

H. B. Reese

Draft of July 1, 1963

HERSHEY-REESE & REECO

CLOSING AGENDA

(Note: All dates herein refer to 1963)

I

TIME OF CLOSING:

Tuesday, July 2; at 2:00 P.M. E.D.S.T.

II

PLACE OF CLOSING:

Library, McNees, Wallace & Nurick
12th Floor, Commerce Building
Harrisburg, Pa.

13.285 McNees

III

DEFINITIONS

The following terms have the following respective meanings:

"Company" -- Eseeer, Inc. (former name "H. B. Reese Candy Company"), a Pennsylvania corporation

"Reeco" -- Reeco, Inc., a Pennsylvania corporation

"Hershey" -- Hershey Chocolate Corporation, a Delaware corporation

"New Corporation" -- H. B. Reese Candy Co., Inc. a Delaware corporation (former name "M.S.H. Corporation")

"Agreement" -- Agreement and Plan of Reorganization between above named four parties dated April 11, 1963

"M.W.&N." -- the law firm of McNees, Wallace & Nurick, Commerce Building, Harrisburg, Pa. - Counsel for the Company and Reeco.

MATTERS TO BE PERFORMED PRIOR TO THE CLOSING

(References in the left hand margin are to related Sections of the Agreement.)

A. Matters Relating to Action by the Company:

- 9.01(a) A special meeting of the Directors of the Company was held on April 9 and a special meeting of the stockholders was held on April 10 at which resolutions responsive to 9.01(a) were adopted.
- 10.01 A special meeting of the Directors of the Company was held June 26, and a special meeting of the stockholders was held on June 27 to adopt resolutions pursuant to 10.01 of Agreement and Section 11.02 of B.C.L.
- 5.01 On April 26 the Company and Reeco furnished to Hershey and the New Corporation a legal opinion as to the title of the real estate described in Schedule A of the Agreement.
- 9.03 On May 7 an application for ruling was filed with the Reorganization Section of the Tax Rulings Branch of I.R.S. This application was supplemented by letters from M.W.&N. of May 28 and June 10 and by letters from William F. Saunders of May 29 and June 12. A ruling was issued on June 25 and supplemented on July .
- 3.02(d) On June 4, the Company redeemed its Series B preferred stock by an expenditure of not more than \$84,000 plus accrued and unpaid preferred dividends to the date of redemption.
- 3.02(e) On June 26 the Company (pursuant to waiver of notice signed by Trustee and all participants) amended its Pension Trust Agreement as required in Section 3.02(e).
- 3.02(f) Prior to the closing the Company prepared a written statement suitable for practical application of the formulae and processes as required by Section 3.02(f). This should be placed in a sealed envelope to which is attached a certificate of Mr. Robert H. Reese and Mr. George D. McClees that in their judgment the statement complies with the standards set forth in Section 3.02(f).
- 3.02(g) On July 1 the Company gave to the Department of Revenue of the State of Pennsylvania the Notice of Sale required by applicable law.
- 9.01(g) On June 27 the name of the Company was changed to Eseer, Inc. M.W.&N. arranged for the required publication.

B. Matters Relating to Action by Reeco:

- 9:02 A special meeting of the Directors of the Company was held on April 9 and a special meeting of the stockholders was held on April 10 at which resolutions responsive to 9.01 (a) (as applied to Reeco instead of the Company) were adopted.
- 10.01 A special meeting of the Directors of Reeco was held on June 26 and a special meeting of the stockholders was held on June 27 to adopt resolutions pursuant to Section 10.01 of the Agreement and pursuant to Section 11.02 of B.C.L.

C. Matters Relating to Action of Hershey:

- 9.04 (c) On April 11 the Directors of Hershey took action responsive to 9.04(c). Certified copies of resolutions are to be delivered to S.A.S.

On May 6 Hershey paid \$100,000 to the New Corporation for 1,000 shares of no par common stock of the New Corporation.

On June 26 Hershey paid \$22,987,902 to the New Corporation for 19,000 additional shares of no par common stock of the New Corporation.

D. Matters Relating to Action of the New Corporation

At the close of business June 6 Hershey Trust Company as Trustee for Milton Hershey School, M. S. Hershey Foundation and Derry Township School District agreed to sell to the New Corporation 273,084 (of which 34,000 came from Hershey Estates), 75,000 and 125,000 shares, respectively, of stock of Hershey Chocolate Corporation owned by such trusts, or 473,084 shares in the aggregate, and Hershey Trust Company as Trustee for Milton Hershey School agreed to make up any deficiency if tenders by stockholders other than such three trusts amounted to less than 193,232 shares. The price per share was \$34.50. Pursuant to an announcement made before the opening of the Stock Exchange on June 7, the New Corporation solicited tenders from other stockholders by letter dated June 11. The period for tender expired at 5 o'clock June 25. Tenders by stockholders in acceptable form amounted to 47,881 shares. Certain additional tenders were made as to which deficiencies were noted. Arrangements were made for the purchase at \$34.50 per share of these additional shares as deficiencies were cured and the resale thereof at \$34.50 per share to Hershey Trust Company as Trustee for Milton Hershey School. On June 28 Hershey Trust Company as Trustee for Milton Hershey School sold 145,351 shares to the New Corporation to make up the deficiency in tenders.

