I registered it when I was there.

Q. All right.

A. I'm pretty certain it is.

Q. And U.S. Foodservice has a corresponding brand?

A. Yes, they do, which I assume is registered.

Q. Okay. And which one is that?

A. I don't remember offhand.

Q. Okay.

MR. DAVIS: I'd like to have this marked as the next exhibit, please.

(Exhibit 11 marked)

MR. HILL: Okay.

Q. (BY MR. DAVIS) Mr. Planck, I have handed you an exhibit that I suspect you have not seen before. I will represent to you that this is a printout from the Patent and Trademark Office Web site, containing information on the application that is the subject of this proceeding. You will see that in the midsection of the first page of that document there is a recitation of goods once again?

A. Uh-huh.

MR. HILL: It's better to say yes or no.

A. Oh, I'm sorry. Yes, I do see that in the midsection of that page in Exhibit No. 11.

Q. (BY MR. DAVIS) And if you compare the description in that document with the one in the previous exhibit, are they the same?

A. There are different elements. There are items included in this document that are not included on Exhibit 10, and I'm not sure if the adverse of that is true or not. But there are differences.

Q. Does it appear that there are more goods in Exhibit 11 than there are in Exhibit 10?

A. Yes, although I believe that some of those goods are components of salads, and I think there may be some other components of goods listed on the other page; but it is a larger list.

Q. Okay. Let me follow up on that. For Exhibit

No. 11, the document that I would agree with you has the larger list of goods, you've just referred to some of those goods being components. Which of those would fall under that category?

A. I think that -- well, I don't know how we got to this list, honestly, but things like vegetables and pasta products would be components of prepared refrigerated salads; and meat, fish, poultry and vegetables might be components of prepared entrees or frozen soups and entrees. I believe those are listed. I'm assuming they're listed because they become components of those other categories.

Q. I think that is correct. Leaving aside the -- the list of components for entrees, which I think -- I gather from this description that meat, fish, poultry or vegetables simply modifies the word "entree"?

A. And to some degree salads, both. You could have tuna fish salad, for example, or you could have a salad that had vegetables in it. I'm assuming that's why it was done this way, but I don't know.

Q. Okay.

A. Seems to be the case. The two below, which I didn't focus on, the deli mustard and cooked deli items, namely, sandwiches, is -- the "namely, sandwiches" is a different intent than this application indicated,

somehow. It's a different wording anyway.

Q. Okay. Let me make sure I understand. When you used the word "component" initially -- and I'll pick one of the examples you gave, vegetables -- does the company ultimately intend to sell vegetables as a separate item?

A. Not under this brand.

Q. Okay. So, if -- if vegetables were to be provided as part of this program, they would be, for example, a component of the entree?

A. Of beef stew with carrots in it or a salad with carrot and raisin, as an example, would have vegetables.

Q. Okay. There is a reference to refrigerated salads.

A. Uh-huh.

Q. Would those be sold separately as a branded item?

A. They are in bulk food service packs, namely, one gallons, I think, and they're sold business to business to food service operators or deli operators, but not sold as units to consumers.

Q. Okay. But tuna, tuna salad, might be an example of that?

A. It could be, yes. We do have a tuna and a chicken salad, Cobblestone Market prepared salad item

that's sold in bulk.

Q. Okay. And those would -- those would arrive at your customer's places of business in the big gallons?

A. Yes.

Q. Okay. There is some exclusionary language in this description, "except macaroni, rice and pasta salad." Do you know why that language was excluded?

A. I have no idea.

Q. Okay. Let me start at the beginning of this description, with the deli meats. Would the deli meats be delivered in the same way as the salads? And by that, I understand sort of a large container?

A. The deli meats and deli cheeses would be delivered in large bulk units --

Q. Okay.

A. -- that would then be sliced for sandwiches. The second part of your question was just deli meats and cheeses?

Q. You've answered it. Thanks.

A. There are some -- I want to make sure I fully answer. There are some pre-portioned deli meats that are also sold in bulk large food service boxes for sandwich makers.

Q. Okay.

A. But they're not retail size units.

Q. What about the pickles?
A. The pickles are sold in bulk containers, gallons or five-gallon pails.
Q. Okay. The bagged potato chips, would they -- would they arrive at your customers bearing the Cobblestone Market trademark?
A. Yes, they would.
Q. Okay. So the bag itself would --
A. Yes, they would --
Q. Okay.
A. -- bear the trademark.
Q. What about frozen soups?
A. Frozen soups are also bulk food service concentrated, not individual portion control, and they do arrive bearing Cobblestone Market brand.
Q. Okay. And what about the frozen entrees?
A. We have not yet introduced that product line, but it would be the same.
Q. Okay. Let's jump to the next class of goods, deli mustard. How would you provide that to your customers?
A. Well, in this class of goods, it was probably an afterthought of, gee, we might do that some day. We actually do not sell deli mustard at all currently. We have not introduced that product.

Q. You don't -- you don't sell it under any brand name?

A. We sell Katy's Kitchen gallons of yellow mustard, but, to my knowledge -- and we sell horse radish and stuff, but, to my knowledge, we don't have actually a spicy deli mustard anywhere in our system currently.

