


Original

UNITED STATES BANKRUPTCY COURT DISTRICT OF DELAWARE		PROOF OF CLAIM
Name of Debtor FLEMING COMPANIES INC., et al.		Case Number 03-10945(MFW)
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 (The person or other entity to whom the debtor owes money or property). Morgan Stanley & Co Incorporated		<div style="font-size: 2em; font-weight: bold;">FILED</div> <div style="font-size: 1.5em; font-weight: bold;">SEP 15 2003</div> <div style="font-size: 2em; font-weight: bold;">BMC</div>
Name and address where notices should be sent: Morgan Stanley & Co. Incorporated 1585 Broadway New York, NY 10036 Attn: Amy Kim Telephone number: 212-762-8192 See Attachment		
Account or other number by which creditor identifies debtor N/A		Check here if this claim <input type="checkbox"/> Replaces / <input type="checkbox"/> amends a previously filed claim, dated.
1 Basis for Claim <input type="checkbox"/> Goods sold <input checked="" type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other *See Attachment		<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Your SS #: _____ Unpaid compensation for services performed From October 1, 2002 to June 30, 2003
2 Date debt was incurred. See Attachment		3. If court judgment, date obtained
4 Total Amount of Claim at Time Case Filed* *An amount to be determined. See Attachment. If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below <input checked="" type="checkbox"/> 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 <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff) Brief Description of Collateral <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Value of Collateral \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any \$ _____		6 Unsecured Priority Claim. <input type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority \$ _____ Specify the priority of the claim <input type="checkbox"/> 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) <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4) <input type="checkbox"/> 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) <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7) <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8) <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(_____) <i>*Amounts are subject to adjustment on 4/1/04 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment</i>
7 Credits. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim		<div style="font-size: 2em; font-weight: bold;">FILED</div> <div style="font-size: 1.5em; font-weight: bold;">SEP 15 2003</div> <div style="font-size: 2em; font-weight: bold;">BMC</div> <p>Fleming Companies Claim</p>  <p>09568</p>
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 the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim		
Date: September 15, 2003	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). By: <i>[Signature]</i> Name: Jeffrey D. Saksberg Title: Attorney for Morgan Stanley & Co. Incorporated	
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571		

**ATTACHMENT TO PROOF OF CLAIM OF
MORGAN STANLEY & CO. INCORPORATED**

1 On April 1, 2003 (the "Petition Date"), Fleming Companies Inc ("Fleming") and certain of its debtor affiliates, including Rainbow Food Group, Inc ("Rainbow," together with Fleming, the "Debtors") filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered for procedural purposes only. The Debtor continues to operate its business and manage its assets and properties as a debtor in possession pursuant to sections 1107 (a) and 1108 of the Bankruptcy Code.

Morgan Stanley's Engagement

2 Pursuant to an engagement letter dated March 10, 2000 (the "March 2000 Letter") Fleming retained Morgan Stanley & Co. Incorporated ("Morgan Stanley" or the "Claimant") (together with Fleming, the "Parties") to provide it with certain advisory and investment banking services in connection with a proposed divestiture of certain of its retail and wholesale grocery divisions (including Rainbow). The terms and scope of the engagement are detailed in the March 2000 Letter, a copy of which is attached hereto as Exhibit A.

3 Commencing with its engagement, Morgan Stanley worked assiduously on Fleming's behalf. During that time, Morgan Stanley brought a number of strategic alternatives to Fleming, its efforts culminating with Fleming's sale of certain of its retail operations to multiple independent buyers in early 2001. For its efforts and in accordance with the March 2000 Letter, Morgan Stanley was entitled to and sent an invoice, dated March 27, 2001, to Fleming in the amount of \$4,096,949.68.

4 Subsequent to Morgan Stanley's initial sale efforts, the Parties entered into that certain letter agreement dated September 25, 2001 (the "September 2001 Letter", attached hereto as Exhibit B) Pursuant to the terms of the September 2001 Letter, Fleming agreed to immediately pay Morgan Stanley \$2,096,949.68 of the \$4,096,949.68 owed to it and Morgan Stanley agreed to reduce and amend the compensation terms set forth in the March 2000 Letter to forgive \$1 million in earned fees and to defer \$1 million of actual fees owed (less certain Credits, as defined therein) until March 31, 2003

5. Accordingly, as of the Petition Date, Fleming was liable to Morgan Stanley for at least \$1 million plus expenses. The actual amount of Morgan Stanley's claim has not been determined as of the bar date.