Pursuant to action taken on June 24, the Certificate of Incorporation of the New Corporation was amended on June 25 increasing the number of authorized shares of capital stock to 20,000 shares of no par capital stock and changing the name of the New Corporation to "H.B. Reese Candy Co., Inc."

On June 27 the New Corporation filed with the Corporation Bureau of the Department of State of Pennsylvania its application for a Certificate of Authority to Transact Business. M.W.&N. arranged for the necessary publication.

9.04(c) On April 11, the Directors of the New Corporation took action responsive to 9.04(c). Certified copies of resolutions are to be delivered to S.A.S.

E. Matters Relating to Action by all four parties to the Agreement.

1. On June 26 the parties amended the Agreement of April 11 to eliminate Schedule J and any requirement of a non-compete agreement.

VI

DOCUMENTS TO BE DELIVERED AT CLOSING:

IMPORTANT NOTE:

1. Please insert respective document numbers designated herein at upper right hand corner of page 1 of the documents.
2. So far as possible, all documents should be cleared and executed on July 1 prior to the time of closing.
3. PRIOR TO THE CLOSING NO DOCUMENTS WILL BE DEEMED DELIVERED. ALL DOCUMENTS ARE TO BE RETURNED TO THE RESPECTIVE SOURCES IF FOR ANY REASON THE CLOSING DOES NOT OCCUR.

A. Documents for delivery to Hershey and New Corporation

Document Number and person having initial drafting responsibility		Refers to Agreement		
		Section	Page	
5.01	(S.A.S.)	5.01	14	Title opinion brought down to date
6.01(b)		6.01(b)	14	Investment letter agreement in form of Schedule H
		7.01	15	NO DOCUMENT. Since stock delivered will consist exclusively of outstanding and listed stock, no Listing Application to New York Stock Exchange is required
9.01(a)	(S.A.S)	9.01(a)	15	Certified copy of resolutions of directors and stockholders of the Company responsive to 9.01(a).
9.01(b)	(S.A.S)	9.01(b)	16	Supplemental Board resolutions by Board of the Company.
9.01(c)	(S.A.S)	9.01(c)	16	Statement signed by all Reese stockholders that they have not assigned or disposed of or agreed to assign or dispose of any of their Class A Preferred or common of the Company or any common of Reeco.
9.01(d)	(S.A.S.)	9.01(d)	16	Certificates of selling common stockholders responsive to 9.01(d).
9.01(e)	(S.A.S.)	9.01(e)	16	N.W.&N. legal opinion re Company and Reeco transactions.
9.01(f)(I)	(S.A.S.)	9.01(f)	17	Deed from the Company of the old plant

9.01(f)(II)	(W.H.R.& S.A.S.)	9.01(f)	17	Assignment of specific equipment from Company to New Corporation
9.01(f)(III)	(S.A.S)	9.01(f)	17	Assignment of trademark from Company to New Corporation
9.01(f)(IV)	(S.A.S)	9.01(f)	17	Assignment of motor vehicles.
9.01(f)(V)	(W.H.R.& S.A.S.)	9.01(f)	17	Instrument constituting the blanket assignment of all assets, in the detail specified on page 17. (Four instruments)
9.01(g)		9.01(g)	17	Evidence of change of name of the Company to "Eseer, Inc."
9.01(f)(VI)				Stock certificates plus executed blank stock powers covering all outstanding stock of H. B. Reese Candy Company of Canada, Limited.
9.01(h)	(S.A.S)	9.01(h)	17	Release by brokers
9.01(i)		9.01(i)	18	Combination indemnification and escrow agreement as in Schedule I
		9.01(j)	18	NO DOCUMENT. (Non-compete agreement eliminated.)
9.01(k)		9.01(k)	18	Sealed envelope containing formulae and processes accompanied by certificate of Mr. Robert H. Reese and Mr. George D. McClees
9.01(l)	(S.A.S)	9.01(l)	18	Resignations of directors and officers of H. B. Reese Candy Company of Canada, Limited
9.02(a)	(S.A.S.)	9.02	18	Certified copy of resolutions of the directors and stockholders of Reeco responsive to 9.01(a)
9.02(b)	(S.A.S.)	9.02	18	Certified copy of supplemental resolution adopted by Board of Directors of Reeco
9.02(d)	(S.A.S)	9.02	18	Certificate of Reeco selling stockholders as to Reeco similar to certificate responsive to 9.01(d)
9.02(f)(I)	(S.A.S)	9.02	18	Deed of new plant from Reeco to New Corporation
9.02(f)(II)	(S.A.S.)	9.02	18	Blanket assignment of assets from Reeco to New Corporation

B. Documents for delivery to the Company and Reeco

9.04(a) (I)	9.04(a)	19	A single stock certificate representing 10,000 outstanding shares of Hershey stock issued in name of Reeco and a stock certificate representing 656,316 shares of Hershey stock issued in the name of the Company.
9.04(a) (II) (W.H.R.)	9.04(a)	19	Letter from the Company and Reeco addressed to the New Corporation and acknowledging receipt of 656,316 and 10,000 shares, respectively, of the common stock of Hershey.
9.04(b)	9.04(b)	19	Evidence satisfactory to S.A.S. that Hershey shares are admitted to list on the New York Stock Exchange.
9.04(c) (I) (W.H.R.)	9.04(c)	19	Certified copy of resolutions adopted by Board of Hershey responsive to 9.04(c).
9.04(c) (II)(W.H.R.)	9.04(c)	19	Certified copy of resolutions adopted by Board of New Corporation responsive to 9.04(c) and also approving amendment of Agreement to eliminate non-compete agreement.
9.04(d) (W.H.R.)	9.04(d)	20	Legal opinion of D.B.&M.

