


This instrument prepared by
and upon recording return to:

Jenkins & Gilchrist,
A Professional Corporation
1445 Ross Avenue
Suite 3200
Dallas, Texas 75202
Attn: Marc L. Lipshy, Esq.


20030102000003450 Pg 1/18 65.00
Shelby Cnty Judge of Probate, AL
01/02/2003 15:19:00 FILED/CERTIFIED

PARTIAL RELEASE

KNOW ALL MEN BY THESE PRESENTS:

THAT THIS PARTIAL RELEASE (this "Release") is executed and delivered by HUDSON ADVISORS, L.L.C., a Delaware limited liability company ("Hudson"), as Administrative Agent for the Lender Parties (as such terms are defined in the Credit Agreement, as defined below).

R E C I T A L S:

A. Reference is hereby made to that certain Credit Agreement (the "Initial Credit Agreement") dated as of September 6, 2000, made and entered into by and among Captain D's, Inc., a Delaware corporation ("Borrower"), Bank of America, N.A. ("Bank of America"), as the initial issuing bank, as the swing line bank and as administrative agent and collateral agent for the Lender Parties (as defined therein), the Initial Lenders party thereto and Banc of America Securities LLC, as sole lead arranger and sole book manager for the Lender Parties. The Initial Credit Agreement has been amended, supplemented and modified by: (i) that certain Amendment No. 1 and Waiver to the Credit Agreement (the "First Amendment") dated as of January 26, 2001, made and entered into by and among Borrower, Bank of America, as Administrative Agent for the Lender Parties, and the other Lender Parties party thereto, (ii) that certain Amendment No. 2 to the Credit Agreement (the "Second Amendment") dated as of April 2, 2001, made and entered into by and among Borrower, Bank of America, as Administrative Agent for the Lender Parties, and the other Lender Parties party thereto, (iii) that certain Amendment No. 3 to the Credit Agreement (the "Third Amendment") dated as of August 31, 2001, made and entered into by and among Borrower, Bank of America, as Administrative Agent for the Lender Parties, and the other Lender Parties party thereto, (iv) that certain Amendment No. 4 to the Credit Agreement (the "Fourth Amendment") dated as of December 27, 2001, made and entered into by and among Borrower, Bank of America, as Administrative Agent for the Lender Parties, and the

other Lender Parties party thereto, (v) that certain Amendment No. 5 to the Credit Agreement (the "**Fifth Amendment**") dated as of January 24, 2002, made and entered into by and among Borrower, Hudson, as Administrative Agent for the Lender Parties, and the other Lender Parties party thereto, (vi) that certain Amendment No. 6 to the Credit Agreement (the "**Sixth Amendment**") dated February 28, 2002, made and entered into by and among Borrower, Hudson, as Administrative Agent for the Lender Parties and the other Lender Parties party thereto, (vii) that certain Amendment No. 7 to the Credit Agreement (the "**Seventh Amendment**") dated as of April 19, 2002, made and entered into by and among Borrower, Hudson, as Administrative Agent for the Lender Parties, and the other Lender Parties party thereto, and (viii) that certain Amendment No. 8 to the Credit Agreement (the "**Eighth Amendment**") dated as of May 24, 2002, made and entered into by and among Borrower, Hudson, as Administrative Agent for the Lender Parties, and the other Lender Parties party thereto. The Initial Credit Agreement, as so amended, supplemented and modified by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment, and any other amendments, is hereinafter collectively referred to as the "**Credit Agreement**." The capitalized terms defined in the Credit Agreement and not otherwise defined herein are used herein as therein defined.

B. Further reference is hereby made to that certain Mortgage, Assignment, Assignment of Rents, Security Agreement, Fixture Filing and Financing Statement (the "**Mortgage**") dated as of November 7, 2001, executed and delivered by SHN Properties, LLC ("**Grantor**") unto Bank of America, N.A., as Administrative Agent for the Lender Parties, filed for record on February 4, 2002 at 8:07 a.m., recorded under Instrument Number 2002-05712, in the Office of the Judge of Probate of Shelby County, Alabama.

