

2002

Anthony H. Coombs, Scott Haslam, Judith M. Haslam, and Hasco LLC v. Juice Works Development, Inc., TCBY, Mrs. Fields' Original Cookies, Mrs. Fields, Inc., Mrs. Fields' Brand, Inc., Mrs. Fields' Holding Company, Inc. and Mrs. Fields' Famous Brands: Brief of Appellant

Utah Court of Appeals

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Deno G. Himonas and Adam B. Price; Jones, Waldo, Holbrook and McDonough; Attorneys for Defendants.

Conrad B. Houser; Attorney for Appellants.

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IN THE UTAH COURT OF APPEALS

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ANTHONY H. COOMBS, an individual  
SCOTT HASLAM, an individual,  
JUDITH M. Haslam, an individual and  
HASCO LLC, a Utah Limited Liability  
Company  
Plaintiffs and Appellants

APPELLATE CASE No.  
20020720-CA

-vs-

JUICE WORKS DEVELOPMENT, INC., an  
Arkansas Corporation,  
TCBY Systems, Inc., an Arkansas Corporation,  
and  
MRS. FIELDS' ORIGINAL COOKIES, Inc. a  
Delaware Corporation  
MRS. FIELDS, INC., MRS. FIELDS' BRAND,  
INC., MRS FIELDS' HOLDING COMPANY,  
INC., AND MRS. FIELDS' FAMOUS BRANDS

Defendants and Appellees

---

**BRIEF OF APPELLANTS**

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Appeal from the  
ORDER OF DISMISSAL OF DEFENDANTS JUICE WORKS DEVELOPMENT,  
INC., TCBY SYSTEMS, INC. AND MRS. FIELDS' ORIGINAL COOKIES, INC.

by the  
HONORABLE MICHAEL K. BURTON  
Third District Court  
Salt Lake County, Utah

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TABLE OF CONTENTS

Jurisdictional Statement .....1  
Statement of the Issues .....2  
Statement of the Nature of the Case.....4  
Disposition in the Lower Court .....5  
Relief Sought on Appeal .....5  
Statement of the Facts .....6  
Arguments.....8  
    I.    Venue is not automatically established by a  
          franchise agreement.....8  
        A.    The Franchise Agreement contains a forum selection  
              clause.....8  
        B.    The Franchise Agreement was not freely negotiated.....8  
        C.    A contract alone does not establish venue .....10  
        D.    The actual course of dealing clearly shows virtually  
              All contacts were in Utah.....11  
        E.    There were no contacts in Arkansas. This is clearly  
              below the level of ‘minimum contacts’ necessary to  
              maintain venue in Arkansas.....13  
        F.    The burden of establishing proper venue shifts to  
              Defendants .....14  
        G.    The Utah Long-arm Statute provides jurisdiction  
              over defendants.....15  
    II.   It would be unreasonable, unfair, overreaching, and unjust  
          to deny plaintiffs their day in Utah court by applying the  
          choice of forum clause in the Agreement.....15  
Conclusion.....18  
Certificate of Service .....19

- Addendum A: Order Granting Defendants’ Renewed Motion to Dismiss
- Addendum B: Complaint
- Addendum C: Affidavit and Amended Affidavit of Anthony H. Coombs
- Addendum D: Juice Works Franchise Agreement
- Addendum E: Documents relating to the interrelationships of defendant companies

## CASES AND AUTHORITIES CITED

### CASES

<i>Bremen v. Zapata</i> , 92 S. Ct. 1907 (1972) .....	12, 16
<i>Burger King Corporation v. Rudzewicz</i> , 471 U.S. 462 (1985) .....	2,8,10,11,14,16
<i>Fuentes v. Shevin</i> , 407 U.S. 67, 94-96 (1972).....	16
<i>Hall v. LaRonde</i> , Super. Ct. No. 165615 (California 1997).....	11, 14
<i>Hobbs v. Labor Commission</i> , 991 P.2d 590 .....	2
<i>Hoopeston Canning Co. v. Cullen</i> , 318 U.S. 313 (1943) .....	11
<i>International Shoe Co., v. Washington</i> , 326 U.S. 310 (1945).....	11
<i>Kamdar &amp; Co. vs. Laray Co.</i> , 815 P.2d 245 (Utah Ct. App. 1991) .....	15
<i>Kulko v. California Superior Court</i> , 436 U.S. at 92.....	15
<i>McGee v. International Life Insurance Co.</i> , 355 U.S., at 223.....	16
<i>National Equipment Rental, Ltd. v. Szukhent</i> , 375 U.S. 311, 329 (1964) .....	16
<i>Phone Directories Co. Inc. v. Henderson</i> , (Utah S.C. 08/15/2000) .....	13
<i>Prows v. Pinpoint Retail Systems, Inc.</i> , 868 P.2d 809 (Utah 1993).....	13, 15
<i>Riley v. Kingsly Underwriting Agencies, Ltd.</i> , 969 F.2d 953 at 958 (10th Cir. 1992) .....	15
<i>Sierra Club v. Utah Solid and Hazardous Waste Control Board</i> , 964 P.2d 335, (Utah 1998) .....	3, 4
<i>Spears v. Warr</i> , 44 P.3d 742 (Utah 2002) .....	3
<i>United States v. Rumely</i> , 345 U.S. 41, 44 (1953).....	16
<i>Von's Companies, Inc. v. Seabest Foods, Inc.</i> , 926 P.2d 1085 (CA 1996).....	14
<i>World-Wide Volkswagen Corp. v. Woodson</i> , 444 U.S., at 297.....	16

### STATUTES

Utah Code Annotated §78-2A-3(2)j

### OTHER

Glickman, Gladys, *Franchising*, ISBN: 0820513148, Matthew Bender & Co., Inc.,  
November 2000

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IN THE UTAH COURT OF APPEALS

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ANTHONY H. COOMBS, an individual  
SCOTT HASLAM, an individual,  
JUDITH M. Haslam, an individual and  
HASCO LLC, a Utah Limited Liability  
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APPELLATE CASE No.  
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Plaintiffs - Appellants

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JUICE WORKS DEVELOPMENT, INC., an  
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and  
MRS. FIELDS' ORIGINAL COOKIES, Inc. a  
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MRS. FIELDS, INC., MRS. FIELDS' BRAND,  
INC., MRS FIELDS' HOLDING COMPANY,  
INC., AND MRS. FIELDS' FAMOUS BRANDS

Defendants and Appellees

---

**BRIEF OF APPELLANT**

---

**JURISDICTIONAL STATEMENT**

Plaintiffs / Appellants Anthony H. Coombs, Scott Haslam, Judith M. Haslam and Hapsco LLC ("Coombs") bring this appeal from a final Order Granting Defendants' Renewed Motion to Dismiss of the Third District Court, the Honorable Judge Michael K. Burton, of Salt Lake County, Utah, on August 8, 2002 (see Addendum A). This appeal is taken pursuant to the Utah Rules of

Appellate Procedure and was referred to this court pursuant to Utah Code Annotated §78-2a-3(2)j.

### STATEMENT OF THE ISSUES

A. Did Third District Judge Burton properly dismiss the action, apparently looking only at the ability of plaintiffs to financially support bringing suit in Arkansas? There are many other factors involved in a determination of whether a choice of forum contract clause governs over other facts. A plethora of facts, not yet fully discovered, indicate that Juice Works is owned by TCBY and that TCBY is now owned or controlled by one or more of the Mrs. Fields' Cookies stable of companies *located in Utah*.

STANDARD OF REVIEW: The propriety of a dismissal of a party's claims presents a question of law, and the appellate court reviews this under a correctness standard. *Hobbs v. Labor Commission*, 991 P.2d 590, (Utah App. 1999)

B. Does dismissal of this case without evaluation of the bargaining power of the parties and without consideration of elements of unfairness offend equity and "the fundamental fairness which is the touchstone of due process?" See *Burger King Corporation v. Rudzewicz*, 471 U.S. 462 (USSC 1985)

STANDARD OF REVIEW: If questions of fact are curtailed by the

Court granting a motion to dismiss, the appellate court is not bound to give deference to the lower court's ignoring or weighing of the facts. "When a petitioner challenges an agency's application of law to fact, we apply a standard of review that is not static, but is instead determined on a sliding scale: '[An] agency's application of the law to the facts may, depending on the issue, be reviewed by an appellate court 'with varying degrees of strictness, falling anywhere between a review for 'correctness' and a broad 'abuse of discretion' standard.'" *Sierra Club v. Utah Solid and Hazardous Waste Control Board*, 964 P.2d 335, (Utah 1998)

In an equity review of facts, if the record shows a fair preponderance, or even if the evidence is balanced evenly, the trial court finding should be sustained. If the evidence is so vague and uncertain that the finding is obviously erroneous, there may be a new finding on review. *Spears v. Warr*, 44 P.3d 742 (Utah 2002)

C. Are questions of fact, equity and the interests of justice involved in determination of venue? There exist many questions of fact in the appealed case. Fact discovery had not yet begun.

STANDARD OF REVIEW: If the discovery of questions of fact are curtailed by the Court granting a motion to dismiss, the appellate court is not bound to give deference to the lower court's ignoring or

weighing of the facts. "When a petitioner challenges an agency's application of law to fact, we apply a standard of review that is not static, but is instead determined on a sliding scale: '[An] agency's application of the law to the facts may, depending on the issue, be reviewed by an appellate court 'with varying degrees of strictness, falling anywhere between a review for 'correctness' and a broad 'abuse of discretion' standard.'" *Sierra Club v. Utah Solid and Hazardous Waste Control Board*, 964 P.2d 335, (Utah 1998)

## **STATEMENT OF THE NATURE OF THE CASE**

Appellants purchased a franchise from defendant Juice Works Development, Inc. on June 5, 1997 in Phoenix, Arizona. The purchase included the signing of a standard 'take-it-or-leave-it' Franchise Agreement (the relevant forum selection clause shown in Attachment D).

Appellants subsequently established a Juice Works store in the ZCMI Mall in Salt Lake City, Utah. Appellees failed to provide meaningful Operating Assistance in the startup and ongoing business of the store as called for in the Franchise Agreement leading to closure of the store.

The Franchise Agreement contains a forum selection clause requiring claims to be brought in the State of Arkansas. Appellants timely filed the



subject Complaint on March 27, 2001, in the Third Judicial District Court in Salt Lake City, Utah because plaintiffs were all Utah residents, they had no meaningful contact with TCBY in Arkansas, and TCBY is now controlled by the Mrs. Fields' Cookies companies, corporations headquartered in Utah.

Judge Burton dismissed the case for improper venue examining only the ability of plaintiffs to financially support litigation in Arkansas. Many other issues factor into a venue determination.

### **DISPOSITION IN THE LOWER COURT**

Defendants Juice Works Development, Inc., TCBY Systems, Inc. and Mrs. Fields' Original Cookies, Inc. filed a Motion to Dismiss on April 30, 2001. Following oral argument on September 21, 2001, Judge Burton ordered the parties to conduct discovery limited to the impact that a court order requiring plaintiffs to litigate in Arkansas would have on them. After deposing each of the individual plaintiffs, defendants renewed their Motion to Dismiss. Judge Burton, without a hearing, issued the Order (Attachment A) on August 8, 2002.

### **RELIEF SOUGHT ON APPEAL**

Appellants seek to have the Order Granting Defendants' Renewed Motion

to Dismiss reversed with the matter remanded for further proceedings.

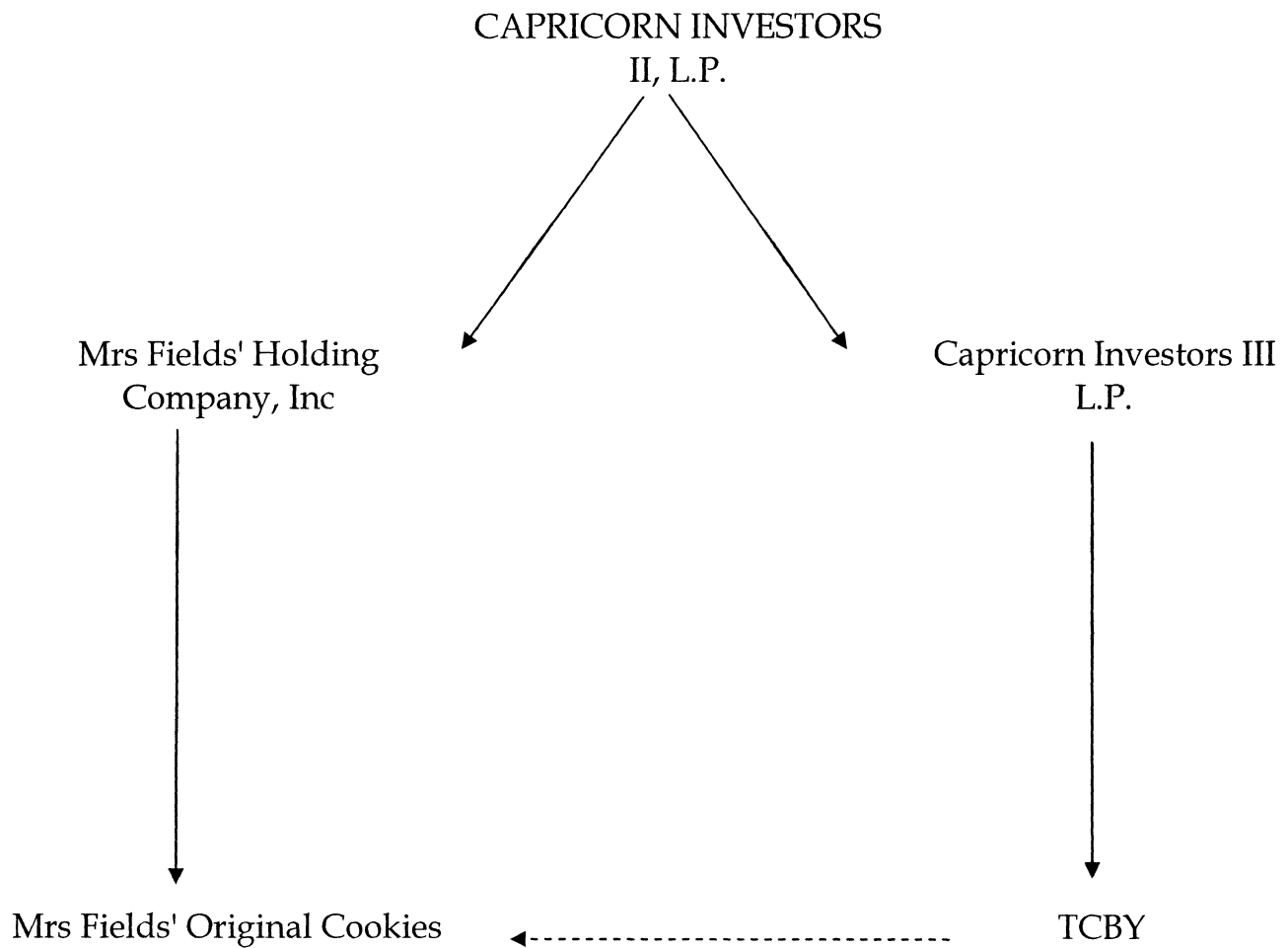
## STATEMENT OF THE FACTS

Appellants purchased a franchise from defendant Juice Works Development, Inc. on June 5, 1997, in Phoenix, Arizona. Appellants established a Juice Works store in the ZCMI Mall in Salt Lake City, Utah. Appellees failed to provide meaningful Operating Assistance in the startup and ongoing business of the store as called for in the Franchise Agreement leading to closure of the store at the end of March, 2000. Plaintiffs' also contend breach of contract, fraud, concealment, breach of fiduciary duty, and negligence by defendants.

Plaintiffs are all residents of Utah. Hasco Synergetics, LLC is a Utah LLC formed to operate their Juice Works business. Plaintiffs only contacts with Juice Works contacts, other than a few telephone calls, were exclusively in Utah and Arizona, where training was conducted. Plaintiffs have never traveled to Arkansas for any business related to Juice Works. No Juice Works employee has ever traveled to Utah to meet with plaintiffs / Juice Works business matters.

TCBY at some point acquired Juice Works. As shown in the following diagram, both TCBY and Mrs. Fields' are owned by the Capricorn

investment or holding company group. Though defendants have not yet produced any corporate documents, there appears to be an exclusive management agreement in place whereby TCBY is managed by Mrs. Fields' Original Cookies (See Attachment E - Form 10-K, 10-Q discussion on page 9). Mrs. Fields' is headquartered in Salt Lake City, UT.



Appellants filed the subject Complaint on March 27, 2001, in the Third Judicial District Court in Salt Lake City, Utah, based largely on the fact that Appellants had no contact with Appellees outside of Utah and Arizona other than telephone conversations.

## ARGUMENTS

This brief focuses only on the issues related to the dismissal of this case for lack of compliance with the forum selection terms requiring plaintiffs to bring their claims in Arkansas. (see Attachment A) This brief does not deal with issues in the Complaint (Attachment B) dealing with breach of contract, fraud, concealment, breach of fiduciary duty, or negligence.