C. Documents to be delivered to First National City Bank

Document
Number

B-1

Stock power assigning 656,316 shares of Hershey common stock to the Company. To be signed by New Corporation with signature guaranteed by Hershey National Bank.

B-2

Stock power assigning 10,000 shares of Hershey common stock to Reeco. To be assigned by New Corporation with signatures guaranteed by Hershey National Bank.

B-3

Certified resolutions of Board of New Corporation authorizing above two assignments, combined with incumbency certificate.

B-4

Letter of New Corporation to Bank authorizing charging its bank account with cost of stock transfer stamps.

- B-5 Stock power assigning 8 shares of common stock of Hershey to the Company. To be signed by owner with signature guaranteed.
- B-6 Stock certificate for 8 or more shares of Hershey common--covered by above assignment.
- B-7 Stock power assigning 656,324 shares of Hershey common stock to stockholders of the Company. To be signed by the Company with signatures guaranteed.
- B-8 Certified resolutions of the Board of Directors of the Company authorizing such assignment--combined with incumbency certificate.
- B-9 Certified check of the Company for stock transfer stamps.
- B-10 Stock power assigning 10,000 shares of Hershey common stock to stockholders of Reeco. To be signed by Reeco with signature guaranteed.
- B-11 Certified resolutions of the Board of Directors of Reeco authorizing such assignment--combined with incumbency certificate.
- B-12 Certified check of Reeco for stock transfer stamps.
- B-13 (a) to (f) Stock powers from six Reese brothers to Hertrus & Co. with signatures guaranteed viz.
- B-14 (a) to (f) Six certified checks for stock transfer tax on assignment to Hertrus & Co.
- B-15 The following receipts for Hershey stock:
- | | |
|---------------|--------|
| Hertrus & Co. | shares |
|---------------|--------|

B-16

Letter from Hershey giving "stop transfer" instruction concerning the 666,316 shares involved in the transaction (responsive to section 6 of investment letter).

D. Documents to be received by Hershey Chocolate Corporation

H-1 (a-f)

Stock certificates issued in the names of the following persons and representing the following number of shares of Hershey Common stock:

<u>Names</u>	<u>Aggregate Number of Shares</u>
Robert H. Reese	20,000
John M. Reese	20,000
Edward I. Reese	15,000
Ralph C. Reese	15,000
Harry B. Reese, Jr.	15,000
C. Richard Reese	<u>15,000</u>
	100,000

H-2 (a-f)

20 blank stock powers signed by each of above persons covering an unnamed number of shares of common stock of Hershey (to cover possible future transfers of above stock certificate and any stock certificates issued in exchange therefor). Signatures guaranteed.

H-3

Agreement from Hershey Trust Company and S.A.S. responsive to section 4(d)(iii) of investment letter agreement.

"S.A.S." -- Samuel A. Schreckengaust, Jr., Esq. of M.W.&N.

"D.B. & M." -- the law firm of Dunnington, Bartholow &
Miller
161 East 42nd Street, New York 17, N.Y.
Counsel for Hershey and New Corporation

"W.H.R." -- William H. Radebaugh, Esq. of D.B.&M.

IV

PERSONS TO ATTEND CLOSING:

For the Company:

Mr. Robert H. Reese, Chairman
Mr. John M. Reese, President
Mr. Ralph C. Reese, Secretary (with corporate seal)
Mr. Edward I. Reese
Mr. George D. McClees, Executive Vice President
Samuel A. Schreckengaust, Jr., Esq. (M.W.&N.)
Arthur L. Berger, Esq. (M.W.&N.)

For Reeco:

Mr. Harry B. Reese, Jr., President
Mr. Charles R. Reese, Secretary (with corporate seal)
Samuel A. Schreckengaust, Jr., Esq. (M.W.&N.)
Arthur L. Berger, Esq. (M.W.&N.)

For Hershey and the New Corporation:

Mr. William E. Schiller, Vice President
Mr. Richard L. Uhrich, Secretary (with corporate seals)
William H. Radebaugh, Esq. (D.B.&M.)
William F. Saunders, Esq. (D.B.&M.)
Maurice M. Lynch, Jr., Esq. (D.B.&M.)

For First National City Bank, Transfer Agent of Hershey:

Mr. William M. Crane, Asst. Vice-President

For Hershey Trust Company:

Mr. Arthur R. Whiteman President
Mr. Joseph S. Gumpher Secretary