6 Claimant has filed this Proof of Claim under compulsion of the bar date established in this chapter 11 case and to protect the Claimant from forfeiture of its claims against the Debtor by reason of such bar date. Claimant reserves the right to amend and/or supplement this Proof of Claim at any time, including after any bar date, in any manner, including, but not limited to, for purposes of fixing the amount of the claim described above together with interest, fees and expenses due Claimant, including interest that may be due Claimant for periods following the Petition Date, and/or to file additional proofs of claim for any additional claim which may be based on the same or additional documents or grounds of liability.

7 The filing of this Proof of Claim is not and shall not be deemed or construed as (a) a waiver or release of Claimant's rights against any person, entity, or property, or a waiver of the right to compel the Debtor to return property of Claimant

currently in the possession of the Debtor, (b) a consent by Claimant to the jurisdiction of this Court or any other court with respect to proceedings, if any, commenced in any case against or otherwise involving Claimant, (c) a waiver or release of Claimant's right to trial by jury in this Court or any other court in any proceeding as to any and all matters so triable herein, whether or not the same be designated legal or private rights or in any case, controversy, or proceeding related hereto, notwithstanding the designation or not of such matters as "core proceedings" pursuant to 28 U S C § 157(b)(2), and whether such jury trial right is pursuant to statute or the United States Constitution, (d) a consent by Claimant to a jury trial in this Court or any other court in any proceeding as to any and all matters so triable herein or in any case, controversy, or proceeding related hereto, pursuant to 28 U S C. § 157(e) or otherwise; (e) a waiver or release of Claimant's right to have any and all final orders in any and all non-core matters or proceedings entered only after de novo review by a United States District Court Judge, (f) a waiver of the right to move to withdraw the reference with respect to the subject matter of this Proof of Claim, any objection thereto or other proceeding which may be commenced in this case against or otherwise involving Claimant, or (g) an election of remedies

8 All notices regarding this Proof of Claim should be sent to Morgan Stanley & Co Incorporated, 1585 Broadway, New York, New York 10036 Attention Amy Kim, with a copy to Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019-6064, Attention Jeffrey D. Saferstein

EXHIBIT A

MORGAN STANLEY DEAN WITTK

1155 BRADWAY
NEW YORK, NEW YORK 10016
(212) 904-4000

March 10, 2000

PERSONAL AND CONFIDENTIAL

2000 R
W432001
AYP

Mr. Neal J. Rider
Executive Vice President & Chief Financial Officer
Fleming Companies, Inc.
6501 Waterford Boulevard
P.O. Box 26647
Oklahoma City, OK 73126-0647

Dear Neal:

Pursuant to our recent discussions, I am pleased to confirm the arrangements under which Morgan Stanley & Co. Incorporated ("Morgan Stanley") is engaged by Fleming Companies, Inc. ("Fleming") in connection with the proposed divestiture of certain retail and wholesale grocery divisions (the "Divisions") in one or more transactions (each a "Transaction").

During the term of our engagement we will provide you with financial advice and assistance in connection with a Transaction, including advice and assistance with respect to defining objectives, performing valuation analysis and structuring, planning and negotiating the Transaction.

As you know, our fees for services in connection with a Transaction depend on the outcome of the assignment and are designed to reflect our contribution to a major corporate objective. In the event that a Transaction is not completed, we will charge an "Advisory Fee" which will reimburse us for our time and efforts expended. Under this arrangement, we keep a record of the time spent on assignments; this record is the principal basis for judging the cost of our financial advisory work and the amount of our Advisory Fee. For this assignment, the Advisory Fee is likely to be between \$150,000 and \$300,000. It is our practice to bill time and effort fees quarterly as they accrue. We will periodically inform you as charges accumulate and will advise you if it appears that the above range is being exceeded. If the project is terminated prematurely and our efforts have not warranted the fee suggested by the above range, an appropriately lower fee will be suggested.