C. Further reference is hereby made to that certain Master Assignment and Acceptance Agreement dated January 24, 2002, pursuant to the terms of which all of the Notes, the Advances and the Loan Documents (including, without limitation, the Mortgage) were assigned to, and assumed by, the current Lender Parties. Additionally, concurrently therewith, Bank of America resigned as Administrative Agent and Hudson was appointed the Administrative Agent, pursuant to that certain Agreement Regarding Loan Administration, a copy of which is attached hereto as Exhibit "B".

D. Borrower has requested Hudson, as Administrative Agent for the Lender Parties, to execute and deliver this Release, and Hudson, as Administrative Agent for the Lender Parties, is willing to do so, subject to the terms and provisions of this Release. Pursuant to the Credit Agreement, Hudson, as Administrative Agent, having its principal office and place of business at 717 N. Harwood Street, Suite 2100, Dallas, Texas 75201, is authorized by the Lender Parties to execute and deliver, on behalf of all of the Lender Parties, any and all documents necessary and appropriate to release the collateral (or any portion thereof) from the lien imposed by the Mortgage.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Hudson, as Administrative Agent for the Lender Parties, hereby remises, releases, quit-claims, exonerates and discharges the lien of the Mortgage from the real property described on Exhibit "A" attached hereto and incorporated herein ("**Released Property**"); provided, however, this Release shall in no way or manner release, discharge, affect or impair any other lien or security interest from or against any other property or the debts, duties, obligations and liabilities of Borrower, Grantor, the Subsidiary Guarantors or any other Person under or in connection with the Mortgage or the Credit Agreement, all of which are and shall continue to be legal, valid, subsisting, binding and enforceable in accordance with their respective terms.

TO HAVE AND TO HOLD the Released Property, with the appurtenances, unto Grantor, its successors and assigns, forever freed, exonerated and discharged of and from the lien of the Mortgage, and every part thereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, this Release has been executed this 17th day of December, 2002.

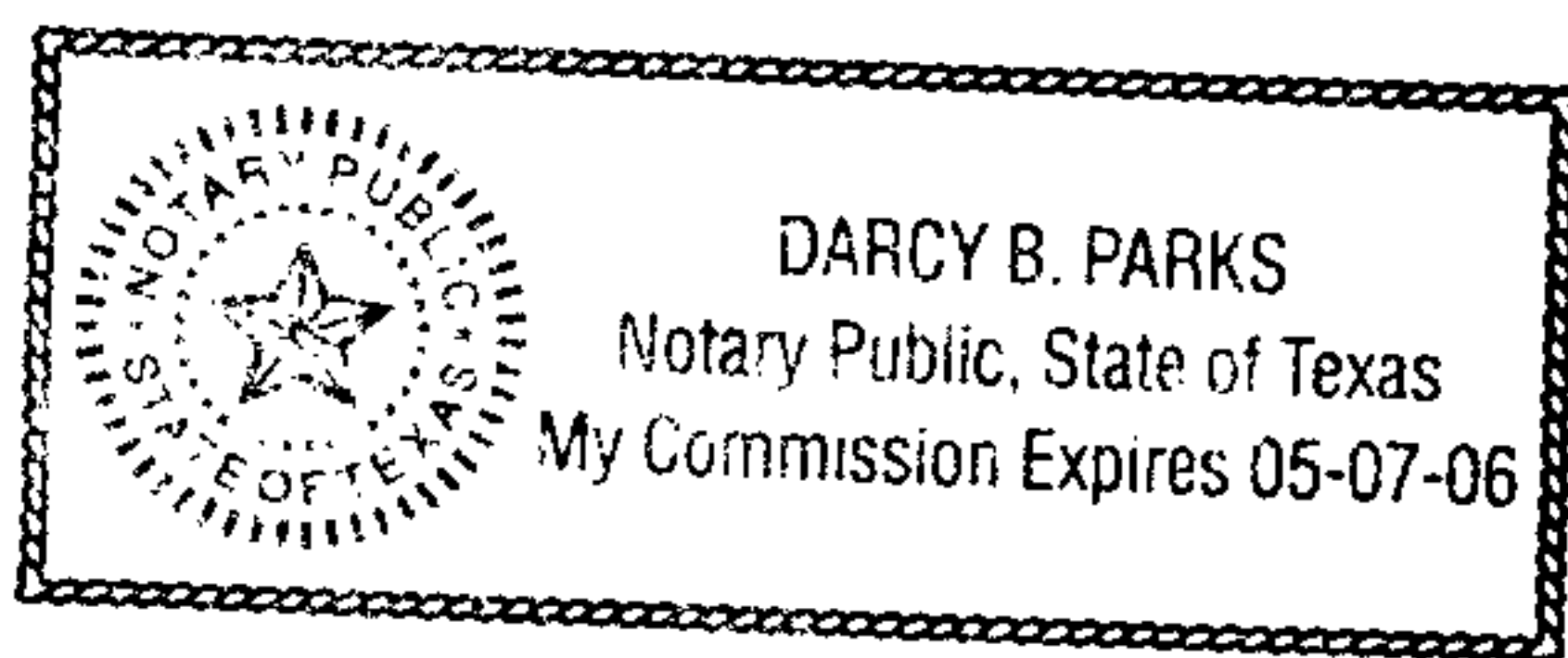
HUDSON ADVISORS, L.L.C.,
a Delaware limited liability company,
as Administrative Agent for the Lender Parties

