FORM B10 (Official Form 10) (4/01)

UNITED STATES BANKRUPTCY COURT _____ DISTRICT OF DELAWARE

PROOF OF CLAIM

Name of Debtor: Fleming Companies, Inc.

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)
CG, LLC

☐ 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 the address differs from the address on the envelope sent to you by the court

Name and address where notices should be sent
c/o Paul A. Lucey, Esq.
Michael Best & Friedrich LLP
100 E. Wisconsin Avenue, Suite 3300
Milwaukee, WI 53202

Telephone number (414) 271-6560

THIS SPACE IS FOR COURT USE ONLY

Account or other number by which creditor identifies debtor

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

1 Basis for Claim

☐ Goods sold
☐ Services performed
☐ Money loaned
☐ Personal injury/wrongful death
☐ Taxes
☒ Other Unexpired Lease

☐ Retiree benefits as defined in 11 U S C § 1114(a)
☐ Wages, salaries, and compensation (fill out below)
Your SS # _____ _____ _____
Unpaid compensation for services performed
from _____ (date) to _____ (date)

2 Date debt was incurred

3 If court judgment, date obtained

4 Total Amount of Claim at Time Case Filed $ Unliquidated*

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

*See attached Addendum.

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 if any $_____

6 Unsecured Priority Claim

☐ Check this box if you have an unsecured priority claim

Amount entitled to priority $_____

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 04 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 the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim

THIS SPACE IS FOR COURT USE ONLY

FILED
SEP 15 2003
BMC

Fleming Companies Claim
12247

Date 9/12/03

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)

Paul A. Lucey, counsel for the creditor

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

In re Fleming Companies, Inc **Case No 03-10945**

ADDENDUM TO PROOF OF CLAIM

CG, LLC, the sole member of which is Patrick J Lucey ("Landlord"), is the Landlord under that certain lease with the Debtor, a true and correct copy of which is attached as Exhibit A hereto (the "Lease") The Lease has neither been assumed nor rejected under 11 U S C § 365 The Landlord has previously filed an objection to the § 365 "cure" amount proposed by the Debtor A copy of said objection is attached hereto as Exhibit B The Landlord incorporates said objection herein by reference The Landlord hereby reserves the right to amend or supplement this claim with respect to additional amounts accrued or accruing under the Lease The Landlord further reserves the right to file an administrative expense claim with respect to unpaid amounts accrued or accruing and payable under § 365(d)(3) of the Bankruptcy Code and/or § 503(b) of the Bankruptcy Code

LEASE

This indenture made this 5th day of July, 19/2, by and between HENRY R WALLACE, F L BRENGEL, JOHN A DONALD, WILLIAM A DONALD, LOUISE A PORRER, a co-partnership, hereinafter called the "Lessor", and GODFREY COMPANY, A Wisconsin corporation of Waukesha, Wisconsin, hereinafter called the "Lessee"

WITNESSETH,

That the Lessor does hereby lease, demise and let unto the said Lessee the retail store, together with the entire premises described as:

Lot Two (2) of Certified Survey No. 312, recorded as Document No 1250912, County of Dane, State of Wisconsin

1 USE The leased premises shall be used only for proper and legitimate purposes, and the Lessee shall not use, nor suffer or permit any person to use, the same or any part thereof for any purpose or use in violation of the laws of the United States, or of the state, or of the ordinances of any political subdivision of the state, nor for any immoral or unlawful purpose whatsoever

2. TERMS AND RENTALS To hold for a term of twenty (20) years commencing on the first day of July, 1972, to the 30th day of June, 1992, and the said Lessee yielding and paying therefor an annual rental of Forty-Four Thousand Four Hundred Seventy-Two and no/100 Dollars ($44,472 00), with such rental due in advance monthly installments of Three Thousand Seven Hundred Six and no/100 Dollars ($3,706.00), and payable on or before the first day of each month, and the Lessee shall be responsible to the Lessor as tenant of the Lessor from that date.

ADDITIONAL RENTAL As additional rental, the Lessee agrees to pay to the Lessor a sum equal to the amount, if any, by which one percent (1%) of gross sales made from the leased premises during each calendar year exceeds the annual base rental of Forty-Four Thousand Four Hundred Seventy-Two and no/100 Dollars ($44,472 00), Any increase in the real estate taxes over the base tax year of 19/2 may be deducted from additional rental

EXHIBIT A

Post-it® Fax Note 7671 | Date 4/7/03 | # of pages 7
To PAUL LUCEY | From PAT LUCEY
Co./Dept. MICHAEL WEST | Co
Phone # | Phone # 239-430-3932
Fax # 414-277-0656 | Fax # 3934

The term "gross sales" as used in this lease shall mean the gross sales made in, upon, or from the leased premises by the Lessee or any assignee or sublessee of the Lessee after first deducting the following:

(1) Credits or refunds made to customers for merchandise returned or exchanged,

(2) Transfers of merchandise from the leased premises to other stores or warehouses of the Lessee or its affiliated companies