Q. Okay. And the mustard, the mustard that you do sell, is it provided by another company?

A. All of our products are -- are packed under license by or companies.

Q. Okay.

A. We own no manufacturing facilities.

Q. Okay, I'm sorry, I should have been clearer.

But the mustard that you do sell bears an IMA trademark as opposed to --

A. Some of the mustard we sell bears an IMA trademark, some bears Heinz and other national brand trademarks.

Q. Okay.

A. And, to be clear, actually, they're -- IMA companies sell it. We don't actually ever take title to product as an entity.

Q. Okay.

A. The companies are licensed to sell to the

members.

Q. Okay. What about the sandwiches, the last item?

A. Well, we don't sell sandwiches prepared, we never have, under any brand of our own. Sara Lee does sell prepared sandwiches. And, you know, frankly, I added in this thing at some point with Bartt as an afterthought, gee, some day we might sell sandwiches. The fact is we don't, we have no intention to produce sandwiches and, as I've specified previously, we're willing to forego that category completely.

Q. Okay. So, for sandwiches, the company might provide the components for a sandwich?

A. It's possible an operator would buy all the components for a sandwich, including Flowers breads distributed through our companies.

Q. Okay.

A. But I don't believe Cobblestone Mills is one of those brands distributed through our companies.

Q. But the bread, the bread that would be used, would be bread coming from another company that was not one of your licensees?

A. The bread an operator might use could be from any source they procured it from. They aren't -- none of them are required in selling Cobblestone Market to

only buy our products. They could buy any bread they wanted to.

Q. Okay.

A. More likely than not, it would come from a bread company.

Q. Okay. You mentioned earlier that you -- that the point of comparison were two brands owned by Sysco and U.S. Foodservice. Did you do any market studies to determine if there was room in that market for the Cobblestone Market program?

A. Specific to the -- as you stated it, no.

Q. Okay. For the goods listed in Planck No. 11, prior to -- prior to filing the Cobblestone Market application, had you lined up suppliers for the goods listed in that application?

A. Many of them were providing other brands, either their own or ours, and I don't believe anyone was ever authorized to go forward with that branding until we had launched the application.

Q. Okay. But what -- and this is a broader question. For your proprietary brands, you license providers of those goods to package the goods in packaging bearing IMA's brands?

A. Under stricter supervision, yes.

Q. Yes. And that either is or will be the case

for Cobblestone Market?

A. It is the case and would be the case for line extensions of Cobblestone Market.

Q. Okay. What about -- has the company considered providing restaurant services under the Cobblestone Market mark?

A. Well, we don't provide restaurant services ever in competition with our customers. Our customers are independent and chain and group food service entities.

Q. I've seen some references in the documents to kiosks. What are the company's plans for kiosks?

A. The kiosk concept is a service to -- to customers. And, in most cases, these kiosks are -- exist in college and universities or business and industry-type environments. The operator usually wants to provide some sort of a restaurant-ish kind of a look, without the franchise fees. So, Sysco, U.S., and now IMA offer product concepts so they can package together to have a San Pablo Mexican kind of environment, with Mexican products, et cetera, or Italian or deli-type products.

Q. Okay.

A. That's the concept.

Q. Are there plans to use the Cobblestone mark in connection with the kiosks?

A. Yes, there are.

Q. So, the kiosk presentation would be one in which the ultimate consumer would be exposed to trademarks used on the kiosks?

A. Yes, they would be exposed to the trademark and the component products --

Q. Okay.

A. -- that were displayed and sold there.

Q. For those of your customers that operate delis, are the goods sold in those delis ever displayed to consumers, the ultimate consumers, in a way that displays the trademarks?

A. For operators that have display cases that are conveying a purely deli image, the answer would be yes. The vast majority of our customers are using the back of the house to slice sandwiches, but it is possible that it would be displayed where a consumer would see it.

Q. Okay.

MR. DAVIS: I'd like to have this marked as the next exhibit.

(Exhibit 12 marked)

MR. DAVIS: This is also from yesterday, Marty.

Q. (BY MR. DAVIS) I'd like to have you take a look at this document, and if you could let me know after

reviewing it whether it is something that you have seen.

A. I'm familiar with some of the material. I don't recall whether I've actually seen this document or not.

Q. I'm really only going to ask you about the first couple of pages, so...

A. Okay.

Q. I will represent to you that this document was used as an exhibit in Mr. Egbert's deposition yesterday. And I will invite Mr. Hill to intervene if he disagrees with my characterization.

MR. HILL: No. I mean, I assume it's the same thing. It looks the same.

Q. (BY MR. DAVIS) And Mr. Egbert's testimony was that this was a document that his firm prepared in response to an office action received from the Patent and Trademark Office in connection with the Cobblestone Market application.

My questions on this are actually fairly simple. Do you see on the first page that this document is proposing an amendment to the goods listed in the original application?

A. Let me just read the front page.

Q. Okay.

A. Under In the Application, is that the section,

under here?

Q. Yes.

A. Okay. Let me read that then.

Q. Under that heading, yes.

A. I see -- yes, I see it lists those, and it says something about "please delete under Class 29." I'm not sure I know what that means, but I do see it.

Q. Did you review this proposed language before it was filed with the Patent and Trademark Office?

A. Rela -- relating to that particular paragraph?

Q. Yes.

A. I don't recall reviewing this specific document, no.

Q. What about the language in that paragraph, even if it was in a different form?

A. There was some question about the PTO wanting things reclassified from 29 to 30, if that's what this refers to, but -- but I don't recall seeing this specific language. I may have seen it, I just don't recall it.

Q. Okay.

A. And it talks about Class 29 and 30 in the heading.

Q. Yeah, the class -- class references are purely administrative within the Patent and Trademark Office.

A. Okay.

MR. DAVIS: Could we go off the record?