### **I. VENUE IS NOT AUTOMATICALLY ESTABLISHED BY A FRANCHISE AGREEMENT**

#### **A. The Franchise Agreement contains a forum selection clause**

The franchise relationship between the parties was in part based on a Franchise Agreement (“Agreement”). Paragraph 17 F of the Agreement (Attachment D) contains a forum selection clause,

“FRANCHISEE and the COMPANY agree that any action arising out of or relating to this Agreement... shall be instituted and maintained only in a state or federal court of general jurisdiction in Pulaski County, Arkansas, and FRANCHISEE irrevocably submits to the jurisdiction of such court and waives any objection FRANCHISEE may have either to the jurisdiction or venue of such court.”

#### **B. The Franchise Agreement was not freely negotiated.**

When freely negotiated, the U.S. Supreme Court in *Burger King v.*

*Rudzewicz*, 471 U.S. 462 (1985), clarified that forum selection provisions do not offend due process under the 14<sup>th</sup> Amendment to the U.S. Constitution.

However, “such a provision standing alone would be insufficient to confer jurisdiction.” The Court of Appeals had concluded, “that the parties’ dealings involved ‘a characteristic disparity of bargaining power’...” The Court of Appeals added, “the contractual provisions ... were merely ‘boilerplate declaration in a lengthy printed contract.’” See 724 F.2d, at 1511-1512.

The position of the parties when entering into a Franchising Agreement is well-stated in Gladys Glickman’s tome *Franchising* ISBN: 0820513148 published by Matthew Bender & Co., Inc., November 2000, §3.02[1].

“Any critical appraisal of the franchise relationship would show that franchisors have tremendously greater bargaining strength as compared to the prospective franchisee who not only knows nothing about the business, but also probably has not prior business experience as an independent businessman. The franchisor has all the time and available experts in a variety of fields with whom he can consult in fashioning an elaborate method of doing business. Included in the franchisor’s development would be the method of selling the franchise to prospective franchisees. Here too, the degree of sophistication is almost without limitation. Such great imbalance also creates many dangers of over-reaching, or of unconscionable practices or terms. The functional illiteracy of the franchisee may occur at the inception of the franchise, during its lengthy tenure, and especially at and after termination. Without access to the franchisor’s information and experience, the franchisee is no match for the franchisor.”

Plaintiffs, as is true with virtually every person faced with a 40-page document, did not review the document in any significant detail. They did not know at the time of signing that the document limited them to presenting their

claims only in Arkansas. The Agreement was never presented to and reviewed by Juice Works with plaintiffs. There was no opportunity to discuss the Agreement's terms nor alter any terms of the Agreement. [Affidavit of Anthony Coombs ¶7 - Attachment D)

**C. A contract alone does not establish venue.**

The United States Supreme Court has clearly established that a contract alone does not create venue. In *Burger King v. Rudzewicz*, 471 U.S. 462 (1985) the court stated, "If the question is whether an individual's contract with an out-of-state party *alone* can automatically establish sufficient minimum contacts in the other party's home forum, we believe the answer clearly is that it cannot."

Said the Supreme Court, "We share the Court of Appeals' broader concerns and therefore reject any talismanic jurisdictional formulas: 'The facts of each case must [always] be weighed' in determining whether personal jurisdiction would comport with 'fair play and substantial justice.'" Ibid. pg 485 & 486.

Continuing, the Court stated, "The particular distribution of bargaining power in the franchise relationship further impairs the franchisee's financial preparedness. In a franchise contract, 'the franchisor normally occupies [the] dominant role' ...". Ibid. Pg 489. They conclude, "Jurisdiction under these circumstances would offend the fundamental fairness which is the touchstone of

due process." Ibid. pg 490, 724 F.2d15050, 1511-1513 (1984).

The correct test of venue, in the face of an un-bargained-for forum selection clause, is 'fair play and substantial justice' otherwise stated as due process 'fundamental fairness.'

**D. The actual course of dealing clearly shows virtually all contacts were in Utah.**

The Supreme Court in *Burger King v. Rudzewicz*, 471 U.S. 462 (1985)

continued by reminding us that jurisdiction

" does not turn on "mechanical" tests, *International Shoe Co., v. Washington, supra*, at 319, or on "conceptualistic. . . theories of the place of contracting or of performance," *Hoopeston Canning Co. v. Cullen*, 318 U.S., at 316. Instead, we have emphasized the need for a "highly realistic" approach that recognizes that a contract is ordinarily but an intermediate step serving to tie up prior business negotiations with future consequences which themselves are the real object of the business transaction. *Id.*, at 316-317. **It is these factors - prior negotiations and contemplated future consequences, along with the terms of the contract and the parties actual course of dealing - that must be evaluated in determining whether the defendant purposefully established minimum contacts within the forum.**" [bold font added for emphasis]

The California Court of Appeals expanded on 'minimum contacts' position when stating in *Hall v. LaRonde*, Super. Ct. No. 165615 (California 1997)

"Sufficient minimum contacts for specific jurisdiction exist where a nonresident 'deliberately' has engaged in significant activities within a state or has created 'continuing obligations' between himself and the resident of the forum."

Relations between the parties was not in any way related to the forum selection terms of the Agreement. As clearly pointed out in the Complaint (Attachment B) and the Coombs Affidavit (Attachment C),

- Plaintiffs operated their franchise in Utah
- Defendants' representatives operated in Utah
- Defendants' management decisions during relevant periods were made in Arizona

Defendants are entangled in a web of relationships not yet discovered by plaintiffs. Several defendant entities are headquartered in Utah. At least one of the Fields' companies has an exclusive management agreement of undetermined but very broad scope over the affairs of TCBY and / or Juice Works. The relationships among plaintiffs and defendants are questions of facts requiring extensive discovery. It was patently unjust for this court to dismiss defendants prior to determination of these relationships and Utah's interest in resolving the matters before the court.

United States Supreme Court Justice Burger noted, in *Bremen v. Zapata*, 92 S. Ct. 1907 (1972) that "Forum-selection clauses have historically not been favored by American courts. Many courts, federal and state, have declined to enforce such clauses on the ground that they were 'contrary to public policy,' or that their effect was to 'oust the jurisdiction' of the court." While noting that there is good reason to enforce such clauses when the contracts have been freely



negotiated, they should not be honored if the agreement has not been freely negotiated or where “the chosen forum is seriously inconvenient.”

Plaintiffs are Utah residents. As noted by Justice Douglas’ dissent in *Bremen v. Zapata*, supra, where this matter is before a Utah court and where forcing plaintiffs to take their case to a ‘foreign’ court, their substantive rights would be adversely affected, venue and jurisdiction should be in Utah.

**E. There were no contacts in Arkansas. This is clearly below level of ‘minimum contacts’ necessary to maintain venue in Arkansas.**

Plaintiffs had no contact with Arkansas:

- Plaintiffs have never been in Arkansas
- No representatives from Arkansas ever came to visit plaintiffs or inspect their premises
- Plaintiffs were never taken to Arkansas for training or other integration into the companies

Chief Justice Howe, in concurring with the result and quoting *Prows v. Pinpoint Retail Systems, Inc.*, 868 P.2d 809 (Utah 1993), made it clear that the choice of forum clause “was unfair and unreasonable because none of the parties had any connection with New York.” [no connection with Arkansas in the present case] *Phone Directories Co. Inc. v. Henderson*, (Utah S.C. 08/15/2000) . Chief Justice Howe added, “The agreement sued upon was ... to be performed in Utah,

and the alleged breach and tortious conduct occurred here. In other words, all relevant contacts occurred in Utah, and as a consequence, we held Utah was the only state with an interest in the action.” Ibid pg 43. Such is the present case where all of the ‘conduct’ was intended to be and has occurred in Utah. This action and inaction all took place in Utah and includes the fraud, negligence, breach of contract, concealment, and breach of fiduciary duty alleged in the Complaint.

Specific jurisdiction may be asserted where the defendant has purposefully availed himself of forum benefits and the controversy is related to or arises out of the defendant's contacts with the forum. *Von's Companies, Inc. v. Seabest Foods, Inc.*, 926 P.2d 1085 (CA 1996) at p. 446.

There is nothing in the claims or actions of the parties to show that the Agreement in any way related to Arkansas: Arizona somewhat and certainly Utah, but certainly not Arkansas.

**F. The burden of establishing proper venue shifts to defendants.**

Plaintiffs established a plethora of contacts with defendants in Utah. “When the plaintiff establishes sufficient minimum contacts, the burden shifts to the defendant to “present a compelling case that the presence of some other considerations would render jurisdiction unreasonable.” *Hall v. LaRonde*, Super. Ct. No. 165615 (California 1997), quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. at p. 477.

Defendants have done absolutely nothing to meet this burden. They should be given the opportunity to do so when this matter is remanded to the Third District Court for further proceedings.

**G. The Utah Long-arm Statute provides jurisdiction over defendants.**

The Judicial Code of the Utah Statutes 78-27-22 et. seq. provide jurisdiction over defendants in the present matter. “The long-arm statute grants personal jurisdiction over claims arising out of any business transaction within the state, regardless of whether it is related to the Utah resident’s trade or the business of the nonresident.” *Kamdar & Co. vs. Laray Co.*, 815 P.2d 245 (Utah Ct. App. 1991)

**II. IT WOULD BE UNREASONABLE, UNFAIR, OVERREACHING,  
AND UNJUST TO DENY PLAINTIFFS THEIR DAY IN UTAH COURT  
BY APPLYING THE CHOICE OF FORUM CLAUSE IN THE  
AGREEMENT**

As stated by the Utah Supreme Court in *Prows v. Pinpoint Retail Systems, Inc.*, 868 P.2d 809 (Utah 1993), a forum selection clause is not effective when “it is unfair or unreasonable....the chosen state would be so seriously an inconvenient forum that to require the plaintiff to bring suit there would be unjust.” Such is clearly the present case. This ‘unfair or unreasonable’ standard is expanded by the Tenth Circuit statement that “bad faith, overreaching or lack of notice, would

be sufficient to defeat a contractual forum selection clause." *Riley v. Kingsly Underwriting Agencies, Ltd.*, 969 F.2d 953 at 958 (10th Cir. 1992)

Circumstances surrounding plaintiffs' entering into the franchise, left them "bereft of reasonable notice and financially unprepared for the prospect of franchise litigation in" Arkansas. See *Burger King*, supra at 490) On pages 485 and 486, the Court laid out criteria for evaluation of jurisdiction in franchise cases. We

"reject any talismanic jurisdictional formulas: "the facts of each case must [always] be weighed" in determining whether personal jurisdiction would comport with "fair play and substantial justice." *Kulko v. California Superior Court*, 436 U.S. at 92. The "quality and nature" of an interstate transaction may sometimes be so "random," "fortuitous," or "attenuated" that it cannot fairly be said that the [defendants in the instant case] should reasonably anticipate being haled into court" in another jurisdiction. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S., at 297.

"We also have emphasized that jurisdiction may not be grounded on a contract whose terms have been obtained through 'fraud, undue influence, or overweening bargaining power' and whose application would render litigation 'so gravely difficult and inconvenient that [a party] will for all practical purposes be deprived of his day in court' *The Bremen v. Zapata Off-Shore Co.*, 407 U.S. at 12, 18. Cf. *Fuentes v. Shevin*, 407 U.S. 67, 94-96 (1972); *National Equipment Rental, Ltd. v. Szukhent*, 375 U.S. 311, 329 (1964) (Black J., dissenting) (jurisdictional rules may not be employed against small consumers so as to "cripple their [case].')"

The *Burger King* opinion continues on in paragraph 47,

"Just as the Due Process Clause allows flexibility in ensuring that commercial actors are not effectively 'judgment proof' for the consequences of obligations they voluntarily assume in other States, *McGee v. International Life Insurance Co.*, 355 U.S., at 223, so too does it prevent rules that would unfairly enable them to obtain default judgments against

unwitting customers. Cf. *United States v. Rumely*, 345 U.S. 41, 44 (1953) (courts must not be 'blind' to what "all others can see and understand.")"

Continuing in the *Burger King* case, Justice Stevens, joined by Justice White, dissenting in paragraph 53 stated, "In my opinion there is a significant element of unfairness in requiring a franchisee to defend a case of this kind in the forum chosen by the franchisor." Speaking of Mr. Rudzewicz, a well-heeled accountant, they stated, "he was financially unprepared to meet ... added costs [of litigation in Florida.] The franchise relationship in particular is fraught with potential for financial surprise... the typical franchise store is a local concern serving at best a neighborhood or community. Neither the revenues of a local business nor the geographical range of its market prepares the average franchise owner for the cost of distant litigation." Ibid. pg 487, 488.

Judge Burton erroneously focused the September 6, 2001 hearing on the financial status of the plaintiffs. The proper test for venue, as illuminated above, is 'fair play and substantial justice' otherwise stated as due process 'fundamental fairness.'

## CONCLUSION

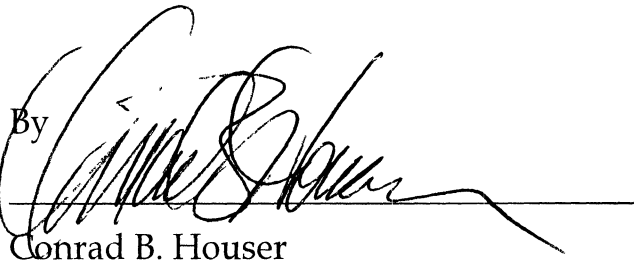
Venue in this case should not be governed by the heavy-handed forum selection clause in the Franchise Agreement. Rather, the case must be heard in Utah to reflect the relationship between the parties, to comport with the location of substantially all of the contacts between the parties, and to promote substantial justice, fundamental fairness and fair play between the parties.

In reviewing a motion to dismiss, the Utah Court of Appeals should construe the facts in the complaint liberally and we consider all the reasonable inferences to be drawn in a light most favorable to the plaintiffs.

Judge Burton erred in ordering the case dismissed for lack of proper venue.

WHEREFORE, respondent respectfully prays that the order of the lower court be reversed and the matter remanded for further proceedings.

DATED this 4th day of February, 2003.

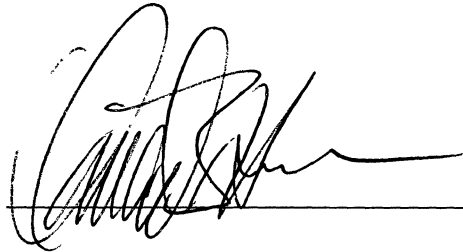
By   
Conrad B. Houser

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**CERTIFICATE OF SERVICE**

I certify that on February 4, 2003, I mailed a copy of this APPELLANTS' BRIEF and this certification addressed to:

Deno G. Himonas and Adam B. Price  
Jones, Waldo, Holbrook & McDonough  
PO Box 4544  
Salt Lake City, Utah 84145-0444

A handwritten signature in black ink, appearing to read 'Conrad B. Houser', is written over a horizontal line. The signature is stylized and cursive.

Conrad B. Houser

## **ADDENDUM A**



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 Attorneys for Defendants

**FILED DISTRICT COURT**  
 Third Judicial District

AUG 8 2002  
 SALT LAKE COUNTY  
 By \_\_\_\_\_ Deputy Clerk

**IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY  
 STATE OF UTAH**

ANTHONY H. COOMBS, an individual, :  
 SCOTT HASLAM, an individual, JUDITH M. :  
 HASLAM, an individual, and HASCO LLC, a :  
 Utah Limited Liability Company, :

Plaintiffs, :

vs. :

JUICE WORKS DEVELOPMENT, INC., an :  
 Arkansas Corporation, TCBY SYSTEMS, :  
 INC., an Arkansas Corporation, MRS. :  
 FIELDS' ORIGINAL COOKIES, INC., a :  
 Delaware Corporation, MRS. FIELDS, INC., :  
 MRS. FIELDS BRAND, INC., MRS. FIELDS :  
 HOLDING COMPANY, INC. and MRS. :  
 FIELDS FAMOUS BRANDS, :

Defendants. :

**~~PROPOSED~~ ORDER GRANTING  
 DEFENDANTS'  
 RENEWED MOTION TO DISMISS**

Civil No. 010902619

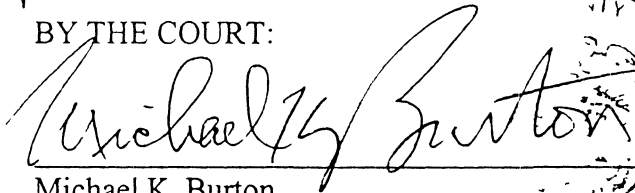
Judge Michael K. Burton

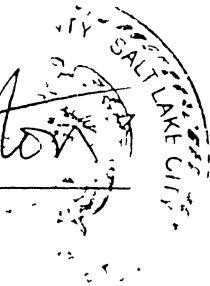
Pursuant to Utah R. Civ. P. 12(b)(1), (3) and (6), defendants Juice Works Development, Inc., TCBY Systems, Inc. and Mrs. Fields' Original Cookies, Inc. (collectively, "Defendants"), renewed their motion to dismiss this action. The basis for Defendants' motion is a forum selection agreement requiring plaintiffs to bring their claims in Arkansas.

