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

RESPONSE OF ODOM'S TENNESSEE PRIDE SAUSAGE, INC. TO DEBTORS' SECOND (D.I. 3210) AND THIRD 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 STATE STATUTES

Odom's Tennessee Pride Sausage, Inc. ("Odom's") files this response (the "Response") to 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 State Statutes (D.I. 3210) (the "Second PACA Report"), filed August 18, 2003, and Debtors' Third Supplemental Report of Claims Under PACA, PASA, and Similar State Statutes, which Odom's anticipates will be filed on September 16, 2003. In support of its Response, Odom's respectfully states as follows.

BACKGROUND

1. On or about April 1, 2003, the above-captioned debtors (the "Debtors") filed their respective petitions for relief under chapter 11 of title 11 of the United States Code.

2. Odom's is a trade vendor of the Debtors. Within the reclamation period, it delivered $96,806.27 of inventory to certain of the Debtors which are carried on Odom's records under the names Fleming and Core-Mark. Odom's properly asserted a reclamation claim for the amount of $96,806.27 (the "Reclamation Claim") promptly upon the filing of the Debtors' jointly administered cases.

3. On or about July 21, 2003, the Debtors filed their Motion for Entry of an Order with Respect to the Reclamation Claims filed in the Debtors' Cases (D.I. 2050) (the "Reclamation Motion"), in which the Debtors objected to Odom's Reclamation Claim.

4. On or about August 6, 2003, the Debtors filed their Notice to Parties-in-Interest with Respect to Update on Status of Debtors' Motion for Entry of an Order with Respect to the Reclamation Claims Filed in the Debtors' Cases (D.I. 2796) (the "Reclamation Notice"). The Reclamation Notice provides as follows:

> 1. As a result of the Debtors' discussions with certain Reclamation Claimants whose rights and interests are affected by the Reclamation Motion and the relief sought by the Debtors therein, the Debtors have agreed to take certain procedural steps with respect to the Reclamation Motion that are likely to include (a) amendment of the Motion and/or the Exhibits thereto and/or (b) the Reclamation Status Reports that have been sent by the Debtors to Reclamation Claimants.
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> 2. Accordingly, the Debtors have agreed that, notwithstanding paragraph 10 of the Reclamation Motion, the August 12, 2003 deadline within which responses or objections to the Reclamation Motion must be filed is hereby withdrawn and stricken. [footnote omitted]
>
> 3. Accordingly, NO RIGHTS OR INTERESTS OF ANY RECLAMATION CLAIMANTS SHALL BE ADVERSELY OR IN ANY WAY AFFECTED BY FAILING TO RESPOND OR OBJECT TO THE RECLAMATION MOTION, OR BY FAILING TO APPEAR AT THE PRESENTLY SCHEDULED AUGUST 19, 2003 HEARING DATE ON THE RECLAMATION MOTION. On that hearing date, the Debtors will not seek the relief requested in the Reclamation Motion, and the Reclamation Claimants will receive further and additional notice with respect to their Reclamation Claims and the Debtors' proposed treatment thereof.

Reclamation Notice, ¶ 1-3.

5. Based upon the representations contained in the Reclamation Notice, Odom's did not file an objection to the Reclamation Motion.

6. On or about August 18, 2003, the Debtors filed the Second PACA Report, in which they list a PACA claim for Odom's in the amount of $4,967.16 (the "PACA Claim"). On Exhibit 1 to the Second PACA Report, the Debtors characterize the PACA Claim as "asserted" but "unreconciled."

7. In the Second PACA Report, the Debtors assert that if they "are unable to reconcile those unreconciled Claims for which no documentation has been provided and, if such documentation is not provided in time for preparation of the Debtors' Third Supplemental PACA Report on September 16, 2003, the Debtors will list such Claims as invalid in such Report." Second PACA Report, ¶ 12.

8. It is Odom's understanding that the Debtors plan to file the Third PACA Report on September 16, 2003, in which the Debtors intend to list the aforementioned $4,976.16 as "PACA ineligible" rather than "unreconciled."

9. Odom's therefore files this Response to both the Second PACA Report and the Third PACA Report.

RESPONSE

1. Odom's does not have a separate claim under the Perishable Agricultural Commodities Act, the Packers and Stockyards Act, and Similar State Statutes. Odom's never asserted the $4,976.16 as a PACA claim. The Debtors mischaracterized the $4,967.16 listed in the Second PACA Report. The $4,976.16 is part of the $96,806.27 that is Odom's Reclamation Claim, and is not a PACA claim.

2. Odom's does not oppose the disallowance of the PACA Claim insofar as the Debtors have characterized it as a claim under the Perishable Agricultural Commodities Act, the Packers and Stockyards Act, and Similar State Statutes.

3. However, the disallowance of the PACA Claim as a PACA claim cannot constitute a disallowance of the $4,976.16 part of Odom's Reclamation Claim or any of Odom's other claims. The $4,976.16 must continue to be treated as an allowable claim that is part of Odom's Reclamation Claim. Odom's hereby reserves all its rights under its Reclamation Claim and all of its other claims. Odom's reserves its right to amend and/or supplement this Response.

CONCLUSION

WHEREFORE, Odom's respectfully clarifies that the disallowance of the PACA Claim does not in any way affect the validity of Odom's Reclamation Claim or any of Odom's other claims.

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September 16, 2003
PA&C 600611