

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

**PROOF OF CLAIM**



514691

Bar Date Ref # 2 NC 3923085

In re  
**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.

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.

**Name of Creditor and Address**  
  
0354653514691  
  
GARRETT'S IGA #5 (CLOSED)  
7877 E BROADWAY Rd  
TUCSON AZ 85710

Creditor Telephone Number **520 807 4522**

CREDITOR TAX ID #

ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR

Check here  replaces or  amends a previously filed claim dated \_\_\_\_\_

**1 BASIS FOR CLAIM**  
 Goods sold     Personal injury/wrongful death     Retiree benefits as defined in 11 U.S.C. § 1114(a)  
 Services performed     Taxes     Wages, salaries, and compensation (Fill out below)  
 Money loaned     Other (describe briefly) **Rejection of lease/purchase of assets with lease**    Your social security number \_\_\_\_\_  
 Unpaid compensation for services performed from \_\_\_\_\_ to \_\_\_\_\_  
 (date) (date)

**2 DATE DEBT WAS INCURRED** When stores closed by **3 IF COURT JUDGMENT, DATE OBTAINED**

**4 TOTAL AMOUNT OF CLAIM AS OF PETITION DATE** \$ **100,000.00+see** (unsecured) attached Fleming Breach \$ **100,000.00+see** (unsecured priority) attached (total) attached

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 \_\_\_\_\_  
 Value of collateral \$ \_\_\_\_\_  
 Amount of arrearage and other charges at time case filed included in secured claim above, if any \$ \_\_\_\_\_

**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.

**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

9-11-03

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

*[Signature]*

THIS SPACE FOR COURT

FILED

SEP 15 2003

BMC

Fleming Companies Claim



10957

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**

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

In re	)	Chapter 11
	)	
Fleming Companies, Inc , et al , <sup>1</sup>	)	Case No 03-10945 (MFW)
Debtors	)	(Jointly Administered)

**NOTICE OF DEADLINE FOR THE  
FILING OF PROOFS OF CLAIM AND PROOFS OF INTEREST**

**TO ALL CREDITORS OF THE DEBTORS**

**PLEASE TAKE NOTICE** that the above-captioned debtors and debtors-in-possession (the "Debtors") filed a voluntary petition for relief under Chapter 11 of title 11 of the United States Code (as amended from time to time, the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Court") The Debtors are operating their businesses and managing their property as debtors in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code

Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 3002(c)(3), all Persons and Entities, including, without limitation, individuals, partnerships, corporations, estates, trusts, governmental units (which shall include all entities defined as such in Section 101(27) of the Bankruptcy Code, including any such entity that holds a claim arising from prepetition tax years or periods or from prepetition transactions to which a Debtor was a party), and entities asserting claims against an individual Debtor that arose out of the obligations of such entities or the Debtors under a contract for the provision of liability insurance (each a "Creditor" and collectively, "Creditors"), holding or wishing to assert a claim as defined in Section 101(5) of the Bankruptcy Code against any of the Debtors (collectively, the "Claims") or interest in any of the Debtors (collectively, the "Interests") arising on or before April 1, 2003 (the "Petition Date"), are required to file a separate, completed and executed proof of claim form conforming substantially to Official Bankruptcy Form 10) (the "Proof of Claim") on account of any Claims such Creditors hold or wish to assert against the Debtors, so that the Proof of Claim is actually received on or before 4 00 p m Pacific Daylight Time on September 15, 2003 (the "General Bar Date"), or in the case of governmental units, by October 1, 2003, the "Governmental Unit Bar Date," by the Debtors' Official Notice and Claims Agent at the following address

Bankruptcy Management Corporation ("BMC")  
1330 East Franklin Avenue, El Segundo, CA 90245 (*for overnight mail or hand delivery*)  
P O Box 900, El Segundo, CA 90245-0900 (*for regular mail*)  
Telephone 1-888-909-0100

Notwithstanding the foregoing, AT THIS TIME, Proofs of Claim ARE NOT REQUIRED to be filed by Creditors holding or wishing to assert Claims against the Debtors of the types that are set forth in clauses (a) through (f) below (collectively, the "Excluded Claims")