THE COURT HEREBY ORDERS THAT, after having reviewed the record in this matter, and having previously heard the arguments of counsel, and for good cause shown, Defendants' Renewed Motion to Dismiss be and is hereby GRANTED.

DATED this 8 day of ~~July~~ Aug, 2002.

BY THE COURT:

  
Michael K. Burton  
District Court Judge



APPROVED AS TO FORM:

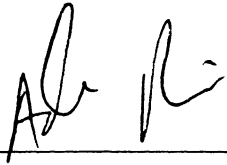
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Conrad A. Houser  
Attorney for Plaintiffs

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 26 day of July, 2002, I caused a true and correct copy of the foregoing to be served via first class mail, postage prepaid, to the following:

Conrad B. Houser, Esq.  
136 East South Temple Street, Suite 1200  
Salt Lake City, Utah 84111



---

## **ADDENDUM B**

Conrad B. Houser (3612)  
Attorney for Plaintiff  
136 East South Temple  
Suite 1200  
Salt Lake City, UT 84111  
Phone: 801 539-0044

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IN THE THIRD JUDICIAL DISTRICT COURT  
SALT LAKE COUNTY , STATE OF UTAH

---

ANTHONY H. COOMBS, an individual  
SCOTT HASLAM, an individual,  
JUDI M. Haslam, an individual and  
HASCO SYNERGETICS, LLC, a Utah Limited  
Liability Company

**COMPLAINT**

Plaintiffs

-vs-

Judge

JUICE WORKS DEVELOPMENT, INC., an  
Arkansas Corporation,  
TCBY Systems, Inc., an Arkansas Corporation, and  
MRS. FIELDS ORIGINAL COOKIES, Inc. a  
Delaware Corporation  
MRS. FIELDS, INC., MRS. FIELDS BRAND, INC.,  
MRS FIELDS HOLDING COMPANY, INC., AND  
MRS. FIELDS FAMOUS BRANDS

District Court Civil No.

Defendants

---

COMES NOW the plaintiffs, by and through their legal counsel, and for good cause make the following complaint against the above named defendants.

**JURISDICTION, VENUE, AND BASIC FACTS**

1. Plaintiff ANTHONY H. COOMBS, is a resident of Davis County, Utah.
2. Plaintiff D. SCOTT HASLAM is a resident of Davis County, Utah.

3. Plaintiff JUDI M. HASLAM is a resident of Davis County, Utah.
4. The above three individuals were awarded a Juice Works Franchise and were doing business in the State of Utah during all relevant times mentioned in this case.
5. HASCO SYNERGETICS, LLC (herein Hasco) is a Utah limited liability company through which the individual plaintiffs conducted their JUICE WORKS business.
6. The subject matter of this case was a JUICE WORKS franchise store located in the ZCMI Mall in Salt Lake City, Salt Lake County, Utah.
7. JUICE WORKS DEVELOPMENT, INC., (herein JUICE WORKS) is an Arkansas corporation with offices in Arizona and Arkansas.
8. Plaintiffs believe that JUICE WORKS was acquired or purchased or is owned in whole or in part by defendant TCBY SYSTEMS, INC., (herein TCBY).
9. As part of the purchase, it is plaintiff's belief that TCBY assumed all of their debts and liabilities and is liable for all damages alleged herein
10. TCBY is an Arkansas corporation doing business in all or most of the states in the United States.
11. TCBY does business in the state of Utah and has significant contacts in the State of Utah by maintaining several retail franchise outlets in Utah.
12. MRS. FIELDS ORIGINAL COOKIES, Inc. is a Delaware Corporation with significant contacts in Utah through many retail franchise outlets and stores. MRS. FIELDS ORIGINAL COOKIES, Inc. has a corporate business office in Salt Lake County, State of Utah. It is not yet known to plaintiffs which of many Mrs. Fields organizations owns Juice Works and TCBY. Plaintiffs have, therefore, brought suit against all Mrs. Fields companies licensed to do business in Utah. Those not involved in this dispute will be dismissed after sufficient discovery.
13. It is plaintiff's belief that MRS. FIELDS COOKIES has purchased JUICE WORKS and / or TCBY and has assumed all of their debts and liabilities and is liable for all damages

alleged herein.

14. All individual plaintiffs signed a JUICE WORKS FRANCHISE AGREEMENT on June 5, 1997 upon payment of \$20,000. Jim Sohene acknowledged receipt of payment and signed for JUICE WORKS DEVELOPMENT, INC. as its President.
15. Plaintiffs have never traveled to Arkansas for any reason in relation to their interest in the JUICE WORKS.
16. No person from Arkansas has ever traveled to the State of Utah and met with the Plaintiffs in regard to any area of business as it relates to the JUICE WORKS.
17. No significant contacts of any kind ever occurred between the Plaintiffs and any entity or person that resided in Arkansas.

#### **FIRST CAUSE OF ACTION**

#### **BREACH OF CONTRACT**

18. Plaintiffs incorporate herein all allegations set forth in the previous paragraphs.
19. Plaintiffs entered into a franchise agreement with JUICE WORKS in 1997 with the intent to establish a JUICE WORKS store located in the ZCMI Mall in Salt Lake City, Utah.
20. Plaintiffs tendered to JUICE WORKS the sum of approximately \$35,000.00 for a franchise.
21. Plaintiffs invested approximately One Hundred Twenty Thousand Dollars (\$120,000.00) in remodeling, equipment and fixtures for the operation of their Juice Works store in the ZCMI Mall.
22. Defendants represented through Section 4. D. on pages 7 & 8 of its franchise agreement that they would provide Operating Assistance to the Plaintiffs in the startup and ongoing business of the Juice Works store in the ZCMI Mall.
23. Defendants specifically promised plaintiffs in Section 4. D. on page 7 & 8 of their

Operating Assistance clause to provide “advice and guidance with respect to:

- (1) methods and operating procedures utilized by the system;
- (2) additional food and beverage products and service authorized for sale by "JUICE WORKS" Stores;
- (3) selection, purchasing and preparation of food products, beverages and other approved products, materials and supplies;
- (4) formulating and implementing advertising and promotional programs, and
- (5) the establishment and operation of administrative, bookkeeping, accounting, inventory control, sales, and general operating procedures for the operations of a "JUICE WORKS" store.”

24. Defendants breached these promises and provided no meaningful assistance to the Plaintiffs in the Operation of the JUICE WORKS store in the ZCMI Mall store in Salt Lake City, Utah.
25. Defendants failed to provide any real assistance in purchasing the juices and additives to the beverages that were prepared in the store and the Plaintiffs were forced to purchase their juices from various outlets discovered through their own initiative and at prices that were significantly higher than what the plaintiffs had observed other JUICE WORKS stores made purchases in Arizona.
26. Defendants breached each and every promise and covenant in Section D OPERATING ASSISTANCE and provided no Company support, no meaningful sales promotions, no marketing support or any meaningful assistance in any way in assisting plaintiffs in operating their JUICE WORKS store in the ZCMI Mall.
27. As a direct consequence of defendants breach of contract, plaintiff's and have had to close their store in the ZCMI Mall on or about March 31, 2000.
28. Plaintiff's were unsuccessful in selling all of the now useless equipment and fixtures because of the Defendants breach of contract.



29. As a direct and proximate result of defendants breach of the franchise agreement, plaintiffs suffered damages in an amount in excess of One Million Dollars (\$1,000,000.00).

## SECOND CAUSE OF ACTION

### FRAUD

30. Plaintiffs incorporate herein all allegations set forth in the previous paragraphs.
31. When plaintiffs entered into the Franchise Agreement with the defendants in 1997, the Franchise Agreement had an Operating Assistance Section as set forth previously wherein defendants promised to provide assistance to the plaintiffs in the operation of the JUICE WORKS store located in the ZCMI Mall in Salt Lake City, Utah.
32. When defendants made these representations to provide Operating Assistance they knew their representations were made with the intent to defraud and deceive plaintiffs.
33. Defendants further intended to benefit from their fraud by inducing plaintiffs to tender significant sums of money to the defendants for the purchase of expensive operating equipment, fixtures, and accessories.
34. Plaintiffs, at the time the aforementioned representations were made by defendants, and at the time that plaintiffs took the actions herein alleged, were ignorant of the falsity of defendants' representations and believed them to be true.
35. In reliance on these representations, plaintiffs were induced to and did tender to defendants significant sums of money.
36. Plaintiffs also invested significant sums of money for remodeling and contributed significant hours of service to the JUICE WORKS store located in the ZCMI Mall. Their wives, friends, and relatives also donated significant hours of service to the subject store.

37. Plaintiff's reliance on defendants' representations were justified because they had visited JUICE WORKS stores in Arizona, observed the Operating Assistance JUICE WORKS provided to the franchise holders in Arizona, observed JUICE WORKS providing Arizona franchises with ingredients and juices and their sources, witnessed multiple marketing programs, and saw the successful results of this combination of services in action.
38. Plaintiffs', by Plaintiffs' reliance on Defendant's false and fraudulent representations have been damaged in the sum of not less than One Million Dollars (\$1,000,000.00).
39. The aforementioned acts of defendants were willful, wanton, malicious, and oppressive and justify the awarding of punitive damages in he amount of Three Million Dollars (\$3,000,000.00).

**THIRD CAUSE OF ACTION  
CONCEALMENT**

40. Plaintiffs incorporate herein all allegations set forth in the previous paragraphs.
41. When the plaintiffs and defendants entered into a Franchise Agreement in 1997, the defendants failed to reveal and suppressed the fact that the basic ingredients utilized by the JUICE WORKS STORES in Arizona would not be available to the plaintiffs to use in their retail store at the ZCMI Mall in Salt Lake City, Utah.
42. Defendants also concealed the fact that they were not in a position to offer any real Operating Assistance to the plaintiffs in the operation of the Juice Works store at the ZCMI Mall in Salt Lake City, Utah.
43. At the time Plaintiffs tendered the franchise fee to the defendants and purchased expensive equipment and fixtures and remodeled their retail space, they were ignorant of the existence of these facts which the defendants hid from them and did not disclose.

44. Had plaintiffs been aware of these facts they would not have purchased the JUICE WORKS Franchise, purchased expensive equipment and fixtures, leased and remodel retail space, and donated extensive amounts of time themselves along with others in the operation of the JUICE WORKS franchise at the ZCMI Mall in Salt Lake City, Utah.
45. Plaintiffs, by Plaintiffs' reliance on defendant's false and fraudulent representations, have been damaged in the sum of not less than One Million Dollars (\$1,000,000.00).
46. The aforementioned acts of defendants were willful, wanton, malicious and oppressive and justify the awarding of exemplary and punitive damages in the amount of Three Million Dollars (\$3,000,000.00).

**FOURTH CAUSE OF ACTION  
BREACH OF FIDUCIARY DUTY**

47. Plaintiffs incorporate herein all allegations set forth in the previous paragraphs.
48. At all times herein mentioned, defendants as the Franchise Grantors were fiduciaries of the plaintiffs in that defendants represented themselves as very knowledgeable with a great deal of expertise in running retail Juice Drink outlets.
49. Such defendants, in performing and omitting to perform the acts here alleged, breached the fiduciary duty owed by them to the plaintiffs.
50. As a direct and proximate result of the breach of fiduciary duty owed by such defendants to plaintiffs, plaintiffs suffered damages in at least the sum of One Million Dollars (\$1,000,000.00).
51. The aforementioned acts were done by the defendants with an intent to defraud plaintiffs and justify the award of exemplary and punitive damages in the amount of Three Million Dollars (\$3,000,000.00).

## FIFTH CAUSE OF ACTION

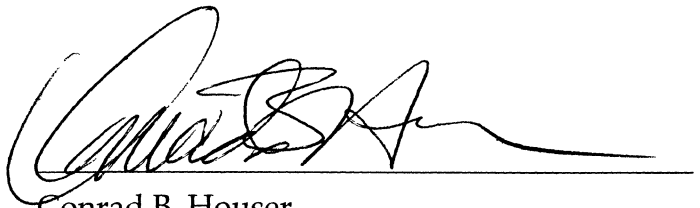
### NEGLIGENCE

52. Plaintiffs incorporate herein all allegations set forth in the previous paragraphs.
53. Defendants had a duty to exercise due care and perform their duties as is set forth in the Franchise Agreement concerning Operating Assistance as is contained in paragraph D, located at pages 7 to 8 of their Franchise Agreement.
54. Defendants breached their duty to perform their duties as is set forth in the Franchise Agreement by rendering no viable assistance to the Defendants in the Operation of their store located in the ZCMI mall in Salt Lake City, Utah, failed to do any of the provisions of Paragraph D, offered no promotions, no assistance and even failed to assist plaintiffs in locating the juices, ingredients and other supplies to make drinks at their store.
55. As a direct result of this negligence and as a proximate and legal cause therein, the Defendants were damaged by the Defendants negligence in the amount of One Million Dollars (\$1,000,000.00).
56. These negligent actions taken by the defendants were done with a reckless indifference to the plaintiffs and or with a conscious decision to damage the plaintiffs such that punitive damages should be assessed under Utah Law in the sum of Three Million Dollars (\$3,000,000.00).
57. Plaintiffs have incurred attorneys fees in bringing this action and ask the Court to award attorney's fees and applicable costs in bringing this action against the defendants.

WHEREFORE, PLAINTIFFS PRAY JUDGMENT AGAINST DEFENDANTS JOINTLY AND SEVERALLY AS FOLLOWS:

1. For general damages in the amount of One Million Dollars (\$1,000,000.00).
2. For special damages in amount to be demonstrated at trial.
3. For attorney's fees in amount to be demonstrated at trial.
4. For pre and post judgment interest at the rate as allowed by applicable Utah law.
5. For punitive damages in the amount of Three Million Dollars (\$3,000,000.00).
6. For any and all other relief the court deems equitable and just.

Dated this 27th day of March, 2001.

A handwritten signature in black ink, appearing to read 'Conrad B. Houser', written over a horizontal line.

Conrad B. Houser  
Attorney for Plaintiffs

## **ADDENDUM C**

25 June

Conrad B. Houser (3612)  
Attorney for Plaintiffs  
136 East South Temple Street  
Suite 1200  
Salt Lake City, Utah 84111  
Telephone: 801-539-0044

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IN THE THIRD JUDICIAL DISTRICT COURT  
SALT LAKE COUNTY, STATE OF UTAH

---

ANTHONY H. COOMBS, an individual  
SCOTT HASLAM, an individual,  
JUDI M. HASLAM, an individual and  
HASCO SYNERGETIC, LLC, a Utah  
Limited Liability Company

SUPPLEMENTAL  
AFFIDAVIT OF  
ANTHONY H.  
COOMBS

Plaintiffs

-vs-

Judge Anne M. Stirba

JUICE WORKS DEVELOPMENT, INC. an  
Arkansas Corporation,  
TCBY Systems, Inc., and Arkansas Corporation, and  
MRS. FIELDS ORIGINAL COOKIES, Inc. a  
Delaware Corporation  
MRS. FIELDS, INC., MRS. FIELDS BRAND, INC.,  
MRS. FIELDS HOLDING COMPANY, INC., AND  
MRS. FIELDS FAMOUS BRANDS

Case No. 010902619

Defendants

---

STATE OF UTAH

## **COUNTY OF SALT LAKE**

Anthony H. Coombs, deposes and swears as follows:

1. I am over the age of twenty-one years and I have personal knowledge of the matters stated herein.
2. When I entered into the original agreement with Juice Works, their corporate offices were located in Arizona.
3. My company indoctrination occurred in Phoenix, Arizona.
4. Not one person who provided company indoctrination to me resided in Arkansas.
5. It was always my impression that the defendants I was dealing with lived in Arizona.
6. To the best of my knowledge I never personally met anyone or did business with anyone who lived or resided in Arkansas other than one architect with whom we discussed store layout and specifications over the phone a few times.
7. The Arkansas Defendants have sold or otherwise transferred control of their interests in the companies to a Utah Corporation or entity involving the Mrs. Fields organization (“Mrs. Fields”).
8. Although Mrs Fields doesn’t cook all of her cookies in Utah she does have a corporate headquarters in Salt Lake County, Utah.



9. The only affidavits that I have seen in this case are from citizens who live in Utah, reside in Salt Lake County, Utah and work at the Mrs. Fields Cookies corporate headquarters in Salt Lake County, Utah.

10. Mrs. Field's Corporate Legal Director of Franchising, Utah resident Rena Miller, lists names of some people who live in Arkansas without ever mentioning what they - how convenient!

11. I would love to have my attorney take the deposition of Utah resident Rena Miller or send out some interrogatories and find out what kind of testimony these so called citizens of Arkansas have cooked up and will testify to.

12. I don't ever remember meeting any of these named Arkansas residents in conjunction with the Juice Works franchise.

13. I have grave doubts that the testimony of the people Rena Miller cooked up have anything material to do with my case.

14. The fact is that once a Utah corporation took control of an Arkansas Company and established corporate headquarters in Utah that it is only right and fair to have this matter litigated preliminarily in Utah and that discovery take place in Utah to determine how material the testimony is of these Arkansas people named by Utah resident Rena Miller. [particularly since I have never seen nor met any of these Arkansas people named by Utah resident Rena Miller in relation to the Juice

Works franchise.]

