

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

In re:) Chapter 11
)
FLEMING COMPANIES, INC., et al.,) Case No. 03-10945 (MFW)
)
Debtors.) (Jointly Administered)

Hearing Date: June 25, 2003 @ 2:00 p.m.
Objection Deadline: June 18, 2003 @ 4:00 p.m.

[Re: Docket No. 1404]

**OPPOSITION TO MOTION FOR PROPOSED ORDER AUTHORIZING
THE DEBTORS TO HONOR PRE-PETITION OBLIGATIONS TO CUSTOMERS**

Ball Park Food Corp., C.B.A.M. Market, Inc., Giunta's Market, Inc., Mary-Lawrence Corporation, Greenwich Grocery Co., Inc., Landis Supermarket, Inc., Marrazzo's Quality Market, Inc., Holiday Supermarkets, Inc., Stop & Shop Markets, Inc., Pippy's Corp., Thrift Grocery Corp., Liberty Food Store, Inc., Two Dads, Inc., and Vinmar Marketing Associates, L.P., (the "Objectants"), by their attorneys, Finkel Goldstein Berzow Rosenbloom & Nash, LLP, and and Jaspan Schlesinger Hoffman LLP, respectfully alleges and shows this Court, as follows:

1. On April 1, 2003, the Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code.
2. The Objectants are former customers of the Debtors who own and operate retail supermarkets in the States of New Jersey and Pennsylvania.
3. The Objectants' stores are typically high volume, large suburban stores ranging in size from between 30,000 to 50,000 square feet.
4. Each of the Objectants was a loyal Fleming customer who maintained a business relationship with Fleming for a lengthy period of time; sometimes for more than twenty

years. Each of the Objectants was involved in various customer programs with Fleming which Fleming breached both pre-petition and post-petition.

5. By this motion, the Debtors request additional authorization to allow it to honor various pre-petition obligations to customers and to continue customer programs and practices in the ordinary course of business. The Objectants are members of Retail Marketing Group, LLC (“RMG”), a voluntary buying group, which worked for the Objectants to avail themselves of advantageous buying opportunities as a supplement to their relationships with the Debtors. All of the Objectants’ stores are located in the States of New Jersey and Pennsylvania where the Debtor has recently ceased supplying its customers. Each of the Objectants and the other members of RMG, likewise participated in a host of pre-petition customer programs, including but not limited to, Facility Standby Agreements, Rebate programs and Volume Based Rebate programs.

6. On May 21, 2003, the Debtors ceased supplying the Objectants leaving the Objectants and others without a source of supply, with millions of dollars of claims against the Debtors and uncertainty concerning their future business operations. The Debtors in glib fashion seek authorization to honor certain pre-petition program obligations to certain of its customers while ignoring its obligations to the Objectants who were loyal Fleming customers. It is inappropriate and unlawful to allow the Debtors to pay one group of pre-petition obligations while ignoring the obligations to pay others particularly when it is becoming clear that the Debtors are liquidating their assets and appear to be suffering huge losses. See, In re K Mart Corporation 291 B.R. 818, (N.D. Ill. 2003)

7. For the reasons set forth above, the Court should deny the Debtors’ request for a supplemental order and should properly reconsider the earlier order which was

entered at an early stage of these proceedings giving the Debtors the discretion to pay other pre-petition program payments without paying the claims of the Objectants.

Dated: June 18, 2003

JASPAN SCHLESINGER HOFFMAN LLP

By: /s/ Frederick B. Rosner
Frederick B. Rosner (No. 3995)
1201 N. Orange Street, Suite 1001
Wilmington, DE 19801
Telephone: (302) 351-8000
Facsimile: (302) 351-8010

-- and --

**FINKEL GOLDSTEIN BERZOW
ROSENBLUM & NASH, LLP**

Neal M. Rosenbloom
26 Broadway, Suite 711
New York, New York 10004

Attorneys for Objectants