(3) The amount of any sales taxes or other taxes, except income taxes, under any laws, ordinances, orders, or regulations, whether now or hereafter in force, upon or based upon the gross receipts of the Lessee or upon or based upon the sale or sales price of merchandise and which must be paid by the Lessee, whether or not collected by the Lessee from its customers;

(4) Returns of merchandise to shippers or manufacturers,

(5) The net amount of discounts actually allowed to any customer pursuant to any customary and reasonable policy adopted by the Lessee from time to time, including in such discounts, but not by way of limitation, the net amount of any discounts allowed by way of or resulting from the issuance to customers of trading stamps or other evidences of purchase for immediate or future exchange for merchandise or other things of value; and

(6) Merchandise or other things of value issued in redemption of such trading stamps or other evidences of value or issued as a premium or otherwise in connection with any sales promotion program of the Lessee.

At the close of each fiscal year, which shall also be the calendar year, the computation for additional rental shall be made. In the event such calculations for additional rental shall develop a sum greater than the basic rent as herein provided, the additional rental shall be paid to the Lessor within thirty (30) days of the end of such calendar year during the term of this lease. The additional rental for a period of less than one (1) year shall be computed on the proportionate amount determined by the number of months within such year that the business was operated within the leased premises All payments required to be made by Lessee under this lease shall be payable to Lessor at 4465 North Oakland Ave, Milwaukee, Wis 53211 or at such other place or places as Lessor may from time to time direct in writing Lessor, or its agents, have the right to inspect the books and records of Lessee, at reasonable times and upon reasonable notice to verify the gross sales figure of the Lessee

3. REPAIRS, MAINTENANCE AND STRUCTURAL ALTERATIONS The Lessee shall maintain and repair in all respects the interior and exterior of the improvements on the leased premises, and the parking areas on said leased premises, in a reasonably good state of repair except for damage by accidental fire, the elements, or other accidents not happening through neglect The Lessee may make, at his own expense, any alteration or improvement in or on the leased premises it may deem necessary or desirable for its purpose provided, however, the Lessee shall first have submitted plans of the proposed alterations or improvements to the Lessor, and shall have written approval for the making of such alterations or improvements The Lessee further agrees that it will hold harmless the Lessor for any claims arising from any alteration or improvements made by the Lessee on the leased premises.

4. TAXES The Lessee shall pay all general real estate taxes levied and assessed against the premises during the term of lease and extensions thereafter If after the date hereof any new special assessments are assessed against the premises for public improvements the Lessee shall only be obligated to pay such portion of the total assessment as the unexpired term of the lease from the date the assessment bears to the full term of the lease (i.e 1/20th thereof for each unexpired year of the lease or extensions thereafter) In the year in which the lease terminates, the Lessee shall pay any real estate tax and special assessment for the months of such year prior to the termination of the lease, based upon a proration of the real estate tax due in the prior year. In the event Lessee exercises any option to extend this lease under paragraph 9 hereof, Lessee shall pay to the Lessor at the beginning of each five-year renewal term which it elects to avail itself of under Paragraph 9, any portion of any new special assessment as referred to above, which was paid by Lessor, but which would have been paid by Lessee had the primary term of this lease included any term for which Lessee elects to exercise its option to extend this lease

5 SUBLEASING Lessee shall not assign this lease in any way nor shall the leased premises be subleased in whole or in part without the written consent of the Lessor first had and obtained which shall not be unreasonably withheld The subleasing provision shall not apply to Lessee assigning or subleasing to its subsidiary or franchise dealer In the event of assignment or subleasing to any party whomsoever, Lessee shall remain primarily liable

hereunder notwithstanding that such assignee shall assume to carry out and perform under all the terms and conditions of this lease

6. LOSS OR DAMAGE TO PREMISES. If the premises are partially damaged by fire or other unavoidable casualty and the same shall become untenantable, except for wanton destruction by Lessor, the Lessee shall repair such damage as speedily as practicable, and the rent during such period shall not abate until said premises shall again be made tenantable. The Lessor and Lessee agree that the proceeds from the fire insurance covering said loss or damage shall be paid to the Lessee. If, however, the damage shall exceed fifty percent (50%) and the period required to restore said premises shall exceed ten (10) months, the Lessee shall have the option of terminating the lease upon giving the Lessor written notice thereof within thirty (30) days after occurrence of such damage, and if Lessee so elects to terminate the lease, Lessor shall be entitled to the proceeds of all fire insurance covering said loss or damage. However, if the Lessee desires to restore or replace the premises in approximately the same condition as it was immediately prior to the casualty, the Lessee and Lessor agree that the entire proceeds from the fire insurance coverage shall be applied to such replacement costs and in the event that this fund is insufficient for the purpose of making the restoration as required by the Lessee, the Lessee shall pay such deficiency. In the event that the insurance proceeds are in excess of the amount needed to complete such repairs and replacements, the balance of such fund shall be paid to Lessee, but Lessor shall not be liable in damages to Lessee for lack of such repair or replacement for reasons beyond its control or for damages caused by uninsured casualty.