15. It would be prohibitively expensive for me and the other 3 plaintiffs to travel to Arkansas for this case. Delta airlines informed me today via telephone that coach air fare alone according to Delta Airlines is \$1,630.50 per person (times four persons) to travel to Little Rock Arkansas, and \$2,010.50 per person (times four persons) via first class.

16. If this case were litigated in Arkansas, it would require the four plaintiffs to travel to Little Rock, Arkansas for discovery conferences, pre-trial conferences, depositions, and trial for a likely total of a minimum of four roundtripsl.

17. Air fare alone would cost the four plaintiffs over \$32,000.00 (Thirty Two Thousand Dollars) if we travel first class and close to \$25,000.00 (Twenty Five Thousand Dollars) if we traveled coach. This is in addition to costs of room and board for the duration of each trip.

18. The Plaintiffs do not have anywhere near the kind of money needed just to make the air travel to Little Rock, Arkansas. Further expenses would include doubling up on costs for attorneys and we have no way of identifying a competent Arkansas attorney who would best represent our interests.

19. Mrs. Field's Cookies is located within 20 miles of the Salt Lake County Courthouse where we have filed this case.

20. Both the Plaintiffs and all the necessary defendants from Mrs. Field's Cookies can travel to the Salt Lake County courthouse at a cost of less than \$5.00 per trip.

21. I find it unbelievable that the Defendants have cooked up this story indicating there are all of these Arkansas witnesses when I have never met any of them and we do not have even one explanation as to what any of these witnesses are going to testify to from the Utah resident who submitted the affidavit and supplemental affidavit.

22. When Mrs. Fields Cookies took control of this Arkansas Corporation they knew that there may be some liabilities assumed.

23. What court in America could be closer to Mrs. Fields Cookies corporate headquarters than the Third Judicial District Court in Salt Lake County, Utah?

24. I am not asking a venue of a court that is a long distance from Mrs. Field's Courthouse, I am asking for a court that is the closest court on the planet earth to Mrs. Fields home office.

25. When I purchased the franchise from the original Defendant, the Defendant agreed and promised in writing to provide Operating and Marketing Assistance to the Plaintiffs in the Salt Lake City store (located less than a mile from the Third Judicial District Court).

26. The Defendants failed miserably and totally breached their agreement to

provide Operating and Marketing Assistance to the Plaintiffs in the Salt Lake City store (located less than a mile from the Third Judicial District) and have damaged the Plaintiffs in an amount of approximately one million dollars.

27. The Plaintiffs do not have the kind of money that would be required to bring a case in Arkansas. The Defendants as a part of corporate America will get away from an honest corporate debt owed to the Plaintiffs if the court follows this conclusory affidavit from the Utah resident which fails to list even one fact or reason why any of the named Arkansas residents would be needed in Utah.

28. It is only fair and just to litigate this matter involving Utah Plaintiffs and a Utah corporation right here in Utah and we ask this court to see through this crafty, mean spirited, evasive legal maneuver by the Defendants which will allow them to avoid their date with justice.

29. How could the Utah corporate defendant ever cry prejudice by being subjected to a Utah justice when just about everyone in Utah has eaten and enjoyed a Mrs. Fields cookie?

30. I ask this court to look at the move by the Utah corporation in this case to move this case to a far away Arkansas court as a strategic move designed to promote injustice and allow corporate mayhem to be committed in Utah.

31. I plead with this court to do the right thing and promote justice and keep this

court in Utah where both the Plaintiffs and Defendant reside and do business.

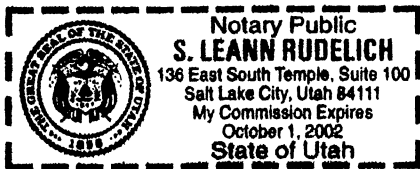
32. This is a Utah dispute between Utah parties involving a store located in Utah.

Dated this 25 day of June, 2001.

Anthony H. Coombs

Anthony H. Coombs

SUBSCRIBED AND SWORN TO before me this 25 day of June, 2001.



S. Leann Rudelich

NOTARY PUBLIC

Residing in SALT LAKE CITY, UTAH

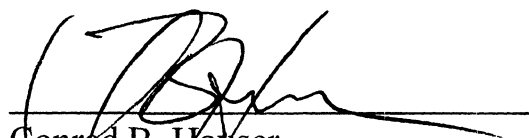
My commission expires:

OCTOBER 1, 2002

CERTIFICATE OF SERVICE

I certify that on the 26<sup>th</sup> Day of June, 2001 I deposited in the United State mails, postage prepaid, a copy of the above described document and this certification addressed to:

Deno G. Himonas and Adam B. Price  
Jones, Walkdo, Holbrook & McDonough  
1500 Wells Fargo Plaza  
170 South Main Street  
PO Box 4544  
Salt Lake City, Utah 84145-0444

  
Conrad B. Houser

Conrad B. Houser (3612)  
Attorney for Plaintiff  
136 East South Temple  
Suite 1200  
Salt Lake City, UT 84111  
Phone: 801 539-0044

---

IN THE THIRD JUDICIAL DISTRICT COURT  
SALT LAKE COUNTY , STATE OF UTAH

---

ANTHONY H. COOMBS, an individual  
SCOTT HASLAM, an individual,  
JUDI M. Haslam, an individual and  
HASCO SYNERGETICS, LLC, a Utah Limited  
Liability Company

AFFIDAVIT OF ANTHONY H.  
COOMBS

Plaintiffs

-vs-

Judge Anne M. Stirba

JUICE WORKS DEVELOPMENT, INC., an  
Arkansas Corporation,  
TCBY Systems, Inc., an Arkansas Corporation, and  
MRS. FIELDS ORIGINAL COOKIES, Inc. a  
Delaware Corporation  
MRS. FIELDS, INC., MRS. FIELDS BRAND, INC.,  
MRS FIELDS HOLDING COMPANY, INC., AND  
MRS. FIELDS FAMOUS BRANDS

District Court Civil No. 010902619

Defendants

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STATE OF UTAH

COUNTY OF SALT LAKE

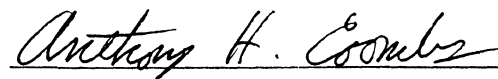
Anthony H. Coombs, deposes and swears as follows:

1. I am over the age of twenty-one years and I have personal knowledge of the

matters stated herein.

2. I am a member of plaintiff HASCO SYNERGISTICS, LLC along with co-plaintiffs Scott and Judi Haslam who are my wife's parents.
3. I invested for several years all of my personal efforts and resources, much more than \$100,000, along with the efforts and resources of my wife and her parents in the dreamed-of success of my Juice Works / TCBY business.
4. We closed the business after we received no support from the franchisor and all of our resources and alternatives were depleted.
5. The actions and lack of actions by Juice Works and their owners has completely depleted my resources and the resources of my co-plaintiffs to the point where it would not be financially feasible for me to bring any action against defendants in Arkansas.
6. But for the fact that Conrad B. Houser is acting as our attorney in this matter without any invoiced costs or charges, we would not be able to bring the case even in Utah.
7. The Franchise Agreement presented to each of us as plaintiffs was a 'take it or leave it' deal with no room for negotiations.

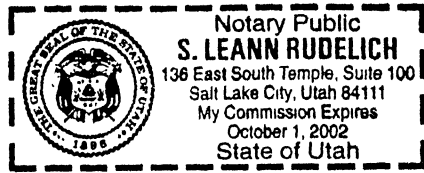
DATED this 21 day of May, 2001.



Anthony H. Coombs



SUBSCRIBED AND SWORN TO before me this 21<sup>st</sup> day of May, 2001.



S. Leann Rudelich

NOTARY PUBLIC

Residing in \_\_\_\_\_

My Commission Expires:

OCTOBER 1, 2002

### CERTIFICATE OF SERVICE

I certify that on the 21st day of May, 2001 I deposited in the United States mail, postage prepaid, a copy of the above-described document and this certification addressed to:

Deno G. Himonas and Adam B. Price  
Jones, Waldo, Holbrook & McDonough  
1500 Wells Fargo Plaza  
170 South Main Street  
PO Box 45444  
Salt Lake City, UT 84145-0444

A handwritten signature in black ink, appearing to read "Conrad B. Houser", written over a horizontal line.

Conrad B. Houser

## **ADDENDUM D**

JUICE WORKS FRANCHISE AGREEMENT

D. SCOTT HASLAM  
JUDITH M. HASLAM  
ANTHONY H. COOMBS  
FRANCHISEE

JUNE 5, 1997  
DATE OF AGREEMENT

E. GOVERNING LAW; WAIVER OF JURY; WAIVER OF PUNITIVE AND CONSEQUENTIAL DAMAGES; TIME LIMITATION FOR ACTIONS

This Agreement and the offer and sale of the franchise rights subject to this Agreement shall be governed by the substantive laws (expressly excluding laws pertaining to the choice of law) of the State of Arkansas, provided that this shall not be construed to render the Arkansas Franchise Practices Act (as said Act may be amended from time to time or any successor law thereto) applicable to this Agreement or the franchise rights hereunder granted. Both the COMPANY and FRANCHISEE agree that neither shall be entitled to nor shall either demand a jury trial in the event of litigation. Except as specifically provided in this Agreement, neither the COMPANY nor FRANCHISEE is entitled to any compensation or reimbursement for loss of prospective profits, anticipated sales, or other losses occasioned by cancellation or termination of this Agreement. Any and all claims and actions arising out of or relating to this Agreement, the relationship of FRANCHISEE and the COMPANY, the COMPANY's management of the System, or FRANCHISEE's operation of the STORE, brought by any party hereto against the other, shall be commenced within one (1) year from the occurrence of the facts giving rise to such claim or action, or such claim or action shall be barred.

F. EXCLUSIVE JURISDICTION

FRANCHISEE and the COMPANY agree that any action arising out of or relating to this Agreement (including, without limitation, the offer and sale of the franchise rights) shall be instituted and maintained only in a state or federal court of general jurisdiction in Pulaski County, Arkansas, and FRANCHISEE irrevocably submits to the jurisdiction of such court and waives any objection FRANCHISEE may have to either the jurisdiction or venue of such court.

G. BINDING EFFECT

This Agreement is binding upon the parties hereto and their respective executors, administrators, heirs, assigns, and successors in interest, and shall not be modified except by written agreement signed by both FRANCHISEE and the COMPANY.

H. CONSTRUCTION

The preambles to this Agreement and any Rider or addendum executed by the parties and attached hereto are a part of this Agreement, which constitutes the entire agreement of the parties, and there are no other oral or written understandings or agreements between the COMPANY and FRANCHISEE relating to the subject matter of this Agreement. Except as otherwise expressly provided herein, nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto. The headings of the several sections and paragraphs hereof are for convenience only and do not define, limit, or construe the contents of such sections or paragraphs. The term "FRANCHISEE" as used herein is applicable to one or more

Franchising and Business Opportunity Ventures" at least ten (10) business days prior to the date on which this Agreement was executed.

IN WITNESS WHEREOF the parties hereto have executed, sealed and delivered this Agreement on the date first above written.

FRANCHISEE SIGNATURE(S):

*D. Scott Haslam*  
(Signature)

D. SCOTT HASLAM  
(Type or print name above)

*Judith M. Haslam*  
(Signature)

JUDITH M. HASLAM  
(Type or print name above)

*Anthony H. Coombs*  
(Signature)

ANTHONY H. COOMBS  
(Type or print name above)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type or print name above)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

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(Type or print name above)

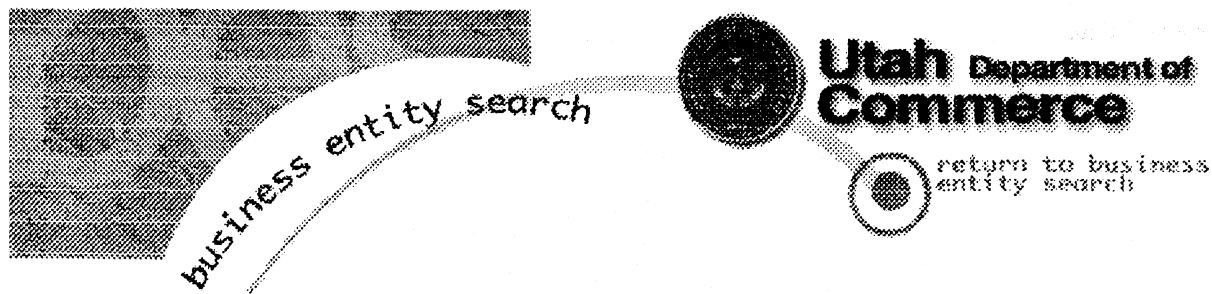
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(Type or print name above)

Not binding without execution by an authorized officer of the COMPANY.

JUICE WORKS DEVELOPMENT, INC.

By: *Jin Sahene*

Title: *President*



Name	Type	City	St
MRS. FIELDS' ORIGINAL COOKIES, INC.	Corporation	WILMINGTON DE	A

**Business Name:** MRS. FIELDS' ORIGINAL COOKIES, INC.

**License Number:** 1324927-0143

**Registration Date:** 9/18/1996

**State of Origin:** DE

#### Address

1013 CENTRE RD

WILMINGTON DE 19805

#### Status

**Status:** Active

**Status Description:** Good Standing

**This Status Date:**

**Last Renewed:** 9/18/2000

**License Type:** Corporation - Foreign - Profit

**Expiration Date:** 9/18/2001

#### Registered Agent

**Registered Agent:** MICHAEL R WARD

**Address Line 1:** 2855 E COTTONWOOD PKWY

**Address Line 2:** SUITE 400

**City:** Salt Lake City

**State:** UT

**Zip:** 84121

#### Additional Information

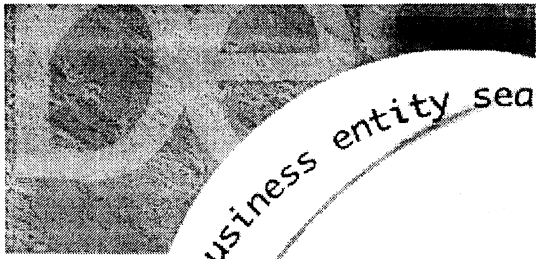
**Additional Principals:** Y

**SIC Code:** 9999

**SIC Title:** 9999-NONCLASSIFIABLE ESTABLISHMENTS

If you would like to purchase a Certificate of Existence for this business entity, select the button below. You will be assessed a \$11.50 fee for this

Select the Principals button to get information on the principal individuals associated with this en



business entity search



Utah Department of Commerce



return to business entity search

Name	Type	City	St
TCBY SYSTEMS, INC.	Corporation	Little Rock AR	A

**Business Name:** TCBY SYSTEMS, INC.  
**License Number:** 1121302-0143  
**Registration Date:** 5/20/1991  
**State of Origin:** AR

**Address**

120 E FOURTH ST  
 Little Rock AR 72201

**Status**

**Status:** Active  
**Status Description:** Good Standing  
**This Status Date:**  
**Last Renewed:** 10/26/2000  
**License Type:** Corporation - Foreign - Profit  
**Expiration Date:** 5/20/2002

**Registered Agent**

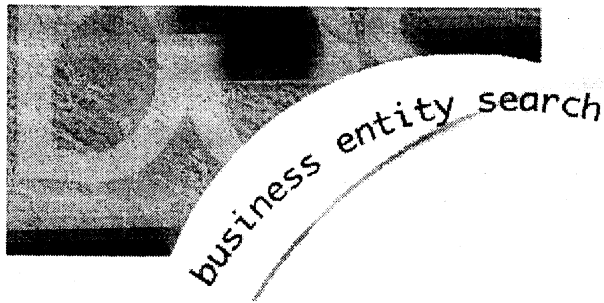
**Registered Agent:** MICHAEL WARD  
**Address Line 1:** 2855 W COTTONWOOD PKWY #400  
**Address Line 2:**  
**City:** Salt Lake City  
**State:** UT  
**Zip:** 84121

**Additional Information**

**Additional Principals:** YES  
**Additional Principals:** YES  
**SIC Code:** 2038  
**SIC Title:** 2038-FROZEN SPECIALTIES. NEC  
**Stock Class 1 Amount:** 0000010000  
**Stock Class 1 Type:** COMMON

If you would like to purchase a Certificate of

Select the Principals button to get



**Utah Department of  
Commerce**



return to business  
entity search

Name	Type	City
JUICE WORKS DEVELOPMENT, INC	Corporation	SALT LAKE CITY UT

**Business Name:** JUICE WORKS DEVELOPMENT, INC  
**License Number:** 4860702-0143  
**Registration Date:** 1/9/2001  
**State of Origin:** AR

**Address**

2855 E. COTTONWOOD PKWY, #400  
 SALT LAKE CITY UT 84121

**Status**

**Status:** Active  
**Status Description:** License Issuance  
**This Status Date:** 1/9/2001  
**Last Renewed:**  
**License Type:** Corporation - Foreign - Profit  
**Expiration Date:** 1/9/2002

**Registered Agent**

**Registered Agent:** MICHAEL WARD  
**Address Line 1:** 2855 E COTTONWOOD PKWY #400  
**Address Line 2:**  
**City:** SALT LAKE CITY  
**State:** UT  
**Zip:** 84121

**Additional Information**

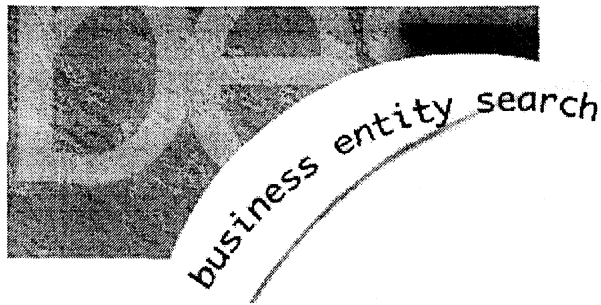
If you would like to purchase a Certificate of Existence for this business entity, select the button below. You will be assessed a \$11.50 fee for this service.