By: JH Shearer
Name: Steven R. Shearer
Title: Vice President

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

THIS INSTRUMENT WAS ACKNOWLEDGED before me on this 17th day of December, 2002, by Steven R. Shearer, Vice President of Hudson Advisors, L.L.C., as Administrative Agent for the Lender Parties.

(SEAL)



Darcy B. Parks
Notary Public in and for the
State of Texas

Printed Name of Notary: DARCY B. PARKS
My Commission Expires: 5/7/06

EXHIBIT "A"

See attached.

Exhibit A

Store No. 3573
Shelby County, Alabama

Land in Shelby County, Alabama, being more particularly described
as follows:

Tract I:

A part of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 25, Township 20 South, Range 3 West, being more particularly described as follows: Commence at the Southwest corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 25, Township 20 South, Range 3 West and run East along the South line of said $\frac{1}{4}$ - $\frac{1}{4}$ section a distance of 130.60 feet to a point on the Westerly right-of-way line of U. S. Highway No. 31; thence an angle left of 75 degrees 29 minutes and run Northerly along said Westerly right-of-way line a distance of 560 feet to the point of beginning; thence an angle left of 90 degrees and run Northwesterly a distance of 200 feet; thence an angle right of 90 degrees and run Northerly a distance of 115 feet; thence an angle right of 90 degrees and run Easterly a distance of 200 feet to the Westerly right-of-way line of U. S. Highway No. 31; thence an angle right of 90 degrees and run along said Westerly right-of-way line 115 feet to the point of beginning.

Tract II:

A parcel of land situated in the Southwest 1/4 of the Southwest 1/4 of Section 25, Township 20 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of the Southwest one quarter of the Southwest one quarter of Section 25, Township 20 South, Range 3 West, Shelby County, Alabama, and run East along the South line of said quarter-quarter section 130.60 feet to a point on the westerly right of way of U. S. Highway No 31; thence 75 degrees 29 minutes left and run northerly along said westerly right of way 560 feet; thence 90 degrees left leaving said right of way and run northwesterly 200 feet to the point of beginning; thence continue along last stated course 118.23 feet to the easterly right of way of the Louisville-Nashville Railroad; thence 82 degrees 21 minutes thirty seconds right along said railroad right of way 116.03 feet; thence 97 degrees 38 minutes 30 seconds right leaving said railroad right of way and run 133.66 feet; thence 90 degrees right 115 feet to the point of beginning.

LESS AND EXCEPT any portions of Tracts I and II conveyed or taken for rights of way for public streets or roads.

Store No. 3573
(continued)

Exhibit A
(Continued)

Being part of the property conveyed to SHN Properties, LLC, by General Warranty Deed of record under Instrument # 1997-39784, in the Office of the Judge of Probate for Shelby County, Alabama.

Address of Property: 1381 First St. N., Alabaster, Alabama
Tax: 137253001008006
137253001008010

EXHIBIT "B"

See attached.