If during the last two (2) years of the primary term or during the last two (2) years of any extended term the premises are damaged totally or in excess of twenty-five percent (25%) of the then insurable value of the leased premises, said lease shall terminate at the option of the Lessee by Lessee giving Lessor written notice thereof within thirty (30) days after the occurrence of such damage, and in the event Lessee so elects to terminate the lease, Lessor shall be entitled to the proceeds of all fire insurance covering said loss or damage.

7 PUBLIC UTILITIES BILLS. The Lessee shall furnish and pay all charges for fuel, gas, heating, water, power, and other utilities used on the leased premises.

8. INSURANCE The Lessee shall procure, maintain and pay for the public liability insurance policy on said premises with limits of $300/300,000 00 bodily injury, $100,000 property damage, and $250/10,000 medical, with certificates of insurance to be furnished Lessor and/or any mortgagee as additional insured Lessor and Lessee agree that the limits for public liability may be adjusted from time to time as may be mutually agreed upon.

The Lessee shall procure, maintain and pay for the fire, extended coverage, and Vandalism and Malicious Mischief insurance policy on said premises in an amount of the maximum insurable value obtainable (said amount shall be agreed to by the Lessor and shall also be an amount acceptable to the mortgagee, if any), naming the Lessor and/or any mortgagee, as their interest may appear, if any, as the assured and shall also procure, maintain, and pay for adequate plate glass insurance Policies of insurance shall be furnished to the Lessor and shall also be in such form as the Lessor's mortgagee shall require.

9. OPTION TO EXTEND LEASE If Lessee is not in default under any of the terms of this lease, it shall have three (3) five (5) year successive renewal options on the same terms and conditions The Lessee shall notify the Lessor of its intention to exercise said option by giving notice in writing at least one (1) year prior to the expiration of the original (or extended) lease period. In the absence of notice for renewal of any one option under the provisions of this contract, the lease shall be deemed terminated at the end of the current lease period

10 FIXTURES AND EQUIPMENT. The Lessee shall have the right to place in or upon the leased premises such fixtures and equipment as may be considered necessary by the Lessee for the operation of its business, and title to such fixtures and equipment shall remain in the Lessee, who shall have the right to remove such fixtures and equipment, whether or not attached to the improvements at the termination of the lease The Lessee shall, however, repair forthwith all damages which may result from the removal of such fixtures and equipment at the termination of the lease

The Lessee shall have the sole privilege of erecting an exterior sign, and other identifications, but same shall not violate restrictions of record, zoning ordinances and regulations. Said signs shall be such as is customarily erected in other stores of Lessee.

11. SUBORDINATION At the Lessor's option, this lease shall be and is subordinate to any existing mortgages covering said premises, any extension or renewal thereof or to any new mortgages which may be placed thereon from time to time; provided, however, anything to the contrary contained herein notwithstanding, every such mortgagee shall recognize the validity of this lease in the event of a foreclosure of the Lessor's interest as long as the Lessee shall not be in default under any of the terms of this lease. The Lessee shall execute whatever instruments may be required to effect such subordination.

12 CONDEMNATION In the event the leased premises or any part thereof is taken, impaired or condemned, for a public or quasi-public use and, in the Lessee's judgment reasonably exercised, its operation of the leased premises is rendered uneconomical by a final condemnation or taking in fee of a portion thereof, the Lessee at its option may within thirty (30) days after such occurrence, notify the Lessor that it elects to cancel and terminate this lease, including all of its rights and obligations hereunder, as of the last day of the second calendar month following the date of such notice. The Lessor, at its election, may request an evaluation of "Lessee's judgment, reasonably exercised" and, in this event, the matter shall be resolved through arbitration, with one arbitrator to be appointed by each of the parties hereto, who then are to appoint a third arbitrator at their election.

If the date of cancellation falls within the primary term, the Lessee shall deliver to the Lessor, contemporaneously with the delivery of such notice, an irrevocable written offer to purchase all of the Lessor's then right, title and interest in and to the leased premises (including the Lessor's right in and to any and all existing or prospective condemnation awards) for the sum of the then unamortized book value covering the improvements, together with fair market value for the land, together with an amount equal to the base rental for one (1) month at the then current rate but not less than an amount sufficient to pay the Lessor's then outstanding indebtedness due to its mortgagee on the note bearing even date herewith.

If Lessor fails to accept such offer to purchase on or before the date of cancellation, or if the date of cancellation is not within the primary term, all rights and obligations of the parties hereto shall cease as of such date of cancellation and each party hereto shall have the right to receive and retain for its own account, all compensation theretofore or thereafter awarded for its own right, title and interest so condemned or taken, except that the rights of Lessee to any such compensation shall not attach until the Lessor's then outstanding indebtedness due to its mortgagee on the note bearing even date herewith has been satisfied.