[Get Certificate of Existence](#)

Select the Principals button to information on the principal individuals associated with this information. You will be assessed \$1.00 for information.

[Principals](#)





**Utah Department of  
Commerce**



return to business  
entity search

Name	Type	City	Status	Detail
MRS. FIELDS COOKIES JAPAN	Corporation	Salt Lake City UT	Active	<a href="#">Details</a>
MRS. FIELDS COOKIES HONG KONG	Corporation	PARK CITY UT	Expired	<a href="#">Details</a>
MRS. FIELDS COOKIES AUSTRALIA	Corporation	Salt Lake City UT	Active	<a href="#">Details</a>
MRS. FIELDS COOKIES PHILIPPINES	Corporation	PARK CITY UT	Expired	<a href="#">Details</a>
MRS. FIELDS INTERNATIONAL	Corporation	Salt Lake City UT	Voluntarily Dissolved	<a href="#">Details</a>
MRS. FIELDS DESSERTS	Corporation	BOX 146705 SLC. UT	Expired	<a href="#">Details</a>
MRS. FIELDS COOKIES	Corporation	STE400 SALT LAKE CITY UT	Expired	<a href="#">Details</a>
MRS. FIELDS COOKIES NEW ZEALAND, INC.	Corporation	#F200 PARK CITY UTAH	Revoked	<a href="#">Details</a>
MRS. FIELDS INC.	Corporation	STE 400 SALT LAKE CITY UT	Delinquent	<a href="#">Details</a>
MRS. FIELDS MACADAMIA NUT COMPANY	Corporation	BOX 146705 SLC. UT	Revoked	<a href="#">Details</a>
MRS. FIELDS COOKIES UNITED KINGDOM, INC.	Corporation	PARK CITY UT	Expired	<a href="#">Details</a>
MRS. FIELDS COOKIES FRANCE, INC.	Corporation	BOX 146705 SLC. UT	Expired	<a href="#">Details</a>
MRS. FIELDS' COOKIES COLORADO, INC.	Corporation	PARK CITY UT	Expired	<a href="#">Details</a>
MRS. FIELDS COOKIES (CANADA) LTD.	Corporation	PARK CITY UT	Expired	<a href="#">Details</a>
MRS. FIELDS EXPRESS GIFTS INC.	Corporation	BOX 146705 SLC. UT	Revoked	<a href="#">Details</a>
MRS. FIELDS DEVELOPMENT CORPORATION	Corporation	SALT LAKE CITY UT	Revoked	<a href="#">Details</a>
MRS. FIELDS' ORIGINAL COOKIES, INC.	Corporation	WILMINGTON DE	Active	<a href="#">Details</a>
MRS. FIELDS' BRAND, INC.	Corporation	WILMINGTON DE	Active	<a href="#">Details</a>
MRS. FIELDS' HOLDING COMPANY, INC.	Corporation	WILMINGTON DE	Active	<a href="#">Details</a>
MRS. FIELDS PRETZEL CONCEPTS, INC.	Corporation	SALT LAKE CITY UT	Revoked	<a href="#">Details</a>
MRS. FIELDS FAMOUS BRANDS	DBA	SALT LAKE CITY UT	Active	<a href="#">Details</a>
MRS. FIELDS COOKIES	Trademark	PARK CITY UT	Expired	<a href="#">Details</a>

## **ADDENDUM E**

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**FORM 10-K**

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended: **December 30, 2000**

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: **333-67393**

**MRS. FIELDS' HOLDING COMPANY, INC.**

(Exact name of registrant specified in its charter)

DELAWARE

(State or other jurisdiction of incorporation or organization)

87-05634759

(IRS employer identification no.)

2855 East Cottonwood Parkway, Suite 400  
Salt Lake City, Utah

(Address of principal executive offices)

84121-7050

(Zip code)

(801) 736-5600

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

**None**

Securities registered pursuant to Section 12(g) of the Act:

**None**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

**yes**  **no**

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

The Company had **3,387,019** shares of common stock outstanding at **March 30, 2001**.

Documents incorporated by reference: **None**

## PART I

### FORWARD-LOOKING INFORMATION

This report contains forward-looking statements. Forward-looking statements include the words “may,” “will,” “estimate,” “continue,” “believe,” “expect,” or “anticipate” and other similar words. These forward-looking statements generally relate to our plans and objectives for future operations and are based upon management’s reasonable estimates of future results or trends. Although we believe that the plans and objectives reflected in or suggested by such forward-looking statements are based upon assumptions that are reasonable, we may not achieve such plans or objectives. Actual results may differ materially from projected results due, but not limited, to unforeseen developments, including developments relating to the following:

- the availability and adequacy of our cash flow to satisfy our obligations, including payment of the notes and additional funds required for working capital;
- economic, competitive, demographic, business and other conditions in our various markets;
- the seasonal nature of our operations;
- actions taken or failed to be taken by third parties, including our customers, suppliers, competitors and shareholders, as well as legislative, regulatory, judicial and other governmental authorities;
- changes in our business strategy, capital improvements or development plans or in our personnel or their compensation;
- performance by franchisees and licensees;
- difficulties or delays in developing and introducing anticipated new products or failure of customers to accept new product offerings;
- changes in consumer preferences and our ability adequately to anticipate such changes;
- changes in raw materials and employee labor costs;
- the termination of, or our inability to renew on favorable terms, our material agreements;
- changes in our relationships with our franchisees and licensees;
- changes in customer traffic.

We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events, or otherwise. In light of these risks, uncertainties, and assumptions, the forward-looking events discussed in this report may not occur.

### Item 1. Business

#### History

Mrs. Fields’ Holding Company, Inc. (“MFH” or the “Company”) is a holding company and does not have any material operations other than the ownership of all of the capital stock of Mrs. Fields’ Original Cookies, Inc. (“Mrs. Fields”) and the operation of 20 pretzel stores we acquired in October 2000. Mrs. Fields’ Holding is a subsidiary of Capricorn Investors II, L.P. (“Capricorn”). In 1996, Capricorn Investors II, L.P. formed Mrs. Fields’ Original Cookies, Inc. and The Mrs. Fields’ Brand, Inc. as Delaware corporations and subsidiaries of MFH. On September 17, 1996, Mrs. Fields initiated operations when it purchased substantially all of the assets and assumed certain liabilities of Mrs. Fields Inc. and its subsidiaries, The Original Cookie Company, Incorporated (“Original Cookie”) and the pretzel business of Hot Sam Company, Inc. (“Hot Sam”).

One of the key elements of our business plan has been the closing or franchising of certain company-owned stores that did not meet specific financial and geographical criteria established by management. During the year ended December 30, 2000, we completed closing or franchising the stores that we had identified as part of our business plan or the stores had been removed from the store closure plan. Implementation of this element of the business plan has resulted in enhanced operating margins and cash flows as these stores franchised or closed. As a

result of converting certain stores to franchises, royalty revenues have increased and are expected to continue to increase and net store sales and expenses associated with operating those stores decreased

Cash payments to landlords for early lease termination costs have negatively impacted our short-term liquidity position. However, our overall financial position is expected to strengthen over time as cash flows from operating activities increase. As cash is used to fund the store closure commitments, corresponding store closure reserves are reduced which has a neutral impact on working capital and financial position. We believe that we have sufficient liquidity to complete our store closure plans.

Historically, we have achieved growth in both our cookie and pretzel businesses through strategic acquisitions, and we expect to continue this strategy. In a series of transactions in 1997 and 1998, we acquired

- substantially all of the assets, including 79 Pretzel Time stores, of H&M Concepts Ltd Co, the largest franchisee of Pretzel Time, Inc, the franchiser of the Pretzel Time concept, along with all of the common stock of Pretzel Time, Inc,
- all of the outstanding capital stock of Great American Cookie Company, Inc and 48 stores from four Great American franchisees,
- all of the outstanding capital stock of Pretzelmaker Holdings, Inc ("Pretzelmaker") Pretzelmaker had 248 franchised stores at the date of the acquisition

On February 9, 2000, Capricorn Investors III, LP, an affiliate of Capricorn Investors II, LP, the Company's majority stockholder, entered into an agreement to acquire TCBY Enterprises, Inc ("TCBY"), a retail snack food company. This acquisition (the "TCBY Transaction") was completed on June 1, 2000.

In connection with the TCBY Transaction, Mrs Fields entered into a Management Agreement (the "TCBY Management Agreement") with TCBY Holding Company, Inc, the parent company of TCBY, and TCBY Systems, LLC, a wholly-owned subsidiary of TCBY, pursuant to which the corporate and administrative functions of TCBY were transferred to Mrs Fields. Under the TCBY Management Agreement, Mrs Fields has agreed to manage and operate TCBY's business and pay specified operating and other costs of TCBY (including specified costs associated with expenses incurred on behalf of TCBY and the transfer of the management function from Little Rock, Arkansas to Salt Lake City, Utah) in exchange for a management fee that will be paid by TCBY semi-monthly. Revenue generated from the management fee is reported under the caption "Management fee revenue" on the statement of operations.

In connection with the TCBY Transaction, Mrs Fields received a \$300,000 acquisition advisory fee for its services rendered in connection with the acquisition and for partial reimbursement of out-of-pocket costs and expenses totaling approximately \$725,000 incurred by Mrs Fields in connection with its performance of acquisition advisory services. Mrs Fields will be entitled to receive a reimbursement from TCBY for costs incurred and expensed by Mrs Fields related to transitional and start-up expenses incurred on behalf of TCBY and the transfer of the management function from Little Rock, Arkansas to Salt Lake City, Utah upon TCBY's sale of its existing dairy processing plant for net proceeds sufficient to retire debt associated with the plant or upon sufficient cash being available from the excess working capital of the dairy processing plant. Reimbursable transitional and start-up expenses through December 30, 2000 were approximately \$2,400,000. Mrs Fields' management expects that the revenues from the TCBY Management Fee and any fees earned in connection with a sale of the TCBY dairy processing plant will exceed Mrs Fields costs related to this agreement.

In accordance with the terms and conditions of the TCBY Management Agreement, Mrs Fields and TCBY will share cost savings that may be obtained through the joint purchase of ingredients, supplies, and services, and Mrs Fields will be eligible to receive a portion of the anticipated cost savings in connection with the expected outsourcing of TCBY's yogurt and ice cream manufacturing requirements. During the year ended December 30, 2000, Mrs Fields did not record any revenues or fees related to the cost saving agreement. The TCBY Transaction has also provided the opportunity for Mrs Fields and its eligible franchisees to become TCBY franchisees and for eligible TCBY franchisees to become franchisees of Mrs Fields or its subsidiaries.

On October 30, 2000, the Company acquired all of the stock of Sunshine Pretzel Time, Inc, Peachtree Pretzel Time, Inc, and CMBC, Inc, which collectively owned and operated 20 Pretzel Time stores, for \$3,848,000, payable \$700,000 in cash and a \$3,200,000 note payable over a 3-year period.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**FORM 10-K**

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended: **December 30, 2000**

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: **333-45179**

**MRS. FIELDS' ORIGINAL COOKIES, INC.**

(Exact name of registrant specified in its charter)

**DELAWARE**

(State or other jurisdiction of incorporation or organization)

**87-0552899**

(IRS employer identification no.)

**2855 East Cottonwood Parkway, Suite 400  
Salt Lake City, Utah**

(Address of principal executive offices)

**84121-7050**

(Zip code)

**(801) 736-5600**

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

**None**

Securities registered pursuant to Section 12(g) of the Act:

**None**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

yes  no

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

The Company had **400** shares of common stock outstanding at **March 30, 2001**.

Documents incorporated by reference: **None**

## General

We are one of the largest retailers in the premium snack-food industry, with cookies and pretzels as our major product lines. We are the largest retailer in the United States of baked on-premises cookies, which we sell primarily under our Mrs. Fields brand name. Mrs. Fields is among the most widely recognized and respected brand names in the premium cookie industry with 94% brand awareness among consumers. We are the second largest retailer in the United States of baked on-premises pretzels, which we sell primarily under our Pretzel Time and Pretzelmaker brand names. As of February 24, 2001, our retail network consisted of 1,391 locations, of which 902 were cookie stores, 481 were pretzel stores and 8 were bakery café locations that sell a combination of the products that we offer. Of the total stores, 425 were company-owned and 966 were franchised or licensed. We derive our revenue principally from the sale of our products in our company-owned stores, the sale of proprietary batter to our Great American franchised stores and the receipt of royalty payments based on gross sales of franchisees. In addition, we generate revenues from initial franchise fees, from the sale of existing company-owned stores to franchisees and from the management of the business of TCBY, Inc., which was purchased by an affiliate of our parent company in 2000.

## Product Offerings

Our product offerings consist primarily of fresh baked cookies, brownies, muffins and other baked goods and fresh baked sweet dough and "Bavarian" style pretzels. During the year ended December 30, 2000, our revenue mix consisted of the following:

Cookies and Brownies .....	68%
Pretzels .....	16%
Beverages .....	14%
Other .....	2%

**Cookies.** As of February 24, 2001, we operate and franchise 902 specialty retail cookie outlets, including full-size stores and satellite sites, consisting of carts, wagons and kiosks: 526 under the Mrs. Fields brand, 71 under the Original Cookie brand and 305 under the Great American brand. We have cookie stores in 48 states, with our Great American stores concentrated in the southeastern and south central states and our Mrs. Fields and Original Cookie stores strongly represented in the western, midwestern and eastern states. There is little overlap between Mrs. Fields and Great American stores, with a dual presence in 41 of the 654 malls in which we have cookie stores.

Management believes that Mrs. Fields' market is the premium quality, baked on-premises segment of the approximately \$12 billion U.S. cookie industry. We offer over 50 different types of cookies, brownies and muffins, which are baked continuously and served fresh throughout the day, as well as assorted soft drinks, frozen drinks, coffee and tea. Baked products are made using only high quality ingredients, and all dough is centrally manufactured and frozen or refrigerated to maintain product quality and consistency. All products pass strict quality assurance and control steps at both the manufacturing plants and the stores. In addition, Mrs. Fields continually creates and tests new products to attract new customers and satisfy current customers.

Great American outlets also sell "Cookie Cakes." Cookie cakes are extra-large cookies, decorated with customer-selected personalized messages for special occasions. Although cookie sales are generally the result of impulse buying, we believe that cookie cakes, which are often purchased as gifts for special occasions, differentiate Great American from other specialty cookie retailers by making Great American stores destination outlets.

**Pretzels.** As of February 24, 2001, we operated and franchised 481 retail pretzel stores, which offer "sweet dough" soft pretzels and "Bavarian" style pretzels with a variety of toppings: 225 under the Pretzel Time brand, 43 under the Hot Sam brand and 213 under the Pretzelmaker brand. Pretzel Time's primary product is an all-natural, hand-rolled soft pretzel, freshly baked from scratch at each store location. Pretzel Time stores prepare pretzels with a variety of flavors and specialty toppings, including cheddar cheese, cream cheese and pizza sauce. The stores also offer soft drinks and freshly squeezed lemonade.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**FORM 10-Q**

QUARTERLY REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Quarterly Period Ended: **March 31, 2001**

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Transition Period from \_\_\_\_ to \_\_\_\_

Commission File Number: **333-45179**

**MRS. FIELDS' ORIGINAL COOKIES, INC.**

(Exact name of registrant specified in its charter)

DELAWARE

(State or other jurisdiction of incorporation or organization)

87-0552899

(IRS employer identification no.)

2855 East Cottonwood Parkway, Suite 400  
Salt Lake City, Utah

(Address of principal executive offices)

84121-7050

(Zip code)

(801) 736-5600

(Registrant's telephone number, including area code)

N/A

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

yes  no

The registrant had **400** shares of common stock, \$0.01 par value, outstanding at May 15, 2001.