(Recess from 10:38 a.m. to 10:59 a.m.)

Q. (BY MR. DAVIS) Let me ask you a quick follow-up question on a subject from earlier this morning. You mentioned that you felt that "Market" was the dominant component of the Cobblestone Market trademark. Has IMA ever run a trademark search for the word "market"?

A. As a separate freestanding word, no, we have not.

Q. Has it run one for the word as part of a larger mark?

A. I don't believe so.

Q. I'm going to throw out a phrase that is a -- a term of art under trademark law and see if you recognize it. Are you familiar with the concept of "use in commerce"?

A. No.

Q. Are you aware that trademark rights under U.S. law depend on sales of goods bearing the mark?

A. Yes.

Q. Are you familiar with the intent to use trademark application process?

A. Familiar may be a broad term. I am aware that there is a process. I couldn't claim to be really, in a

legal sense, familiar with it.

Q. Okay. I'm sorry, could I refer to your stack of exhibits again?

A. Yes, sir. Oh, you need to see it?

Q. I'm sorry, yes.

A. Okay.

Q. I'd like to refer you back to Planck Exhibit No. 10, which I believe is the -- the original trademark application at issue in this case. Do you see in the -- the language of the first page of that document a reference to "bona fide intention to use"? It may read "bona fide intent to use."

A. Yeah, it says "intent to use" and it refers to "application of bona fide intention to use." Yes, I see that.

Q. What is your understanding of that language?

A. Bona fide must mean real and intention is a plan, and so I'd say it would be a real plan to use.

Q. And if I could refer you to the exhibit for the application as it currently reads, which is Planck No. 11 --

A. Yes.

Q. -- if I could refer you back to the current identification of goods, I'd like to run through those one more time. And I apologize for this, but I've got a

threshold question first. Are you aware that for a trademark registration to issue covering all of those goods, there must be sales of those goods under the brand name?

MR. HILL: I object to the extent of a legal conclusion. But whatever you, as a nonlawyer, want to respond, you're welcome to do.

MR. DAVIS: That's fair enough. I'm only asking for his understanding.

A. I'm not sure I do fully understand it that way. I know that we have to submit proof of sales of items under the registered trademark in order to seek registration. If it requires every possible iteration, I'm not fully aware of how that works.

Q. (BY MR. DAVIS) Okay. But either at IMA or, say, at Sysco, have you seen a document styled as maybe a Statement of Use to be filed with the trademark application?

A. Well, first of all, I have to say I have been -- over 50 your memory fails a bit and that's 11 years ago, so I can't really relate to what happened at Sysco. And I don't know of a document with that specific title, that may have been the intent. I may have seen one, but I couldn't say that I have.

Q. And I realize I'm using, again, terms of art

that may mean something only to us.

A. Right.

Q. Do you recall ever signing a document for filing with the Patent and Trademark Office that recites that the trademark is now in use?

A. I don't recall signing such a document. It doesn't mean that I didn't sign -- sign it if it was put in front of me by legal to sign. I just don't recall it.

Q. Okay. I understand.

Have you ever been involved in providing a specimen of trademark use to the Patent and Trademark Office?

A. Yes.

Q. What was your understanding of why you were providing that specimen? And by that, I mean not you personally, but the company.

A. My understanding is that after a period of time elapses, that you need to demonstrate that the product is actually being sold, and my recollection is interstate commerce, and then some proof of that is required at some point to move from a -- a TM to an R designation on a product. That's my general understanding.

Q. Okay. And is it your understanding that --

that to get a registration for a whole list of goods, that each of those goods must be in use?

A. No, not really.

Q. And it's not your understanding because you've never encountered that or because you believe I'm mischaracterizing what I have just said?

A. Well, first of all, I don't maintain you're mischaracterizing anything. Secondly, my recollection from the dark and distant past is that those were filed without examples of every possible use and no question was ever asked. That's my recollection.

Q. I understand that this, this application, was filed as an intent to use application and it would not need to have been accompanied by specimens when it was filed, so that's not what I am getting at.

And is it your understanding that if the company represents that it has an intent to use a trademark in connection with particular goods, that it should have an intent to use the mark with all the goods?

A. No, I'm not aware of that specifically.

Q. Okay.

A. Intent may not be followed through on by action, and it's certainly possible that some categories, like prepared sandwiches, we would file and

ultimately decide not to follow through on that category.

Q. I'd like to run down the list of goods in the current application and see if you could tell me which marks are in use and which are not in use.

A. Which marks being Cobblestone Market?

Q. I mean, I'm sorry, I misspoke there. Which goods are currently being sold under the mark and which are not.

A. Okay.

Q. And I'd like to you refer to the second of the two documents that you have.

Beginning with deli meats?

A. Yes, deli meats are being marketed under the brand.

Q. Next category is cooked deli items, namely, soups and vegetables?

A. Soups are under use in the brand.

Q. And vegetables?

A. Only as components of soups.

Q. Okay. Cheese?

A. Cheese is under the brand.

Q. Refrigerated salads I think we've covered, but if you could just confirm that?

A. Yes, refrigerated salads are marketed under the

brand.

