

Exhibit B

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: (A) SCHEDULING THE DATE, TIME AND PLACE
FOR A HEARING ON THE PROPOSED RICHMAR FOODS STORES
ASSET SALE MOTION; (B) APPROVING THE FORM AND MANNER
OF NOTICE THEREOF; AND (C) APPROVING: (i) DEBTORS' AUCTION
PROCEDURES; AND (ii) BREAK-UP FEE [RE: DOCKET NO.]**

Upon the motion of Fleming Companies, Inc. and Richmar Foods, Inc., a wholly owned subsidiary of Fleming ("Richmar"), two of the above-captioned debtor and debtor in possession (collectively the "Debtors") seeking entry of an Order: (A) Scheduling the Date, Time and Place for a Hearing on the Proposed Richmar Food Stores Asset Sale Motion; (B) Approving the Form and Manner of Notice Thereof; and (C) Approving: (i) Debtors' Auction Procedures; and (ii) Break-Up Fee (the "Procedures Motion");² due and

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 not expressly defined herein have the meanings ascribed to such terms in the Procedures Motion, or if not expressly defined therein, in the Asset Purchase Agreement ("Purchase Agreement") annexed as an Exhibit thereto.

adequate notice having been given under the circumstances; it appearing that the relief requested is in the best interest of the Debtors' estates, their creditors, and other parties in interest; it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b); and after due deliberation and cause appearing therefor; it is hereby

FOUND AND DETERMINED THAT:³

A. The Debtors have articulated good and sufficient reasons for approval of the Debtor's Auction Procedures,

B. The Debtors' Auction Procedures, attached hereto as Exhibit 1, are reasonable and appropriate to maximize the return on the Assets, and

C. The Debtor's proposed notice of the Debtors' Auction Procedures, including the Auction Notice and the Cure Notice, is reasonable.

NOW, THEREFORE, IT IS

ORDERED that the **Procedures Motion** is GRANTED as set forth below; and it is further

ORDERED that the **Debtors' Auction Procedures**, substantially in the form attached hereto as Exhibit 1, are hereby APPROVED, and it is further

ORDERED that the **Auction Notice**, substantially in the form attached hereto as Exhibit 2, is hereby APPROVED as good and sufficient notice of the sale of the Assets, the Auction and all proceedings related thereto; and it is further

ORDERED that the **Cure Notice**, substantially in the form attached hereto as Exhibit 3, is APPROVED as good and sufficient notice to counterparties to executory contracts and unexpired leases of the potential assumption and assignment of the Assigned Contracts and Leases; and it is further

³ Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052. Statements made by the Court from the bench at the hearing shall constitute additional conclusions of law and findings of fact as appropriate.

ORDERED that the Debtors shall have filed and served the **Sale Motion** upon the persons and in the manner specified in the Procedures Motion no later than **May 12, 2003**; and it is further

ORDERED that the Debtors shall have served the **Auction Notice** (substantially in the form annexed hereto) upon the persons and in the manner specified in the Procedures Motion no later than **May 12, 2003**.

ORDERED that the Debtor shall have sent the **Cure Notice** (substantially in the form annexed hereto) not later than **May 12, 2003** to each counterparty to an executory contract or unexpired lease with any of the Debtors that is to be assumed and assigned to the purchaser; and it is further

ORDERED that the Debtors may, at their option, **publish** a notice substantially in the form of the **Auction Notice** in the Wall Street Journal (national edition) by no later than **May 23, 2003**; and it is further

ORDERED that **objections** or responses, if any, to the relief sought in the **Sale Motion** shall be filed and served so that the objection is actually RECEIVED by all required persons by no later than **May 28, 2003 at 4:00 p.m., prevailing Eastern time**; and it is further

ORDERED that **objections** or responses, if any, to a **Cure Notice**, or any cure amounts stated therein, shall be filed and served so that the objection is actually RECEIVED by all required persons by no later than **May 28, 2003 at 4:00 p.m., prevailing Eastern time**; and it is further

ORDERED that any and all **Qualifying Bids** (as such term is defined in the Debtors' Auction Procedures), other than the bid of Save Mart Supermarkets (the "Buyer"), which is deemed to be made ~~as at~~ the Adjusted Estimated Cash Purchase Price (as defined in the Debtors' Auction Procedures), shall be submitted to the Debtors' counsel (with a copy to the Creditor's Committee's counsel and the Debtors' post-petition lenders) at the respective

addresses set forth in the Debtors' Auction Procedures so that they are RECEIVED no later than **May 28, 2003 at 4:00 p.m., prevailing Eastern time**; and it is further

ORDERED that the Debtors shall have leave (but are not required) to file and serve upon the objecting or responding party a written **reply** to any such objections or responses to the **Sale Motion** and/or any **Cure Notice** by no later than **June 2, 2003 at 12:00 p.m., prevailing Eastern time**; and it is further

ORDERED that the Debtor shall hold the **Auction** for the Assets in accordance with the Debtors' Auction Procedures at the offices of Kirkland & Ellis, 153 East 53rd Street, New York, NY 10022 , on **May 30, 2003 at 10:00 a.m. prevailing Eastern time**; and it is further

ORDERED that a **hearing** on a Motion to confirm the results of the Auction, if any, and to approve the terms of any sale(s) of assets and assumption and assignment of related executory contracts and unexpired leases will be held on **June 4, 2003, at 4:00 p.m., prevailing Eastern time** (the "Asset Sale Hearing"); and it is further

ORDERED that service and publication of the Auction Notice substantially in accordance with the procedures set forth herein shall be deemed good and sufficient notice of this Order, the Procedures Motion, the Auction, and all proceedings to be held thereon; and it is further