# MRS. FIELDS' ORIGINAL COOKIES, INC. AND SUBSIDIARIES

## TABLE OF CONTENTS

### **PART I. FINANCIAL INFORMATION**

<b>Item 1. Financial Statements (Unaudited)</b>	
Condensed Consolidated Balance Sheets as of March 31, 2001 and December 30, 2000. ....	3
Condensed Consolidated Statements of Operations for the 13 Weeks Ended March 31, 2001 and April 1, 2000 .....	5
Condensed Consolidated Statements of Cash Flows for the 13 Weeks Ended March 31, 2001 and April 1, 2000 .....	6
Notes to Condensed Consolidated Financial Statements .....	7
<b>Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.....</b>	<b>18</b>
<b>Item 3. Quantitative and Qualitative Disclosure about Market Risk .....</b>	<b>22</b>

### **PART II. OTHER INFORMATION**

<b>Item 1. Legal Proceedings .....</b>	<b>23</b>
<b>Item 6. Exhibits and Reports on Form 8-K .....</b>	<b>23</b>

**PART I - FINANCIAL INFORMATION**

**ITEM 1. Financial Statements**

**MRS. FIELDS' ORIGINAL COOKIES, INC. AND SUBSIDIARIES  
CONDENSED CONSOLIDATED BALANCE SHEETS (Unaudited)  
(dollars in thousands)**

**ASSETS**

	March 31, 2001	December 30, 2000
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents .....	\$ 3,407	\$ 3,511
Accounts receivable, net of allowance for doubtful accounts of \$610 and \$547, respectively .....	3,074	3,263
Amounts due from franchisees and licensees, net of allowance for doubtful accounts of \$735 and \$758, respectively .....	7,151	5,561
Amounts due from affiliates .....	1,391	354
Inventories .....	4,488	4,686
Prepaid rent and other .....	<u>3,082</u>	<u>549</u>
Total current assets .....	<u>22,593</u>	<u>17,924</u>
<b>PROPERTY AND EQUIPMENT, at cost:</b>		
Leasehold improvements .....	33,209	31,100
Equipment and fixtures .....	24,060	26,234
Land .....	<u>240</u>	<u>240</u>
	57,509	57,574
Less accumulated depreciation and amortization .....	<u>(32,410)</u>	<u>(31,597)</u>
Net property and equipment .....	<u>25,099</u>	<u>25,977</u>
GOODWILL, net of accumulated amortization of \$35,500 and \$33,351, respectively .....	<u>115,315</u>	<u>117,947</u>
TRADEMARKS AND OTHER INTANGIBLES, net of accumulated amortization of \$5,551 and \$4,993, respectively .....	<u>12,188</u>	<u>12,129</u>
DEFERRED LOAN COSTS, net of accumulated amortization of \$7,412 and \$6,762, respectively .....	<u>7,913</u>	<u>8,446</u>
OTHER ASSETS .....	<u>845</u>	<u>687</u>
	<u>\$ 183,953</u>	<u>\$ 183,110</u>

The accompanying notes to condensed consolidated financial statements  
are an integral part of these balance sheets.

**MRS. FIELDS' ORIGINAL COOKIES, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS (Unaudited)(Continued)**  
(dollars in thousands, except share data)

**LIABILITIES AND STOCKHOLDER'S EQUITY**

	<b>March 31, 2001</b>	<b>December 30, 2000</b>
<b>CURRENT LIABILITIES:</b>		
Current portion of long-term debt.....	\$ 663	\$ 658
Current portion of capital lease obligations.....	967	970
Bank overdraft.....	7,460	2,920
Bank borrowings under the line of credit .....	3,490	-
Accounts payable.....	3,562	9,756
Accrued liabilities.....	2,765	3,718
Current portion of store closure reserve .....	1,197	1,498
Accrued salaries, wages and benefits.....	3,317	3,904
Accrued interest payable .....	4,725	1,142
Sales tax payable .....	637	1,073
Deferred credits .....	<u>82</u>	<u>249</u>
Total current liabilities .....	28,865	25,888
 LONG-TERM DEBT, net of current portion.....	 140,892	 141,035
 STORE CLOSURE RESERVE, net of current portion .....	 2,206	 2,281
 CAPITAL LEASE OBLIGATIONS, net of current portion.....	 <u>1,172</u>	 <u>1,412</u>
Total liabilities.....	<u>173,135</u>	<u>170,616</u>
 MINORITY INTEREST .....	 <u>43</u>	 <u>51</u>
 <b>STOCKHOLDER'S EQUITY:</b>		
Common stock, \$.01 par value; 1,000 shares authorized and 400 shares outstanding .....	-	-
Additional paid-in capital.....	61,899	61,899
Accumulated deficit.....	(51,010)	(49,370)
Accumulated other comprehensive loss.....	<u>(114)</u>	<u>(86)</u>
Total stockholder's equity .....	<u>10,775</u>	<u>12,443</u>
	<u>\$ 183,953</u>	<u>\$ 183,110</u>

The accompanying notes to condensed consolidated financial statements  
are an integral part of these balance sheets.

**MRS. FIELDS' ORIGINAL COOKIES, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS (Unaudited)**  
(dollars in thousands)

	<b>13 Weeks Ended <u>March 31, 2001</u></b>	<b>13 Weeks Ended <u>April 1, 2000</u></b>
<b>REVENUES:</b>		
Net store and food sales .....	\$ 32,129	\$ 33,796
Franchising .....	5,707	5,946
Management fee .....	3,365	-
Licensing and other .....	<u>2,212</u>	<u>160</u>
Total revenues .....	<u>43,413</u>	<u>39,902</u>
<b>OPERATING COSTS AND EXPENSES:</b>		
Selling and store occupancy costs .....	17,572	18,320
Cost of sales .....	10,432	10,967
General and administrative .....	7,036	5,121
Depreciation and amortization .....	<u>5,332</u>	<u>5,658</u>
Total operating costs and expenses .....	<u>40,372</u>	<u>40,066</u>
Income (loss) from operations .....	<u>3,041</u>	<u>(164)</u>
<b>OTHER INCOME (EXPENSE), net:</b>		
Interest expense .....	(4,404)	(4,598)
Interest income .....	17	23
Other, net .....	<u>10</u>	<u>(32)</u>
Total other expense, net .....	<u>(4,377)</u>	<u>(4,607)</u>
Loss before provision for income taxes and minority interest .....	(1,336)	(4,771)
<b>PROVISION FOR INCOME TAXES</b> .....	<u>(6)</u>	<u>(8)</u>
Loss before minority interest .....	(1,342)	(4,779)
<b>MINORITY INTEREST</b> .....	<u>2</u>	<u>(3)</u>
Net loss .....	<u>\$ (1,340)</u>	<u>\$ (4,782)</u>
<b>COMPREHENSIVE LOSS:</b>		
Net loss .....	\$ (1,340)	\$ (4,782)
Foreign currency translation adjustment .....	<u>(28)</u>	<u>-</u>
Comprehensive loss .....	<u>\$ (1,368)</u>	<u>\$ (4,782)</u>

The accompanying notes to condensed consolidated financial statements  
are an integral part of these statements.

**MRS. FIELDS' ORIGINAL COOKIES, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (Unaudited)**  
(dollars in thousands)

	<b>13 Weeks Ended March 31, 2001</b>	<b>13 Weeks Ended April 1, 2000</b>
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS		
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss .....	\$ (1,340)	\$ (4,782)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization .....	5,332	5,658
Amortization of deferred loan costs and accretion of loan discount .....	673	715
Loss on sale of assets .....	16	351
Minority interest.....	(8)	3
Changes in operating assets and liabilities:		
Accounts receivable, net.....	189	258
Amounts due from franchisees and licensees, net.....	(1,590)	(412)
Amounts due from affiliates .....	(1,037)	-
Inventories .....	198	413
Prepaid rent and other.....	(2,533)	(1,678)
Accounts payable.....	(6,194)	(4,771)
Store closure reserve.....	(376)	(546)
Accrued liabilities.....	(953)	(169)
Accrued salaries, wages and benefits.....	(587)	(92)
Accrued interest payable.....	3,583	3,655
Sales tax payable .....	(436)	(368)
Deferred credits .....	(167)	(10)
Other .....	(158)	132
Net cash used in operating activities .....	<u>(5,388)</u>	<u>(1,643)</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of property and equipment .....	(1,903)	(1,192)
Proceeds from the sale of assets .....	<u>6</u>	<u>-</u>
Net cash used in investing activities.....	<u>(1,897)</u>	<u>(1,192)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Reduction of long-term debt .....	(161)	(225)
Bank overdraft .....	4,540	-
Borrowings under the line of credit.....	3,490	-
Principal payments on capital lease obligations .....	(243)	(233)
Payment of debt financing costs.....	(117)	(11)
Tax sharing distribution to Mrs. Fields' Holding .....	(300)	-
Reduction in preferred stock .....	<u>-</u>	<u>(1,070)</u>
Net cash provided by (used in) financing activities .....	<u>7,209</u>	<u>(1,539)</u>
Effect of foreign exchange rates.....	<u>(28)</u>	<u>-</u>
NET DECREASE IN CASH AND CASH EQUIVALENTS .....	(104)	(4,374)
CASH AND CASH EQUIVALENTS AT BEGINNING OF THE PERIOD .....	<u>3,511</u>	<u>4,919</u>
CASH AND CASH EQUIVALENTS AT END OF THE PERIOD .....	<u>\$ 3,407</u>	<u>\$ 545</u>
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:		
Cash paid for interest .....	\$ 148	\$ 228
Cash paid for income taxes.....	130	120

The accompanying notes to condensed consolidated financial statements  
are an integral part of these statements.

**MRS. FIELDS' ORIGINAL COOKIES, INC. AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(Unaudited)**

**(1) BASIS OF PRESENTATION**

The accompanying unaudited condensed consolidated financial statements have been prepared by Mrs. Fields' Original Cookies, Inc. and subsidiaries ("Mrs. Fields" or the "Company") in accordance with the rules and regulations of the Securities and Exchange Commission for Form 10-Q, and accordingly, do not include all of the information and footnotes required by accounting principles generally accepted in the United States. In the opinion of management, these condensed consolidated financial statements reflect all adjustments, which consist only of normal recurring adjustments, necessary to present fairly the financial position of Mrs. Fields as of March 31, 2001, and the results of its operations and its cash flows for the periods presented herein. These condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto for the fiscal year ended December 30, 2000 contained in Mrs. Fields' Annual Report on Form 10-K.

The results of operations for the 13 weeks ended March 31, 2001 are not necessarily indicative of the results that may be expected for the remainder of the fiscal year ending December 29, 2001. Loss per share information is not presented as Mrs. Fields is wholly owned by Mrs. Fields' Holding Company, Inc. ("Mrs. Fields' Holding") and, therefore, its shares are not publicly traded.

**(2) RECLASSIFICATIONS**

Certain reclassifications have been made to the prior period's condensed consolidated financial statements to conform with the current period's presentation.

**(3) STORE CLOSURE RESERVE**

Mrs. Fields' management reviews the historical and projected operating performance of its stores on a periodic basis to identify under performing stores for impairment of net property investment or for targeted closing. The Company's policy is to recognize a loss for that portion of the net property investment determined to be impaired. Additionally, when a store is identified for targeted closing, either as part of a business combination or ongoing operations, the Company's policy is to record a reserve for the costs of closing the store, which are predominately estimated lease termination costs. Lease termination costs include both one-time settlement payments and continued contractual payments over the term of the original lease agreement where no settlement can be resolved with the landlord. As a result, although the exit plans were completed by the end of fiscal year 2000, a portion of the store closure reserve will remain until all cash payments have been made. The Company does not accrue for future expected operating losses. If and when a reserve that was established as part of purchase accounting is not fully utilized, the Company reduces the reserve to zero and goodwill is adjusted for the corresponding amount. As of March 31, 2001, the remaining store closure reserve was \$3.4 million.

**MRS. FIELDS' ORIGINAL COOKIES, INC. AND SUBSIDIARIES**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(Unaudited)**  
**(dollars in thousands)**

following table presents a summary of the activity in the store closure reserve during the 13 weeks ended March 31, 2001 and April 1, 2000:

	<u>Mrs. Fields Inc. and Original Cookie</u>		<u>H &amp; M Canada</u>		<u>Pretzel Time</u>		<u>Great American Cookies</u>		<u>Pretzelmaker</u>		<u>Consolidated</u>		
	<u>Business Combination and Subsequent Adjustments</u>	<u>Company-Owned Stores Unrelated to Acquisitions</u>	<u>Business Combination and Subsequent Adjustments</u>	<u>Company-Owned Stores Unrelated to Acquisition</u>	<u>Business Combination and Subsequent Adjustments</u>	<u>Company-Owned Stores Unrelated to Acquisition</u>	<u>Business Combination and Subsequent Adjustments</u>	<u>Company-Owned Stores Unrelated to Acquisition</u>	<u>Business Combination and Subsequent Adjustments</u>	<u>Company-Owned Stores Unrelated to Acquisition</u>	<u>Total Business Combination and Subsequent Adjustments</u>	<u>Total Company-Owned Stores Unrelated to Acquisitions</u>	<u>Total Business Combinations and Company-Owned Stores</u>
Balance, December 31, 2000.....	\$ 863	\$ 1,219	\$ 359	\$ 85	\$ 65	\$ -	\$ 1,113	\$ -	\$ 75	\$ -	\$ 2,475	\$ 1,304	\$ 3,779
Reduction for the 13 weeks ended March 31, 2001.....	(93)	(129)	(27)	(21)	(10)	-	(89)	-	(7)	-	(226)	(150)	(376)
Balance, March 31, 2001.....	<u>\$ 770</u>	<u>\$ 1,090</u>	<u>\$ 332</u>	<u>\$ 64</u>	<u>\$ 55</u>	<u>\$ -</u>	<u>\$ 1,024</u>	<u>\$ -</u>	<u>\$ 68</u>	<u>\$ -</u>	<u>\$ 2,249</u>	<u>\$ 1,154</u>	<u>\$ 3,403</u>
Balance, January 1, 2000.....	\$ 1,614	\$ 1,581	\$ 536	\$ 294	\$ 109	\$ 86	\$ 1,674	\$ 545	\$ 105	\$ 650	\$ 4,038	\$ 3,156	\$ 7,194
Reduction for the 13 weeks ended April 1, 2000.....	(89)	(174)	(48)	(29)	-	-	(157)	(30)	(19)	-	(313)	(233)	(546)
Balance, April 1, 2000.....	<u>\$ 1,525</u>	<u>\$ 1,407</u>	<u>\$ 488</u>	<u>\$ 265</u>	<u>\$ 109</u>	<u>\$ 86</u>	<u>\$ 1,517</u>	<u>\$ 515</u>	<u>\$ 86</u>	<u>\$ 650</u>	<u>\$ 3,725</u>	<u>\$ 2,923</u>	<u>\$ 6,648</u>

The following table presents a summary of activity for stores originally identified to be closed or franchised in connection with the applicable business combination for the 13 weeks ended April 1, 2000. All such stores were closed, franchised or removed from the store closure plan during fiscal 2000.

	<u>Mrs. Fields Inc. and Original Cookie</u>		<u>Great American Cookies</u>		<u>Consolidated</u>	
	<u>To Be Closed</u>	<u>To Be Franchised</u>	<u>To Be Closed</u>	<u>To Be Franchised</u>	<u>To Be Closed</u>	<u>To Be Franchised</u>
Balance, January 1, 2000	-	14	6	1	6	15
Stores closed, franchised, or removed during the 13 weeks ended April 1, 2000	<u>-</u>	<u>(1)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(1)</u>
Balance, April 1, 2000	<u><u>-</u></u>	<u><u>13</u></u>	<u><u>6</u></u>	<u><u>1</u></u>	<u><u>6</u></u>	<u><u>14</u></u>

The following table presents a summary of activity for stores Mrs. Fields identified to be closed or franchised that were not originally identified to be closed or franchised in connection with a business combination for the 13 weeks ended April 1, 2000. All such stores were closed, franchised or removed from the store closure plan in fiscal 2000.

	<u>Mrs. Fields Cookies and Mrs. Fields Inc.</u>		<u>Pretzel Time</u>		<u>Consolidated</u>	
	<u>To Be Closed</u>	<u>To Be Franchised</u>	<u>To Be Closed</u>	<u>To Be Franchised</u>	<u>To Be Closed</u>	<u>To Be Franchised</u>
Balance, January 1, 2000	3	4	-	1	3	5
Stores closed, franchised, or removed during the 13 weeks ended April 1, 2000	<u>(1)</u>	<u>(1)</u>	<u>-</u>	<u>(1)</u>	<u>(1)</u>	<u>(2)</u>
Balance, April 1, 2000	<u><u>2</u></u>	<u><u>3</u></u>	<u><u>-</u></u>	<u><u>-</u></u>	<u><u>2</u></u>	<u><u>3</u></u>

#### **(4) TCBY MANAGEMENT AGREEMENT**

In connection with the acquisition of TCBY Enterprises, Inc. (together with its parent company and its parent company's subsidiaries, "TCBY") on June 1, 2000, by Capricorn Investors III, L.P., an affiliate of Capricorn Investors II, L.P. ("Capricorn"), Mrs. Fields' Holding's approximately 90% stockholder, the Company entered into a Management Agreement (the "TCBY Management Agreement") with TCBY, pursuant to which the corporate and administrative functions of TCBY were transferred to the Company. The Company also oversees the sale of new TCBY franchises and monitors the activities of TCBY franchisees. Under the TCBY Management Agreement, the Company has agreed to manage and operate TCBY's business and pay specified operating and other costs of TCBY in exchange for an annual management fee of \$12.7 million in fiscal 2001. The management fee is paid by TCBY semi-monthly and adjusted annually.

