| UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE | PROOF OF CLAIM |
|---|---|
| In re Fleming Companies, Inc | Case Number 03-10945 (MFW) |

505727

Bar Date Ref # 2-NC-1606000

NOTE This form should not be used to make a claim for an administrative expense arising after the commencement of the case A "request" for payment of an administrative expense may be filed pursuant to 11 U S C § 503

**Name of Creditor and Address**

0354653505727

PHAR-MOR HEADQUARTERS
20 FEDERAL Plz W
PO BOX 400
YOUNGSTOWN OH 44501

Creditor Telephone Number ( ) 330-740-2920

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim Attach copy of statement giving particulars

☐ Check box if you have never received any notices from the bankruptcy court in this case

☐ Check box if this address differs from the address on the envelope sent to you by the court

If you have already filed a proof of claim with the Bankruptcy Court or BMC you do not need to file again

CREDITOR TAX I D # 25-1466309

ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR

Check here if this claim ☐ replaces or ☐ amends a previously filed claim dated _____

**1 BASIS FOR CLAIM**

☐ Goods sold
☐ Services performed
☐ Money loaned
☐ Personal injury/wrongful death
☐ Taxes
☒ Other (describe briefly) Money Drawn on Letter of Credit
☐ Retiree benefits as defined in 11 U S C § 1114(a)
☐ Wages salaries and compensation (Fill out below)

Your social security number _____

Unpaid compensation for services performed from _____ (date) to _____ (date)

**2 DATE DEBT WAS INCURRED** 10/11/02

**3 IF COURT JUDGMENT, DATE OBTAINED**

**4 TOTAL AMOUNT OF CLAIM AS OF PETITION DATE**

| $ (unsecured) | $ 185,058.06 (secured) | $ (unsecured priority) | $ 185,058.06 (total) |
|---|---|---|---|

**If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below**

☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim Attach itemized statement of all interest or additional charges

**5 SECURED CLAIM**

☒ Check this box if your claim is secured by collateral (including a right of setoff)

Brief description of collateral

☐ Real Estate
☐ Motor Vehicle
☒ Other Right of Setoff of Amounts Due in Phar-mor Bankruptcy

Value of collateral $ 185,058.06

Amount of arrearage and other charges at time case filed included in secured claim above if any $ 0

**6 UNSECURED PRIORITY CLAIM**

☐ Check this box if you have an unsecured priority claim

Specify the priority of the claim

☐ Wages salaries or commissions (up to $4 650*) earned within 90 days before filing of the bankruptcy petition or cessation of the Debtor s business whichever is earlier 11 U S C § 507(a)(3)
☐ Contributions to an employee benefit plan 11 U S C § 507(a)(4)
☐ Up to $2 100* of deposits toward purchase lease or rental of property or services for personal family or household use 11 U S C § 507(a)(6)
☐ Alimony maintenance or support owed to a spouse former spouse or child 11 U S C § 507(a)(7)
☐ Taxes or penalties owed to governmental units 11 U S C § 507(a)(8)
☐ Other Specify applicable paragraph of 11 U S C § 507(a) _____

*Amounts are subject to adjustment on 4/1/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment*

**7 CREDITS** The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim

**8 SUPPORTING DOCUMENTS** *Attach copies of supporting documents* such as promissory notes purchase orders invoices itemized statements of running accounts contracts court judgments mortgages security agreements and evidence of perfection of lien DO NOT SEND ORIGINAL DOCUMENTS If the documents are not available explain If the documents are voluminous attach a summary

**9 DATE-STAMPED COPY To receive an acknowledgment of your claim, please enclose a self-addressed stamped envelope and an additional copy of this proof of claim**

**The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is received on or before 4 00 p m , September 15, 2003, Pacific Daylight Time**

**THIS SPACE FOR COURT USE ONLY**

FILED
AUG 11 2003
BMC

**BY MAIL TO**
Bankruptcy Management Corporation
P O BOX 900
El Segundo CA 90245-0900

**BY HAND OR OVERNIGHT DELIVERY TO**
Bankruptcy Management Corporation
1330 East Franklin Avenue
El Segundo, CA 90245

DATE SIGNED

**SIGN** and print the name and title if any of the creditor or other person authorized to file this claim (attach copy of power of attorney if any)

Martin S Seekely Chief Financial Officer

Penalty for presenting fraudulent claim is a fine of up to $500 000 or imprisonment for up to 5 years or both 18 U S C §§ 152 AND 3571

***See Other Side For Instructions***

Fleming Companies Claim
03360

04114 ***Speed Release* (Inquiry)**

Action Code I
Supplier Number 75784 FLEMING COMPA
Job or BU
G/L Bank Account

Net Due Date _____ To _____
Invoice Date _____ To _____
Sort/Seq _
Pay Stat-From _ To _
Document Type __
G/L Offset ____
Pay Instrument * To *
Approver Num * _____ To * _____

