

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)  
) (Jointly Administered)  
Debtors. )

**ORDER UNDER 11 U.S.C. §§ 105(a)  
AND 331 ESTABLISHING PROCEDURES FOR  
INTERIM COMPENSATION AND REIMBURSEMENT OF  
EXPENSES FOR PROFESSIONALS AND COMMITTEE MEMBERS**

Upon consideration of the motion seeking entry of an administrative order under 11 U.S.C. §§ 105(a) and 331 establishing procedures for interim compensation and reimbursement of expenses for professionals and committee members (the "Motion") filed by the debtors and debtors in possession (the "Debtors") in the above-captioned chapter 11 cases; and it appearing that the relief requested is in the best interests of the Debtors' estates, their creditors and other parties in interest; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O); and due and adequate notice of the Motion having been given under the circumstances; and after due deliberation and cause appearing therefore; it is hereby

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<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.; 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.

ORDERED that the Motion is granted; and it is further

ORDERED that, except as otherwise provided in an order of the Court authorizing the retention of a particular professional, the professionals specifically retained pursuant to an order of the Court in these cases (collectively, the “Professionals”) may seek interim payment of compensation and reimbursement of expenses in accordance with the following procedures (collectively, the “Compensation Procedures”):

a. On or about the 25th day of each calendar month, each Professional seeking interim compensation shall file an application (the “Monthly Fee Application”) with the Court pursuant to Section 331 of the Bankruptcy Code for interim approval and allowance of compensation for services rendered and reimbursement of expenses incurred during the immediately preceding month (the “Compensation Period”).

b. Each Monthly Fee Application shall comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), applicable Third Circuit law and the Local Rules of this Court and shall be served upon all parties set forth on the service list attached hereto as Exhibit A (the “Notice Parties”).

c. Each Notice Party shall have twenty (20) days after service of a Monthly Fee Application to object to such application (the “Objection Deadline”). Upon the expiration of the Objection Deadline, each Professional may file a certificate of no objection or a certificate of partial objection with the Court, whichever is applicable, after which the Debtors are authorized to pay each Professional an amount (the “Actual Interim Payment”) equal to the lesser of (i) 80 percent of the fees and 100 percent of the expenses requested in the Monthly Fee

Application (the "Maximum Payment") or (ii) 80 percent of the fees and 100 percent of the expenses not subject to an objection.

d. If any Notice Party objects to a Professional's Monthly Fee Application, it must file a written objection with the Court and serve it on the Professional and each of the Notice Parties so that it is received on or before the Objection Deadline. Thereafter, the objecting party and the Professional may attempt to resolve the objection on a consensual basis. If the parties are unable to reach a resolution of the objection within 20 days after service of the objection, then the Professional may either (i) file a response to the objection with the Court, together with a request for payment of the difference, if any, between the Maximum Payment and the Actual Interim Payment made to the affected Professional (the "Incremental Amount"); or (ii) forego payment of the Incremental Amount until the next interim or final fee application hearing, at which time the Court will consider and dispose of the objection, if requested by the parties.

e. Beginning with the period ending on June 30, 2003, and at three month intervals or such other intervals convenient to the Court ("Interim Period"), each Professional shall file with the Court and serve upon the Notice Parties, pursuant to Section 331 of the Bankruptcy Code, an interim application for allowance of compensation and reimbursement of expenses, of the amounts sought in the Monthly Fee Applications filed during such period (the "Interim Fee Application"). The Interim Fee Application must include a summary of the Monthly Fee Applications that are the subject of the request and any other information requested by the Court or required by the Local Rules. An Interim Fee Application

must be filed and served within 45 days of the conclusion of the Interim Period. The first Interim Fee Application should cover the time between the commencement of these cases through and including June 30, 2003, and shall be filed on or before August 15, 2003. Any Professional who fails to file an Interim Fee Application when due will be ineligible to receive further interim payments of fees or expenses under the compensation procedures until such time as the Interim Fee Application is submitted.

f. Debtors shall request that the Court schedule a hearing on the Interim Fee Applications at least once every six months or at such other intervals as the Court deems appropriate.

g. The pendency of an objection to payment of compensation or reimbursement of expenses will not disqualify a Professional from future payment of compensation or reimbursement of expenses, unless the Court orders otherwise.

h. Neither the payment of or the failure to pay, in whole or in part, monthly interim compensation and reimbursement of expenses, nor the filing of or failure to file an objection will bind any party in interest or the Court with respect to the allowance of interim or final applications for compensation and reimbursement of expenses of Professionals.

i. All fees and expenses paid to Professionals are subject to disgorgement until final allowance by the Court; and it is further

ORDERED that notice of the interim and final fee applications shall be served on (a) the Notice Parties, and (b) all parties that filed a notice of appearance with the Clerk of this Court, pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure. The Notice Parties

shall be entitled to receive both the Monthly and Interim Fee Applications and the notice of hearing thereon (the "Hearing Notice"), and all other parties entitled to notice shall be entitled to receive only the Hearing Notice. Notice given in accordance with this paragraph is deemed sufficient and adequate and in full compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules of this Court; and it is further

ORDERED that each member of the Committee (if appointed) is permitted to submit statements of expenses (excluding Committee member counsel fees and expenses) and supporting vouchers to counsel to the Committee, which shall collect and submit the Committee members' requests for reimbursement in accordance with these Compensation Procedures as if such Committee members were Professionals; and it is further

ORDERED that Debtors shall include all payments to Professionals on its monthly operating reports, detailed so as to state the amount paid to each of the Professionals; and it is further

ORDERED that all time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

Dated: \_\_\_\_\_, 2003

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The Honorable Mary F. Walrath  
United States Bankruptcy Judge