In accordance with the terms and conditions of the TCBY Management Agreement, Mrs. Fields and TCBY share costs savings obtained through the joint purchase of ingredients, supplies and services and Mrs. Fields is eligible to receive a portion of the anticipated cost savings in connection with the expected outsourcing of TCBY's yogurt and ice cream manufacturing requirements. During the 13 weeks ended March 31, 2001, Mrs. Fields recorded approximately \$190,000 in revenues related to the cost savings provision of the Management Agreement.

The Company will also be entitled to receive a fee of approximately \$2.4 million from TCBY for reimbursement of expenses incurred on behalf of TCBY and one-time transition costs incurred in the transfer of management functions of TCBY from Little Rock, Arkansas to Salt Lake City, Utah, if TCBY is successful in selling its existing dairy processing plant for net proceeds sufficient to retire debt associated with the plant or upon sufficient cash being available from the excess working capital of the dairy processing plant.

During the 13 weeks ended March 31, 2001, the Company capitalized \$30,000 of franchise fees to TCBY as intangible assets.



**(5) REPORTABLE SEGMENTS**

Management evaluates performance at Mrs. Fields using two reportable operating segments; namely, (1) company-owned stores and related activity and (2) franchising and licensing activity. The segments are determined by revenue source; direct sales or royalties and license fees. The company-owned stores segment consists of both cookie and pretzel stores owned and operated by Mrs. Fields and sales from its catalog / e-tailing business. The franchising and licensing segment consists of cookie and pretzel stores, which are owned and operated by third parties who pay Mrs. Fields an initial franchise fee and monthly royalties based on a percentage of gross sales, sales of cookie dough manufactured by the Company to its franchisees and other licensing activity not related to cookie or pretzel stores. Sales and transfers between segments are eliminated in consolidation.

Mrs. Fields evaluates the performance of each segment based on contribution margin. Contribution margin is computed as the difference between the revenues generated by a reportable segment and the selling and store occupancy costs and cost of sales related to that reportable segment. It is used as a measure of the operating performance of an operating segment. Mrs. Fields does not allocate any revenue generated from the TCBY management fee, general and administrative expense, other income (expense), interest expense, or depreciation and amortization of assets to its reportable operating segments. Mrs. Fields does not separate the costs incurred while performing activities for the TCBY management agreement from costs of operating Mrs. Fields, as most of Mrs. Fields' employees support both companies, therefore the activity for managing TCBY is not reported as a separate segment. Segment revenue and contribution margin are presented in the following table (dollars in thousands).

	<u>Company-Owned Stores, including Catalog/E-tailing</u>	<u>Franchising, Licensing and Other</u>	<u>Total</u>
<u>13 weeks ended March 31, 2001</u>			
Segment revenues .....	\$ 32,129	\$ 7,919	\$ 40,048
Contribution margin.....	5,026	7,018	12,044
<u>13 weeks ended April 1, 2000</u>			
Segment revenues .....	\$ 33,796	\$ 6,106	\$ 39,902
Contribution margin.....	5,656	4,959	10,615

The reconciliation of contribution margin to net loss is as follows (dollars in thousands):

	<u>13 Weeks Ended March 31, 2001</u>	<u>13 Weeks Ended April 1, 2000</u>
Contribution margin.....	\$ 12,044	\$ 10,615
Management fee revenue .....	3,365	-
General and administrative expense .....	(7,036)	(5,121)
EBITDA <sup>(1)</sup> .....	8,373	5,494
Depreciation and amortization .....	(5,332)	(5,658)
Interest expense.....	(4,404)	(4,598)
Other, net .....	23	(20)
Net loss .....	<u>\$ (1,340)</u>	<u>\$ (4,782)</u>

(1) EBITDA consists of earnings before depreciation, amortization, interest, income taxes, minority interest and other income or expense. EBITDA is not intended to represent cash flows from operations as defined by accounting principles generally accepted in the United States and should not be considered as an alternative to net income (loss) as an indicator of operating performance or to cash flows as a measure of liquidity. EBITDA has been included in this presentation because it is one of the indicators by which Mrs. Fields assesses its financial performance and its capacity to service its debt.

Geographic segment information is as follows (dollars in thousands):

<u>Total revenues</u>	<u>Domestic Company-Owned Stores</u>	<u>International Company-Owned Stores</u>	<u>Domestic Franchising and Licensing</u>	<u>International Franchising and Licensing</u>
13 weeks ended March 31, 2001.....	\$ 32,126	\$ 3	\$ 7,855	\$ 64
13 weeks ended April 1, 2000.....	33,796	-	6,025	81

Revenues from international franchising and licensing are generated from Canada and Australia with no other countries having material representation. Revenues from international company-owned stores and income from foreign operations are immaterial.

One customer who manufactures and sells ready-to-eat cookies, under our registered trademarks, accounted for 25.6 percent, or \$2.0 million, of the licensing and other revenue during the 13 weeks ended March 31, 2001. No customers accounted for more than 10 percent of Mrs. Fields' total revenues or individual segment's revenues during the 13 weeks ended April 1, 2001.

**(6) TAX SHARING DISTRIBUTION**

The Company and Mrs. Fields Holding have entered into a tax sharing agreement under the terms of which the Company distributed \$300,000 to Mrs. Fields' Holding during the first quarter of fiscal 2001. The Company did not make any tax sharing distributions in the first quarter of 2000.

**SUPPLEMENTAL CONDENSED CONSOLIDATING BALANCE SHEET**  
**AS OF MARCH 31, 2001**  
(Unaudited)  
(dollars in thousands)

	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non- Guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Consolidated</u>
<b><u>SETS</u></b>					
<b>CURRENT ASSETS:</b>					
Cash and cash equivalents .....	\$ 3,704	\$ (591)	\$ 294	\$ -	\$ 3,407
Accounts receivable, net.....	3,012	49	13	-	3,074
Amounts due from franchisees and licensees, net .....	1,221	5,874	56	-	7,151
Inventories .....	3,601	885	2	-	4,488
Other current assets and amounts due from (to) affiliates, net .....	<u>22,646</u>	<u>(17,534)</u>	<u>(639)</u>	-	<u>4,473</u>
Total current assets .....	34,184	(11,317)	(274)	-	22,593
PROPERTY AND EQUIPMENT, net .....	22,962	2,080	57	-	25,099
INTANGIBLES, net .....	62,515	72,698	203	-	135,416
INVESTMENT IN SUBSIDIARIES.....	65,114	-	-	(65,114)	-
OTHER ASSETS.....	<u>801</u>	<u>44</u>	<u>-</u>	<u>-</u>	<u>845</u>
	<u>\$ 185,576</u>	<u>\$ 63,505</u>	<u>\$ (14)</u>	<u>\$ (65,114)</u>	<u>\$ 183,953</u>
<b><u>LIABILITIES AND STOCKHOLDER'S EQUITY (DEFICIT)</u></b>					
<b>CURRENT LIABILITIES:</b>					
Current portion of long-term debt and capital lease obligations .....	\$ 1,523	\$ 107	\$ -	\$ -	\$ 1,630
Bank overdraft and bank borrowings under the line of credit.....	10,950	-	-	-	10,950
Accounts payable.....	1,900	347	5	1,310	3,562
Accrued liabilities.....	<u>13,360</u>	<u>646</u>	<u>27</u>	<u>(1,310)</u>	<u>12,723</u>
Total current liabilities .....	27,733	1,100	32	-	28,865
LONG-TERM DEBT AND CAPITAL LEASE OBLIGATIONS, net of current portion.....	142,025	39	-	-	142,064
STORE CLOSURE RESERVE, net of current portion.....	2,206	-	-	-	2,206
MINORITY INTEREST .....	43	-	-	-	43
STOCKHOLDER'S EQUITY (DEFICIT)....	<u>13,569</u>	<u>62,366</u>	<u>(46)</u>	<u>(65,114)</u>	<u>10,775</u>
	<u>\$ 185,576</u>	<u>\$ 63,505</u>	<u>\$ (14)</u>	<u>\$ (65,114)</u>	<u>\$ 183,953</u>

**SUPPLEMENTAL CONDENSED CONSOLIDATING STATEMENT OF OPERATIONS**  
**FOR THE 13 WEEKS ENDED MARCH 30, 2001**  
(Unaudited)  
(dollars in thousands)

	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non- Guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Consolidated</u>
TOTAL REVENUES	\$ 33,200	\$ 11,464	\$ 124	\$ (1,375)	\$ 43,413
OPERATING COSTS AND EXPENSES:					
Selling and store occupancy costs .....	17,765	10	46	(249)	17,572
Cost of sales .....	7,984	3,558	16	(1,126)	10,432
General and administrative .....	2,869	4,080	87	-	7,036
Depreciation and amortization.....	<u>3,685</u>	<u>1,603</u>	<u>44</u>	<u>-</u>	<u>5,332</u>
Total operating costs and expenses .....	<u>32,303</u>	<u>9,251</u>	<u>193</u>	<u>(1,375)</u>	<u>40,372</u>
Income (loss) from operations ...	897	2,213	(69)	-	3,041
INTEREST EXPENSE AND OTHER, net .....	<u>(4,314)</u>	<u>(63)</u>	<u>-</u>	<u>-</u>	<u>(4,377)</u>
(Loss) income before provision for income taxes and minority interest .....	(3,417)	2,150	(69)	-	(1,336)
PROVISION FOR INCOME TAXES .....	<u>(6)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(6)</u>
(Loss) income before minority interest .....	(3,423)	2,150	(69)	-	(1,342)
MINORITY INTEREST .....	<u>2</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>2</u>
NET (LOSS) INCOME .....	<u>\$ (3,421)</u>	<u>\$ 2,150</u>	<u>\$ (69)</u>	<u>\$ -</u>	<u>\$ (1,340)</u>

**SUPPLEMENTAL CONDENSED CONSOLIDATING STATEMENT OF CASH FLOWS**  
**FOR THE 13 WEEKS ENDED MARCH 31, 2001**  
(Unaudited)  
(dollars in thousands)

	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non- Guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Consolidated</u>
NET CASH (USED IN) PROVIDED BY OPERATING ACTIVITIES .....	\$ (5,013)	\$ (416)	\$ 80	\$ -	\$ (5,349)
CASH FLOWS FROM INVESTING ACTIVITIES:					
Purchase of property and equipment, net .....	(1,934)	(2)	(6)	-	(1,942)
Proceeds from the sale of assets .....	<u>6</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>6</u>
Net cash used in investing activities .....	<u>(1,928)</u>	<u>(2)</u>	<u>(6)</u>	<u>-</u>	<u>(1,936)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:					
Reduction of long-term debt and capital lease obligations .....	(231)	(173)	-	-	(404)
Payment of debt financing costs .....	(117)	-	-	-	(117)
Bank overdraft and borrowings under the line of credit .....	7,867	-	-	163	8,030
Tax sharing distribution to Mrs. Fields' Holding .....	<u>(300)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(300)</u>
Net cash provided by (used in) financing activities .....	<u>7,219</u>	<u>(173)</u>	<u>-</u>	<u>163</u>	<u>7,209</u>
Effect of foreign exchange rate changes on cash .....	<u>-</u>	<u>-</u>	<u>(28)</u>	<u>-</u>	<u>(28)</u>
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS..	278	(591)	46	163	(104)
CASH AND CASH EQUIVALENTS, beginning of the period .....	<u>3,426</u>	<u>-</u>	<u>248</u>	<u>(163)</u>	<u>3,511</u>
CASH AND CASH EQUIVALENTS, end of the period .....	<u>\$ 3,704</u>	<u>\$ (591)</u>	<u>\$ 294</u>	<u>\$ -</u>	<u>\$ 3,407</u>
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:					
Interest paid .....	\$ 142	\$ 6	\$ -	\$ -	\$ 148
Taxes paid .....	61	69	-	-	130

**SUPPLEMENTAL CONDENSED CONSOLIDATING BALANCE SHEET**  
**AS OF DECEMBER 30, 2000**  
(Unaudited)  
(dollars in thousands)

	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non- Guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Consolidated</u>
<b><u>ASSETS</u></b>					
CURRENT ASSETS:					
Cash and cash equivalents .....	\$ 3,426	\$ -	\$ 248	\$ (163)	\$ 3,511
Accounts receivable, net.....	3,032	233	71	(73)	3,263
Amounts due from franchisees and licensees, net .....	1,229	4,332	-	-	5,561
Inventories.....	3,973	709	4	-	4,686
Other current assets and amounts due from (to) affiliates, net.....	<u>19,335</u>	<u>(17,888)</u>	<u>(544)</u>	<u>-</u>	<u>903</u>
Total current assets .....	30,995	(12,614)	(221)	(236)	17,924
PROPERTY AND EQUIPMENT, net .....	23,695	2,187	95	-	25,977
INTANGIBLES, net.....	64,037	74,269	216	-	138,522
INVESTMENT IN SUBSIDIARIES.....	65,011	-	-	(65,011)	-
OTHER ASSETS.....	<u>545</u>	<u>44</u>	<u>-</u>	<u>98</u>	<u>687</u>
	<u>\$ 184,283</u>	<u>\$ 63,886</u>	<u>\$ 90</u>	<u>\$ (65,149)</u>	<u>\$ 183,110</u>
<b><u>LIABILITIES AND STOCKHOLDER'S EQUITY</u></b>					
CURRENT LIABILITIES:					
Current portion of long-term debt and capital lease obligations.....	\$ -	\$ -	\$ -	\$ 1,628	\$ 1,628
Accounts payable and bank overdraft .....	5,390	542	7	6,737	12,676
Accrued liabilities .....	<u>15,637</u>	<u>1,149</u>	<u>25</u>	<u>(5,227)</u>	<u>11,584</u>
Total current liabilities .....	21,027	1,691	32	(3,138)	25,888
LONG-TERM DEBT AND CAPITAL LEASE OBLIGATIONS, net of current portion .....					
	143,894	430	-	(1,877)	142,447
STORE CLOSURE RESERVE, net of current portion .....	3,779	-	-	(1,498)	2,281
MINORITY INTEREST .....	-	-	-	51	51
STOCKHOLDER'S EQUITY .....	<u>15,583</u>	<u>61,765</u>	<u>58</u>	<u>(64,963)</u>	<u>12,443</u>
	<u>\$ 184,283</u>	<u>\$ 63,886</u>	<u>\$ 90</u>	<u>\$ (65,149)</u>	<u>\$ 183,110</u>

**SUPPLEMENTAL CONDENSED CONSOLIDATING STATEMENT OF OPERATIONS**  
**FOR THE 13 WEEKS ENDED APRIL 1, 2000**  
(Unaudited)  
(dollars in thousands)

	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non- Guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Consolidated</u>
NET REVENUES.....	\$ 34,993	\$ 6,115	\$ 168	\$ (1,374)	\$ 39,902
OPERATING COSTS AND EXPENSES:					
Selling and store occupancy costs .....	18,576	-	47	(303)	18,320
Cost of sales .....	9,721	2,302	15	(1,071)	10,967
General and administrative .....	5,014	58	49	-	5,121
Depreciation and amortization.....	4,058	1,593	7	-	5,658
Total operating costs and expenses .....	<u>37,369</u>	<u>3,953</u>	<u>118</u>	<u>(1,374)</u>	<u>40,066</u>
Income (loss) from operations....	(2,376)	2,162	50	-	(164)
INTEREST EXPENSE AND OTHER, net .....	<u>(4,466)</u>	<u>(141)</u>	<u>-</u>	<u>-</u>	<u>(4,607)</u>
(Loss) income before provision for income taxes and minority interest .....	(6,842)	2,021	50	-	(4,771)
PROVISION FOR INCOME TAXES.....	<u>(8)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(8)</u>
(Loss) income before minority interest .....	(6,850)	2,021	50	-	(4,779)
MINORITY INTEREST .....	<u>-</u>	<u>-</u>	<u>-</u>	<u>(3)</u>	<u>(3)</u>
NET (LOSS) INCOME .....	<u>\$ (6,850)</u>	<u>\$ 2,021</u>	<u>\$ 50</u>	<u>\$ (3)</u>	<u>\$ (4,782)</u>

**SUPPLEMENTAL CONDENSED CONSOLIDATING STATEMENT OF CASH FLOWS**  
**FOR THE 13 WEEKS ENDED APRIL 1, 2000**  
(Unaudited)  
(dollars in thousands)

	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non- Guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Consolidated</u>
NET CASH PROVIDED BY (USED IN)					
OPERATING ACTIVITIES .....	\$ (2,781)	\$ 1,049	\$ 89	\$ -	\$ (1,643)
CASH FLOWS FROM INVESTING ACTIVITIES:					
Purchase of property and equipment, net .....	(1,080)	(112)	-	-	(1,192)
CASH FLOWS FROM FINANCING ACTIVITIES:					
Reduction of long-term debt and capital lease obligations.....	(358)	(100)	-	-	(458)
Payment of debt financing fees .....	(11)	-	-	-	(11)
Reduction in preferred stock .....	-	(1,070)	-	-	(1,070)
Net cash used in financing activities.....	(369)	(1,170)	-	-	(1,539)
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS...	(4,230)	(233)	89	-	(4,374)
CASH AND CASH EQUIVALENTS, beginning of the period.....	3,886	792	241	-	4,919
CASH AND CASH EQUIVALENTS, end of the period.....	<u>\$ (344)</u>	<u>\$ 559</u>	<u>\$ 330</u>	<u>\$ -</u>	<u>\$ 545</u>
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:					
Interest paid.....	\$ 228	\$ -	\$ -	\$ -	\$ 228
Taxes paid .....	80	40	-	-	120



## **ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

### **Overview**

Mrs. Fields' Original Cookies, Inc. ("Mrs. Fields" or the "Company"), a Delaware corporation, is a wholly owned subsidiary of Mrs. Fields' Holding Company, Inc. ("Mrs. Fields' Holding"). Mrs. Fields' Holding is a majority owned subsidiary of Capricorn Investors II, L.P. ("Capricorn"). Mrs. Fields has eight wholly owned operating subsidiaries; namely, Great American Cookie Company, Inc., The Mrs. Fields' Brand, Inc., Pretzel Time, Inc., Pretzelmaker Holdings, Inc., Mrs. Fields' Cookies Australia, Mrs. Fields' Cookies (Canada) Ltd., H&M Canada, and Pretzelmaker of Canada; and three partially owned subsidiaries.