Pay Stat 'A' Total 185,058 06-
Grand Total 185,058 06-

| O P | Name | Invoice Number | Net Due Date | Open Amount | P S | P I |
|---|---|---|---|---|---|---|
| _ | FLEMING COMPANIES INC | 797627-01 | 08/11/02 | 420 09- | A | _ |
| _ | FLEMING COMPANIES INC | 261688 | 09/01/02 | 98 96 | A | _ |
| _ | FLEMING COMPANIES INC | 21704 | 09/01/02 | 25 00 | A | _ |
| _ | FLEMING COMPANIES INC | LOC DEDUCTIONS | 10/11/02 | 184,761 93- | A | _ |
| | Pay Status 'A' Total | | | 185,058 06- | | |
| | Grand Total - | | | 185,058 06- | | |

**O: 1=Split F2=Fmt F4=Dtl F6=Update F8=Addn'l Sel F9=NS F24=More**

**UNITED STATES BANKRUPTCY COURT**
**FOR THE DISTRICT OF DELAWARE**

**In re Fleming Companies, Inc. et al**
**Case No. 03-10945-(MFW)-11**

# DOCUMENTS APPENDED TO CLAIM

On July 1, 2005, document(s) were appended to Claim Number **3360** for the following reason(s)

- ☐ Stipulation and Agreement Dated ###
- ☐ New Supporting Documents
- ☐ Letter and Notice Dated ###
- ☐ Notice of Withdrawal of Claim
- ☒ Other Docket 8202

**IN THE UNITED STATES BANKRUPTCY COURT**
**FOR THE DISTRICT OF DELAWARE**

| | | |
|---|---|---|
| In re· | ) | Chapter 11 |
| | ) | |
| Fleming Companies, Inc , et al ,[2] | ) | Case No 03-10945 (MFW) |
| | ) | (Jointly Administered) |
| | ) | |
| Debtors | ) | **[Related to Docket No. 8202]** |

**ORDER APPROVING JOINT STIPULATION AND**
**SETTLEMENT AGREEMENT WITH PHAR-MOR, INC., ET AL.**

Upon consideration of the motion (the "Motion")[3] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for an order pursuant to 11 U S C § 105(a) and Fed R Bankr P 9019(a) for approval of a settlement of claims with Phar-Mor, Inc , *et al* , debtors and debtors in possession under chapter 11 of the Bankruptcy Code (collectively, the "Settling Parties"), as memorialized by the Joint Stipulation and Settlement Agreement by and Between Debtors and Fleming Companies, Inc , attached to the Motion as Exhibit A (the "Settlement Agreement"), it appearing that the Court has jurisdiction to consider the Motion pursuant to 28 U S C § 1334 and that this matter is a core matter pursuant to 28 U S.C § 157(b)(2), and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors and their creditors, and it appearing that due notice of the Motion has been given, and that no further notice need be given, and sufficient cause appearing therefor,

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[2] The Debtors are the following entities Core-Mark International, Inc , Fleming Companies, Inc , ABCO Food Group, Inc , ABCO Markets, Inc , ABCO Realty Corp , ASI Office Automation, Inc , C/M Products, Inc , Core-Mark Interrelated Companies, Inc , Core-Mark Mid-Continent, Inc , Dunigan Fuels, Inc , Favar Concepts, Ltd , Fleming Foods Management Co , L L C Fleming Foods of Texas, L P , Fleming International, Ltd , Fleming Supermarkets of Florida, Inc , Fleming Transportation Service, Inc , Food 4 Less Beverage Company, Inc Fuelserv, Inc General Acceptance Corporation, Head Distributing Company, Marquise Ventures Company, Inc , Minter-Weisman Co , Piggly Wiggly Company, Progressive Realty, Inc , Rainbow Food Group, Inc , Retail Investments Inc Retail Supermarkets, Inc , RFS Marketing Services, Inc , and Richmar Foods, Inc

[3] Unless otherwise defined herein all capitalized terms shall have the meanings ascribed to them in the Motion

Date 5-25-04



Docket # 8202

IT IS HEREBY ORDERED THAT

1 The Motion is GRANTED

2 Fleming is authorized to enter into the Settlement Agreement

3 The Settlement Agreement is hereby approved in its entirety

4 The Debtors are authorized to execute and deliver any documents or other instruments that may be reasonably necessary to consummate the resolution contemplated by the Settlement Agreement

5 This Court retains jurisdiction (i) to interpret, implement and enforce the terms and provisions of the Settlement Agreement, and (ii) to interpret, implement and enforce the provisions of this Order

Dated July 8, 2004

Mary F Walrath

The Honorable Mary F Walrath
United States Bankruptcy Judge

## EXHIBIT A

## Settlement Agreement

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

US BANKRUPTCY
04 APR -2 AM 8:26
YOUNGSTOWN

| | | |
|---|---|---|
| In re | ) | In Chapter 11 Proceedings |
| | ) | |
| PHAR-MOR, Inc , et al | ) | CASE NOS 01-44007 through 01-44015 |
| | ) | |
| Debtors and Debtors in Possession | ) | JUDGE MARY ANN WHIPPLE |

**ORDER APPROVING**
**JOINT STIPULATION AND SETTLEMENT AGREEMENT**
**BY AND BETWEEN DEBTORS AND FLEMING COMPANIES, INC**

Now comes Phar-Mor, Inc , et al , Debtors and Debtors-in-Possession (the "Debtor") and Fleming Companies, Inc ("Fleming"), by and through their undersigned counsel, and hereby submit, agree and stipulate, subject to this Court's approval, as follows

1 On September 23, 2001 (the "Petition Date"), the Debtors filed their voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code (the "Bankruptcy Code"). The Debtors' First Amended Joint Plan of Liquidation (the "Plan"), was confirmed by the Bankruptcy Court on March 11, 2003.

