

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
Fleming Companies, Inc., et al.,¹) Case No. 03-10945 (MFW)
) (Jointly Administered)
Debtors.)
)
)

**ORDER AUTHORIZING SALE OF PHARMACY ASSETS LOCATED AT SEVEN OF
THE DEBTORS' STORES**

Upon the Motion² of the debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases seeking entry of an order authorizing the sale of Pharmacy Assets located at seven of the Debtors’ stores; 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 within the meaning of 28 U.S.C. § 157(b)(2); and it appearing that venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and adequate notice having been given; and it appearing that no

¹ 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.

² Capitalized terms used but not defined herein shall have the same meaning as in the Motion.

other notice need be given; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED THAT:

1. The Motion is granted.
2. The Debtors are authorized to sell the Pharmacy Assets to Kroger pursuant to the terms of the Kroger Agreement, free and clear of all liens, claims and encumbrances with all such liens, claims and encumbrances attaching to the proceeds resulting from the sale of such assets in the same priority and with the same validity as such liens had with respect to the Pharmacy Assets.
3. The Debtors are authorized to sell the Pharmacy Assets to Safeway pursuant to the terms of the Safeway Agreement, free and clear of all liens, claims and encumbrances with all such liens, claims and encumbrances attaching to the proceeds resulting from the sale of such assets in the same priority and with the same validity as such liens had with respect to the Pharmacy Assets.
4. Each of Kroger and Safeway are “good faith” purchasers and, as good faith purchasers, each of Kroger and Safeway are entitled to the protections of section 363(m) of the Bankruptcy Code.
5. Upon the sale of the Pharmacy Assets pursuant to the terms of the Kroger Agreement, Kroger shall pay to the Debtors, in immediately available funds, the amount required by the terms of the Kroger Agreement.
6. Upon the sale of the Pharmacy Assets pursuant to the terms of the Safeway Agreement, Safeway shall pay to the Debtors, in immediately available funds, the amount required by the terms of the Safeway Agreement.

7. The Debtors shall provide McKesson Corporation with a copy of the inventory analyses prepared by the Debtors, Kroger and Safeway pursuant to the terms of the Purchase Agreements within ~~four~~ ^{three} ~~(4)~~ ⁹³ business days of their completion.
8. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order or either of the Purchase Agreements.
9. Notwithstanding the possible applicability of Bankruptcy Rules 6004(g), 7062, 9014, or otherwise, the terms and conditions of this Order shall take effect immediately upon entry.

Dated: Wilmington, Delaware

April 21, 2003



United States Bankruptcy Judge