

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 Docket No. 12
	:	
	:	

**OBJECTION AND INCORPORATION OF REFERENCE OF PREVIOUS OBJECTION
TO DEBTORS' SECOND SUPPLEMENTAL REPORT OF CLAIMS UNDER THE
PERISHABLE AGRICULTURAL COMMODITIES ACT**

The below named PACA Trust Creditors (hereafter the "Pictsweet" Group)¹ hereby respectfully submit the following Objection to Debtors' Second Supplemental Report of Claims Under the Perishable Agricultural Commodities Act.

¹ The PACA Trust Creditors represented by the undersigned includes PICTSWEET FROZEN FOODS; TRINITY FRUIT SALES COMPANY, BAY AREA PRODUCE, INC.; PARAMOUNT EXPORT CO.; D'ARRIGO BROS. OF CALIFORNIA; LAWRENCE DISTRIBUTING CO., INC.; HORIZON MARKETING; GREAT EARTH PRODUCE, INC.; CORONA COLLEGE HEIGHTS ORANGE AND LEMON ASSOCIATION; BORG PRODUCE SALES, INC.; FROZUN FOODS, INC.; RATTO BROS., INC.; CALFLO PRODUCE, INC.; M & R COMPANY; MARIO MACIAS & CO., INC.; APIO, INC.; THE HMC GROUP MARKETING, INC.; MANN PACKING COMPANY; WEST PAK AVOCADO, INC.; JACOBS MALCOLM & BURTT; SPICE WORLD, INC.; WELL-PICT, INC.; DRISCOLL STRAWBERRY ASSOCIATES, INC.; SCHOENMANN PRODUCE COMPANY; ONEONTA TRADING CORP.; R-J DISTRIBUTING CO., INC.; STEINBECK COUNTRY PRODUCE, INC.; OCEAN MIST FARMS; NEWSTAR/CERES FRESH FOODS LLC; EVERKRISP VEGETABLES, INC.; THE NUNES COMPANY, INC.; AV THOMAS PRODUCE; WM. G. ROE & SONS, INC.; PERO PACKING AND SALES, INC.; WALDEN-SPARKMAN, INC.; NASHVILLE TOMATO LLC; WISHNATZKI FARMS; SIERRA PRODUCE; CHRISTOPHER RANCH, DIRECT ETHNIC MARKETERS; GROWERS EXPRESS, KEBER DISTRIBUTING, INC.; RIVER RANCH FRESH FOODS, LLC.; CAPURRO MARKETING; DEL REY AVOCADO CO.; ALTAR PRODUCE; PANDOL BROS, INC.; ROCK GARDEN SOUTH; TANIMURA & ANTLE; DFI GOLDRUSH; DIAZTECA CO.; CUSTOM PRODUCE SALES; AND MARTORI FARMS.

Pursuant to footnote 5 contained in the Debtors' Second Report entitled "Debtors' Second Supplemental Report of Claims Under the Perishable Agricultural Commodities Act, 7 U.S.C. § 499a et seq., the Packers and Stockyards Act, 7 U.S.C. § 181 et seq., and Similar Statutes," the Pictsweet Group hereby incorporate by reference the previous objection filed to Debtors' First Report. The previous objection that is incorporated by this reference is docket number 2202, filed on July 25, 2003, and is entitled "Objection to Debtors' First Supplemental Report of Claims Under the Perishable Agricultural Commodities Act."

Among other things, Debtors have entirely failed to comply with the literal and unambiguous requirements of the PACA Order by failing to provide a detailed factual and legal analysis supporting its challenges to the PACA trust claims of the Pictsweet Group, and have waived any right to further assert those challenges and to subsequently submit any further argument or evidence in support of those challenges to the Pictsweet Group's PACA claims. Thus, these claims should therefore be allowed in full.

DATED: August 28, 2003

Respectfully submitted,

WERB & SULLIVAN

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CERTIFICATE OF SERVICE

I, Duane D. Werb, hereby certify that on this 28th day of August, 2003, a copy of the foregoing *Objection and Incorporation of Reference of Previous Objection to Debtors' Second Supplemental Report of Claims Under The Perishable Agricultural Commodities Act* was sent to the following individuals in the manner indicated:

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