- (a) Claims listed in the Debtors' Schedules of Assets and Liabilities (the "Schedules") filed with the Court, pursuant to Bankruptcy Rule 1007, or any amendments thereto, which are not therein listed as "contingent," "unliquidated" or "disputed," and which are not disputed by the creditor holding such claim as to nature, amount, or classification,
- (b) Claims on account of which a Proof of Claim has already been properly filed with the Court,
- (c) Claims previously allowed by, or paid pursuant to, an order of the Court, including, without limitation, any claims of the Agents and/or the Lenders allowed pursuant to the Final DIP Order,<sup>2</sup>
- (d) Claims allowable under Sections 503(b) and 507(a)(1) of the Bankruptcy Code as administrative expenses of the Debtors' chapter 11 cases,
- (e) Claims made by any of the Debtors or any direct or indirect subsidiary of any of the Debtors against one or more of the other Debtors,
- (f) Claims of an entity whose claim is limited exclusively to a claim for the repayment of principal and/or interest on or under any issuance by any of the Debtors of any debt security (collectively, the "Notes") or any indenture in respect of each issue of the Notes (the "Indentures" and each such Indenture collectively with the Notes issued thereunder, the "Debt Instruments"), provided, however, that (i) the foregoing exclusion shall not apply to the indenture trustees under any of the

<sup>1</sup> 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 , Dumigan 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

<sup>2</sup> The term Final DIP Order refers to the Final Order Authorizing (I) Post-Petition Financing Pursuant to 11 U S C § 364 and Bankruptcy Rule 4001(c) (II) Use of Cash Collateral Pursuant to 11 U S C § 363 and Bankruptcy Rules 4001(b) and (d) (III) Grant of Adequate Protection Pursuant to 11 U S C §§ 361 and 363 and (IV) Approving Secured Inventory Trade Credit Program and Granting Subordinate Liens Pursuant to 11 U S C §§ 105 and 364(c)(3) and Rule 4001(c)

Fleming canceled this lease pre-bankruptcy with a payment of \$100,000.00 to be made for losses sustained. Fleming did this in March, 2003 knowing it would be filing bankruptcy and wouldn't pay.

LAW OFFICES  
**MCAFEE & TAFT**  
A PROFESSIONAL CORPORATION  
10<sup>TH</sup> FLOOR, TWO LEADERSHIP SQUARE  
211 NORTH ROBINSON  
OKLAHOMA CITY OKLAHOMA 73102 7103  
(405) 235 9621  
FAX (405) 235-0439  
<http://www.mcafeetaft.com>

STAN KELLEY  
LEGAL ASSISTANT

WRITER DIRECT  
(405) 552 2354  
FAX (405) 235-0439  
[Stan.kelley@mcafeetaft.com](mailto:Stan.kelley@mcafeetaft.com)

March 18, 2003

Mr Ray Garrett  
Garrett's Markets, Inc  
1060 Yavapai, Suite 10  
Rio Rick, AZ 85648

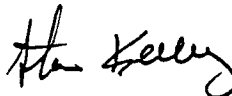
Re Termination of Sublease Agreement, 7877 E  
Broadway, Tucson, AZ

Dear Mr Garrett

Enclosed please find a copy of the Termination of Sublease Agreement for the  
above location

If you have any questions, please do not hesitate to contact me at (405) 552-  
2354

Very truly yours,



Stan Kelley  
Legal Assistant

SK sk  
Enclosure  
Cc Richard Riggs, Esq

## TERMINATION OF SUBLEASE AGREEMENT

THIS SUBLEASE TERMINATION AGREEMENT ("Agreement") is entered into this 11 day of MARCH, 2003, by and between ABCO REALTY CORP, an Arizona corporation (the "Sublessor"), and GARRETT'S SUPERMARKETS, INC, an Arizona corporation (the "Sublessee")

### WITNESSETH

WHEREAS, the parties have entered into a certain Sublease Agreement dated May 1, 2001 (the "Sublease"), pursuant to which Sublessor subleased certain premises located at 7877 E Broadway, Tucson, AZ ("Store") to Sublessee, as more particularly described therein, and

WHEREAS, Sublessor and Sublessee desire to terminate the Sublease in accordance with the terms and conditions as set forth herein

NOW, THEREFORE, in consideration of the terms, covenants, conditions and agreements contained herein, the parties hereto contract and agree as follows

1 Termination The Sublease is hereby dissolved, rescinded, cancelled and terminated effective as of April 14, 2003 (the "Effective Date") and shall be, as of such date, of no further force and effect. Sublessee shall pay all rent and other amounts payable under the Sublease to the Effective Date. On or before the Effective Date, and in consideration of the termination of the Sublease as provided herein, Sublessor shall remit to Sublessee the sum of \$100,000 (less any outstanding amounts owed by Sublessee under the Sublease to the Effective Date) in immediately available funds.

