

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

-----X	
In re:	Chapter 11
FLEMING COMPANIES, INC., et al.,	Case No. 03-10945 (MFW)
	Jointly administered
Debtors.	Hrg Date: 8/14/03 at 9:00 a.m.
-----X	

**SACRAMENTO FOODCO INVESTORS, LLC'S OBJECTION TO NOTICE OF  
ASSUMPTION AND ASSIGNMENT OF UNEXPIRED LEASE  
IN CONNECTION WITH SALE MOTION**

Sacramento Foodco Investors, LLC ("Lessor"), the lessor under a written lease between Lessor and Fleming Companies, Inc., as lessee, and listed as Contract Number 7073 (the "Lease") on the Debtor's Schedule of contracts to be assumed and/or assigned attached to its Notice re Initial Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection with Sale Motion ("Assignment Notice"), hereby objects to the proposed assumption and assignment of the Lease on the grounds that the Debtor has failed to provide adequate assurance of future performance as required under sections 365(b) and (f) of the Bankruptcy Code.

In support of its objection, Lessor respectfully represents as follows:

1. Under 11 U.S.C. § 365(b), the Debtor is required to provide adequate assurance of future performance if it proposes to assume an unexpired lease under which there exists a default. Under 11 U.S.C. § 365(f)(2)(B), the Debtor may assign an unexpired lease "**only if** adequate assurance of future performance by the assignee ... is provided, whether or not there has been a default in such ... lease." (Emphasis added.)

2. The Debtor's Assignment Notice indicates that it intends to assume and assign the Lease to C&S Acquisition LLC or its designated affiliate. Despite repeated efforts by Lessor to obtain specific information about the prospective assignee and its financial wherewithal, the Debtor has failed to provide this information. *See* Affidavit of Roberta Irish. As a result, the Debtor has failed to meet its burden under Sections 365(b) and 365(f) and may not assume or assign the Lease.

WHEREFORE, Lessor respectfully requests that the Court deny the Motion insofar as it pertains to Contract No. 7073, or else continue the Motion and require Debtor to provide the adequate assurance of future performance information to Lessor sufficiently in advance of the continued hearing to give Lessor the opportunity to evaluate such information and file an appropriate response.

Dated: August 11, 2003

STEVENS & LEE, P.C.

*/s/ John D. Demmy*

John D. Demmy (Bar No. 2802)  
300 Delaware Ave.  
8th Floor, Suite 800  
Wilmington, DE 19801  
Phone: (302) 425-3308  
Fax: (610) 371-8515

-and-

GREENBERG GLUSKER FIELDS CLAMAN  
MACHTINGER & KINSELLA LLP  
NANCY C. HSIEH (Cal. Bar No. 125897)  
JEFFREY A. KRIGER (  
1900 Avenue of the Stars, Suite 2100  
Los Angeles, California 90067  
Telephone: (310) 553-3610  
Facsimile: (310) 553-0687

*Attorneys for Sacramento Foodco Investors, Inc.*