

**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.)	

**MOTION OF THE DEBTORS TO FILE RESPONSE UNDER SEAL
TO ALBERTSON'S, INC. MOTION TO SHORTEN NOTICE PERIOD AND APPROVE
THE FORM AND MANNER OF NOTICE**

The above-captioned debtors and debtors in possessions (the "Debtors") hereby move the Court for the entry of an order (a) pursuant to section 107(b) of the Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 5003-1(b) of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), authorizing the Debtors to file under seal the Response ("the Response") to Motion of Albertson's Inc. ("Albertson's") to Shorten Notice Period and Approve the Form and Manner of Notice ("Shorten Motion"). In support of this motion, the Debtors respectfully represent as follows:

Introduction

1. On June 12, 2003, the same date Albertson's filed its Shorten Motion, Albertson's filed an untimely Motion for an Order: (A) Lifting the Automatic Stay to Allow Albertson's, Inc. to Terminate the Facility Standby Agreements; or Alternatively (B) Compelling Fleming

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.

Companies, Inc. to Reject Such Agreement Immediately (“Albertson’s Motion”). The Albertson’s Motion is set for hearing on June 25, 2003 with the deadline to object set for June 18, 2003.

2. The Albertson’s Motion was filed under seal because it contains confidential information about substantial agreements between the Debtors and Albertson’s.

3. For the reason stated herein and by Albertson’s, the Debtors believe that it is important that the Response be filed under seal as well.

Relief Requested and Basis Therefor

4. Contemporaneously herewith, the Debtors filed the Response to Shorten Motion.

5. The Court possesses authority to enter an order authorizing the Debtors to file the Response under seal. Section 107(b) of the Bankruptcy Code provides as follows:

On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court’s own motion, the bankruptcy court may . . . (1) protect an entity with respect to a trade secret or confidential research, development or commercial information.

11 U.S.C. § 107(b).

6. The procedures by which a party in interest may seek relief under section 10(b) of the Bankruptcy Code are set forth in Rule 9018 of the Bankruptcy rules. Rule 9018 provides as follows:

On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information

Fed. R.Bankr. P. 9018.

7. The existence of section 107(b)(and Rule 9018 demonstrate Congress’ anticipation that the administration of bankruptcy cases might require Court intervention to protect some kinds of information from dissemination to the world. In re 50-Off Stores, Inc., 213 B.R. 646,

654 (Bankr. W.D. Tex. 1997). Once a court determines that information sought to be protected falls within any of the categories specified by section 107(b) of the Bankruptcy Code, “the court is required to protect a requesting interested party and has no discretion to deny the application.” Video Software Dealers Ass’n v. Orion Pictures Corp. (In re Orion Pictures Corp.), 21 F.3d 24, 27 (2d Cir. 1994).

8. When the information for which protection is sought fits into any of the categories specified in section 107(b), “the court is required to protect a requesting interested party and has no discretion to deny the application. In re Orion Pictures Corp., 21 F.3d 24, 27 (2nd Cir. 1994) (citation omitted)(emphasis in original).

The Relief Requested is in the Best Interests of the Estate

9. It is important that the Response be filed under seal to preserve and protect certain confidential commercial information contained in the agreements between the Debtors and Albertson’s and referenced in the Response and Albertson’s Motion. Disclosure of the information contained in the Response could adversely affect the Debtors’ businesses. Thus, given both the sensitive nature of the information in the Response and the agreement of the parties to keep such information confidential, the Debtors respectfully requests authorization to file the Response under seal, pursuant to section 107(b) of the Bankruptcy Code.

Notice

10. Notice of this Motion has been given to (a) the Debtors, (b) the Official Committee of Unsecured Creditors, (c) the Office of the United States Trustee and (d) those persons requesting notice under Rule 2002 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware.

WHEREFORE, the Debtors respectfully request that the Court enter an order substantially in the form attached hereto as Exhibit A authorizing the filing of the Response under seal; and granting such other relief as may be just and proper.

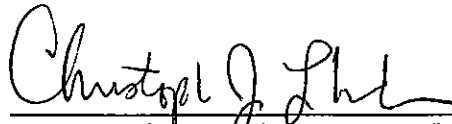
Dated: June 14, 2003

Respectfully submitted,
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 S. Cho (CA Bar No. 192616)
777 South Figueroa Street
Los Angeles, CA 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, 16th Floor
P.O. Box 8705
Wilmington, Delaware 19899-8705 (Courier 19801)
Telephone: (302) 652-4100
Facsimile: (302) 652-4400

Co-Counsel for the Debtors and Debtors in Possession