2 Release and Indemnification Effective as of the Effective Date, each party hereto hereby releases and discharges the other party, including their affiliated companies and successors or assigns, of and from any and all claims, demands, rights, causes of action, liabilities, damages, losses, expenses, obligations and responsibilities of whatsoever kind or nature, under, arising out of or relating to the Sublease, whether past, present or future, except those specific obligations set forth in this Agreement. Notwithstanding the foregoing release, nothing herein shall be construed as releasing Sublessee from the payment of any indebtedness owed to Sublessor under the Sublease up to the Effective Date, or any other indebtedness owed by Sublessee to Sublessor, pursuant to any notes, trade account or other agreement, and Sublessee hereby confirms and agrees to timely pay such indebtedness according to the terms and conditions thereof. Sublessee further hereby indemnifies and shall defend Sublessor, including Sublessor's affiliated companies and successors and assigns, from and against any and all costs, expenses, claims, losses or damages arising out of or relating to Sublessee's use or occupancy of the Store, including without limitation, the business conducted thereat. Sublessee further hereby accepts full responsibility for and shall pay any and all costs, expenses, claims, obligations and liabilities relating to or involved with such use, occupancy or business.

3 Entire Agreement This Agreement contains the entire agreement and understanding between the parties hereto with regard to the subject matter covered herein. No changes, modifications or amendments to this Agreement shall be effective unless signed by all parties hereto.

4 Counterparts/Multiple Originals This Agreement may be executed in counterpart signature pages, each of which shall be an original, but all of which taken together shall constitute one and the same agreement. Furthermore, this Agreement may be executed in multiple originals and shall be admissible in any proceeding, legal or otherwise, without the production of the other such originals.

5 Binding Effect This Agreement shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and/or assigns of the parties hereto and the indemnification and covenants stated herein shall survive the termination of the Sublease.

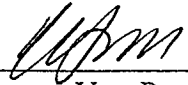
6 Governing Law This Agreement shall be governed by and interpreted in accordance with the laws of the State of Oklahoma, and the captions of each paragraph hereof are for convenience purposes only and shall not be considered in the construction of this agreement.

7 Attorney Fees In the event of any dispute under or by reason of this Agreement, the prevailing party in any such dispute shall be entitled to reimbursement for reasonable attorneys' fees, and all other costs of litigation incurred.

IN WITNESS WHEREOF, the Sublessor and Sublessee have agreed to the foregoing Agreement in its entirety as of the day and year first set forth above.

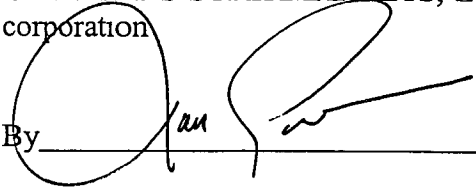
"SUBLESSOR"

ABCO REALTY CORP, an Arizona corporation

By Charles L. Hall  Vice President  
Senior Vice President

"SUBLESSEE"

GARRETT'S SUPERMARKETS, INC, an Arizona corporation

By  President

STATE OF TEXAS )  
 ) SS  
COUNTY OF DENTON )

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of March, 2003, by Charles L. Hall, as Vice President of ABCO Realty Corp, an Arizona corporation

Senior



Sandy Moore  
Notary Public  
My commission expires 10-26-03

STATE OF )  
 ) SS  
COUNTY OF )

This instrument was acknowledged before me this 11<sup>th</sup> day of March, 2003, by Ray Garrett, as President of Garrett's Supermarkets, Inc, an Arizona corporation

Dianne S. Manning  
Notary Public  
My commission expires 2/15/06