13. MAIVER OF SUBROGATION. Lessor and Lessee shall each, forthwith after the execution of this lease, procure from and cause each of the insurers under all policies of insurance, now or hereafter during the term hereof existing and purchased by either or both insuring or covering the demised premises or any portion thereof and/or Lessee's business or operations in the leased premises, a waiver of all rights of subrogation which the insurer under said policies might otherwise, if at all, have as against the other hereto, said waiver to be in writing and for the express benefit of the other

14 NOTICES. All notices hereunder shall be deemed sufficiently served when mailed by registered or certified mail and addressed to the Lessor at 4465 North Oakland Ave Milwaukee, Wis 53211 and to the Lessee at 1200 West Sunset Drive, Waukesha, Wisconsin, 53186, or to such other address as either may give to the other party from time to time by notice as herein provided

15 OPTION TO PURCHASE In the event that the Lessors shall, during the period of this lease or any extended period thereof, receive a bonafide offer to purchase the leased premises at a price and on terms which the Lessors are willing to accept, said Lessors shall submit offerer's name and address, as well as said offer to purchase in writing, to the Lessee within ten (10) days of receipt of such offer, and the said Lessee shall have the option within thirty (30) days thereafter to purchase the premises at the same price and on the same terms as contained in said offer If the Lessee does not exercise said option within said period, all rights of Lessee shall terminate at the expiration of this lease and the Lessors may accept the said offer to purchase

16 [illegible] And the said Lessee for itself and its successors and assigns, does covenant and agrees to pay the said rent at the times and places in the manner aforesaid during the continuance of said term, to quit and deliver up the said premises to the said Lessor, its successors and assigns, quietly and peaceably, at the end of the said term, in the same condition in which they were at the commencement of said term, reasonable use and wear thereof, and damage by accidental fire, the elements, or other accidents not happening through the neglect of the said Lessee only excepted, and to allow the said Lessor, its successors and assigns, to enter and view the said premises.

And the said Lessee, for itself and its successors and assigns, further provides that these presents are upon the express condition that, if the said Lessee does or shall neglect or fail to perform and observe any of either of the covenants, conditions or stipulations hereinbefore contained, which on its part are to be performed, the said Lessor may lawfully, upon thirty (30) days written notice to Lessee, except in the case of failure to pay rent hereunder, in which case only ten (10) days written notice shall be required, and while such neglect or default continues, and without further notice of demand, enter into or upon said premises and repossess the same as of its former estate and expel the said Lessee and those claiming under it, and remove its effects (forcibly, if necessary), without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant, and such expulsion and removal, whether by the direct act of the Lessor, or its assigns, or through the medium of legal proceedings for that purpose instituted, shall not affect the liability of said Lessee or its representatives for the rent past due or future rent to accrue under this lease, but the same shall continue as if such removal or expulsion had not taken place

And the said Lessor, for itself and its successors and assigns, does covenant that the said Lessee, its successors and assigns, on paying the said rent and performing all of the covenants aforesaid, shall and may peaceably and quietly hold and enjoy the said demised premises for the terms aforesaid

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written

Henry R Wallace

F L Bengel

John A Donald

William A Donald
by John A Donald
Attorney-in-Fact

Louise A Turner

GODFREY COMPANY

By John B Godfrey
President

Robert S. Sellers
Assistant Secretary

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

In re	)	Chapter 11
	)	
Fleming Companies, Inc , et al ,	)	Case No 03-10945 (MFW)
	)	(Jointly Administered)
Debtors	)	
	)	**Objection Deadline July 28, 2003**
	)	**Relates to Docket No 1853**

OBJECTION TO CURE AMOUNT AND PROPOSED ASSIGNMENT

CG, LLC as successor in interest to Patrick J Lucey, as successor in interest to Henry Wallace, F L Brengel, John A Donald, William A Donald, and Louise A Forrer ("CG"), for its objection to Debtor's July 11, 2003 Notice and July 19, 2003 Supplemental Notice of Potential Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection with Sale Motion (the "Notice") states

1 On page 87 of the schedule affixed to the Notice, the Debtor identifies a cure amount of $0 with regard to assumption of certain a Lease dated September 16, 1992 (the "Lease"), for premises used as a Sentry Foods in Cottage Grove, Wisconsin (the "Premises") The Lease has been assigned number 6947 in the Debtor's list of assignable contracts

2 A proposed assignee has not been designated, and CG reserves all of its objections to assumption and assignment of the Lease pertaining to a particular proposed assignee

3 Subject to paragraph 2 above, CG objects to the scheduled "cure amount " According to CG's records, the Debtor remains indebted to CG under the Lease in an aggregate amount not less than $29,586 38 66, calculated as follows

EXHIBIT B

(i) Year 2002 Percentage Rent under the Lease	$20,670 72
(ii) Second installment of 2002 real estate taxes (due 7/31/03)	$ 7,919 61
(iii) Post-petition attorneys fees through June 30, 2003	$ 993 05
Total	**$29,583.38**

4 In addition, CG claims both pre- and post-petition accrued and accruing 2003 real estate taxes, which amounts are not yet liquidated, and various amounts which continue to accrue post-petition, including, without limitation, attorneys fees and 2003 percentage rent

5 CG is not aware of any other or further consequential damages at this time, but reserves the right to claim such damages as they become known