ORDERED that any person seeking to participate as a Qualified Bidder at the Auction must comply with the Debtors' Auction Procedures; and it is further

ORDERED that the Debtor may, upon consultation with the Creditors' Committee and the Debtors' post-petition lenders, with the consent of the Buyer (which consent may not be unreasonably delayed or withheld), extend the deadlines set forth in the Debtors' Auction Procedures, may adjourn the Auction at the Auction, extend the time for filing

objections to the Sale Motion, and/or may seek adjournment of the Asset Sale Hearing in open court, all without further notice; and it is further

ORDERED that unless a contract or lease counterparty timely objects, in writing, to any of the cure amounts contained in the Cure Notice: (a) the counterparty shall receive from the purchaser at the time of the closing of the sale of the Assets (or promptly thereafter) the cure amount stated in the Cure Notice with respect to the relevant contract or lease, if such contract or lease is assumed and assigned to the purchaser; and (b) the counterparty shall be forever barred, estopped and enjoined from asserting or enforcing against the ~~Buyer~~purchaser, the Debtors or their estates any additional cure amounts in connection with the applicable lease or contract; and it is further

ORDERED that any ~~such~~-objection or response to a Cure Notice must set forth a specific default in any executory contract or unexpired lease, and claim a specific monetary amount that differs from any cure amounts specified in the Cure Notice; and it is further

ORDERED that pursuant to 11 U.S.C. § 365(k), upon assignment of the Assigned Contracts and Leases, the Debtors ~~and its~~their estates ~~shall~~ have no liability for any breach of such contract or lease occurring after such assignment; and it is further

ORDERED that in the event that between the time of the distribution of the Cure Notice and the Auction, the Debtors identify additional executory contracts or unexpired leases not set forth in the Cure Notice, the Debtors are hereby authorized, upon filing and serving on the counterparties to ~~the~~such additional executory contracts and unexpired leases, a supplemental cure notice (a "Supplemental Cure Notice") to assume and assign such additional executory contracts and unexpired leases; and it is further

ORDERED that if a counterparty does not object to the Cure Amount set forth in the Supplemental Cure Notice within five days upon receipt thereof (a) such counterparty shall

receive from the purchaser the cure amount stated in the Supplemental Cure Notice with respect to the relevant contract or lease, if such contract or lease is assumed and assigned to the purchaser; and (b) the counterparty shall be forever barred, estopped and enjoined from asserting or enforcing against the purchaser, the Debtors or their estates any additional cure amounts in connection with the applicable lease or contract; and it is further

ORDERED that any objection to a Supplemental Cure Notice must set forth a specific default in any executory contract or unexpired lease and claim a specific monetary amount that differs from the amount (if any) specified by the Debtors in the Supplemental Cure Notice; and it is further

ORDERED that upon the date the Debtors consummate an Alternative Transaction, the Debtors shall immediately pay to Buyer (in immediately available cash via wire transfer to an account designated by Buyer), a breakup fee equal to the amount set forth in the Debtors' Auction Procedures attached hereto as Exhibit 1 (the "Break-Up Fee"); and it is further

ORDERED that, notwithstanding any other Order of this Court or otherwise, the Buyer shall pay the Break-Up Fee from any proceeds of the Alternative Transaction prior to the attachment thereto of any lien, claim or encumbrance whatsoever; and it is further

ORDERED that a Break-Up Fee shall be paid to the Buyer under the terms and conditions set forth herein and in the Debtors' Auction Procedures without further Order of this Court; and it is further

ORDERED that the Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of this Order; and it is further

ORDERED that this Order is effective immediately upon its entry.

Dated: May____, 2003

Hon. Mary F. Walrath
United States Bankruptcy Judge

Exhibit 1

[Auction Procedures]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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

AUCTION PROCEDURES

Fleming Companies, Inc. and Richmar Foods, Inc., two of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) have established the following auction procedures (the “Auction Procedures”) for the solicitation of offers to purchase up to nine (9) of the leased retail grocery stores and certain related Assigned Contracts and Leases (the “Assets”). The auction for the Assets (the “Auction”) shall be conducted in accordance with section 363 of the Bankruptcy Code, Rule 6004 of the Federal Rules of Bankruptcy Procedure, and the Procedures Order, including the Auction Procedures.

1. **Confidential Information.** Any person or entity seeking Confidential Information regarding the Debtors and/or the Assets must execute and deliver a confidentiality agreement in a form and in substance acceptable to the Debtors (after consultation with the Committee and the Debtors’ post-petition lenders), and deliver to the Debtors evidence (satisfactory to the Debtors after consultation with the Committee and the Debtors’ post-petition lenders) establishing such person’s or entity’s financial capability to timely consummate the purchase of the Assets. The Debtors may decline to provide Confidential Information or any other non-public information to any person or entity seeking it hereunder if the Debtors conclude, after consultation with the Committee and the Debtors’ post-petition lenders, that provision of such information to a particular person or entity could harm the Debtors’ estates in any way whatsoever or diminish the value of the Assets or their marketability.

