

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)
)
) **Hearing Date: October 2, 2003 @ 2:00 p.m.**
) **Objection deadline: September 25, 2003 @ 4:00 p.m.**
)
) **Re: Document No. 3667**

**LIMITED OBJECTION TO DEBTOR'S REQUEST
FOR ADEQUATE RESERVE UNDER SALE ORDER**

TO THE HONORABLE MARY F. WALRATH, BANKRUPTCY JUDGE:

Bedros, Inc., Ballpark Food Corp., KQS Food Corp., Food Emporium, Inc., N&T Supermarkets, Inc., Leo Mall Markets, Inc., Creative Supermarket of N.J. Inc., Giunta's Market, Inc., Joraja, Inc., MJ Enterprises of Monmouth County, Inc., Mary-Lawrence Corp., Penn Mart Supermarkets, Inc., D/M Foods, Inc., Greenwich Grocery Co., Inc., Landis Supermarket, Inc., Marrazzo's Market at Ewing LLC, C&B Supermarket, Inc., Marrazzo's Quality Market, Inc., Holiday Supermarkets, Inc., FS Food South, Inc., Pippy's Corp., Food Line Management Co., Liberty Food Store, Inc., Two Dads, Inc., Vinmar Marketing Associates, L.P. and Great Scot Supermarket, Inc. (the "Objectants"), by their attorneys, Finkel Goldstein Berzow Rosenbloom & Nash, LLP, and and Jaspan Schlesinger Hoffman, LLP, as and for their limited opposition to the Debtor's Motion For An Order Establishing Amount of Adequate Protection Reserve Pursuant to the Sale Order, respectfully allege and show this Court, as follows:

1. The Objectants are former Customers of the Debtor and the Objectants own and operate one or more supermarkets in the States of New Jersey, Pennsylvania or Delaware.

2. Each of the Objectants (with the exception of Vinmar Marketing Associates, L.P. and Great Scot Supermarket, Inc.) are members of the Retail Marketing Group, LLC ("RMG"), a cooperative buying group.

3. During an earlier stage in this proceeding, the Objectants were served with Cure Notices by the Debtor in furtherance of its proposed Asset Purchase Agreement. Each of the Objectants filed detailed objections to the Cure Notices and have asserted that they are entitled to many different types of cure damages in the event of proposed assignments or conveyances in the amounts set forth below:

<u>Name</u>	<u>Amount of Cure Notice</u>
a) Bedros, Inc.	\$ 2,306,207.70
b) Ballpark Food Corp.	\$19,103,669.87
c) KQS Food Corp.	\$ 2,353,387.99
d) Food Emporium, Inc.	\$ 3,115,092.00
e) N&T Supermarkets, Inc.	\$ 402,091.07
f) Leo Mall Markets, Inc.	\$ 91,383.46
g) Creative Supermarket of N.J. Inc.	\$ 48,357.03
h) Giunta's Market, Inc.	\$ 1,899,840.00
i) Joraja, Inc.	\$ 449,691.00
j) MJ Enterprises of Monmouth County, Inc.	\$ 266,668.37
k) Mary-Lawrence Corp.	\$ 30,000.00
l) Penn Mart Supermarkets, Inc.	\$ 325,164.75
m) D/M Foods, Inc.	\$ 20,970.01
n) Greenwich Grocery Co., Inc.	\$ 318,913.00
o) Landis Supermarket, Inc.	\$ 1,603,353.87
p) Marrazzo's Market at Ewing LLC	\$ 451,130.67
q) C&B Supermarket, Inc.	\$ 103,819.77
r) Marrazzo's Quality Market, Inc.	\$ 655,896.08
s) Holiday Supermarkets, Inc.	\$ 5,143,571.37
t) FS Food South, Inc.	\$ 885,624.13
u) Pippy's Corp.	\$ 2,866,927.89
v) Food Line Management Co.	\$ 5,681,604.00
w) Liberty Food Store, Inc.	\$ 2,042,998.92

x) Two Dads, Inc.	\$ 2,232,150.61
y) Vinmar Marketing Associates, L.P.	\$ 1,150,000.00
z) Great Scot Supermarket, Inc.	<u>\$ 1,053,709.80</u>
Total	<u>\$54,602,223.36</u>

4. Prior to and during the sale hearings, negotiations took place between the Objectants, DiGiorgio Corporation ("DiGiorgio") and C&S Acquisition, LLC ("C&S") which resulted in an agreement in principle to settle the objections coupled with the purchase of various assets and assignments of collateral which C&S was otherwise entitled to acquire under its Asset Purchase Agreement with the Debtor.

5. Thereafter, at an adjourned sale hearing, the Debtor indicated that it wished to participate in the settlement so that there could be a global settlement and release of claims as between the Debtor, C&S, DiGiorgio and the Objectants. As part of that proposed settlement, the many cure objections referenced above will be withdrawn.

6. Despite the earnest efforts of counsel for the Objectants, as of the date hereof, the Settlement Agreement has not been concluded and as such, the Objectants are constrained to object to the Debtor's motion so that the status quo is maintained and the full reserve of \$75,000,000.00 remains in place and is not diminished until settlement with the Objectants is concluded. A review of the list appended as Exhibit "A" to the motion improperly lists only one Objectant, Penn Mart Supermarkets, Inc., and not the other Objectants as parties having offset rights which should be adequately protected.

WHEREFORE, the Objectants respectfully request that the full reserve is preserved until the Settlement Agreement is concluded, or their rights and claims are adjudicated in further proceedings before this Court.

Dated: September 24, 2003

JASPAN SCHLESINGER HOFFMAN, LLP

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