Mrs. Fields primarily operates and franchises retail stores, which sell freshly baked cookies, brownies, pretzels and other food products through six specialty retail chains. As of March 31, 2001, Mrs. Fields owned and operated 143 Mrs. Fields Cookies stores, 68 Original Cookie Company stores, 94 Great American Cookies stores, 43 Hot Sam Pretzels stores, 73 Pretzel Time stores and 5 Pretzelmaker stores in the United States. Additionally, Mrs. Fields has franchised or licensed 842 stores in the United States and 118 stores in several other countries.

Capricorn Investors III, L.P., an affiliate of Capricorn Investors II, L.P., Mrs. Fields' Holding's majority stockholder, acquired TCBY Enterprises, Inc. ("TCBY"), a retail snack food company in 2000.

In connection with the acquisition, Mrs. Fields entered into a Management Agreement (the "TCBY Management Agreement") with TCBY Holding Company, Inc., the parent company of TCBY, and TCBY Systems, LLC, a wholly owned subsidiary of TCBY, pursuant to which the corporate and administrative functions of TCBY were transferred to Mrs. Fields. Under the TCBY Management Agreement, Mrs. Fields has agreed to manage and operate TCBY's business, and pay specified operating and other costs of TCBY (including specified costs associated with expenses incurred on behalf of TCBY and the transfer of the management function from Little Rock, Arkansas to Salt Lake City, Utah), in exchange for a management fee paid by TCBY semi-monthly. Revenue generated from the management fee is reported under the caption "Management fee revenue" on the statement of operations.

Mrs. Fields' business follows seasonal trends and is also affected by climate and weather conditions, which in turn affects mall traffic. Because Mrs. Fields' stores are heavily concentrated in shopping malls, Mrs. Fields' sales performance is significantly dependent on the performance of those malls. Mrs. Fields typically experiences its highest revenues in the fourth quarter of the calendar year due to the holiday season.

## Results of Operations

The following table sets forth, for the periods indicated, certain information relating to the operations of Mrs. Fields and percentage changes from period to period. Data in the table reflect the consolidated results of Mrs. Fields for the 13 weeks ended March 31, 2001 and April 1, 2000 (dollars in thousands).

	<u>For the 13 Weeks Ended</u>		<u>Change</u>
	<u>March 31, 2001</u>	<u>April 1, 2000</u>	<u>from</u>
			<u>2000 to 2001</u>
<b>Statement of Operations Data:</b>			
<b>Revenues:</b>			
Net store and food sales.....	\$ 32,129	\$ 33,796	(4.9)%
Franchising .....	5,707	5,946	(4.0)
Management fee revenue .....	3,365	-	
Licensing and other.....	<u>2,212</u>	<u>160</u>	
Total revenues.....	<u>43,413</u>	<u>39,902</u>	<b>8.8</b>
<b>Operating Costs and Expenses:</b>			
Selling and store occupancy costs.....	17,572	18,320	(4.1)
Cost of sales.....	10,432	10,967	(4.9)
General and administrative .....	7,036	5,121	37.4
Depreciation and amortization.....	<u>5,332</u>	<u>5,658</u>	(5.8)
Total operating costs and expenses	<u>40,372</u>	<u>40,066</u>	0.8
<b>Other Income (Expense):</b>			
Interest expense .....	(4,404)	(4,598)	(4.2)
Interest income.....	17	23	(26.1)
Other, net.....	<u>6</u>	<u>(43)</u>	
Total other, net	<u>(4,381)</u>	<u>(4,618)</u>	(5.1)
Net loss.....	<u>\$ (1,340)</u>	<u>\$ (4,782)</u>	(72.0)

### 13 Weeks Ended March 31, 2001 Compared to the 13 Weeks Ended April 1, 2000

As of March 31, 2001, there were 426 Company-owned stores and 960 franchised or licensed stores in operation. The store activity for the 13 weeks ended March 31, 2001 and April 1, 2000 is summarized as follows:

<b>Company-owned and Franchised or Licensed Store Activity</b>	<u>March 31, 2001</u>		<u>April 1, 2000</u>	
	<u>Company- Owned</u>	<u>Franchised or Licensed</u>	<u>Company- Owned</u>	<u>Franchised or Licensed</u>
Stores open as of the beginning of the 13 weeks ended.....	420	951	462	981
Stores opened (including relocations) .....	17	29	3	35
Stores closed (including relocations).....	(9)	(22)	(13)	(41)
Stores sold to franchisees.....	(3)	3	(3)	3
Non-continuing (exit plan) stores closed.....	-	-	(1)	-
Non-continuing (exit plan) stores franchised .....	-	-	(3)	3
Stores acquired from franchisees.....	<u>1</u>	<u>(1)</u>	<u>1</u>	<u>(1)</u>
Stores open as of the end of the 13 weeks ended.....	<u>426</u>	<u>960</u>	<u>446</u>	<u>980</u>

## Revenues

**Net Store and Food Sales.** Total net store sales decreased \$1.7 million, or 4.9 percent, from \$33.8 million to \$32.1 million for the 13 weeks ended March 31, 2001 compared to the 13 weeks ended April 1, 2000. The decrease was due primarily to 20, or 4.5 percent, fewer stores open at March 31, 2001 compared to April 1, 2000. Sales increased 0.3 percent for mall stores that had been open one year or more when compared to the same prior year period. Mail order sales for the 13 weeks ended March 31, 2001 increased \$585,000, or 40.9 percent, compared to the 13 weeks ended April 1, 2000.

**Franchising Revenues.** Franchising revenues decreased \$239,000, or 4.0 percent, from \$5.9 million to \$5.7 million for the 13 weeks ended March 31, 2001 compared to the 13 weeks ended April 1, 2000. Franchising revenues were negatively impacted primarily by lower initial franchise fees in the current period and 20, or 2.0 percent, fewer

franchised stores open at March 31, 2001. Sales of cookie dough to Great American franchisees were flat during the current quarter when compared to the prior year period.

**Management Fee Revenue.** The Company received management fee revenue of \$3.2 million during the current quarter to manage TCBY, which was acquired by an affiliate of the Company on June 1, 2000. Additionally, during the 13 weeks ended March 31, 2001, the Company recorded approximately \$190,000 in revenues related to the cost saving arrangement in the management agreement. There was no management fee revenue or cost savings recognized for the 13 weeks ended April 1, 2000.

**Licensing and Other Revenues.** Licensing revenues increased \$2.1 million, from \$160,000 to \$2.2 million for the 13 weeks ended March 31, 2001 compared to the 13 weeks ended April 1, 2000. During the 13 weeks ended March 31, 2001, the company received \$950,000 in revenues as a result of an agreement with a national manufacturer of cookies for the sale of some of the Company's cookie recipes for use in limited specific retail channels and geographic locations. The remaining increase is due to royalties received under license agreements entered into in 2000.

## **Operating Costs and Expenses**

**Selling and Store Occupancy Costs.** Total selling and store occupancy costs decreased \$748,000 or 4.1 percent, from \$18.3 million to \$17.6 million for the 13 weeks ended March 31, 2001 compared to the 13 weeks ended April 1, 2000. The decrease is attributable to 20, or 4.5 percent, fewer stores open at March 31, 2001 compared to April 1, 2000.

**Cost of Sales.** Total cost of sales decreased \$535,000, or 4.9 percent, from \$11.0 million to \$10.4 million for the 13 weeks ended March 31, 2001 compared to the 13 weeks ended April 1, 2000. This decrease was primarily the result of fewer stores open during the 13 weeks ended March 31, 2001, compared to the prior period.

**General and Administrative Expenses.** General and administrative expenses increased \$1.9 million, or 37.4 percent, from \$5.1 million to \$7.0 million for the 13 weeks ended March 31, 2001 compared to the 13 weeks ended April 1, 2000. The increase in general and administrative expenses was primarily attributable to costs associated with managing TCBY under the management agreement discussed above. The Company expects general and administrative costs to continue at the current level as it manages and operates TCBY's business. However, these increased costs will be offset by the management fee revenue received from TCBY.

**Depreciation and Amortization.** Total depreciation and amortization expense decreased by \$326,000 or 5.8 percent, from \$5.7 million to \$5.3 million for the 13 weeks ended March 31, 2001 compared to the 13 weeks ended April 1, 2000. The decrease is primarily due to the impairment of certain store assets during fiscal 2000, which resulted in lower depreciation during the 13 weeks ended March 31, 2001.

**Total Other.** Interest income and expense for the 13 weeks ended March 31, 2001 were comparable to the 13 weeks ended April 1, 2000. Total other decreased by \$49,000, from \$43,000 expense to \$6,000 of income for the 13 weeks ended March 31, 2001 compared to the 13 weeks ended April 1, 2000. The decrease is primarily attributable to a loss on stores closed or franchised in the previous year.

## **Liquidity and Capital Resources**

### **General**

Mrs. Fields' principal sources of liquidity are cash flows from operating activities, cash on hand and available borrowings under Mrs. Fields' existing revolving credit facility. As of March 31, 2001, Mrs. Fields had \$3.4 million of cash and cash equivalents on hand and \$4.7 million additional borrowings available under its revolving credit facility. Mrs. Fields expects to use its existing cash, cash flows from operating activities and its credit facility to provide working capital, finance capital expenditures and to meet debt service requirements, including the June 1, 2001 interest payment of approximately \$7.0 million on its long-term debt. Based on current operations, Mrs. Fields believes that its sources of liquidity will be adequate to meet its anticipated requirements for working capital, capital expenditures, scheduled debt service requirements and other general corporate purposes on both a short and long-term basis. There can be no assurance, however, that Mrs. Fields' business will continue to generate cash flows at or above current levels.

### **March 31, 2001 Compared to December 30, 2000**

As of March 31, 2001, Mrs. Fields had liquid assets (cash and cash equivalents and receivables) of \$14.2 million, an increase of 12.7 percent, or \$1.6 million, from December 30, 2000 when liquid assets were \$12.6 million. Cash decreased \$104,000, or 3.0 percent, to \$3.4 million at March 31, 2001 from \$3.5 million at December 30, 2000. Total receivables at March 31, 2001 were higher due to slower collections and due to an increase in the receivable from TCBY related to cost savings sharing and the management fee.

Mrs. Fields' working capital decreased by \$1.7 million, or 21.2 percent, to a deficit of \$6.3 million at March 31, 2001 from a deficit of \$8.0 million at December 30, 2000. This decrease is due to a \$4.7 million increase in current assets, primarily balances due from franchisees and licensees and prepaid expenses, compared to a \$3.0 million increase in current liabilities, primarily bank overdraft, bank borrowings under the line of credit and accrued interest.

Long-term assets decreased \$3.9 million, or 2.2 percent, to \$161.2 million at March 31, 2001 from \$165.2 million at December 30, 2000. This decrease was primarily the result of scheduled depreciation and amortization of property and equipment, goodwill and deferred loan costs.

Mrs. Fields' operating activities used cash of \$5.4 million for the 13 weeks ended March 31, 2001, primarily from the payment of expenses incurred during the busy holiday season in December 2000, but not paid until January.

Mrs. Fields utilized \$1.9 million of cash in investing activities during the 13 weeks ended March 31, 2001, primarily for capital expenditures relating to store remodels and renovations.

Mrs. Fields obtained \$7.2 million in cash for financing activities during the 13 weeks ended March 31, 2001. Cash was used primarily to pay expenses in January that were incurred in December 2000.

The specialty cookie and pretzel businesses do not require the maintenance of significant receivables or inventories; however, the increase in Mrs. Fields' franchise and license business does require the Company to carry a receivable from our franchisees and licensees. Mrs. Fields continually invests in its business by upgrading and remodeling stores and adding new stores, carts, and kiosks as opportunities arise. Investments in these long-term assets, which are key to generating current sales, reduce Mrs. Fields' working capital. During the 13 weeks ended March 31, 2001 and April 1, 2000, Mrs. Fields expended cash of \$1.9 million and \$1.2 million, respectively, for capital assets. The Company expects to expend a total of approximately \$14.0 million for capital assets in 2001. Management anticipates that these expenditures will be funded with cash generated from operating activities and short-term borrowings under its credit facility as needed.

### **Inflation**

The impact of inflation on the earnings of the business has not been significant in recent years. Most of Mrs. Fields' leases contain escalation clauses (however, such leases are accounted for on a straight-line basis as required by accounting principles generally accepted in the United States, which minimizes fluctuations in operating income) and many of Mrs. Fields' employees are paid hourly wages at the Federal minimum wage level. Minimum wage increases will negatively impact Mrs. Fields' payroll costs in the short term, but management believes such impact can be offset in the long term through operational efficiency gains and, if necessary, through product price increases.

### **Recent Accounting Pronouncements**

In June 1998, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards No. 133, "Accounting for Derivative Instruments and Hedging Activities" ("SFAS 133"). SFAS 133, as amended by SFAS 137 and SFAS 138, is effective for the Company's fiscal year beginning 2001. SFAS 133 establishes accounting and reporting standards for derivative instruments, including certain derivative instruments embedded in other contracts, and for hedging activities. It requires that the Company recognize all derivative instruments as either assets or liabilities in the condensed consolidated balance sheet and measure those instruments at fair value. The Company adopted SFAS 133, as amended during the first quarter of fiscal 2001. The adoption did not have a material impact on the Company's results of operations, financial position or liquidity.

### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK**

There have been no significant changes in market risks since the end of the Company's December 30, 2000 year. For more information, please read the consolidated financial statements and notes thereto included in the Company's Form 10-K for the year ended December 30, 2000.

#### **Forward-looking Information**

This report contains certain forward-looking statements based on our current expectations and projections about future events, developed from the information currently available to us. The forward-looking statements include, among other things, our expectations and estimates about Mrs. Fields' future financial performance, including growth in net sales and earnings, cash flows from operating activities, capital expenditures, and the ability to refinance indebtedness. These forward-looking statements are subject to risks, uncertainties and assumptions, including the following:

- Our ability to continue integrating the businesses of companies acquired with Mrs. Fields and to realize the expected ongoing benefits and cost savings from our acquisitions;
- Our ability to meet our debt and interest obligations,
- Performance by franchisees and licensees;
- Difficulties or delays in developing and introducing anticipated new products or failure of customers to accept new product offerings;
- Changes in consumer preferences and our ability to adequately anticipate such changes;
- The seasonal nature of our operations;
- Changes in general economic and business conditions;
- Actions by competitors, including new product offerings and marketing and promotional successes;
- Claims which might be made against Mrs. Fields, including product liability claims;
- Changes in business strategy, new product lines, changes in raw ingredient and employee labor costs;
- Changes in our relationships with our franchisees and licensees; and
- Changes in mall customer traffic.

We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. In light of these risks, uncertainties and assumptions, the forward-looking events discussed in this report may not occur.

## PART II - OTHER INFORMATION

### **Item 1. Legal Proceedings**

In the ordinary course of business, Mrs. Fields is involved in routine litigation, including franchise disputes. Mrs. Fields is not a party to any legal proceedings, which, in the opinion of management of Mrs. Fields, after consultation with legal counsel, is material to Mrs. Fields' business, financial condition or results of operations beyond amounts provided for in the accompanying financial statements.

Mrs. Fields' stores and products are subject to regulation by numerous governmental authorities, including, without limitation, federal, state and local laws and regulations governing health, sanitation, environmental protection, safety and hiring and employment practices.

### **Item 6. Exhibits and Reports on Form 8-K**

#### **(a) Exhibits**

None

#### **(b) Forms 8-K**

None

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

MRS. FIELDS' ORIGINAL COOKIES, INC.

/s/Larry A. Hodges  
Larry A. Hodges, President and CEO

May 15, 2001  
Date

/s/Sandra M. Buffa  
Sandra M. Buffa, Senior Vice President, Chief Financial  
Officer and Treasurer  
(Chief Financial and Principal Accounting Officer)

May 15, 2001  
Date