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. **Auction Structure.** Depending upon On May 19, 2003, the results of FTC review of issued a letter permitting the proposed sale of six (6) of the leased retail grocery stores and certain related defined contracts and leases (the "FTC Approved Assets to Buyer, the").² The Auction for the Assets shall proceed on May 30, 2003 at 10:00 a.m. prevailing Eastern time (the "Auction Date") ~~in one of~~ as a bifurcated bid auction whereby two separate auctions are to be held contemporaneously or sequentially (as determined by the following three manners Debtors in consultation with the Committee and the Debtors' post-petition lenders) as follows:

- a. ~~Total Assets Auction.~~ If, on or before May 23, 2003 at 5:00 p.m. prevailing Eastern time (the "Auction Determination Date"), the FTC approves the sale to the Buyer of all nine (9) stores and related Assigned Contracts and Leases, as defined in the Purchase Agreement (the "9 Store Assets"), then the Auction will proceed on the Auction Date as a bid auction for the 9 Store Assets (the "Total Assets Auction").
- b. ~~Lot Auction.~~ If, on or before the Auction Determination Date: (x) the FTC rejects the sale of the 9 Store Assets to the Buyer, or (y) ~~either the Debtors or the Buyer terminates the Purchase Agreement for any reason, then the Debtors shall promptly notice all interested parties that the Auction will proceed on the Auction Date as a bid auction for "Lots" comprised of at least one (1), and up to nine (9), of the stores and related Assigned Contracts and Leases (the "Lot Auction"). The composition of each Lot is at the discretion of each Qualified Bidder (as defined below), provided that bids for Lots comprised of less than one store and related Assigned Contracts and Leases will not be considered. At the opening of the Lot Auction, the Debtors shall announce to the Qualified Bidders the composition of each Lot and the initial opening bids for each Lot. The bidding shall commence on each Lot, a combination of Lots, or new Lots that the Qualified Bidders may propose during the bidding process.~~
- c. ~~Partial Assets Auction.~~ If, on or before the Auction Determination Date, the FTC approves the sale of less than nine (9) stores to the Buyer (the "FTC Approved Assets"), the Debtors shall promptly notice all interested parties that the Auction will proceed on the Auction Date ~~as a bifurcated bid auction~~ (the "Partial Assets Auction") as follows:
- a. (i) FTC Approved Assets Auction. Bidding will commence on the Auction Date upon the FTC Approved Assets comprising a single lot (the "FTC Approved Assets Auction");

² The six (6) locations are the following: (i) 2950 Delta Fair Blvd., Antioch, CA; (ii) 1370 Fitzgerald Drive, Pinole, CA; (iii) 1955 W. Texas Street, Fairfield, CA; (iv) 1550 Ben Maddox Way, Visalia, CA; (v) 1177 Fresno Street, Fresno, CA; (vi) 1355 Shaw Avenue, Clovis, CA.

- b.** ~~(ii) Remainder Assets Auction.~~ Contemporaneously with the ~~bidding for or sequentially to~~ the FTC Approved Assets Auction, bidding will be held (the "Remainder Assets Auction") for the assets ~~that pertaining~~ comprising ~~to the difference between the 9-Store Assets~~ remaining three (3) stores³ (inclusive of the related Assigned Contracts and the FTC Approved Assets ~~(Leases,~~ the "Remainder Assets"). At the Debtors' discretion, after consultation with the Committee and the Debtors' post-petition lenders, prior to or during the Remainder Assets Auction, the Remainder Assets may be separated into ~~Lots~~ smaller lots comprised of the assets relating to at least one (1), and up to three (3) of the remaining stores (each, a "Lot"). The composition of each Lot is at the discretion of each Qualified Bidder (as defined below), provided that bids for Lots comprised of less than one (1) store and related Assigned Contracts and Leases will not be considered. At the opening of the Remainder Assets Auction, the Debtors shall announce to the Qualified Bidders the composition of each Lot and the initial opening bids for each Lot. The bidding will ~~shall~~ proceed ~~commence~~ on each Lot, subject to a combination of Lots, or new Lots that the same rules that are applicable to Qualified Bidders may propose during the Lot bidding Auction process.

- 3. Lot Auction.** Notwithstanding the foregoing, if, on or before the Auction Date, either the Debtors or the Buyer terminates the Purchase Agreement (as adjusted for the sale of the FTC Approved Assets) for any reason, then the Debtors shall promptly notice all interested parties that the Auction will proceed on the Auction Date as a bid auction for Lots comprised of at least one (1), and up to nine (9), of the stores and related Assigned Contracts and Leases (the "Lot Auction"). The composition of each Lot will be at the discretion of each Qualified Bidder (as defined below), provided that bids for Lots comprised of less than one (1) store and related Assigned Contracts and Leases will not be considered. At the opening of the Lot Auction, the Debtors shall announce to the Qualified Bidders the composition of each Lot and the initial opening bids for each Lot. The bidding shall commence on each Lot, a combination of Lots, or new Lots that the Qualified Bidders may propose during the bidding process.

- 4. Bid Deadline.** Written bids for the Assets must be RECEIVED by (a) the Debtors' counsel, Kirkland & Ellis, 200 East Randolph Drive, Chicago, Illinois 60601 Attention: Geoffrey A. Richards, Esquire and Seth J. Gerson, Esquire, and (b) counsel to the Creditor's Committee, Milbank, Tweed, Hadley & McCloy, One Chase Manhattan Plaza, New York, NY 10005-1413, Attention: Dennis F. Dunne, Esquire, no later than **May 28, 2003 at 4:00 p.m., prevailing Eastern time** ("Bid Date"). Unless the Debtors, after consultation with the Committee and the Debtors' post-petition lenders, determine otherwise, only those parties who submit timely written bids will be entitled to bid at any of the Auctions.

³ The locations for the remaining three (3) stores are as follows: (i) 1850 West Lacey Blvd., Hanford, CA; (ii) 3637 South Mooney Blvd., Visalia, CA; (iii) 4590 North First Street, Fresno, CA.

