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.	)	

APPLICATION OF THE DEBTORS FOR ORDER PURSUANT TO 11 U.S.C. §§ 327(a) AND 328 AND FED. R. BANKR. P. 2014(a), 2016 AND 5002 AUTHORIZING THE EMPLOYMENT AND RETENTION OF KEKST AND COMPANY AS PUBLIC RELATIONS AND CORPORATE COMMUNICATIONS CONSULTANT TO THE DEBTORS AND DEBTORS IN POSSESSION

The above-captioned debtors and debtors in possession (collectively, the "Debtors") hereby submit this application (the "Application") for entry of an order pursuant to sections 327(a) and 328 of title 11 of the United States Code (as amended, the "Bankruptcy Code") and Fed. R. Bankr. P. 2014(a), 2016 and 5002, authorizing the employment and retention of Kekst and Company Incorporated ("Kekst") as public relations and corporate communications consultant to the Debtors. In support of this Application, the Debtors state as follows.

Introduction

1. The Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

[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. (collectively, the "Debtors")

Venue of this proceeding and this Application is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are sections 327(a) and 328 of the Bankruptcy Code.

Background

2. On April 1, 2003, (the "Petition Date"), the Debtors filed their voluntary petitions for relief under Chapter 11 of the Bankruptcy Code (the "Chapter 11 Cases"). The cases are being jointly administered. The Debtors are operating their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this case. An official committee of unsecured creditors was appointed on April 10, 2003.

Relief Requested

3. By this Application, the Debtors seek to employ and retain Kekst pursuant to § 327(a) of the Bankruptcy Code as public relations and corporate communications consultant to the Debtors during the Chapter 11 Cases, as more fully described below.

4. Kekst is a communications firm that has extensive experience in crisis communications involving matters such as corporate transactions, bankruptcies, restructurings and reorganizations, and has an excellent reputation for the services it has rendered in chapter 11 cases on behalf of debtors throughout the United States. Kekst also specializes in corporate communications.

5. Kekst has extensive experience in assisting financially troubled companies with public relations, including companies that have been in bankruptcy. Some of the large Chapter 11 cases in which Kekst has acted, or is currently acting, as public relations and corporate communications consultant to the debtor include Kmart, Pacific Gas and Electric

Company, Big V Supermarkets, AT&T Canada, Owens Corning, Enron, Polaroid, WR Grace, Grand Union, Jitney Jungle Stores, Peter J. Schmit, Loews Cineplex, AMF Bowling and R.H. Macy and Company.

6. Kekst also has extensive knowledge of the Debtors and their businesses as it has been the Debtors' public relations and corporate communications consultant since May 24, 2001.

7. Many persons and entities, including employees, counter-parties to executory contracts and leases, equity holders, financial markets, potential investors, governmental entities, trade and other creditors, the media, and the general public will be interested in Debtors' bankruptcy. The cooperative participation of many of these persons and entities will be necessary for the Debtors to successfully reorganize. Kekst will be able to assist the Debtors in protecting, retaining and developing the goodwill and confidence of these constituencies. Toward that end, Kekst can, among other activities, assist the Debtors in (i) communicating reliably, accurately and effectively; (ii) speaking with a unified, authoritative voice; (iii) presenting a coherent, consistent message; (iv) managing the Debtors' disclosure of information; (v) correcting, counteracting and controlling damage in regard to the rumors and misinformation that inevitably will arise; (vi) deterring and dissuading irrational, uninformed, panicked or other behavior deleterious to the estates and the reorganization; and (vii) otherwise protecting the goodwill of the Debtors. In addition, by having a public relations and corporate communications consultant provide these services in the Chapter 11 Cases, other professionals in the Chapter 11 Cases and company officers who might otherwise handle public relations matters will be able to focus better on their respective competencies and jobs in the management and reorganization of the Debtors.