AGREEMENT REGARDING LOAN ADMINISTRATION

This AGREEMENT REGARDING LOAN ADMINISTRATION (this "Agreement") is entered into as of January 24, 2002, by and among Bank of America, N.A. ("Bank of America"), Hudson Advisors, L.L.C. ("Hudson"), the Lenders (as defined below), and each of the other persons and entities listed on the signature pages hereto (such other persons and entities referred to jointly as the "Loan Parties" and, individually, as a "Loan Party").

W I T N E S S E T H:

WHEREAS, as of September 6, 2000, Captain D's, Inc. (the "Borrower"), Bank of America, individually and as administrative agent, and certain other banks, lenders and financial institutions entered into that certain Credit Agreement whereby, upon the terms and conditions stated therein, such banks, lenders and financial institutions agreed to make loans to the Borrower and to issue (or to purchase risk participations in) certain standby letters of credit issued for the account of the Borrower (as amended and as the same may be further amended, modified, supplemented, renewed, extended, restated and/or increased from time to time, together with any and all refinancings, replacements and/or refundings of same, the "Credit Agreement");

WHEREAS, the Borrower, the Administrative Agent and the Loan Parties have from time to time entered into various other Loan Documents pursuant to the terms of the Credit Agreement;

WHEREAS, as of the date hereof, Balanced High-Yield Fund I, Ltd., Bank of America, Captiva II Finance, Ltd., CypressTree Investment Partners I, Inc., Senior Debt Portfolio, First Allmerica Financial Life Insurance Company, General Electric Capital Corporation, KZH Cypress Tree-1 LLC, KZH Sterling LLC, ML CLO XII Pilgrim America (Cayman) Ltd., ML CLO XV Pilgrim America (Cayman) Ltd., ML CLO XX Pilgrim America (Cayman) Ltd., Morgan Stanley Dean Witter Prime Income Trust, North America Senior Floating Rate Fund, Sequils I, Ltd., Sequils IV, Ltd., Transamerica Business Capital Corporation, Van Kampen Prime Rate Income Trust, Van Kampen Senior Floating Rate Income Trust and Van Kampen Senior Income Trust and have assigned their Commitments and all outstanding Advances to U.S. Restaurant Properties Operating Limited Partnership and Lone Star Fund IV (U.S.), L.P. (each of U.S. Restaurant Properties Operating Limited Partnership and Lone Star Fund IV (U.S.), L.P. is referred to herein as a "Lender" and such entities are collectively referred to herein as the "Lenders");

WHEREAS, as of the date hereof, Bank of America desires to resign as Administrative Agent (as such term is defined in the Credit Agreement) and Hudson has agreed to replace Bank of America in such capacity;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which is hereby acknowledged, the Borrower, Bank of America, Hudson, the Lenders and each other Loan Party agree as follows:

SECTION 1. Certain Definitions.

Unless otherwise defined herein, each capitalized term shall have the meaning set forth in the Credit Agreement.

SECTION 2. Resignation of Bank of America as Administrative Agent; Appointment of Hudson as Successor Administrative Agent.

(a) **Resignation** Pursuant to Section 7.06 of the Credit Agreement, Bank of America hereby (a) resigns as Administrative Agent and, in connection therewith, agrees to deliver to the successor Administrative Agent appointed in clause (c) of this Section 2 the originals of all collateral and documentation evidencing the same, including, without limitation, the Loan Documents held in its possession as Administrative Agent, (b) agrees that, until such time as Bank of America has delivered to Hudson as successor Administrative Agent all Collateral the possession of which is necessary for the perfection of Liens created under the Loan Documents, Bank of America shall hold such Collateral as bailee for the successor Administrative Agent, and (c) agrees that the successor Administrative Agent has the right to file such financing statement amendments and assignments as such successor Administrative Agent deems necessary or appropriate to evidence the transfer of the rights, powers and remedies of Bank of America as Administrative Agent to such successor Administrative Agent. It is understood and agreed by the Borrower that Bank of America shall, until such time as it no longer holds any Collateral or has an obligation hereunder, be a beneficiary of the provisions in Section 8.04(a) and (b) of the Credit Agreement.

(b) **Waiver of Notice**. The Lenders hereby waive the requirements of Section 7.06 of the Credit Agreement relating to written notice from the resigning Administrative Agent of such resignation and agree that the resignation of Bank of America as Administrative Agent shall be effective as of the date of this Agreement.