5. **4-Qualified Bidders.** To be considered a "Qualified Bidder," the party's written bid (each a "Qualifying Bid") must be accompanied by: (a) notice of the identity of such potential bidder (including the name of any direct or indirect parent corporations, partners and/or joint venturer(s) of the potential bidder) and the name, address, telephone number and fax number and e-mail address of an officer or authorized agent who has the legal authority to bind the bidder, and will appear at the Auction on behalf of such bidder; (b) a minimum Deposit (as defined below) in a cashier's check, wire transfer or other immediately available funds for the Assets (which must be placed into an escrow no later than **May 28, 2003 at 4:00 p.m. prevailing Eastern time**, which escrow must be approved by the Debtors in writing); (c) an acknowledgment that the bid is not subject to any financing contingencies, or any other contingencies (such as due diligence or internal approval), other than regulatory approval, that extend beyond the date of submission of the initial Qualifying Bid; (d) a signed asset purchase agreement (with a copy marked to show changes from the Purchase Agreement with the Buyer); and (e) evidence of such potential Qualified Bidder's financial ability to consummate the proposed transaction (whether or not the evidence provided is sufficient to show such bidder's financial viability is within the discretion of the Debtors, upon consultation with the Committee and the Debtors' post-petition lenders). Each bidder, whether a Qualified Bidder or not, and its partners and joint venturers, are deemed to have submitted to the exclusive jurisdiction of the Bankruptcy Court with respect to all matters related to bids, the Auctions, and the sale of the Assets.

6. **5-Deposit.** The Deposit shall be credited to the purchase price if a Qualified Bidder is the successful bidder or, if not, returned to the unsuccessful bidders upon consummation of the sale of the Assets to which the Qualified Bidder's bid pertained or upon permanent withdrawal of the proposed sale of such Assets. The amount of the "Deposit" is determined as follows:

a. ~~in the event of a Total Assets Auction, the Deposit shall be \$1,500,000;~~

a. ~~b. in the event of a Lot Auction, the Deposit for each Lot~~ **if the Qualified Bidder seeks to participate in the FTC Approved Assets Auction, the Deposit shall be equal to 10% of the aggregate purchase price of the Qualified Bid for the FTC Approved Assets comprising such Lot;**

b. **if the Qualified Bidder seeks to participate in the Remainder Assets Auction or the Lot Auction (as the case may be), the Deposit for each Lot shall be equal to 10% of the aggregate purchase price of the Assets comprising such Lot; and**

a. ~~in the event of a Partial Assets Auction, the Deposit shall be as follows: (i) if the Qualified Bidder seeks to participate in the FTC Approved Assets Auction, the Deposit shall be equal to 10% of the aggregate purchase price for the FTC Approved Assets; (ii) if the~~

~~Qualified Bidder seeks to participate in the Remainder Auction, the Deposit for each Lot shall be equal to 10% of the aggregate purchase price of the Assets comprising such Lot; and (iii) if the~~ Qualified Bidder seeks to participate in both the FTC Approved Assets Auction and the Remainder Assets Auction where the Qualified Bidder seeks to bid for the Remainder Assets in their entirety, the Deposit shall be \$1,500,000.

7. **6-Qualified Bids and Overbids.** The initial bid by a Qualified Bidder and the overbids are determined as follows:

- a. ~~in the event of a Total Assets Auction, the initial bid for the Assets shall not be less than \$1,216,000 over and above the Estimated Cash Purchase Price of approximately \$32,200,000. All subsequent bids must exceed the prior highest bid by not less than \$50,000, or such other amount that Debtors (upon consultation with the Creditors' Committee and the Debtors' post-petition lenders) determine at the Auction. The Buyer's initial bid shall be on the terms set forth in the Purchase Agreement and in the amount of the Estimated Cash Purchase Price;~~
- b. ~~in the event of a Lot Auction, there shall be no minimum initial bid for any Lot; provided, however, that the Debtors may disqualify any bids that, in the Debtors' reasonable business judgment, upon consultation with the Committee and the Debtors' post-petition lenders, fail to meet a reasonable threshold of value to the Debtors' estate. All subsequent bids must exceed the prior highest bid by an amount that the Debtors shall determine, in consultation with the Committee and the Debtors' post-petition lenders, at the Auction based upon the composition of each Lot being auctioned;~~
- e. ~~in the event of an FTC Approved Assets Auction, the minimum initial bid shall be (i) \$25,794,000 (which is the sum of 3%: (i) \$24,800,000 (the Estimated Cash Purchase Price, adjusted for the acquisition of the cash purchase price allocated to such FTC Approved Assets pursuant to (the terms of the Buyer's "Adjusted Estimated Cash Purchase Agreement Price")) plus (ii) \$744,000 (the Break-Up Fee (as defined below)) plus (iii) \$250,000;~~
- b. ~~d. in the event of a Remainder Assets Auction or a Lot Auction (as the case may be), there shall be no minimum initial bid; provided, however, that the Debtors may disqualify any bids that, in the Debtors' reasonable business judgment, upon consultation with the Committee and the Debtors' post-petition lenders, fail to meet a reasonable threshold of value to the Debtors' estate. All subsequent bids must exceed the prior highest bid by an amount that the Debtors shall determine, in consultation with the Committee and the Debtors' post-petition lenders, at the Auction based upon the composition of each Lot being auctioned.~~

8. **7-Auction.** A ~~Live oral Auction~~ or Auctions will be conducted at the offices of Kirkland & Ellis, 153 East 53rd Street, New York, NY 10022 on **May 30, 2003** at

10:00 a.m., prevailing Eastern time (the “Auction Date”) for the sale of the Assets, and any Qualified Bidder may appear and submit its initial overbid, subsequent overbid(s) and/or highest or best (and, in each case, final) bid for the Assets. The Buyer is a Qualified Bidder and may bid and overbid at the Auction. Additional terms and conditions may be implemented by the Debtors (upon consultation with the Creditors’ Committee and the Debtors’ post-petition lenders) and announced at the Auction. Qualified Bidders who are absent from the Auction for more than thirty consecutive minutes while the Auction is in progress are presumed to have affirmatively withdrawn from the Auction. An Auction will be conducted even if there is no competing bid from a Qualified Bidder other than the Buyer.

