

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	Case No. 03-10945 (MFW)
FLEMING COMPANIES, INC.,)	(Jointly Administered)
et al.,)	Related Docket Item # 1984
)	Objections Due: 07/28/03 @ 4:00 p.m.
Debtor.)	Hearing Date: 08/04/03 @ 11:30 a.m.

**OBJECTION OF NORTHERN LIGHTS, L.L.C.
TO DEBTORS' CURE AMOUNT**

Northern Lights, L.L.C. ("Northern Lights"), a party in interest herein, pursuant to 11 U.S.C. § 365(b) and Rule 9014 of the Federal Rules of Bankruptcy Procedure, and for its objection ("Objection") to the "Cure Amount" set forth in Debtors' Notice Re Potential Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection with Sale Motion ("Notice") states:

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334.
2. This is a core proceeding as defined by 28 U.S.C. § 157(b)(2).

BACKGROUND

3. Northern Lights is the "Landlord" and Fleming Companies, Inc. ("Fleming"), one of the Debtors in this proceeding, is the "Tenant" under a Shopping Center Lease dated February 11, 1998 with respect to nonresidential real property located in Lincoln, Nebraska (the "Lease"), a copy of which is attached hereto as Exhibit A.

4. Pursuant to Subparagraph 6.8 of the Lease, Fleming is obligated to reimburse Northern Lights for any real estate taxes on the real property paid by Northern Lights.

5. On or about July 3, 2003, Northern Lights paid the second half real estate taxes on the real property in the amount of \$67,734.93 and sent notice of that payment to Fleming as provided by the Lease.

6. The real estate taxes are now due and payable by Fleming and will be delinquent if not reimbursed on or before August 4, 2003.

7. The Cure Amount Schedule attached to the Debtors' Notice identifies the Lease as Contract Assignment #: 6911 and states the Cure Amount as \$0.00 and it should be \$67,734.93 if the real property taxes are not paid by August 4, 2003.

8. Fleming previously defaulted on payment of the first half real estate taxes, which also became due post-petition, and Northern Lights had to file an Objection to Debtors' Notice Pursuant to Section 365(d)(4) of the Bankruptcy Code for Entry of an Order Extending Time to Assume, Assume and Assign, or Reject Unexpired Leases of Nonresidential Real Property in order to get Fleming to pay the real estate taxes.

9. Fleming previously failed and refused to respond to inquiries by Northern Lights regarding the payment of real estate taxes and failed to pay the real estate taxes until after the prior objection was filed by Northern Lights.

10. Northern Lights has requested assurance of Fleming that the real estate taxes will be paid prior to becoming delinquent, and was advised that due to the large number of leases, no assurance could be given at this time.

11. Fleming is the "Sublandlord" under a Sublease Agreement (the "Sublease") dated as of February 11, 1998, with B&R Stores, Inc., ("B&R"), as "Subtenant," to sublet the real property leased by Fleming pursuant to the Lease.

12. Under the terms of the Sublease, all payments by Fleming under the Lease, including all of the outstanding amounts due to Northern Lights from Fleming, are required to be reimbursed by B&R.

13. On information and belief, B&R is ready, willing and able to perform its obligations under the Sublease.

OBJECTION TO RELIEF REQUESTED

14. Based on the Debtors' Notice, it appears that the payment of real estate taxes by Fleming will become delinquent if not paid on or about the date of the hearing on the Debtors' Sale Motion.

15. Due to Fleming's previous failure to pay post-petition real estate taxes when due and after several inquiries by Northern Lights, and Fleming's failure to give assurances that the real estate taxes now due will be paid before they become delinquent, Northern Lights files this Objection to protect its right to payment under the Lease and 11 U.S.C. § 365(b) in the event the taxes are not paid by Fleming on or before August 4, 2003.

16. The amounts due under the Lease are required to be reimbursed by Fleming's Subtenant. Therefore, payment by Fleming will not have any adverse impact on Fleming's operations or its estate.

WHEREFORE, Northern Lights requests that:

- (a) The Court enter an Order sustaining Northern Lights' Objection to the Cure Amount unless Fleming provides evidence that the real estate taxes in the amount \$67,734.93 have been paid; and
- (b) The Court grant Northern Lights such further relief as may be just and equitable.

Dated: July 23, 2003

SMITH, KATZENSTEIN & FURLOW, LLP

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this **23rd** day of **July, 2003**, one copy of the foregoing ***Objection of Northern Lights, L.L.C. to Debtors' Cure Amount*** was served on the following parties by first class mail:

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