8. The services of Kekst as public relations and corporate communications consultant to the Debtors are necessary to enable the Debtors to maximize the value of their estates and to reorganize successfully. Kekst has indicated a willingness to act on behalf of the Debtors and to subject itself to the jurisdiction and supervision of the Court.

Kekst Disinterestedness

9. To the best of the Debtors' knowledge, and as disclosed herein and in the affidavit of Gershon Kekst, president of Kekst, a copy of which is attached hereto as Exhibit A (the "Kekst Affidavit"), (a) Kekst is a "disinterested person" within the meaning of section 101(14) and as required by section 327(a) and referenced by section 328(c) of the Bankruptcy Code, and holds no interest adverse to the Debtors and their estates, creditors or equity security holders for the matters for which Kekst is to be employed and (b) Kekst has no connection to the Debtors, their creditors or their related parties herein except as disclosed in the Kekst Affidavit.

10. Kekst will conduct an ongoing review of its files to ensure that no conflicts or other disqualifying circumstances exist or arise. If any new facts or relationships are discovered, Kekst will supplement its disclosure to the Court.

Scope of Services

11. The parties have entered into an agreement that would govern the relationship between Kekst and the Debtors, a copy of which is attached as Exhibit B (the "Employment Agreement"). Kekst will render to the Debtors professional services (the "Corporate Communications Services") involving consulting on public relations and corporate communications issues and providing communications services during the course of the Chapter 11 Cases as set forth in the Kekst Agreement.

12. Kekst will carry out unique functions and will coordinate with the Debtors' other retained professionals to avoid unnecessary duplication of services.

Terms of Retention

13. Kekst has agreed to represent the Debtors and charge its standard hourly rates for its services, taking into account such factors as extraordinary efforts and special expertise. Fees in connection with this engagement will be based upon the time necessarily spent in providing the public relations and corporate communications services, multiplied by Kekst standard hourly rates.

14. The normal hourly rates charged by Kekst personnel are as follows:

a. Senior Partners – $600-$695;

b. Partners – $450-$600;

c. Senior Associates – $425-$450; and

d. Associates – $250-$325;

These hourly rates are adjusted annually.

15. In addition to the fees outlined above, Kekst will bill the Debtors for reasonable expenses which are likely to include airfare, meals and hotel accommodations, telephone and other communication charges, research, duplicating and printing, and reasonable professional fees and disbursements incurred by Kekst.

16. Kekst will seek to have payment of such compensation and reimbursement of expenses approved in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Delaware Local Bankruptcy Rules and orders of this Court.

17. Kekst will maintain reasonably detailed records of any actual and necessary costs and expenses incurred in connection with the aforementioned services.

18. Notwithstanding anything contained herein to the contrary, all of Kekst 's fees and expenses in the Chapter 11 Cases will be subject to the approval of the Court upon proper application by Kekst in accordance with sections 330 and 331 of the Bankruptcy Code and Fed. R. Bankr. P. 2016, the fee and expense guidelines established by the United States Trustee and any other applicable requirements. However, pursuant to section 328(a) of the Bankruptcy Code, the Court may not subsequently allow Kekst compensation on terms different from that described herein unless such compensation "prove[s] to have been improvident in light of developments not capable of being anticipated at the time" this Application was originally approved. 11 U.S.C. § 328(a).

19. Prior to the Petition Date, Kekst received $325,000 from the Debtors, including a retainer of $152,075 and a $172,925 prepayment for prepetition public relations services rendered to the Debtors including, among other things, developing public relations strategies for the financial difficulties of the Debtors and their Chapter 11 Cases. The payments have been applied to outstanding balances for prepetition services related to the preparation for the filing of the bankruptcy petitions of the Chapter 11 Cases. The Debtors have agreed that any portion of the retainer not used to compensate Kekst for its prepetition services and expenses ultimately will be used by Kekst to apply against its postpetition billings and will not be placed in a separate account.