9. **8-Highest or Best Bid.** The Debtors, in consultation with the Committee and the Debtors’ post-petition lenders, reserve the right to: (a) determine which offer, if any, for the Assets is the highest and/or best offer, including, without limitation, considering cash offers (with assumption of payables); and (b) reject at any time prior to entry of an Order of the Bankruptcy Court approving an offer, any offer which the Debtors, upon consultation with the Committee and the Debtors’ post-petition lenders, deems to be: (i) inadequate or insufficient; (ii) not in conformity with the requirement of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules or the terms and conditions of the sale set forth herein; or (iii) contrary to the best interests of the Debtors and their estates. The “Highest and/or Best Bid” shall be determined by considering, among other things: (A) the number, type and nature of any changes to and conditions contained in the Purchase Agreement requested by each Qualified Bidder; (B) the extent to which such modifications are likely to delay closing of the sale of the relevant Assets, and the cost to the Debtors of such modifications or delay; (C) the total and net consideration to be received by the Debtors; (D) the likelihood of the Qualified Bidder’s ability to close a transaction and the timing thereof; and (E) the net benefit to the Debtors’ estates, taking into account Buyer’s rights to the Break-Up Fee. The Buyer shall have standing to contest the Highest and/or Best Bid selected by the Debtors if the successful Qualified Bidder is not the Buyer.

10. **9-Top Three Bids Remain Open.** The top three highest or best ~~B~~ids (the “Top Three Bids”) for each Asset or set of Assets submitted on the Bid Date, as they may be modified by a Qualified Bidder at the Auction, shall remain open and irrevocable through the earlier of: (i) expiration of a thirty (30) day period beginning on the day that all conditions precedent to closing of the sale of the relevant Assets are satisfied (the “Thirty (30) Day Period”); (ii) the closing of the sale of the relevant Assets; or (iii) the Debtors’ permanent withdrawal from the proposed sale. Acceptance of a ~~B~~id shall, in all respects, be subject to entry of an Order by the Bankruptcy Court which, among other things, authorizes the Debtors to consummate the sale with the successful Qualified Bidder. In the event that the successful bidder does not close, the Deposit of that bidder will be retained as liquidated damages, and the Debtors may seek to close with the next highest bidder among the Top Three Bids, provided that the Thirty (30) Day Period has not expired. ~~Such~~In the event that the next highest bidder does not

close, the Deposit shall of that bidder will also be subject retained to by the same conditions stated herein Debtors as liquidated damages, and the previous highest or best bidder Debtors may close with the third of the Top Three Bids, provided that the Thirty (30) Day Period has not expired.

11. ~~10.~~ **Proposed Sale May Be Withdrawn.** The proposed sale of the Assets may be withdrawn, without liability prior to, during or at the conclusion of the Asset Sale Hearing, for any reason, including (but not limited to) a determination that a sale pursuant to the terms and conditions offered at the Auction is not in the best interest of the Debtors' estates.
12. ~~11.~~ **Break-Up Fee.** In the event of a ~~Total~~ an FTC Approved Assets Auction, if the Debtors consummate a sale of the ~~9 Stores~~ FTC Approved Assets to a Qualified Bidder other than the Buyer (an "Alternative Transaction"), the Debtors shall immediately pay to the Buyer (in immediately available cash via wire transfer to an account designated by Buyer) ~~the a~~ "Break-Up Fee" of \$966,000. ~~In the event of an FTC Approved Assets Auction, if the Debtors consummate an Alternative Transaction for the FTC Approved Assets, the Debtors shall immediately pay to the Buyer 744,000 (in immediately available cash via wire transfer to an account designated by Buyer) the Break-Up Fee of the sum of 3% of the cash purchase price allocated to such FTC Approved Assets pursuant to the terms of the Buyer's Adjusted Estimated Cash Purchase Agreement Price).~~ The Buyer shall not otherwise be entitled to ~~any Break-Up Fee~~. Other than the Buyer, no party submitting any other Qualifying Bid shall be entitled to any break-up fee, bid protection, or termination or similar fee or payment.
13. ~~12.~~ **Adjustment of Purchase Price for Cure of Executory Contracts and Unexpired Leases, and Effect of Assignment.** Cure costs paid by the Buyer (pursuant to section 365 of the Bankruptcy Code) set forth on the schedule ~~to be~~ filed with the Bankruptcy Court ~~no later than May 19, 2003~~ (as they may be subsequently amended, the "Cure Amounts") shall reduce the purchase price of the Assets. Upon payment of the Cure Amounts and the assignment of the Assigned Contracts and Leases, each Debtor and its estate shall have no liability for any breach of such contract or lease. The counterparty to each such Assigned Contract and Lease shall be forever barred, estopped and enjoined from asserting against the Debtors, their estates, the Buyer or the Assets any additional cure costs in connection with the applicable lease or contract.
14. ~~13.~~ **Free and Clear Sale.** The Debtors intend to sell the Assets free of all liens, claims, rights, interests and encumbrances, subject to any applicable defenses, including without limitation, any defenses to the validity, extent or priority of any liens.
15. ~~14.~~ **Good Faith Purchaser.** The Order approving the sale may provide that the purchaser of the Assets will be found to be a good faith purchaser, and the existence of such a finding in the Order approving the sale may be a closing condition for a purchaser.

