

# EXHIBIT 9

## **DECLARATION OF GREGORY M. AMOROSO**

1. My name is Gregory M. Amoroso. I make this Declaration in support of the Petition to Quash filed before the Federal Trade Commission (“FTC”) by Hannaford Bros. Co. (“Hannaford”) and Kash n’ Karry Food Stores, Inc. (“Sweetbay”).

2. I am over 18 years old and competent to make this Declaration.

3. I am currently the Senior Vice President, Corporate Development for Delhaize America, a parent company of Hannaford and Sweetbay. I have held this position since May, 2010. Before that, I worked for four years at Hannaford as the lead finance officer, including as Chief Financial Officer.

4. I have reviewed the three CIDs the FTC issued to Hannaford and Sweetbay. Based on my understanding of the requests, I believe that it will be very costly and time-consuming for Hannaford and Sweetbay to respond to these CIDs.

5. While it is difficult to quantify the costs that would be incurred in responding to the CIDs before documents are searched for and reviewed, here we at least have a starting point. Starting in March 2008, the FTC previously sent four voluntary access letters to Hannaford seeking in connection with this investigation. Those letters sought responses to written questions and the production of documents from Hannaford.

6. Hannaford responded to those letters by providing written responses to twenty (20) questions and producing more than 130,000 pages of documents. I am aware that Hannaford has described to the FTC the process by which it searched for, reviewed and produced those 130,000 pages of documents. *See* Letter from John Woods to Alain Sheer, dated December 3, 2010. That process included identifying key custodians who might have relevant

and responsive information, collecting and preserving hard copy documents and electronic data, and performing an iterative keyword methodology process identifying documents responsive to the FTC's voluntary access requests, reviewing those documents for responsiveness and privilege by knowledgeable law firm associates, and providing the aforementioned documents.

7. I have requested and received information from internal sources and outside counsel about the costs incurred by Hannaford in connection with the search, review and production necessary to respond to the requests in the voluntary access letters. The costs for the document gathering, hosting, review and production alone were approximately \$500,000. This does not include other costs, such as the time lost by various Hannaford employees in addressing the FTC's demands.

8. Hannaford has also spent more than \$2 million on other legal fees in connection with the FTC's almost three-year old investigation, in addition to the legal fees related to the review and production of the 130,000 pages of documents.

9. The new CIDs are significantly broader than the original requests. The Second Hannaford CID requires Hannaford to effectively redo everything it had done previously, but for a different time period (the applicable period in the Second Hannaford CID runs through December 23, 2009, but Hannaford's previous productions were well before that date). The First Hannaford CID and the Sweetbay CID ask wholly new questions and seek documents that had not previously been sought.

10. Moreover, some of the CID requests implicate numerous divisions of both Hannaford and Sweetbay. For example, Document Request No. 5 in the first Hannaford CID and Document Request No. 12 in the Sweetbay CID ask both companies to produce "all documents that describe, evaluate, or analyze the purchasing practices of Hannaford's [or

Sweetbay's] customers." On its face, this would include almost all sales data and almost all evaluations and analyses of sales data. Both Hannaford and Sweetbay have large teams of employees engaged in these exercises on a constant basis. The volume of documents requested would be enormous.

11. As another example, Interrogatory No. 24 appears, on its face, to require Hannaford to query hundreds of employees about their knowledge of each PCI DSS requirement, and to identify all documents that disprove the apparent assertion in interrogatory that some Hannaford employee was aware that despite Cybertrust's certification of Hannaford as compliant with the PCI DSS requirements, Hannaford was not in fact in compliance. Indeed, read literally, this request could call for all documents within Hannaford, as any document that does not show actual knowledge would demonstrate the lack thereof.

12. As a result of the issuance of the CIDs, Hannaford and Sweetbay have issued a legal hold that now covers more than 200 employees. While it is not likely that the documents from all of these employees will need to be searched, reviewed and produced, if even 25% need to be, that will involve more than 50 employees. It is also likely that documents from at least 10, and probably more, ex-employees will need to be searched, reviewed and produced.


13. Given the significantly larger number of custodians implicated, it is reasonable to estimate that the volume of data that needs to be collected will be significantly larger than the 181.75 GB that was previously collected. Based on Hannaford's previous experience in this matter and my general understanding of costs in connection with electronic discovery, I can conservatively estimate that the document gathering, review and production costs that will be incurred in responding to the newly issued CIDs will likely be, at a minimum, four times greater

than the costs previously incurred, which would result in additional costs of more than \$2 million just for the document gathering, review and production.

14. This does not include the other costs, including the legal fees associated with responding to the large number of questions seeking narrative responses and the disruption caused by the diversion of employees from their jobs. It also does not include costs associated with the production of a privilege log, which I understand from counsel could be very substantial in this matter.

15. Grocery retail is a high-volume, low margin business, with after-tax profit margins generally running below 3%. Incurring what appear to be unnecessary costs given the already excessive costs incurred in responding to the FTC's investigation would create an undue burden on Hannaford and Sweetbay's business.

I declare under penalty of perjury of that the foregoing is true and correct.

  
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Gregory M. Amoroso

Executed on December 16, 2010