

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

<p>In re:</p> <p>FLEMING COMPANIES, INC., et al.,</p> <p>Debtors.</p>	<p>§ Chapter 11</p> <p>§</p> <p>§ Case No. 03-10945-MFW</p> <p>§</p> <p>§ (Jointly Administered)</p>
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**AFFIDAVIT OF NEEL LEMON IN SUPPORT OF DEBTORS'
APPLICATION PURSUANT TO SECTION 327(e) OF THE BANKRUPTCY CODE
AUTHORIZING THE EMPLOYMENT AND RETENTION OF BAKER BOTTS L.L.P.
AS SPECIAL CORPORATE AND SECURITIES COUNSEL**

1. My name is Neel Lemon. I am a partner in the law firm of Baker Botts L.L.P. ("Baker Botts"). I am authorized to make this Affidavit on Baker Botts' behalf. This Affidavit is submitted pursuant to Fed. R. Bankr. P. 2014(a) in support of the Application for Order Pursuant to Section 327(e) of the Bankruptcy Code Authorizing the Employment and Retention of Baker Botts L.L.P. as Special Corporate and Securities Counsel (the "Application").

2. Baker Botts was founded in 1840 and is the oldest law firm in Texas. Today, the firm has over 650 lawyers and offices in Austin, Baku, Dallas, Houston, London, Moscow, New York, Riyadh, and Washington D.C. Baker Botts' practice involves almost all areas of law, with particular emphasis on business and financial matters and civil litigation.

3. Prior to the commencement of these cases, Baker Botts represented Fleming Companies, Inc. in connection with an investigation commenced by the United States Securities and Exchange Commission. This investigation is ongoing. In addition, Baker Botts

regularly provides counsel to the Debtors on a variety of other general corporate, business, and securities. During the past year, this advice has included consultation in connection with the efforts of the Debtors to sell their retail operations as well as a variety of more general corporate advice.¹

Services to be Rendered

4. The Debtors have requested that Baker Botts render the following services in connection with the Debtors' corporate and securities needs:

- (a) to advise the Debtors and their directors, officers and employees in connection with general corporate, business and securities matters;
- (b) to assist the Debtors in matters pertaining to Fleming Companies, Inc.'s compliance with reporting and other obligations under federal and state securities laws;
- (c) to represent the Debtors in matters pertaining to the listing of the companies securities on various securities exchanges;
- (d) to assist the Debtors in exploring strategies for the disposition of their non-core retail operations, assets and/or subsidiaries;
- (e) to provide advice on matters pertaining to the SEC's pending investigation of Fleming Companies, Inc.'s accounting and disclosure practices; and
- (f) to assist the Debtors on matters pertaining to their interface with various third party insurers, including their director and officer liability insurer.

¹ The following entities have filed for chapter 11 protection in these cases: Fleming Companies, Inc., ABCO Food Group, Inc., ABCO Markets, Inc., ABCO Realty Corp., ASI Office Automation, Inc., C/M Products, Inc., Core-Mark International, 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., Richmar Foods, Inc.

Baker Botts' Eligibility to Serve As Special Counsel

5. Baker Botts maintains a computer database of all matters in which Baker Botts is involved for the specific purpose of ensuring that it does not engage in activities prohibited by applicable rules of professional responsibility and to assist it in avoiding conflicts of interest. Additionally, Baker Botts regularly communicates to its attorneys information with respect to new matters undertaken by Baker Botts. This practice assists Baker Botts in its ongoing efforts to avoid conflicts of interest in the representation it accepts.

6. In connection with its retention by the Debtors, Baker Botts performed its standard conflicts review procedure to determine if the firm represented any other party in a matter adverse or potentially adverse to those entities. Baker Botts determined that no such conflict existed, and it thereafter entered into a letter of engagement with the Debtors. I have verified through Baker Botts' conflicts control system that this situation has not changed.

7. To the best of my knowledge, information, and belief, and based on the conflicts checks above-described, Baker Botts does not represent any party that holds or represents any interest adverse to the Debtors or their respective estates in the matters for which Baker Botts is proposed to be retained.

8. In the interests of full disclosure, I also disclose that prior to the Petition Date, Baker Botts also represented Fleming Companies, Inc. and various of its current and former directors, officers, and employees in connection with various shareholder suits. Baker Botts also represented some of these individuals in connection with the ongoing SEC investigation. Baker Botts since has withdrawn or is in the process of withdrawing from

representation of former officers and employees. Baker Botts plans to continue to represent those current officers and current and former directors listed on Exhibit A. Although these representations are not adverse to the estate in connection with the matters on which Baker Botts is to be retained, the terms of Baker Botts' engagement provide that the firm may withdraw from such representation if such officers' and directors' interests become adverse to the Debtors or the firm believes that there is significant risk of potential adversity. I do not believe these representations disqualify Baker Botts from serving as special counsel in connection with the matters proposed.

9. In unrelated matters, Baker Botts also represents a number of clients who may be creditors of or stakeholders in one or more of the Debtors or otherwise may have an interest in the Debtors' bankruptcy proceedings. Baker Botts does not represent such clients in connection with the Debtors' bankruptcy cases, including in connection with the matters for which it will be retained, and it will not do so. I do not believe that such representations render Baker Botts unfit to serve as special counsel in these proceedings.

10. Baker Botts intends to apply for compensation for professional services rendered in connection with these chapter 11 cases subject to approval of this Court and compliance with applicable provisions of the Bankruptcy Code and this Court's local rules and orders, on an hourly basis, plus reimbursement of actual, necessary expenses and other charges incurred by Baker Botts. Baker Botts will employ attorneys and legal assistants with varying degrees of legal experience in the corporate and securities areas, as each matter may require. The current standard hourly rates charged by Baker Botts for partners and counsel range from

\$315 to \$650 per hour, the rates charged for associates range from \$160 to \$310 per hour, while the rates charged for legal assistants is \$110 per hour on average.

11. The standard hourly rates charged by Baker Botts are subject to periodic adjustments to reflect economic and other conditions. Baker Botts' standard hourly rates are at a level designed to fairly compensate Baker Botts for the work of its attorneys and legal assistants and to cover fixed and routine overhead expenses. It is Baker Botts' standard policy to seek reimbursement from its clients in all areas of service for other customary expenses incurred in connection with the clients' accounts. The expenses charged to clients include, among other things, telephone and telecopier toll and other charges, mail and express mail charges, special or hand delivery charges, document processing, photocopying charges, travel expenses, expenses for certain "working meals," computerized research, messengers, couriers, and postage for mass mailings. Baker Botts will charge the Debtors for these expenses in a manner and at rates consistent with charges made generally to Baker Botts' other clients. In connection with its postpetition services, Baker Botts received a retainer of \$250,000 from the Debtors, which it holds for application in accordance with further order from this Court.

12. Baker Botts will submit interim and final applications for compensation in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the local rules of this Court as may then be applicable, from time to time, and such procedures as may be fixed by order of this Court.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
is true and correct.

Dated: April 4, 2003



NEEL LEMON

Exhibit A to Affidavit of Neel Lemon

Herbert Baum (current director)

Kenneth Duberstein (current director)

Archie Dykes (current director)

Carol Hallett (current director)

Robert Hamada (current director)

Edward Joullian, III (current director)

Alice Peterson (current director)

Guy Osborn (former director)

Carlos Hernandez (current officer)

Neal Rider (current officer)

Mark Shapiro (current officer)