Q. Pickles you may have covered, but if we could confirm that?

A. Pickles are marketed under the brand.

Q. Bagged potato chips?

A. They have been approved. I'm not certain that they're actually being sold yet.

Q. Okay. And by approved, do you have packaging for them?

A. We have approved art work for the vendor to produce it. I'm not sure they've introduced it in the market yet.

Q. Okay. We may have a duplicate entry. Frozen soups?

A. Frozen soups are in the marketplace under the Cobblestone Market brand.

Q. Okay. What about the frozen entrees?

A. Not at this time.

Q. Okay. Deli mustard?

A. Not at this time.

Q. Okay. Sandwiches we may have covered, but if you could confirm that?

A. Sandwiches, in the sense I take this to mean prepared sandwiches, marketed and sold as sandwich units, no, that is not in the marketplace --

Q. Okay.
A. -- under our brand.
Q. Okay. Mr. Planck, I'd like to pass to you your company's answer in this proceeding.
A. Uh-huh.
Q. And if I could ask you to turn to the very tail end of that document, and, actually, on the second and the final -- second to last and last pages, there is a heading reading Affirmative Defenses and you'll see there that there are two items. If I could bother you to look, for now, at the second of those, which I believe is a reference or it is the affirmative defense that "Flowers has failed to state a claim under Rule 12(b)(6)."
MR. HILL: Actually, you've reversed them.
Q. (BY MR. DAVIS) I'm sorry. Let's start off with the first one then.
A. No. 14.
MR. HILL: Is the 12(b)(6).
MR. DAVIS: Thank you.
Q. (BY MR. DAVIS) Did you -- did you review that language before the answer was filed?
A. I saw the language, yes.
Q. Do you know why your company believes that Flowers has failed to state a claim in this action?

A. In the legal sense of the meaning of those words, I'm not precisely certain that my answer falls within legal code because I'm not a lawyer, but we feel it does not infringe because, first of all, our focus is on markets and products that are sold to the food service marketplace and that we are not in the business of selling bread under this brand anywhere, and that your business is primarily breads in retail environments, which is a totally different product section and market, market and product category than the uses of our product.

Q. Okay. Could I now refer you to the second one of those affirmative defenses? And you'll see that this one refers to an alleged absence of the likelihood of confusion. The response that you just gave to the previous question, does that also apply to this affirmative defense?

A. They seem to be different types of questions. This question says "Applicant's mark, if used correctly, the absence of goods is not likely to cause confusion with the mark of the opposer," and it is my belief that in the ways that we are using that and intend to use that, that it would not cause confusion --

Q. Okay.

A. -- with the mark of the opposer.

Q. As to the first affirmative defense -- and the language for failure to state a claim is another one of these legal terms of art and I'm using it because your counsel has used it, and I realize it may not be a familiar one to you. But just you personally, do you know why, any reason why -- do you know what the basis of that affirmative defense is?

A. I haven't asked for detailed counsel on the meanings of that term from my attorney.

Q. Okay. So, is your answer, no, you personally don't know the basis for that?

A. I personally don't know the definitions or the application of the term in a legal sense.

Q. Okay. That's fine.

Jumping back to the second affirmative defense now, and I apologize for jumping around, what -- to the extent you have not already given us a response on this, what is the basis for that affirmative defense?

A. "When used correctly" would imply to me that, under the guidelines that we have established and then in the markets and product segments that we will use the product in, that it's not likely to cause confusion with the mark of the opposer's goods.

Q. Okay. Are there any other reasons why you think there is not a likelihood of confusion in this

case?

A. I think that the application that we use focuses on a market. A photo, a picture of a market very strongly implies the use of a market. And the opposer's goods focuses on a grist mill or mill or application of parts of a mill and deals with flour and baked goods and products, where ours deals with a market and market environment.

Q. If I could refer you very briefly to Exhibit No. 11, are you aware that --

A. Do you need this document back? You didn't mark it as an exhibit?

Q. Yes, it's already part of the case.

MR. HILL: I know. He was showing it to me as --

Q. (BY MR. DAVIS) Looking at that exhibit, are you aware that your company's application does not include a design component?

A. Looking at this, yes, I am.

Q. In your experience, do your customers, which I understand are operating in the food service entry, purchase deli meats and bread at the same time?

A. Normally, they don't purchase it at the same time. If the sense is place on the same order for delivery from the same source, the answer would be no.

Q. In a temporal sense, do they purchase those two goods at the same time?

A. I'm sorry, I failed the spelling bee.

Q. Okay.

A. In what sense do you mean temporal?

Q. Okay. Let me -- let me withdraw that question.

I understand your previous answer that your -- your customers would not necessarily order deli meat and bread at the same time because their suppliers for those goods might be two different companies; so, those goods would not be ordered from the same company. I was using time in the temporal sense, so let me rephrase the question.

Would your customers purchase deli meats and bread during the same time period?

A. Our customers would purchase all their use items, including chemicals, foods and nonfoods, during a similar period of time; however, that would be defined by their sales or purchase cycle.

Q. Okay. Would that also apply to mustard and bread?

A. Yes, it would.

Q. Cheese and bread?

A. It would apply to any product that they would consume and use in their business.

Q. Including products unrelated to anything in this case?

A. Absolutely.

Q. Okay. Would you consider sandwiches and bread to be related items?

A. They are components that somebody used together or used separately; so, you know, there is some relationship between those, as there is between mustard and ham and mustard and bread. They could be used together under some circumstances.

Q. Cheese and bread as well?

A. Any item that could conceivably use bread could be related to any other item, including cheese.

Q. Are you aware of any other uses by third parties, meaning not the parties to this litigation, of trademarks including the word "Cobblestone"?