6 Attached hereto as Collective Exhibit A are copies of the Lease and other material supporting this Objection

WHEREFORE, CG objects to the cure amounts proposed by the Debtor in the Notice and requests that this Court condition assumption and/or assignment of the Lease upon prompt payment of the full cure amounts set forth above and for such other and further relief as the Court deems just and appropriate CG reserves all objections to assumption and assignment of the Lease

DUANE MORRIS LLP

Dated July 23, 2003

/s/ William K Harrington
John L Reed (DE I D No 3023)
William K Harrington (DE I D No 4051)
Gary W Lipkin (DE I D No 4044)
1100 North Market Street, Suite 1200
Wilmington, Delaware 19801
Telephone (302) 657-4900
Facsimile (302) 657-4901
E-mail jlreed@duanemorris com
wkharrington@duanemorris com
gwlipkinZ@duanemorris com

Of counsel

Paul A Lucey, Esq
Michael Best & Friedrich LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, WI 53202
T (414) 271-6560

Dated July __, 2003

WLM\1 36202 1

COLLECTIVE

EXHIBIT A

PATRICK J. LUCEY

President, Westaire, Inc

Phone 414-540-1341
Fax 414-540-1342

9085 N Green Brook Ct
Milwaukee, WI 53217-1527

July 17, 2003

The Fleming Companies
P O Box 26647
Oklahoma City, OK 73126

RE Percentage of Sales Additional Rent – 2002
Sentry Foods Store #53716
4602 Cottage Grove Road
Madison, WI 53716

To Whom It May Concern

There exists a certain lease that has existed since July 5, 1972, of which I am now the Lessor and the Fleming Companies, Inc , Milwaukee Division is now the Lessee The Lease provides that the Lessee shall pay the Lessor additional rent, if any, the amount by which 1% of defined sales during the calendar year exceeds the annual base rent of $44,472 00 less any increase in real estate taxes over the base year of 1973 ($15,058 89)

In other years I received a check in February in the range of $20,000 00 to $25,000 00 This year I called your company a couple of times when the payment was due but heard nothing by way of response Ultimately, of course, I learned of your bankruptcy

In the interest of filing a claim for the amount due I have made the following calculation

2002 Sales (numbers supplied by sub-lessee, Joe Wirag)	$6,614,906 00
$6,614,906.00 x 1%	$66,149 06
Less Annual Base Rental	$44,472 00
Less Increase in Real Estate Taxes	
$15,835 23 - $15,058 89	$776 34
Net Additional Rent Due	$20,670 72

Since I have not previously made this calculation, I trust someone will review my numbers and my understanding of the language of the lease

Sincerely,

Patrick J Lucey

Post-it® Fax Note 7671	Date 7/17/03	# of pages ▶ 1
To PAUL LUCEY	From PAT LUCEY	
Co./Dept. MICHAEL BEST	Co.	
Phone # 414 270-2719	Phone # 414-540-1341	
Fax # 414-277-0656	Fax # 414-540 1342	

4802 Cottage Grove Rd • Madison, WI 53716-1302 • 608/222-3427 • FAX: 608/222-9173 Sentry FOODS®

7/17/03

To. Mr Patrick Lucey

From Joe Wirag

2002 Gross Sales Figure
#6,614,906.39

Mr Lucey,

I Hope This Helps. I Will Be Out Of The Store Until Mon 7/21. Give Me A Call If You Need Anything.

Thank You,

Joe

Paul Lucey

TOTAL P 01

LEASE

This indenture made this 5th day of July, 1972, by and between HENRY R WALLACE, F L BUENGEL, JOHN A DONALD, WILLIAM A DONALD, LOUISE A FORREK, a co-partnership, Waukesha Cottage Grove Co hereinafter called the "Lessor", and GODFREY COMPANY, a Wisconsin corporation of Waukesha, Wisconsin, hereinafter called the "Lessee"

WITNESSETH.

That the Lessor does hereby lease, demise and let unto the said Lessee the retail store, together with the entire premises described as:

Lot Two (2) of Certified Survey No. 312, recorded as Document No 1250912, County of Dane, State of Wisconsin

1 USE The leased premises shall be used only for proper and legitimate purposes, and the Lessee shall not use, nor suffer or permit any person to use, the same or any part thereof for any purpose or use in violation of the laws of the United States, or of the state, or of the ordinances of any political subdivision of the state, nor for any immoral or unlawful purpose whatsoever

2. TERMS AND RENTALS To hold for a term of twenty (20) years commencing on the first day of July, 1972, to the 30th day of June, 1992, and the said Lessee yielding and paying therefor an annual rental of Forty-Four Thousand Four Hundred Seventy-Two and no/100 Dollars ($44,472 00), with such rental due in advance monthly installments of Three Thousand Seven Hundred Six and no/100 Dollars ($3,706 00), and payable on or before the first day of each month, and the Lessee shall be responsible to the Lessor as tenant of the Lessor from that date

ADDITIONAL RENTAL As additional rental, the Lessee agrees to pay to the Lessor a sum equal to the amount, if any, by which one percent (1%) of gross sales made from the leased premises during each calendar year exceeds the annual base rental of Forty-Four Thousand Four Hundred Seventy-Two and no/100 Dollars ($44,472.00). Any increase in the real estate taxes over the base tax year of 19?? may be deducted from additional rental