(c) **Appointment**. Pursuant to Section 7.06 of the Credit Agreement, the Required Lenders hereby appoint Hudson as successor Administrative Agent of the Lenders under the Credit Agreement, under the Notes and under the other Loan Documents upon the express conditions contained in Article 7 of the Credit Agreement.

(d) **Acceptance**. Hudson hereby agrees to act as Administrative Agent upon the express conditions contained in Article 7 of the Credit Agreement.

(e) **Further Assurances**. Bank of America hereby agrees to execute and deliver or cause to be executed and delivered to Hudson true and correct copies of any other Loan Documents in Bank of America's possession and any assignments or other instruments of conveyance and transfer as Hudson may reasonably request or as may be otherwise necessary or appropriate to more effectively convey and transfer to Hudson a valid and enforceable security interest in the Collateral.

SECTION 3. Applicable Law.

THIS AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK.

SECTION 4. Successors and Assigns.

This Agreement shall benefit and bind the parties hereto and their respective assigns, successors and legal representatives. No provision of this Agreement may be amended without the prior written consent of the parties hereto.

SECTION 5. Counterparts.

This Agreement may be executed in two or more counterparts, and it shall not be necessary that the signatures of all parties hereto be contained on any one counterpart hereof; each counterpart shall be deemed an original, but all of which together shall constitute one and the same instrument.

SECTION 6. Titles of Sections.

All titles or headings to the sections or other divisions of this Agreement are only for the convenience of the parties and shall not be construed to have any effect or meaning with respect to the other content of such sections, subsections or other divisions, such other content being controlling as to the agreement between the parties hereto.

SECTION 7. Fees Payable to Bank of America. The Borrower shall pay to Bank of America all outstanding and unpaid fees set forth in the Administrative Agent's fee letter referred to in Section 2.08(c) of the Credit Agreement.

SECTION 8. FINAL AGREEMENT.

THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT AMONG THE PARTIES WITH RESPECT TO THE SUBJECT MATTER COVERED HEREBY AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BY THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN OR AMONG THE PARTIES. THE RIGHTS AND OBLIGATIONS OF THE PARTIES TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE DETERMINED SOLELY FROM THIS WRITTEN AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ANY PRIOR ORAL AGREEMENTS BETWEEN OR AMONG THE PARTIES ARE SUPERSEDED BY AND MERGED INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS. ALL REPRESENTATIONS, WARRANTIES, COVENANTS, AGREEMENTS AND INDEMNITIES SHALL SURVIVE THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

SECTION 9. Severability.

In the event that any one or more of the provisions contained in this Agreement shall be determined invalid, illegal or unenforceable in any respect for any reason, the validity, legality

and enforceability of any such provision or provisions in every other respect and the remaining provisions of this Agreement shall not be impaired in any way.

SECTION 10. Loan Document.

This Agreement constitutes a Loan Document. All references in each of the Loan Documents to the "Credit Agreement" (or other similar term) shall refer to the Credit Agreement (as defined in the recitals hereto) and because this Agreement is a Loan Document, the provisions relating to Loan Documents set forth in the Credit Agreement are incorporated herein by reference, the same as if set forth herein verbatim.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

[SIGNATURE PAGES FOLLOW]

**AGREEMENT REGARDING LOAN ADMINISTRATION
SIGNATURE PAGE 1**

BANK OF AMERICA, N.A.