A. Yes. Yes, we are aware of some other uses.

Q. What would those be, if you can --

A. Well, first of all, I couldn't recite them all. I think that one was a -- Boston Cobblestone cheese was one example. There were other Cobblestones that were used in totally different product and nonconsumable product channels. There were a whole series of Cobblestone uses uncovered in the Cobblestone Corner document.

Q. Have you encountered any actual confusion between IMA's Cobblestone Market trademark and --

A. No, sir, I have not.

Q. -- and Flowers Cobblestone Mill?

A. Absolutely not.

Q. Has IMA commissioned any scientific surveys to measure whether there is any actual confusion among consumers?

A. We have had no cause to do so, nor have we done so.

Q. Have you retained any expert witnesses for this case on that issue?

A. There is an expert witness retained, yes.

Q. What is that individual's name?

A. I don't have -- I have no idea. I probably saw it somewhere. I've never met the person or spoken with them.

Q. Is that person conducting a survey?

A. Not to my knowledge.

Q. Is that person a trademark lawyer?

A. I think so, but I -- again, I have not discussed that in any depth with anyone. Just discussed it more with you than anyone else before.

Q. Is that person a marketing professional?

A. I have no idea.

Q. But your counsel knows the -- the particulars and identity of this person?

A. Yes.

MR. DAVIS: Marty, do we have a report?

MR. HILL: I'm not giving my deposition. We'll talk about it later.

MR. DAVIS: Okay.

Q. (BY MR. DAVIS) Have you seen an expert witness report generated by that person?

A. I have not.

MR. DAVIS: I'd like to have this marked as an exhibit, please.

(Exhibit 13 marked)

Q. (BY MR. DAVIS) I'd like to pass to you an exhibit that I believe was an e-mail string, including some e-mails to and from yourself. This was produced to us as a group of single sheets and we've attempted to separate it into a single discrete document, but, if you could, take a look at that and see if it's something with which you are familiar.

Mr. Planck, are you familiar with the documents making up this exhibit?

A. Well, I haven't nearly gone through all of them.

Q. Okay.

A. From the first ones, I am familiar that our owner, Shamrock Foods, had some issue with a local gas station using Cobblestone and wanting that defended. And then the rest is just, it looks like, copies of searches, et cetera, that their attorney did. Anne Kleindienst, whatever, is an attorney for Shamrock Foods.

Q. Was there a determination in that case that there was no conflict between the two trademarks?

A. I don't remember these pictures. I must not have paid much attention to them. They aren't very good pictures, by the way.

I -- I mean, I think we determined that it had been used for a long time by those guys and it wasn't really in the same channel of trade and we wouldn't pursue it. That was our attorney's advice. And that's probably -- I'm sure that's the advice I forwarded back to the people at Shamrock.

Q. I'm looking at the last or what I understand to be the last piece of correspondence in this exhibit, which is the one -- the very first one. This appears to me to be an e-mail directed to you. Is there any discussion in that e-mail about the parties being in different markets?

A. No, I don't see a comment from our attorney in

this e-mail on that regard.

Q. And the -- this e-mail seems to have two paragraphs. The last sentence of the first paragraph, how does that read?

A. "Note that the attorney that filed the applications is Ann Kleindienst who also acts as Shamrock's counsel."

Q. I'm sorry, I meant the last sentence of the first paragraph.

A. "Based on the 1997 date of use, IMA is not in a position to fight these applications." That's what it says.

Q. Okay. So, it appears that the advice of counsel, that the final advice of counsel in this matter was that a challenge should not be made because of a prior date of first use by the other party?

A. That seems to be the focus of his comments in this memo.

Q. Do you know why Shamrock was originally concerned about this matter?

A. I'm trying to recall if there was something besides it just being this -- this operation that was doing it. I do know that Shamrock, in the mountain markets, has strongly developed the Cobblestone brand, with $25 million a year in sales and almost 5,000

customers in their food service mix, so they -- the Cobblestone Auto Spa would concern them, although, frankly, my off-the-record, not-in-this-memo advice from the first was, hell, I don't think we can stop Cobblestone Auto Spa. It's nothing to do with what we do in the market. But they have a large volume of business --

Q. Okay.

A. -- in Cobblestone Market products.

Q. Okay.

A. And I would just add to that further, Rob Ahrensdorf is the brand champion for that brand. Each of our MAC members have brands that they sort of shepherd through for the group. So, any question on Cobblestone Market would logically come from Rob.

Q. Okay. And he is with Shamrock?

A. He works for Shamrock.

Q. Would he have had particular involvement in the selection of the Cobblestone mark, Cobblestone Market mark? I'm sorry.

A. No, no more so than anyone else in the MAC. In fact, I'm not even sure he was employed in April of 2004.

Q. Okay.

MR. DAVIS: I'd like to have this marked

as an exhibit, please.

(Exhibit 14 marked)

Q. (BY MR. DAVIS) If you could take a look at that document, I'd appreciate it. I apologize, this also seems to be something of a fragmentary document.

A. Let me have a moment to read it, please.

Q. That's fine.

A. Okay. I generally have it. I may have to dig into some specific areas that you want to talk about some more, but...

Q. You're free to take whatever time you think you need.

A. Well, let's go forward, and if I need to read another section again before I answer, I'll indicate that.

Q. Okay. That's fine.

Do you recognize this document?