Post-it® Fax Note 7671 | Date 4/7/03 | # of pages 7
To PAUL LUCEY | From PAT LUCEY
Co./Dept. MICHAEL BEST | Co
Phone # | Phone # 239-430-3932
Fax # 414-277-0656 | Fax # 3934

The term "gross sales" as used in this lease shall mean the gross sales made in, upon, or from the leased premises by the Lessee or any assignee or sublessee of the Lessee after first deducting the following:

(1) Credits or refunds made to customers for merchandise returned or exchanged,

(2) Transfers of merchandise from the leased premises to other stores or warehouses of the Lessee or its affiliated companies.

(3) The amount of any sales taxes or other taxes, except income taxes, under any laws, ordinances, orders, or regulations, whether now or hereafter in force, upon or based upon the gross receipts of the Lessee or upon or based upon the sale or sales price of merchandise and which must be paid by the Lessee, whether or not collected by the Lessee from its customers,

(4) Returns of merchandise to shippers or manufacturers,

(5) The net amount of discounts actually allowed to any customer pursuant to any customary and reasonable policy adopted by the Lessee from time to time, including in such discounts, but not by way of limitation, the net amount of any discounts allowed by way or of resulting from the issuance to customers of trading stamps or other evidences of purchase for immediate or future exchange for merchandise or other things of value; and

(6) Merchandise or other things of value issued in redemption of such trading stamps or other evidences of value or issued as a premium or otherwise in connection with any sales promotion program of the Lessee.

At the close of each fiscal year, which shall also be the calendar year, the computation for additional rental shall be made. In the event such calculations for additional rental shall develop a sum greater than the basic rent as herein provided, the additional rental shall be paid to the Lessor within thirty (30) days of the end of such calendar year during the term of this lease. The additional rental for a period of less than one (1) year shall be computed on the proportionate amount determined by the number of months within such year that the business was operated within the leased premises. All payments required to be made by Lessee under this lease shall be payable to Lessor at _____ 7465 North Oakland Ave. Milwaukee, Wis 53211 or at such other place or places as Lessor may from time to time direct in writing Lessor, or its agents, have the right to inspect the books and records of Lessee, at reasonable times and upon reasonable notice to verify the gross sales figure of the Lessee

3. REPAIRS, MAINTENANCE AND STRUCTURAL ALTERATIONS. The Lessee shall maintain and repair in all respects the interior and exterior of the improvements on the leased premises, and the parking areas on said leased premises, in a reasonably good state of repair except for damage by accidental fire, the elements, or other accidents not happening through neglect The Lessee may make, at his own expense, any alteration or improvement in or on the leased premises it may deem necessary or desirable for its purpose provided, however, the Lessee shall first have submitted plans of the proposed alterations or improvements to the Lessor, and shall have written approval for the making of such alterations or improvements The Lessee further agrees that it will hold harmless the Lessor for any claims arising from any alteration or improvements made by the Lessee on the leased premises.

4 TAXES The Lessee shall pay all general real estate taxes levied and assessed against the premises during the term of lease and extensions thereafter If after the date hereof any new special assessments are assessed against the premises for public improvements, the Lessee shall only be obligated to pay such portion of the total assessment as the unexpired term of the lease from the date the assessment bears to the full term of the lease (i.e 1/20th thereof for each unexpired year of the lease or extensions thereafter). In the year in which the lease terminates, the Lessee shall pay any real estate tax and special assessment for the months of such year prior to the termination of the lease, based upon a proration of the real estate tax due in the prior year. In the event Lessee exercises any option to extend this lease under paragraph 9 hereof, Lessee shall pay to the Lessor at the beginning of each five-year renewal term which it elects to avail itself of under paragraph 9, any portion of any new special assessment as referred to above, which was paid by Lessor, but which would have been paid by Lessee had the primary term of this lease included any term for which Lessee elects to exercise its option to extend this lease

5 SUBLEASING Lessee shall not assign this lease in any way nor shall the leased premises be subleased in whole or in part without the written consent of the Lessor first had and obtained which shall not be unreasonably withheld The subleasing provision shall not apply to Lessee assigning or subleasing to its subsidiary or franchise dealer In the event of assignment or subleasing to any party whomsoever, Lessee shall remain primarily liable

hereunder notwithstanding that such assignee shall assume to carry out and perform under all the terms and conditions of this lease