If a Transaction is accomplished, we will charge a "Transaction Fee" subject to a \$4,000,000 minimum and against which any Advisory Fees paid will be credited to the extent not previously credited. The Transaction Fee is calculated as 1.5% of the Transaction's Aggregate Value. The "Aggregate Value" of the Transaction shall be the value of the consideration paid for the Divisions common equity (or, in the case of a sale of assets, the amount paid for such net assets), plus the value of any debt and capital lease obligations of the Divisions assumed, forgiven, retired, or defaulted in connection with the Transaction. Any amount to be paid by the

MEMORANDUM FOR THE BOARD OF DIRECTORS

ADDENDUM TO ENGAGEMENT LETTER

Article 1
Reasonable

Article 2
, which counsel will not be unreasonably withheld,

Article 3
Promptly after receipt by an Indemnified Person of actual notice of the commencement of any action, claim, suit, proceeding, or investigation (collectively, an "Action") in respect of which indemnity or reimbursement may be sought under this Agreement such Indemnified Person will notify us in writing of the receipt or commencement thereof, but your failure to notify us with respect to a particular Action shall not relieve from any obligation or liability which we may have on account of this indemnity or otherwise, except to the extent we are materially prejudiced by the failure to notify.

We shall be entitled to participate at our own expense and with counsel of our choice in the defense of any Action brought to enforce any claim or liability of any Indemnified Person resulting from any such Action. We shall be entitled to assume the defense of such Action with counsel satisfactory to such Indemnified Person in the exercise of its reasonable judgment, provided that the fees and expenses of such counsel shall be paid by us. Notwithstanding the foregoing, an Indemnified Person will be entitled to employ counsel separate from counsel for us and from any other party in such Action and we shall bear the fees and expenses of such separate counsel (and shall pay such fees and expenses as and when incurred), only if either (i) the use of counsel chosen by us to represent the Indemnified Person would present such counsel with a conflict of interest; (ii) the representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them; (iii) the Indemnified Person shall have reasonably concluded that there may be one or more legal defenses available to it or to another Indemnified Person which are different from or additional to those available to us; (iv) we shall not have employed counsel satisfactory to the Indemnified Person in the exercise of its reasonable judgment to represent the Indemnified Person within a reasonable time after notice of the institution of any such Action or (v) authorize in writing the Indemnified Person to employ separate counsel at our expense. Counsel for the Indemnified Party will use reasonable efforts to cooperate with us in the defense of any Action. We shall not be liable for the payment by any Indemnified Person of any action, proceeding, or investigation effected without our consent, which counsel will not be unreasonably withheld.

MEMORANDUM FOR THE BOARD OF DIRECTORS

MORGAN STANLEY HEAD WRITER

—buyers-contingent upon future events shall be estimated for purposes of the Transaction Fee calculation at an expected value mutually agreeable to you and to us at the time of closing, except that amounts held in escrow shall be deemed paid at closing.

The Transaction Fee in connection with a completed transaction will become payable and is to be paid by Fleming by wire transfer when the Transaction closes. To the extent that all of the grocery divisions are not sold in one transaction, the Transaction Fee shall be calculated based on the Aggregate Value of each Transaction and payable by wire transfer when each Transaction closes.

If during the course of this assignment, you and we agree that it is more appropriate to use an alternative-based fee structure, we will discuss with you potential modifications to the above fee structure.

Any advice or opinions provided by Morgan Stanley may not be disclosed or referred to publicly or to any third party except in accordance with our prior written consent, which consent may not be unreasonably withheld, and except that a copy of our opinion may be included in its entirety in any filings made by Fleming with the Securities and Exchange Commission in respect of a Transaction to the extent such inclusion is required under the general rules and regulations under the Securities and Exchange Act of 1934, as amended.

If, in connection with this assignment, Fleming effects a repurchase of or a public sale or private placement of equity, preferred or debt securities or Fleming effects real estate financings, asset or property sales, and Fleming requires investment banking services in connection therewith, Fleming agrees to offer to retain Morgan Stanley on mutually agreeable terms to assist it with such transaction. In addition, if in connection with this assignment, Fleming effects any interest rate or equity-related hedge, Fleming agrees to offer to retain Morgan Stanley on mutually agreeable terms to assist it with such transaction.

