

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

In re:)	Chapter 11
)	
FLEMING COMPANIES, INC., <i>et al.</i> ,)	Case No. 03-10945 (MFW)
)	
Debtors.)	Jointly Administered
)	
)	Related to Docket No. 2717
)	Hearing Date: August 14, 2003 @
)	9:00 a.m.

**OBJECTION OF BERGER-EPSTEIN & ASSOCIATES, INC. TO ASSUMPTION
AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND
UNEXPIRED LEASES IN CONNECTION WITH SALE MOTION**

Berger-Epstein & Associates, Inc., by and through its undersigned counsel, hereby objects to the assumption and assignment of contract no.6381 (and any other unspecified executory contract or unexpired lease by and between it and any of the Debtors and in support of such objection hereby states as follows:

1. Objector is Berger-Epstein & Associates, Inc., (“Berger-Epstein”), lessor to Fleming Foods East, Inc., as lessee, for space (the “Premises”) in the Perkasio Square Shopping Center pursuant to a Build and Lease Agreement dated March 22, 1993 (the “Lease”). A true and correct copy of the Build and Lease Agreement is attached hereto, incorporated herein and marked as Exhibit “A”.

2. The Lease is guaranteed by Fleming Companies, Inc., pursuant to a Guaranty dated March 22, 1993. A true and correct copy of the Guaranty is attached hereto, incorporated herein and marked as Exhibit “B”.

3. Pursuant to the Lease, the lessee is permitted to sublease the Premises (and in fact the lessee did sublease the Premises to Landis Supermarket, Inc.), but the lessee

remains liable for all obligations (and through the Guaranty, the Debtor remains liable for all obligations) of the lessee under the Lease.

4. Pursuant to the "Notice Re Potential Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection with the Sale Motion", the Lease has been assigned no. 6381 and the stated arrears under the Lease are listed at \$0.

5. To the extent that the Debtors or any of them, seek to assume and assign the Lease or any other agreement by and between it or them and Berger-Epstein, the Debtor(s) must comply with all aspects of 11 U.S.C. § 365, including, but not limited to, the obligation to provide evidence of adequate assurance of future performance.

WHEREFORE, Berger-Epstein & Associates, Inc. hereby requests that the Court enter an Order in the form attached precluding the assumption and assignment of the Lease or any other agreement by and between or among Berger-Epstein and the Debtors, or any of them, or, in the alternative, conditioning such assumption and assignment on verification that any successor to the Lessee and/or Guarantor fulfills all

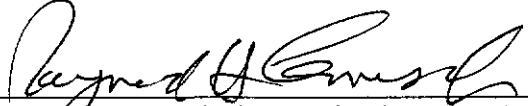
requirements, including all financial requirements, and provides adequate assurance of future performance under said Lease or other agreements.

Dated: August 11, 2003

Respectfully submitted,

ADELMAN LAVINE GOLD and LEVIN,
A Professional Corporation

By:


Raymond H. Lemisch, Esquire (No. 4204)
919 North Market Street, Suite 710
Wilmington, DE 19801
(302) 654-8200
Attorneys for Berger-Epstein & Associates,
Inc.

-and-

SOMACH AND WESTER
Richard Somach, Esquire
1132 Hamilton Street, Suite 201
Allentown, PA 18101