6. LOSS OR DAMAGE TO PREMISES If the premises are partially damaged by fire or other unavoidable casualty and the same shall become untenantable, except for wanton destruction by Lessor, the Lessee shall repair such damage as speedily as practicable, and the rent during such period shall not abate until said premises shall again be made tenantable. The Lessor and Lessee agree that the proceeds from the fire insurance covering said loss or damage shall be paid to the Lessee If, however, the damage shall exceed fifty percent (50%) and the period required to restore said premises shall exceed ten (10) months the Lessee shall have the option of terminating the lease upon giving the Lessor written notice thereof within thirty (30) days after occurrence of such damage, and if Lessee so elects to terminate the lease, Lessor shall be entitled to the proceeds of all fire insurance covering said loss or damage. However, if the Lessee desires to restore or replace the premises in approximately the same condition as it was immediately prior to the casualty, the Lessee and Lessor agree that the entire proceeds from the fire insurance coverage shall be applied to such replacement costs and in the event that this fund is insufficient for the purpose of making the restoration as required by the Lessee, the Lessee shall pay such deficiency In the event that the insurance proceeds are in excess of the amount needed to complete such repairs and replacements, the balance of such fund shall be paid to Lessee, but Lessor shall not be liable in damages to Lessee for lack of such repair or replacement for reasons beyond its control or for damages caused by uninsured casualty

If during the last two (2) years of the primary term or during the last two (2) years of any extended term the premises are damaged totally or in excess of twenty-five percent (25%) of the then insurable value of the leased premises, said lease shall terminate at the option of the Lessee by Lessee giving Lessor written notice thereof within thirty (30) days after the occurrence of such damage, and in the event Lessee so elects to terminate the lease, Lessor shall be entitled to the proceeds of all fire insurance covering said loss or damage

7 PUBLIC UTILITIES BILLS. The Lessee shall furnish and pay all charges for fuel, gas, heating, water, power, and other utilities used on the leased premises.

8. INSURANCE The Lessee shall procure, maintain and pay for the public liability insurance policy on said premises with limits of $300/500,000.00 bodily injury, $100 000 property damage, and $250/10,000 medical, with certificates of insurance to be furnished Lessor and/or any mortgagee as additional insured Lessor and Lessee agree that the limits for public liability may be adjusted from time to time as may be mutually agreed upon.

The Lessee shall procure, maintain and pay for the fire, extended coverage, and Vandalism and Malicious Mischief insurance policy on said premises in an amount of the maximum insurable value obtainable (said amount shall be agreed to by the Lessor and shall also be an amount acceptable to the mortgagee, if any), naming the Lessor and/or any mortgagee, as their interest may appear, if any, as the assured and shall also procure, maintain, and pay for adequate plate glass insurance Policies of insurance shall be furnished to the Lessor and shall also be in such form as the Lessor's mortgagee shall require.

9. OPTION TO EXTEND LEASE If Lessee is not in default under any of the terms of this lease, it shall have three (3) five (5) year successive renewal options on the same terms and conditions The Lessee shall notify the Lessor of its intention to exercise said option by giving notice in writing at least one (1) year prior to the expiration of the original (or extended) lease period. In the absence of notice for renewal of any one option under the provisions of this contract, the lease shall be deemed terminated at the end of the current lease period

10 FIXTURES AND EQUIPMENT. The Lessee shall have the right to place in or upon the leased premises such fixtures and equipment as may be considered necessary by the Lessee for the operation of its business, and title to such fixtures and equipment shall remain in the Lessee, who shall have the right to remove such fixtures and equipment, whether or not attached to the improvements at the termination of the lease The Lessee shall, however, repair forthwith all damages which may result from the removal of such fixtures and equipment at the termination of the lease

The Lessee shall have the sole privilege of erecting an exterior sign, and other identifications, but same shall not violate restrictions of record, zoning ordinances and regulations. Said signs shall be such as is customarily erected in other stores of Lessee.

11. SUBORDINATION At the Lessor's option, this lease shall be and is subordinate to any existing mortgages covering said premises, any extension or renewal thereof or to any new mortgages which may be placed thereon from time to time; provided, however, anything to the contrary contained herein notwithstanding, every such mortgagee shall recognize the validity of this lease in the event of a foreclosure of the Lessor's interest as long as the Lessee shall not be in default under any of the terms of this lease. The Lessee shall execute whatever instruments may be required to effect such subordination.

12. CONDEMNATION In the event the leased premises or any part thereof is taken, impaired, or condemned, for a public or quasi-public use and, in the Lessee's judgment reasonably exercised, its operation of the leased premises is rendered uneconomical by a final condemnation or taking in fee of a portion thereof, the Lessee at its option may within thirty (30) days after such occurrence, notify the Lessor that it elects to cancel and terminate this lease, including all of its rights and obligations hereunder, as of the last day of the second calendar month following the date of such notice. The Lessor, at its election, may request an evaluation of "Lessee's judgment, reasonably exercised" and, in this event, the matter shall be resolved through arbitration, with one arbitrator to be appointed by each of the parties hereto, who then are to appoint a third arbitrator at their election.

If the date of cancellation falls within the primary term, the Lessee shall deliver to the Lessor, contemporaneously with the delivery of such notice, an irrevocable written offer to purchase all of the Lessor's then right, title and interest in and to the leased premises (including the Lessor's right in and to any and all existing or prospective condemnation awards) for the sum of the then unamortized book value covering the improvements, together with fair market value for the land, together with an amount equal to the base rental for one (1) month at the then current rate but not less than an amount sufficient to pay the Lessor's then outstanding indebtedness due to its mortgagee on the note bearing even date herewith.