In addition to our fee for professional services we will separately bill our expenses as incurred. Generally these expenses include travel costs, document production and other expenses of this type, and will also include the reasonable fees of outside counsel and other professional advisors should they be engaged with your consent.

Morgan Stanley will not under this letter agreement act as an independent contractor with duties solely to Fleming. Because we will be acting on your behalf in this capacity, it is our promise to receive indemnification. A copy of our standard indemnity form is attached to this letter.

Please note that Morgan Stanley is a full service securities firm engaged in securities trading and brokerage activities, as well as providing investment banking, financing, and financial advisory services. In the ordinary course of our trading, brokerage, and financing activities, Morgan Stanley or its affiliates may at any time hold long or short positions, and may trade or otherwise effect transactions, for our own account or the accounts of customers, in debt or equity securities of similar issues of Fleming or any other company that may be involved in this transaction.

Our services hereunder may be terminated with or without cause by you or by us at any time and without liability or continuing obligation to you or to us (except for any compensation earned).

MORGAN STANLEY MORGAN WITTER

and expenses incurred by us on the date of termination and except, in the case of termination by you for our right to fees pursuant to this letter for a Transaction effected within one year of such termination) and provided that the indemnity provisions will remain operative regardless of any such termination.

Morgan Stanley and Fleming (on its own behalf and, to the extent permitted by law, on behalf of its shareholders) each waives any right to trial by jury in any action, claim, suit or proceeding with respect to Morgan Stanley's engagement as financial advisor or its role in connection herewith.

If the terms of our engagement as set forth in this letter are satisfactory, kindly sign the enclosed copy of this letter and information form and return them to us.

We look forward to working with Fleming on this very important assignment.

Very truly yours,

MORGAN STANLEY & CO INCORPORATED

By:


Mark D. Eichorn
Managing Director

Accepted,

FLEMING COMPANIES, INC.

By Neil J. Kirk

Title CEO

Date 4/17/00

Signature

EXHIBIT B

1585 Broadway
New York, NY 10036
tel 212 761 4000

Morgan Stanley

September 25, 2001

Mr. Neal Rider
Executive Vice President and Chief Financial Officer
Fleming Companies, Inc
1945 Lakepointe Drive
Lewisville, Texas 75057

Dear Neal:

Pursuant to our recent discussions, this letter confirms the terms under which Morgan Stanley & Co. Incorporated ("Morgan Stanley") agrees to amend the fee arrangements set forth in the engagement letter dated March 10, 2000 (the "Letter") between Morgan Stanley and Fleming Companies, Inc. ("Fleming") and pursuant to which an invoice was issued (No. M9122) dated March 27, 2001 (the "Invoice")

Fleming agrees to pay immediately to Morgan Stanley \$2,000,000 plus expenses as set out in the Invoice (\$2,096,949.68 in total). Morgan Stanley agrees to forgive \$1,000,000 of the amount of the Invoice and agrees to a deferral of \$1,000,000 of the remaining payment due under the Invoice until March 31, 2003 (the "Deferral"), subject to adjustment as described below. The Deferral shall be reduced by an amount equal to 25% of any fees or commissions paid by Fleming to Morgan Stanley between the date of this letter and March 31, 2003 (the "Credit"). On March 31, 2003 the amount of the Deferral less the Credit, to the extent such amount exceeds \$0, will become immediately payable and is to be paid by Fleming by wire transfer.

The remainder of the Letter will remain in full force and effect including but not limited to the indemnification provisions.

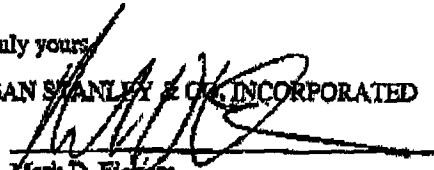
If the terms of this letter are satisfactory, kindly sign the enclosed copy and return it to us.

We look forward to continuing our work with Fleming.

Very truly yours,

MORGAN STANLEY & CO. INCORPORATED

By



Mark D. Eichorn
Managing Director

Accepted:

FLEMING COMPANIES, INC.

By: _____

Title: _____

Date: _____