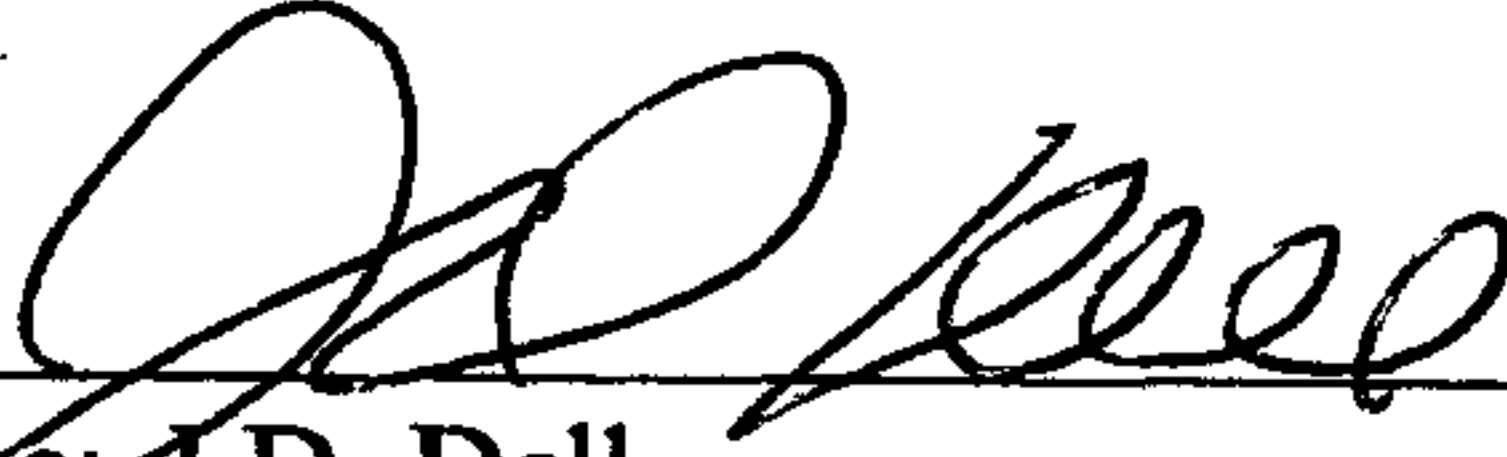
By: 

Name: Charles A. Katt

Title: Managing Director

**AGREEMENT REGARDING LOAN ADMINISTRATION
SIGNATURE PAGE 2**

HUDSON ADVISORS, L.L.C., as Administrative
Agent

By: 
Name: J.D. Dell
Title: Executive Vice President

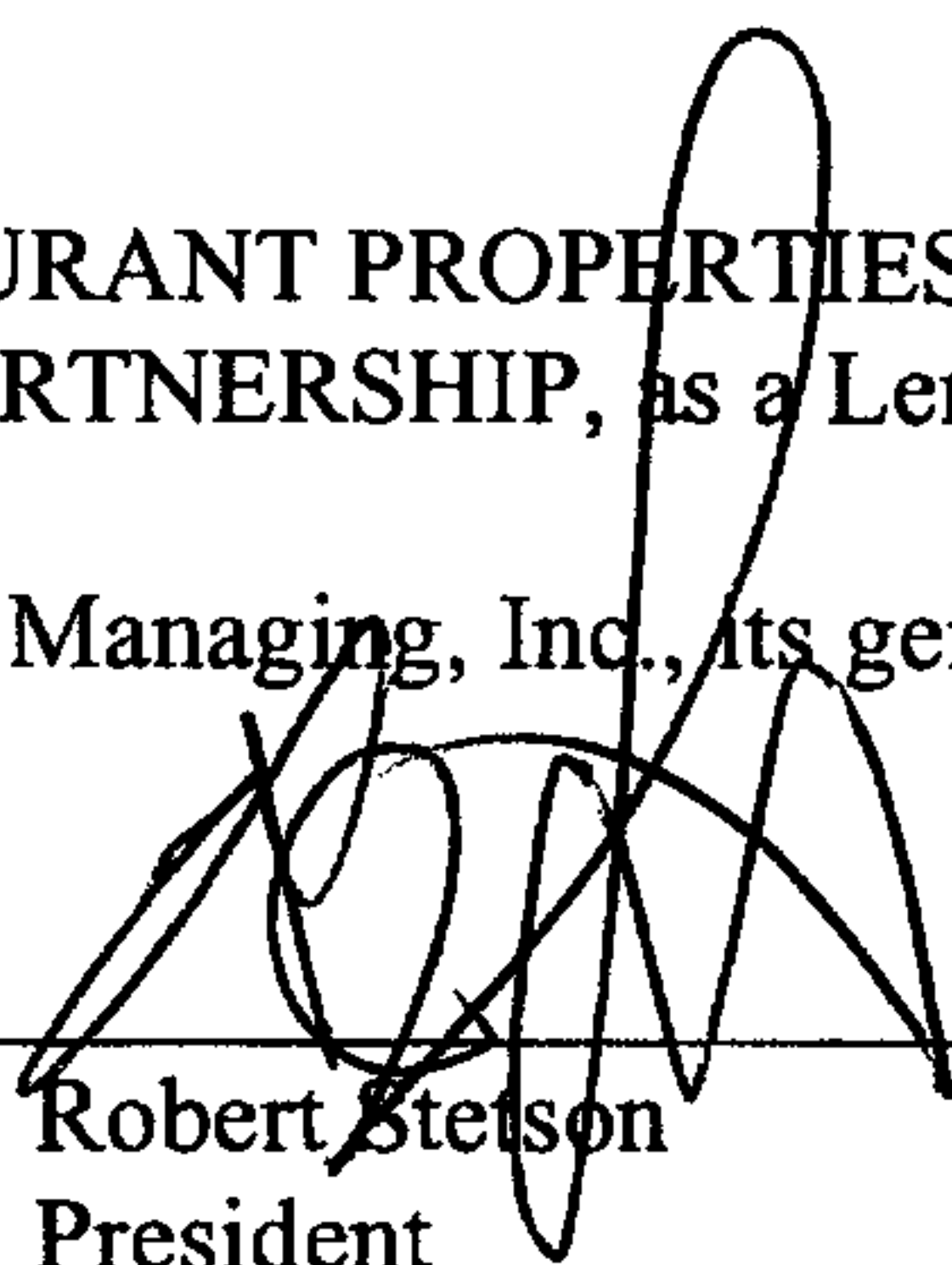
Address:

Hudson Advisors, L.L.C.
600 North Pearl Street
Suite 1500, LB 164
Dallas, Texas 75201
Fax No.: (214) 754-8302
Attention: Ms. Leigh Rea

**AGREEMENT REGARDING LOAN ADMINISTRATION
SIGNATURE PAGE 3**

**U.S. RESTAURANT PROPERTIES OPERATING
LIMITED PARTNERSHIP, as a Lender**

By: USRP Managing, Inc., its general partner

By: 
Name: Robert Stetson
Title: President

Address:

U.S. Restaurant Properties Operating
Limited Partnership
12240 Inwood Road
Suite 200
Dallas, Texas 75244
Fax No.: (972) 387-1487
Attention: David Fortune

AGREEMENT REGARDING LOAN ADMINISTRATION
SIGNATURE PAGE 4

LONE STAR FUND IV (U.S.), L.P., as Lender

By: Lone Star Partners IV, L.P.
its general partner

By: Lone Star Management Co. IV, Ltd.
its general partner

By: 
Name: J.D. Dell
Title: Vice President

Address:

Lone Star Fund IV (U.S.), L.P.
c/o Hudson Advisors, LLC
600 North Pearl Street
Suite 1500, LB 164
Dallas, Texas 75201
Telephone: (214) 754-8400
Fax No. (214) 754-8302
Attention: Ms. Leigh Rea

**AGREEMENT REGARDING LOAN ADMINISTRATION
SIGNATURE PAGE 5**

BORROWER:

CAPTAIN D'S, INC.

By: Donna M. Adams
Name: Donna M. Adams
Title: Vice President and Assistant Secretary

OTHER LOAN PARTIES:

SHN PROPERTIES, LLC

By: Captain D's, Inc., Managing Member

By: Donna M. Adams
Name: Donna M. Adams
Title: Vice President and Assistant Secretary

CAPTAIN D'S REALTY, LLC

By: Captain D's, Inc., Managing Member

By: Donna M. Adams
Name: Donna M. Adams
Title: Vice President and Assistant Secretary

D'S EQUIPMENT CO., INC.

By: Donna M. Adams
Name: Donna M. Adams
Title: Vice President and Assistant Secretary

CAPTAIN D'S HOLDINGS, INC.

By: Donna M. Adams
Name: Donna M. Adams
Title: Vice President and Secretary

CAPTAIN D'S OF ILLINOIS, LLC

By: Captain D's Holdings, Inc., Sole Member

By: Donna M. Adams
Name: Donna M. Adams
Title: Vice President and Secretary