Exhibit 2

[Auction Notice]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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

Objection Deadline: May 28, 2003 at 4:00 p.m. prevailing Eastern time
Auction Date: May 30, 2003 at 10:00 a.m. prevailing Eastern time
Hearing Date: June 4, 2003 at 4:00 p.m. prevailing Eastern time

NOTICE OF AUCTION AND SALE HEARING

PLEASE BE ADVISED that, on May 3, 2003, Fleming Companies, Inc. ("Fleming") and Richmar Foods Inc., a wholly owned subsidiary of Fleming ("Richmar"), two of the debtors and debtors in possession (collectively, the "Debtors") in the above-captioned cases, filed with the United States Bankruptcy Court for the District of Delaware ("the Bankruptcy Court") a motion (the "Procedures Motion") for an order (the "Bidding Procedures Order") establishing auction procedures (the "Auction Procedures") for the sale of up to nine (9) of the Richmar retail stores (the "Assets"). The Procedures Motion requests that the Bidding Procedures Order approve, among other things, this notice (the "Auction Notice").

PLEASE BE ADVISED that on or about May 12, 2003, the Debtors filed with the Bankruptcy Court another motion (the "Sale Motion") for authority to sell the Assets. As set forth in the Sale Motion, the Debtors intend to sell the Assets free and clear of all liens, claims, rights, interests, and encumbrances. You may obtain a copy of the Sale Motion by making a written request to the Debtors' undersigned counsel.

PLEASE BE FURTHER ADVISED that on **May 30, 2003, at 10:00 a.m. prevailing Eastern time**, the Debtors' intend to hold an auction (the "Auction") for the Assets at the offices of Kirkland & Ellis, 153 East 53rd Street, New York, NY 10022 . The Debtors anticipate that, in accordance with their request in the Procedures Motion, the Auction will be governed by the terms and conditions of the Auction Procedures.

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.; Favara 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.

PLEASE BE FURTHER ADVISED that the Debtors received an offer to purchase all ~~six (6)~~ of the Assets ~~nine (9)~~ **Richmar retail stores** from Save Mart Supermarkets (the "Buyer"). The terms and conditions of such offer, which is subject to higher ~~and/or~~ better bids at the Auction, are set forth in the Sale Motion. **If the Debtors do not receive any higher or better bids at the Auction they intend to close upon the asset purchase agreement for the sale of the six (6) Richmar retail stores to Buyer.**

PLEASE BE FURTHER ADVISED that, pursuant to the Auction Procedures, the Debtors may, in consultation with the Committee of Unsecured Creditors and the Debtors' post-petition lenders: (a) impose additional terms and conditions at or prior to the Auction; (b) extend the deadlines set forth in the Auction Procedures, including (without limitation) Adjourn the auction at the Auction; and/or (c) adjourn the Asset Sale Hearing in open court without further notice.

PLEASE BE FURTHER ADVISED that the Debtors ~~have requested that the~~ Bankruptcy Court ~~schedule~~ **has scheduled** a hearing for **June 4, 2003, at 4:00 p.m., prevailing Eastern time** (the "Asset Sale Hearing") to consider the relief requested in the Sale Motion and to confirm the result of the Auction. The Asset Sale Hearing will be held before the Hon. Mary F. Walrath, United States Bankruptcy Judge, Marine Midland Plaza, 824 Market Street, Sixth Floor, Wilmington, Delaware 19081.

PLEASE BE FURTHER ADVISED that objections or responses to any relief requested by the Sale Motion (an "Objection") shall set forth, in writing, with particularity, the grounds for such objections or other statements of position and be filed with the Bankruptcy Court and served in such a manner that it is actually **RECEIVED** on or before **May 28, 2003, at 4:00 p.m. prevailing Eastern time**, by: (a) counsel to the Debtors, Pachulski, Stang, Ziehl, Young, Jones & Weintraub P.C., 919 North Market Street, Sixteenth Floor, Wilmington, Delaware 19801 Attention: Laura Davis Jones, Esquire and Kirkland & Ellis, 200 East Randolph Drive, Chicago, Illinois 60601 Attention: Geoffrey A. Richards, Esquire; (b) Office of the United States Trustee, District of Delaware, J. Caleb Boggs Federal Building, 844 King Street, Suite 2313, Lockbox 35, Wilmington, Delaware 19801, Attention: Julie Compton, Esquire; (c) counsel to the Lenders, White & Case, 1155 Avenue of the Americas, New York, New York 10036-2787, Attention: Andrew P. DeNatale, Esquire; and (d) counsel to the Official Committee of Unsecured Creditors, Milbank, Tweed, Hadley & McCloy LLP, One Chase Manhattan Plaza, New York, NY 10005-1413, Attention: Dennis F. Dunne, Esquire, and Pepper Hamilton LLP, 100 Renaissance Center, Suite 3600, Detroit, Michigan 48243-1157, Attention: Robert S. Hertzberg, Esquire. Objections that do not conform to the foregoing will not be considered by the Bankruptcy Court.

PLEASE BE FURTHER ADVISED that, if the Bankruptcy Court grants the Sale Motion, the Debtor will have the authority to assume and assign certain of their executory contracts and unexpired leases (the "Acquired Contracts"). Unless a contract or lease counterparty timely objects, in writing, to any of the cure amounts contained in a Cure Notice to be sent to each counterparty by the Debtors: (a) such counterparty shall receive from the purchaser at the time of the closing of the sale of the Assets (or promptly thereafter) the cure amounts stated in the Cure Notice with respect to the applicable contract or lease if such contract or lease is assumed and assigned to the purchaser; and (b) such counterparty shall be forever barred, estopped and enjoined from asserting or enforcing against the purchaser, the Debtors or their estates any additional cure amounts in connection with the applicable lease or contract.