A. Specifically, no, but -- but I recognize my name on it, so I'm sure I've seen it.

Q. Let me try this. Are you familiar with the subject matter of the e-mail?

A. Yes. Generally, yes.

Q. Okay. And what do you remember about the subject matter of the correspondence?

A. Well, are we talking about the correspondence

on the top, front page 92 here?

Q. I'm sorry. Let's start with -- let's start with the oldest correspondence in that exhibit first.

A. Yes, from Marta Levine, uh-huh.

Q. Do you -- do you recall this what's called a potential dispute between IMA and Sysco?

A. Yes.

Q. Do you recall characterizing Sysco's use of the Hidden Cove trademark as an infringement?

A. Specifically, no, but I think I thought it was an infringement.

Q. Why did you think it was an infringement?

A. Because the connotation of "bay" and "cove" are very similar. It was in the same product category, it was in the same channel of trade. It was a food service seafood item and it had a very similar image as well that they were using.

Q. What was the significance to you that both parties' marks begin with the word "hidden"?

A. It's part of the overall process. It made it sound more similar than if it hadn't said hidden. But "cove" and "bay" and the channel and the product were the primary concerns that -- that I had. However, you must understand, we do not own that mark. Reinhart FoodService owns it. So, we were not able to take a

position on defending it; they had to.

Q. Okay. And Reinhart is one of your members, right?

A. Yes. They license that. There are four brands, none of them the one in question here, that were licensed from IMA companies to IMA for all their members' use and Hidden Bay was one of them.

Q. Okay. So, the lawyer whose correspondence is reflected in the tail end of this exhibit would have been a lawyer retained by Reinhart?

A. Yes.

Q. Okay. Are you aware of how this situation was resolved?

A. To my knowledge, Reinhart chose not to pursue it.

Q. Okay. Why don't we run through some cleanup questions. Then we'll take a quick break and we may well be done after that.

Mr. Planck, I'd like to show you some responses to interrogatories that were served by IMA on Flowers Bakeries Brands by your lawyers and I would like to refer you in particular to Interrogatory No. 18. And I'm not sure if you've seen this document before, but it is -- it reflects interrogatories served on IMA that your counsel has retyped, then inserted answers.

MR. HILL: I think so.

Q. (BY MR. DAVIS) Okay. That particular interrogatory asks about any expert witness that IMA has retained in this matter, and do you see the response there?

A. Yes, I do see the response. Yes, I see the response.

Q. It's my understanding from your previous testimony that the company has hired an expert witness for this litigation; is that correct?

A. I guess I'm going to get a bill. I have not hired a company, but our lawyers apparently have, I assume subsequent to 9 February 2006.

Q. Okay.

A. So, I had no knowledge of one at that time.

Q. And do you see that that response indicates that there will be a supplemental response?

A. Yes. "Unknown at this time. Applicant will supplement" is what it says.

Q. Do you know when IMA intends to supplement that response?

A. No, I do not know. We have had no counsel in that regard.

Q. Okay.

A. Do you want this back?

Q. Yes, please.
A. Sure.
Q. This interrogatory also asks for a description of the subject matter about which the expert is expected to testify. Are you aware of the subject matter of your expert's testimony?
A. No, I am not.
Q. Okay. And do you know, I think you may have mentioned the word "company" in your responses to my question about this interrogatory response. Do you know if your expert is a company or is the expert an individual?
A. I'd have -- I'm going to give you an assumption. I assume it's an individual.
Q. Okay.
A. I don't know whether -- if there is a contract with an individual or a company in this regard, I have not signed it, reviewed it, or have any specific knowledge of it.
Q. So, if there is such a contract, it's your understanding that the terms of that contract were negotiated by your counsel?
A. I would assume that's correct.
Q. Okay. Do you know if this expert has met with your counsel?

A. I am aware that counsel has met with the expert, at least in some way, but I don't know any details.

Q. Do you know how many times?

A. I have no idea.

Q. Have you seen any correspondence with the expert?

A. I don't recall seeing any correspondence with the expert.

Q. Neither to nor from?

A. Neither to nor from, in my recollection.

Q. Okay. Mr. Planck, I'd like to show you a -- a related document, which is your company's responses to a series of requests for production of documents. Several of the responses to these requests promise some degree of supplementation, and so what I would like to get you to do is to go through and review the ones that have that response and just confirm for the record whether there are documents that are going to be produced or not.

A. Fine.

Q. Okay.

A. Nods don't work, I'm sorry.

MR. HILL: That's fine.

Q. (BY MR. DAVIS) And the ones in particular --

you can take as long as you need to familiarize yourself with these. If you could, take a look at the response to No. 8.

A. Where it's response is, "Documents have been produced and will be supplemented"?

Q. Yes.

A. We are not aware of any documents that need to be added to or supplemented, nor have we been advised that we should seek such documents.

Q. And IMA does not intend to rely upon any documents responsive to that request that have not yet been produced?

MR. HILL: Object that it calls for a legal conclusion, but to the extent you know you've got any documents that you haven't already turned over.

A. I don't know of any documents that we would -- I have no intention of turning other documents, based on this statement.

Q. (BY MR. DAVIS) Okay. And I am happy to go with Marty's characterization of my question. It really goes to: are there additional documents falling within any of these categories that your company has not yet produced?