Indemnification Provisions

20. Kekst requests that the indemnification provisions of the Employment Agreement be approved, subject to the following:

a. subject to the provisions of subparagraph (d), infra, the Debtors are authorized to indemnify, and shall indemnify Kekst , in accordance with the Employment Agreement, for any claim arising from,

related to or in connection with Kekst's prepetition performance of the services described in the Employment Agreement;

b. subject to the provisions of subparagraph (d), infra, the Debtors are authorized to indemnify and hold harmless, and shall indemnify and hold harmless Kekst, its officers, directors, employees and agents in accordance with the Employment Agreement, for all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorney's fees and disbursements) arising from or in connection with the Public Relations and Corporate Communications Services but not for any loss, claim, damage, liability, cost or expense arising from or in connection with Kekst's postpetition performance of any services other than the Corporate Communications and Public Relations Services unless such postpetition services and indemnification therefore are approved by the Court;

c. notwithstanding any provision of the Employment Agreement to the contrary, the Debtors shall have no obligation to indemnify Kekst, or to provide contribution or reimbursement to Kekst for any loss, claim, damage, liability, cost or expense that is arising from or out of Kekst's breach of the Employment Agreement or Kekst 's gross negligence or willful misconduct; and

d. if, before the earlier of (i) the entry of an order confirming a Chapter 11 plan in these cases (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing the Chapter 11 cases, Kekst believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Employment Agreement including without limitation the advancement of defense costs, Kekst must file an application therefor in this Court, and the Debtors may not pay any such amounts to Kekst before the entry of an order by this Court approving payment. This subparagraph (d) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by Kekst for indemnification, contribution or reimbursement and not to limit the duration of the Debtors' obligation to indemnify Kekst.

21. The preceding indemnification procedures are in substantially the same form as the indemnification procedures that were negotiated with the U.S. Trustee and approved by the Court in In re United Artists Theatre Company, et al., Case No. 00-03514 (SLR) (Bankr. D. Del. Sept. 7, 2000); In re Ameriserve Food Distribution, Inc., et al., Case No. 00-0358 (PJW)

(Bankr. D. Del. May 9, 2000); and In re Planet Hollywood International, Inc., et al., Case No. 99-3612 (JJF) (Bankr. D. Del. Dec. 17, 1999).

Notice

22. Notice of this Application has been given to: (a) the United States Trustee; (b) counsel to the senior secured lenders; (c) proposed counsel to the Official Committee of Unsecured Creditors; (d) counsel to certain PACA claimants and (e) those persons who have requested notice pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure will be sufficient for entry of an Order on the Application. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

23. No prior motion for the relief requested herein has been made to this or any other Court.

WHEREFORE, the Debtors respectfully request that the Court enter an Order, substantially in the form attached hereto, authorizing the employment and retention of Kekst as public relations and corporate communicationsconsultant pursuant to the terms of the Employment Agreement; and grant such further relief as is just and proper.

Wilmington, Delaware

Respectfully submitted,

Dated: May 1, 2003

KIRKLAND & ELLIS
James H. M. Sprayregen, P.C. (ARDC No. 6190206)
Richard L. Wynne (CA Bar No. 120349)
Bennett L. Spiegel (CA Bar No. 129558)
Shirley Cho (CA Bar No. 192619)
Marjon Ghasemi (CA Bar No. 211551)
Kirkland& Ellis
777 South Figueroa Street
Los Angeles, CA 90017
(213) 680-8400 (Telephone)
(213) 680-8500 (Facsimile)

and

PACHULSKI, STANG, ZIEHL, YOUNG, JONES & WEINTRAUB LLP

Laura Davis Jones (DE No. 2436)
Ira D. Kharasch (DE No. 109084)
Scotta E. McFarland (DE No. 4184)
Christopher J. Lhulier (DE No. 3850)
919 North Market Street, 16th Floor
P.O. Box 8705
Wilmington, Delaware 19899-8705 (Courier No. 19801)
(302) 652-4100 (Telephone)
(302) 652-4400 (Facsimile)

[Proposed] Counsel for the Debtors and Debtors in Possession