Any objection or response to a Cure Notice must set forth a specific default in any of the Acquired Contracts, and claim a specific monetary amount that differs from any cure amounts specified in the Cure Notice. Pursuant to 11 U.S.C. § 365(k), upon assignment of any of the Acquired Contracts, each Debtor and its estate shall have no liability for any breach of such contract or lease occurring after such assignment. Also, if the order requested by the Sale Motion is granted and the Acquired Contracts are assumed and assigned, the counterparties to the Acquired Contracts will be forever barred from asserting against the Debtors, their estates or the purchaser any default allegedly arising or incurred prior to the closing of the sale of the Assets, any pecuniary loss resulting from such default or any other obligation under the Acquired Contracts arising or incurred prior to the closing of the sale of the Assets other than the cure amount set forth in the Cure Notice issued by the Debtors with respect to the applicable Acquired Contract.

PLEASE BE FURTHER ADVISED that, all requests for information concerning the Assets should be directed to the undersigned counsel for the Debtors, Attention: Ashley H. Anderson, Esquire at the offices of Kirkland & Ellis, 333 Bush Street, 26th Floor, San Francisco, California 94104.

Dated: May ____, 2003

KIRKLAND & ELLIS
James H. M. Sprayregen, P.C. (ARDC No. 6190206)
Richard L. Wynne (CA Bar No. 120349)
Geoffrey A. Richards (ARDC No. 6230120)
Shirley Cho (CA Bar No. 192619)
Marjon Ghasemi (CA Bar No. 211551)
Ashley H. Anderson (CA Bar No. 213124)
777 South Figueroa Street
Los Angeles, California 90017
Telephone: (213) 680-8400
Facsimile: (213) 680-8500

and

PACHULSKI, STANG, ZIEHL, YOUNG, JONES &
WEINTRAUB P.C.

Laura Davis Jones (Bar No. 2436)
Ira D. Kharasch (CA Bar No. 109084)
Scotta E. McFarland (Bar No. 4184)
Christopher J. Lhulier (Bar No. 3850)
919 North Market Street, Sixteenth Floor
Post Office Box 8705
Wilmington, Delaware 19899-8705 (Courier No. 19801)
Telephone: (302) 652-4100
Facsimile: (302) 652-4400

Counsel for the Debtors and Debtors in Possession

Exhibit 3

[Cure Notice]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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

Objection Deadline: May 28, 2003 at 4:00 p.m. prevailing Eastern time
Hearing Date: June 4, 2003 at 4:00 p.m. prevailing Eastern time

**NOTICE OF POTENTIAL ASSUMPTION AND ASSIGNMENT OF
CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

PLEASE BE ADVISED that, on May 3, 2003, Fleming Companies, Inc. ("Fleming") and Richmar Foods, Inc., a wholly owned subsidiary of Fleming ("Richmar"), two of the debtors and debtors in possession (collectively, the "Debtors") in the above-captioned cases, filed with the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") a motion (the "Procedures Motion") for an order (the "Bidding Procedures Order") establishing auction procedures (the "Auction Procedures") for the sale of up to nine (9) of the Richmar retail stores (the "Assets"). The Procedures Motion requests that the Procedures Order approve, among other things, this notice (the "Cure Notice"). The Court is scheduled to conduct a hearing on the Procedures Motion on **May 19, 2003 at 12:30 p.m., prevailing Eastern time.**

PLEASE BE ADVISED that on or about May 12, 2003, the Debtors filed with the Bankruptcy Court another motion (the "Sale Motion") for authority to sell the Assets. As set forth in the Sale Motion, the Debtors intend to sell the Assets free and clear of all liens, claims, rights, interests, and encumbrances. You may obtain a copy of the Sale Motion by making a written request to the Debtors' undersigned counsel.

PLEASE BE FURTHER ADVISED that on **May 30, 2003, at 10:00 a.m. prevailing Eastern time**, the Debtor intend to hold an auction (the "Auction") for the Assets at the offices of Kirkland & Ellis, 153 East 53rd Street, New York, NY 10022. The Debtors anticipate that, in accordance with their request in the Procedures Motion, the Auction will be governed by the terms and conditions of the Auction Procedures.

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.; Favarr 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.

PLEASE TAKE FURTHER NOTICE that in conjunction with the intended sale of the Assets, the Debtor may seek to assume and assign the executory contracts and unexpired leases ("Acquired Contracts") set forth in the attached Schedule of the Debtors' Acquired Contracts (the "Cure Schedule") to the successful bidder(s) at the Auction.

PLEASE TAKE FURTHER NOTICE that the cure amounts for the Assigned Contracts and Leases (as defined in the Sale Motion), within the meaning of 11 U.S.C. § 365, according to the Debtors' books and records, are set forth in the attached Cure Schedule.

PLEASE TAKE FURTHER NOTICE that if a counterparty to any Acquired Contract does not timely object, in writing, to the cure amount(s) contained in the Cure Notice with respect to its Acquired Contract(s): (a) such counterparty shall receive from the purchaser at the time of the closing of the sale of the Assets (or promptly thereafter) the cure amounts stated in the Cure Notice with respect to such Acquired Contract(s); and (b) such counterparty shall be forever barred, estopped and enjoined from asserting or enforcing against the Buyer, the Debtors or their estates any additional cure amounts in connection with the applicable Acquired Contract(s).