A. There is -- to my knowledge, there is no pertinent document that we have not produced --

Q. Okay.

A. -- in any of these interrogatories.
Q. Okay. What about -- and just to clarify, you're looking at requests, responses to requests for production, as opposed to interrogatories --
A. Sorry.
Q. -- which was the document before this.
What about No. 9, in particular?
A. The only documents I know of in that regard would be contracts with manufacturers limiting them to produce the brand and sell at time of companies. I'll be happy to produce those if you want them. I don't know of any other documents in that category.
Q. You've referred to licenses. Would licenses fall within the category of documents you just described?
A. License may not be the right -- we do have a manufacturing agreement with our vendors that essentially says you're going to follow our standards and adhere to our quality and safety standards, our packaging standards, and only sell those items to IMA members.
Q. Okay.
A. Those would be the agreements that would be with manufacturers.
Q. So, for the goods that are currently being sold

under the Cobblestone Market trademark, you have such an agreement in place?

A. Yes. There may be -- I think we have every vendor in place. There may be some that are still in process with their legal departments, but that's our intent.

Q. Okay. But right now there are licenses in existence at least for some of those goods?

A. Yes, that's correct.

Q. And my understanding is that for some of your goods the mark is not yet in use?

A. There are -- there could be goods that would be added. Line extensions or entrees, for example, could be added that aren't currently in use.

Q. Okay. To the best of your knowledge, has your -- has IMA produced those licenses or those agreements?

A. To the best of my knowledge, we have not.

Q. Okay.

MR. DAVIS: Marty, we would like to renew our request for those documents specific to Cobblestone Market.

MR. HILL: Okay. We can deal with that off the record.

MR. DAVIS: That's fine.

MR. HILL: I'm not sure why or how that's calculated to lead to discovery of admissible evidence. To me, it's irrelevant, it's highly confidential, and even though he said he didn't have a problem producing it -- we can debate this off the record.

MR. DAVIS: Okay.

MR. HILL: I'd like -- if you can tell me how this has relevance to the issues, then maybe we can deal with it.

THE WITNESS: It's a confidentiality clause. Yeah, it could be a confidentiality breach with the vendor.

MR. HILL: We can't breach the confidentiality provisions with those people, so...

MR. DAVIS: We understand the confidentiality concerns. Okay, why don't -- we'll discuss it off the record.

Q. (BY MR. DAVIS) No. 10, if you could take a look at that as well, and, again, confirm whether or not there are responsive documents that will be forthcoming.

A. Unless we were advised that there was some document we should dig up and generate by our counsel, we don't have a current plan to submit other documents.

Q. Okay. No. 11?

A. I have the same answer as No. 10, unless we are

advised that more information were needed and pertinent, we have no plan to submit more documents relative to No. 11.

Q. Okay. No. 12?

MR. HILL: There is where you want us to send you a ham?

A. There's a saying in the food service business called "sell it or smell it." You must be smelling it pretty big time pretty quick. We have no intention of sending samples of 222 cheese items for review.

Q. (BY MR. DAVIS) We could pass on the cheese. Any packaging?

A. We currently -- unless we were advised by our attorneys it was pertinent to the case, we have no intention of submitting other packaging documents or other documents.

Q. Okay. So it's your position that how the mark is presented on the packaging is not relevant to this case?

MR. HILL: Object to the extent it calls for a legal conclusion or legal tactic or strategy.

MR. DAVIS: That's fine. We'll move on.

Q. (BY MR. DAVIS) No. 13?

A. I don't know what we've actually submitted.

MR. HILL: There's a foot of documents in

the other room. You can --

MR. DAVIS: Okay.

A. We do no advertising, so it's just brochures basically.

Q. (BY MR. DAVIS) Okay.

A. Point of sale material, to my knowledge.

Q. No. 14?

A. To my knowledge, there are no press releases or articles referring to the opposed mark, so we have nothing to submit that I'm aware of.

Q. No. 15?

A. We -- no, we have no intention to submit proof of the extent of our advertising costs. We essentially don't have any.

Q. No. 16?

A. No, we have no intention of submitting any further documentation in that regard.

Q. Okay.

MR. HILL: He and I, when we take the next break, may discuss this because, while the prices are confidential and proprietary, it may be possible by category to give a representative range that would satisfy you, but at the same time would not violate confidentiality. If that's what you're looking for, as opposed to a specific price list, I think we could -- I

need to talk to him.

MR. DAVIS: Okay. Why don't we do that.

Q. (BY MR. DAVIS) As far as the price goes, though -- and this is to follow up on some earlier questions -- I understand that you probably ship some large shipments to your retailers or to your customers?

A. Well, first of all, we don't take invoice to bill any of this stuff.

Q. Okay.

A. The manufacturer has a price that's agreed to with our members and they sell it to our members for that price. We're not an intermediary --

Q. Okay.

A. -- in an ongoing way with the pricing that's on the invoice, with -- that's determined between them and the individual company.

Q. Okay. I'm sorry, I think you did tell me most of that before.

Are your member companies responsible for negotiating the prices they pay to the manufacturers?

A. They determine the invoice price that they're charged by the manufacturer, yes, in negotiation with that manufacturer.

Q. Okay. So, if -- so, the prices that your individual members might pay could differ?

A. Yes, they could.

Q. Okay. Depending on how good they are as negotiators with the manufacturers?

A. Depending on their negotiation and the outcome of those manufacturers. They each are independently held companies, so they really can't determine price jointly.

Q. Okay. And for those of your members that sell goods or provide them in a -- in a deli-type setting, they also would be responsible for setting their own pricing?