2 Fleming has asserted a reclamation claim against the Debtor (the "Reclamation Claim") in which Fleming sought the return of, or payment for, goods that had allegedly been delivered to the Debtor prior to the Petition Date

3 Fleming has also asserted other claims against the Debtor, including but not limited to, those claims set forth in proof-of-claims filed in the Debtor's bankruptcy cases, whether related to the Reclamation Claim, or otherwise (collectively, the "Claims")

4 On or about February 13, 2003, the Debtor filed its Motion for Entry of an Order Determining Reclamation Claims to be Unsecured Claims and Objection to Allowance of Such Claims as entitled to Priority (the "Reclamation Motion")

5 On or about November 12, 2003, the Bankruptcy Court entered its Memorandum Opinion and Order overruling the Debtor's Reclamation Motion The Bankruptcy Court subsequently entered orders on December 16, 2003 and December 18, 2003, amending the November 12, 2003 Order. Collectively, the November 12, 2003, December 16, 2003, and December 18, 2003 order overruling, in part, the Debtor's Reclamation Motion are referred to herein as the "Reclamation Orders"

6 On January 5, 2004, Fleming filed its Notice of Appeal from the Bankruptcy Court's Reclamation Orders (the "Appeal") and the Debtor subsequently filed its Election to have the Appeal heard by the District Court

7 The Debtor has also asserted other objections to the Reclamation Claim, as well as the other Proofs of Claim filed by Fleming in the Debtor's bankruptcy cases (collectively, the Debtor's objections to the Reclamation Claim, and the other claims, including those objections set forth in the Reclamation Motion and Omnibus or individual claim objections are referred to herein as the "Objections")

8 The Debtor also claims it is owed funds from Fleming as a result of post-petition actions taken by Fleming (the "Debtor's Claim")

9 The Debtor and Fleming have agreed to settle, satisfy and compromise all of the claims they have against one another, including without limitation, the Claims, the Reclamation Claims, the Appeal, the Debtor's Claim and any and all other claims, demands, habilities, rights of payment, recoupment or set off, known or unknown, asserted or unasserted, liquidated or unliquidated, which either party now or in the future may be entitled to assert against the other party, whether arising out of or related to the delivery of goods or services to the Debtor prior to or on and after the Petition Date, the Bankruptcy Code or other applicable law, and whether or not asserted in a proof of claim or otherwise (collectively, "All Claims")

10 Fleming and the Debtor have agreed to settle, compromise and resolve All Claims by the allowance of the following Fleming claim, in the following amount, classification and priority (the "Allowed Claim")

| | |
|---|---|
| General Unsecured Non-Priority | $0 00 |
| Administrative | $41,000 00 |

11 Fleming and the Debtor have agreed that the Allowed Claim shall and, by this entry of this Order, is ALLOWED in the amount, classification and priority set forth, which allowance shall be in full and final satisfaction and discharge of All Claims, whether arising out of or related to the provisions of the Bankruptcy Code or other applicable law, and whether or not asserted in a proof of claim or otherwise The Debtor and Fleming

have agreed that any claims of Fleming against the Debtor of whatsoever kind or character (other than the Allowed Claim), shall, and by the entry of this Order, are DISALLOWED in their entirety The Debtor and Fleming have further agreed that any claim of Debtor against Fleming of whatsoever kind or character shall be settled and released by entry of this Order.

12 Counsel for the Debtor represents and warrants that he has all right, power and authority to enter into this Joint Stipulation and Settlement Agreement on behalf of the Debtor with respect to the subject matter hereof

13 Counsel for Fleming represents and warrants that subject to the prior approval of the United States Bankruptcy Court, District of Delaware, where the bankruptcy of Fleming is pending, it has all right, power and authority to enter into this Joint Stipulation and Settlement Agreement on behalf of Fleming with respect to the subject matter hereof

14 The prior approval of the United States Bankruptcy Court, District of Delaware is a condition precedent to this Joint Stipulation and Settlement Agreement

15 Within seven (7) days from the approval by this Court and the United States Bankruptcy Court, District of Delaware, the Debtor shall pay to Fleming the settlement amount set forth herein, and Fleming shall thereafter immediately dismiss the Appeal, with prejudice

/s/ Robert J McBride
Robert J McBride, Esq
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200 Market Avenue, North
P O Box 24213
Canton, Ohio 44701-4213
Telephone (330) 458-2144
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Facsimile (330) 744-8690
tmreardon@nnblaw com

Counsel for Phar-Mor, Inc , et al

IT IS SO ORDERED

/s/ Mary Ann Whipple
Mary Ann Whipple
U S Bankruptcy Judge