PLEASE TAKE FURTHER NOTICE that any objections to the Debtors' stated cure amounts must be filed with the Bankruptcy Court and served in such a manner that it is actually RECEIVED on or before **May 28, 2003, at 4:00 p.m. prevailing Eastern time**, by: (a) counsel to the Debtors, Pachulski, Stang, Ziehl, Young, Jones & Weintraub P.C., 919 North Market Street, Sixteenth Floor, Wilmington, Delaware 19801 Attention: Laura Davis Jones, Esquire and Kirkland & Ellis, 200 East Randolph Drive, Chicago, Illinois 60601 Attention: Geoffrey A. Richards, Esquire; (b) Office of the United States Trustee, District of Delaware, J. Caleb Boggs Federal Building, 844 King Street, Suite 2313, Lockbox 35, Wilmington, Delaware 19801, Attention: Julie Compton, Esquire; (c) counsel to the Lenders, White & Case, 1155 Avenue of the Americas, New York, New York 10036-2787, Attention: Andrew P. DeNatale, Esquire; and (d) counsel to the Official Committee of Unsecured Creditors, Milbank, Tweed, Hadley & McCloy LLP, One Chase Manhattan Plaza, New York, NY 10005-1413, Attention: Dennis F. Dunne, Esquire, and Pepper Hamilton LLP, 100 Renaissance Center, Suite 3600, Detroit, Michigan 48243-1157, Attention: Robert S. Hertzberg, Esquire. Any such objection must set forth a specific default in any of the Acquired Contracts and claim a specific monetary amount that differs from the amount, if any, specified in the Cure Schedule. If an objection is filed, such objection will be entertained by the Court at the hearing on the Sale Motion scheduled for **June 4, 2003 at 4:00 p.m., prevailing Eastern time**.

PLEASE TAKE FURTHER NOTICE that, pursuant to 11 U.S.C. § 365(k), upon assignment of any executory contracts or leases, each Debtor and its estate shall have no liability for any breach of such Acquired Contract occurring after such assignment. Also, if the order requested by the Sale Motion is granted and the Acquired Contracts are assumed and assigned, the counterparties to the Acquired Contracts will be forever barred from asserting against the Debtors or the Buyer any default allegedly arising or incurred prior to the closing of the sale of the Assets, any pecuniary loss resulting from such default or any other obligation under the Acquired Contracts arising or incurred prior to the closing of the sale of the Assets other than the cure amount set forth in the Cure Notice with respect to the applicable Acquired Contract (as it may be modified upon a timely objection).

Dated: May __, 2003

KIRKLAND & ELLIS
James H. M. Sprayregen, P.C. (ARDC No. 6190206)
Richard L. Wynne (CA Bar No. 120349)
Geoffrey A. Richards (ARDC No. 6230120)
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Facsimile: (302) 652-4400

Counsel for the Debtors and Debtors in Possession

SCHEDULE OF ACQUIRED CONTRACTS

Acquired Contract	Cost to Cure
Shopping Center Lease, dated 1/31/97, by and between TKG Pinole LLC, as landlord, and Fleming Companies, Inc. as Tenant (1370 Fitzgerald Drive, Pinole, CA)	\$65,743.63
Build and Lease Agreement dated 6/26/85 by and between Passco Delta Fair LLC (original lessor was Delta Fair - Oxford Limited Partnership), as Lessor, and Fleming, as Lessee, as amended (2950 Delta Fair Blvd., Antioch, CA)	\$32,799.90
Build and Lease Agreement dated 6/24/92 by and between Robmor Investments (original landlord was Mary and Robert Lattanzio), as Landlord, and Fleming (successor to Fleming Foods West, Inc.), as Tenant (1550 N. Ben Maddox Way, Visalia, CA)	\$16,869.66
Lease Agreement dated 5/25/95 by and between Red Mountain Retail Group, Inc. (former owner was Sierra Pavilions Limited Partnership), as Lessor and Fleming Companies, Inc., as Lessee (1355 Shaw Avenue, Clovis, CA)	\$2,389.22
Real Estate Lease dated 5/1/95 by and between DeWayne and Sandra Zinkin d/b/a Gettysburg Address, as Lessor, and Fleming Companies, Inc., as Lessee (4590 N. First Street, Fresno CA)	\$8,560.24
Shopping Center Lease dated 4/17/98 by and between Kearney Palms, LLC (original landlord was Central Cities Properties), as Landlord, and Fleming Companies, Inc., as Tenant, as amended (1177 Fresno Street, Fresno, CA)	\$55,202.95
Build and Lease Agreement dated 3/25/86 by and between Summit Insured Equity L.P. (original lessor was Winery Investors), as Lessor, and Fleming (successor to Fleming Foods of California, Inc.), as Lessee, as amended (1955 W. Texas Street, Fairfield, CA)	\$0
Build and Lease Agreement dated 9/5/90 by and between Pan Pacific Retail Properties (original lessor was Hanford Associates Joint Venture), as Lessor, and Fleming (successor to Fleming Foods West, Inc.), as Lessee, as amended (1850 W. Lacey Blvd., Hanford, CA)	\$0
Fuel Facility Lease Agreement dated 11/5/01 by and between Farsakian Brothers, as Landlord, and Fleming, as Tenant (1550 N. Ben Maddox Way, Visalia, CA)	\$0
Build and Lease Agreement dated 9/9/85 by and between Sanders Construction Co, as Lessor, and Fleming Companies, Inc., as Lessee, as amended (3637 S. Mooney Blvd., Visalia, CA)	\$0
In-Store Check Cashing Facility License Agreement by and between Richmar (successor to Whico Inc.), as Licensor, and ACE Cash Express, Inc. (original licensee was Check Cashiers of California, Inc.), as Licensee (1550 N. Ben Maddox Way, Visalia, CA)	\$0
In-Store Check Cashing Facility License Agreement by and between Richmar (successor to Whico Inc.), as Licensor, and ACE Cash Express, Inc. (original licensee was Check Cashiers of California, Inc.), as Licensee (3637 S. Mooney Boulevard, Visalia, CA)	\$0