A. Yes, they would.

Q. Okay. IMA would not be involved in that process?

A. Not in the slightest.

Q. Okay. But for those companies that do provide that type of service, they would be selling individual portions of these goods?

A. No, they would normally be selling case lots to their customer base, which is probably 99 percent food service.

Q. Yeah, I'm sorry.

A. Even in deli. But they're not selling individual units; they're selling, usually, case lots.

Q. That question was not a good one.

For ultimate consumers -- I'm using that term actually to mean the people who consume the product -- if they pick up these products in the deli-style setting and if they pay money to one of your member's customers --

A. Right.

Q. -- that price is going to be set by the member's customer?

A. Yes.

Q. And at least some of those sales, especially in the deli context, would be individual portions?

A. Well -- individual portions? Well, certainly if somebody would buy a quarter pound of ham and they'd slice a quarter pound of ham off in the deli, so they would sell it by weight or some other way, not usually as individual portions --

Q. Okay.

A. -- in the sense I think of portions.

Q. But an individual consumer would walk into such a place and buy a portion from the larger shipment that went --

A. Yes, whether that portion was a two-ounce individual I'm going to consume the cheese or it was two pounds for my family, they would -- or it was a quart of soup. They would buy it in some unit that the end user

would determine they were selling.

Q. Okay. Does IMA have any information on pricing at that level?

A. None whatsoever.

Q. Okay. It's not something the company monitors?

A. No.

Q. Can we get back to that document and move on to category No. 24?

A. Okay. That's a lot of words legalistically written, but I take it the question is, do we know of any document or inquiry from anyone that may be confused by the marks, and the answer is no.

Q. Okay. 25?

A. Well, I think it says it's overbroad. There might be fund that develops five years from today that we don't foresee. I think we've related everything that we're aware of.

Q. Okay. We're just asking about existing documents.

A. Yeah, I think we're -- you've got it, as far as I know.

Q. Okay. Let's jump ahead to No. 32.

A. We don't have any such documents at this time. You know, we might rely on our legal counsel to advise if they needed something and we'd see if we had it, but

I don't know of anything in that category.

Q. Okay. We may be beating this to death. That would include any expert witness reports?

A. I haven't seen any expert witness reports.

Q. Okay. And No. 33?

A. This is basically the same objection, and my answer would be the same as my last question -- answer to 32.

Q. Okay. That's fine.

A. You need this back, don't you, Counselor?

Q. I do need that one back. Thank you.

A. Okay.

Q. We've -- we have talked about the sale in a deli presentation of some of the goods under the Cobblestone Market mark. Can you tell me some of the names of the businesses that sell in that type of presentation?

A. Some of the names of the end user operators that we might sell -- our companies might sell to; is that the answer -- question?

Q. Yes, that's the question. Thank you.

MR. HILL: Well, I object to the question as being vague and confusing, but if you can answer, go ahead.

A. I -- the only list of customers I reviewed, and

it's confidential, was from Maines. And they had almost 1500 active customers, of which one appeared to be a retail account. And that was a company called Wegman's.

Q. Wegman's?

A. Yes.

Q. Is that W-E-G --

A. M-A-N-S. That's the only -- because I did review that document, I do have that knowledge, and it was one account out of 1500 different listings.

Q. Okay. So Maines is the member?

A. Maines is the member in upstate New York.

Q. And Maines sells to its customers?

A. Yes.

Q. Okay. And the other company that you referred to, is it Wegman?

A. Wegman's retail grocery store chain, yes.

Q. Okay. Are you aware of any other companies comparable to Wegman?

A. No.

Q. You mentioned you had referred to documents about Maines?

A. Uh-huh.

Q. Did you refer to corresponding documents for some of the other members?

A. (Witness shakes head)

Q. Is it possible if you reviewed any corresponding documents for other members that there might be others?

A. Well, let me answer that question as fairly as I can. Yes, it is possible. Is it likely? Possibly, in some cases, we would find some. However, I firmly believe that in all the markets that the opposer markets in the south, I would be shocked if I found a retail store that Conco or IJ were selling anything to.

Q. Okay.

A. So I don't believe there is any conflict in your co-market areas.

Q. Okay.

A. It's a very small part of our market everywhere.

MR. DAVIS: Could you let us confer for one minute?

MR. HILL: Sure.

MR. DAVIS: I think we may be done.

(Recess from 12:00 noon to 12:10 p.m.)

MR. DAVIS: We're done.

(Proceedings concluded at 12:00 Noon)

I declare under penalty of perjury that the foregoing is true and correct.

_____

ROBERT D. PLANCK

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, by the witness, ROBERT D. PLANCK, on this the _____ day of _____, _____.

_____

NOTARY PUBLIC IN AND FOR

THE STATE OF _____

My Commission Expires: _____

STATE OF TEXAS
COUNTY OF HARRIS

REPORTER'S CERTIFICATE
ORAL 30(B)(6) DEPOSITION OF ROBERT D. PLANCK
August 22, 2006

I, the undersigned Certified Shorthand Reporter in and for the State of Texas, certify that the facts stated in the foregoing pages are true and correct.

I further certify that I am neither attorney or counsel for, related to, nor employed by any parties to the action in which this testimony is taken and, further, that I am not a relative or employee of any counsel employed by the parties hereto or financially interested in the action.

SUBSCRIBED AND SWORN TO under my hand and seal of office on this the _____ day of _____, _____.

_____

Laraine L. Toliver, CSR 433
Expiration: 12/31/2006
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