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DELAWARE COUNTY IOWA
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BOOK 8 PAGE 136
DEBORAH L. PRATT
DELAWARE COUNTY RECORDER
$10.00

AGREEMENT OF PARTNER WITHDRAWAL AND TRANSFER

Agreement made this 31st day of December, 1990, by and between Jon Mark Thomas, John Mack Thomas, Lyle Eugene Orcutt and Lila Jean Thomas:

WHEREAS, under a Partnership Agreement dated the 8th day of July, 1984, Jon Mark Thomas, John Mack Thomas and Lyle Eugene Orcutt have carried on the business of owning, building upon, altering, repairing, renting, leasing and otherwise dealing with real and personal property, particularly the real estate hereinafter referred to as "Pronto Market" in the City of Earlville, Delaware County, Iowa, under the partnership name of T.O.T. PARTNERSHIP, and it has been agreed that John Mack Thomas shall withdraw from the partnership and shall transfer all of his interest and shares therein to Lila Jean Thomas for an amount agreed to by the partnership as the fair market value of the shares and interest of John Mack Thomas; and

WHEREAS, the assets of the partnership, including goodwill, after deducting the debts and liabilities of the partnership, have been agreed to be taken at the value of $105,000.00, of which the one-third (1/3) share and interest of John Mack Thomas has been fixed and agreed as the sum of $35,000.00;

NOW, THEREFORE, it is agreed as follows, to-wit:

1. Withdrawal and Transfer.

a. John Mack Thomas hereby withdraws from the partnership as and from the 1st day of January, 1991, and transfers all his share and interest therein unto Lila Jean Thomas, who hereby agrees to purchase such share and interest of John Mack Thomas effective as and from the 1st day of January, 1991, and shall then become subject to all of the terms and conditions of the original Partnership Agreement;

b. Jon Mark Thomas and Lyle Eugene Orcutt hereby accept Lila Jean Thomas as a partner succeeding to the share and interest of John Mack Thomas and agree and accept the withdrawal of John Mack Thomas as a partner in T.O.T. PARTNERSHIP effective as and from the 1st day of January, 1991;

c. Jon Mark Thomas, Lyle Eugene Orcutt and John Mack Thomas hereby expressly waive any and all rights and obligations as the remaining partners or the withdrawing partner under the provisions of Paragraph 10 (Restriction of Transfer) and of Paragraph 11 (Withdrawal of Partner) of the Partnership Agreement of July 8, 1984, and hereby expressly agree that Lila Jean Thomas shall have all of the rights and obligations that were held by John Mack Thomas and shall succeed to the share and interest of John Mack Thomas as the third partner in T.O.T. PARTNERSHIP;

d. The partnership shall amend the trade name affidavit on file in the Office of the Recorder of Delaware County, Iowa, to show the withdrawal of John Mack Thomas and the replacement by Lila Jean Thomas, pursuant to Chapter 547 of the Iowa Code.

2. Payment of Partnership Share and Interest. Lila Jean Thomas shall pay for her purchase of the share and interest of John Mack Thomas in the following manner:

a. On January 1, 1991, Lila Jean Thomas shall pay to John Mack Thomas the sum of $5,000.00 in cash and will further execute a promissory note in the sum of $30,000.00, payable to John Mack Thomas, with interest at the rate of 10% per annum. Payment of the note shall be as follows:

i. Commencing February 1, 1991, Lila Jean Thomas shall pay to John Mack Thomas the sum of $250.00; this payment represents interest on the amount owed only and shall be paid on the 1st day of each month, beginning with February 1, 1991, to and including December 1, 1992;

ii. Commencing January 1, 1993, Lila Jean Thomas shall pay to John Mack Thomas the sum of $637.41; this payment represents interest and principal on the amount owed and shall be paid on the 1st day of each month, beginning with January 1, 1993, to and including December 1, 1997, when all sums due and payable under the note shall be paid in full. These payments shall be credited first to interest and then to principal.

3. Mutual Releases. John Mack Thomas, effective January 1, 1991, hereby releases Jon Mark Thomas and Lyle Eugene Orcutt, and Jon Mark Thomas and Lyle Eugene Ocurtt, effective January 1, 1991, hereby release John Mack Thomas, from all actions, accounts, claims and demands in relationship to the partnership.

4. Covenant Not to Compete. John Mack Thomas shall not engage in the business of operating and managing a Pronto Market within any radius of five (5) miles from the City of Earlville, Delaware County, Iowa, for a period of five (5) years from January 1, 1991.

5. Further Instruments. The parties shall execute such further deeds and instruments as may be necessary to carry this agreement into effect.

In Witness Whereof, the parties have signed this agreement in quadruplicate on the day and date first above written.

Jon Mark Thomas

John Mack Thomas

Lyle Eugene Orcutt

Lila Jean Thomas

PAID IN FULL

THE IOWA STATE BAR ASSOCIATION
Official Form No. 136

FOR THE LEGAL EFFECT OF THE USE OF THIS FORM, CONSULT YOUR LAWYER

PROMISSORY NOTE

$ 30,000.00 January 1, 19 92

FOR VALUE RECEIVED, the undersigned, each as principal, jointly and severally, promise(s) to pay to the order of LYLE EUGENE ORCUTT or Margaret Ilene Orcutt at Earlville, Delaware County, Iowa, the sum of THIRTY THOUSAND AND NO/100- DOLLARS with interest thereon from January 1, 1992, payable monthly at the rate of 10 per cent per annum until payment hereof, as follows: $250.00 on February 1, 1992, $250.00 on the first day of each month thereafter to and including December 1, 1992; $637.41 on January 1, 1993, and $637.41 on the first day of each month thereafter to and including December 1, 1997, when all sums due and payable under this note shall be paid in full.

PAID IN FULL
10/30/98 Lyle E. Orcutt

SEE ATTACHED NOTARY

Interest shall first be deducted from the payment and any balance shall be applied on principal.
Principal and interest not paid when due shall draw interest at the rate of 10 % per annum. Upon default in payment of any interest, or any installment of principal, the whole amount then unpaid shall become immediately due and payable at the option of the holder without notice. The undersigned, in case of suit on this note, agrees to pay attorney's fees.
Makers, endorsers and sureties waive demand of payment, notice of non-payment, protest and notice. Sureties, endorsers and guarantors agree to all of the provisions of this note, and consent that the time or times of payment of all or any part hereof may be extended after maturity, from time to time, without notice.

Address 219 Mary Street
Earlville, Iowa 52041

Phone 319/923-4295

Jon Mark Thomas

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This Printing June, 1990

136 PROMISSORY NOTE
Revised March, 1989

STATE OF IOWA ss:
County of DELAWARE

On this 30TH day of OCTOBER, A.D. 1998, before me, a Notary Public in the State of Iowa, personally appeared LYLE E ORCUTT, to me known to be the person(s) named in and who executed the foregoing instrument, and acknowledged that HE executed the same as HIS voluntary act and deed.

My Commission Expires:

Rachel L. Rissler
Notary Public in the State of Iowa

RACHEL L. RISSLER
MY COMMISSION EXPIRES
5-18-2001