If Lessor fails to accept such offer to purchase on or before the date of cancellation, or if the date of cancellation is not within the primary term, all rights and obligations of the parties hereto shall cease as of such date of cancellation and each party hereto shall have the right to receive and retain for its own account, all compensation theretofore or thereafter awarded for its own right, title and interest so condemned or taken, except that the rights of Lessee to any such compensation shall not attach until the Lessor's then outstanding indebtedness due to its mortgagee on the note bearing even date herewith has been satisfied.

13 WAIVER OF SUBROGATION. Lessor and Lessee shall each, forthwith after the execution of this lease, procure from and cause each of the insurers under all policies of insurance, now or hereafter during the term hereof existing and purchased by either or both insuring or covering the demised premises or any portion thereof and/or Lessee's business or operations in the leased premises, a waiver of all rights of subrogation which the insurer under said policies might otherwise, if at all, have as against the other hereto, said waiver to be in writing and for the express benefit of the other

14. NOTICES. All notices hereunder shall be deemed sufficiently served when mailed by registered or certified mail and addressed to the Lessor at 4465 North Oakland Ave Milwaukee, Wis 53211 and to the Lessee at 1200 West Sunset Drive, Waukesha, Wisconsin, 53186, or to such other address as either may give to the other party from time to time by notice as herein provided

15 OPTION TO PURCHASE In the event that the Lessors shall, during the period of this lease or any extended period thereof, receive a bonafide offer to purchase the leased premises at a price and on terms which the Lessors are willing to accept, said Lessors shall submit offerer's name and address, as well as said offer to purchase in writing, to the Lessee within ten (10) days of receipt of such offer, and the said Lessee shall have the option within thirty (30) days thereafter to purchase the premises at the same price and on the same terms as contained in said offer If the Lessee does not exercise said option within said period, all rights of lessee shall terminate at the expiration of this lease and the Lessors may accept the said offer to purchase

16 [illegible]. And the said Lessee, for itself and its successors and assigns, does covenant and agrees to pay the said rent at the times and places in the manner aforesaid during the continuance of said term, to quit and deliver up the said premises to the said Lessor, its successors and assigns, quietly and peaceably, at the end of the said term, in the same condition as which they were at the commencement of said term, reasonable use and wear thereof, and damage by accidental fire, the elements, or other accidents not happening through the neglect of the said Lessee only excepted, and to allow the said Lessor, its successors and assigns, to enter and view the said premises.

And the said Lessee, for itself and its successors and assigns, further provides that these presents are upon the express condition that, if the said Lessee does or shall neglect or fail to perform and observe any of either of the covenants, conditions or stipulations hereinbefore contained, which on its part are to be performed, the said Lessor may lawfully, upon thirty (30) days written notice to Lessee, except in the case of failure to pay rent hereunder, in which case only ten (10) days written notice shall be required, and while such neglect or default continues, and without further notice of demand, enter into or upon said premises and repossess the same as of its former estate and expel the said Lessee and those claiming under it, and remove its effects (forcibly, if necessary), without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant, and such expulsion and removal, whether by the direct act of the Lessor, or its assigns, or through the medium of legal proceedings for that purpose instituted, shall not affect the liability of said Lessee or its representatives for the rent past due or future rent to accrue under this lease, but the same shall continue as if such removal or expulsion had not taken place

And the said Lessor, for itself and its successors and assigns, does covenant that the said Lessee, its successors and assigns, on paying the said rent and performing all of the covenants aforesaid, shall and may peaceably and quietly hold and enjoy the said demised premises for the terms aforesaid

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written

Henry R Wallace

F L Bengel

John A Donald

William A Donald
By John A Donald
Attorney-in-Fact

Louise A Farrer

GODFREY COMPANY

By John B Godfrey
President

Robert A Sellers
Assistant Secretary

MICHAEL BEST & FRIEDRICH LLP
Attorneys at Law

www mbf law com

100 East Wisconsin Avenue
Suite 3300
Milwaukee Wisconsin 53202 4108
FAX (414) 277 0656
Telephone (414) 271 6560

Offices in
Madison Wisconsin
Manitowoc Wisconsin
Waukesha Wisconsin
Lehigh Valley Pennsylvania
Chicago Illinois
(Michael Best & Friedrich LLC)

Author Paul A Lucey
Writer s Direct Line (414) 270 2719
Email palucey@mbf law com

Member Lex Mundi
A Global Network of more than
150 Independent Firms

September 12, 2003

VIA FEDERAL EXPRESS

Bankruptcy Management Corporation
1330 E Franklin Avenue
El Segundo, CA 90245

Re In re Fleming Companies, Inc
Case No 03-10945

Ladies & Gentlemen

Enclosed for filing in the above-referenced case are one original and two copies of a Proof of Claim with supporting documentation for creditor CG,LLC

Please file the original and one copy and return one conformed copy to me via the enclosed self-addressed, self-stamped envelope

Very truly yours,

MICHAEL BEST & FRIEDRICH LLP

Paul A Lucey

PL lsc
Enclosures
X \clientb\062136\0002 A0642647 1