

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	:	Chapter 11
	:	
FLEMING COMPANIES, INC., <u>et al.</u> ,	:	Case Nos. 03-10945 (MFW)
	:	(Jointly Administered)
	:	
Debtors.	:	Objection Deadline: 10/13/03 at 4:00 p.m.
	:	Hearing Date: 10/20/03 at 2:00 p.m.
	:	
	:	Related to Docket No. 3916

**CONDITIONAL OBJECTION OF ASSOCIATED GROCERS, INCORPORATED
TO DEBTORS' PROPOSED REJECTION OF CERTAIN
UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

Associated Grocers, Incorporated (“AGI”), by and through its undersigned counsel, hereby submits this conditional objection (the “Objection”) to the Debtors’ proposed rejection of certain unexpired leases of nonresidential real property, Docket No. 3916 (the “Rejection Motion”).

I. BACKGROUND

1. AGI is a distributor of wholesale groceries and related products and services to independent grocers and supermarkets in the Pacific Northwest. AGI operates a warehouse facility from which it distributes food and nonfood goods to its members.¹

2. Before the Petition Date, the Debtors assigned their right, title and interest in certain unexpired leases of nonresidential real property (the “Assigned Leases”) to certain third parties, including AGI (collectively, the “Third Party Assignees”).

¹ AGI is an entity completely unrelated to Associated Grocers, Inc., one of the parties named as an assignee pursuant to the August 15, 2003 Order Approving Asset Purchase Agreement, Docket No. 3142.

3. AGI is a Third Party Assignee in respect of two Assigned Leases located in Oregon – Lease OR-009CL, located at 2441 East Powell Valley Blvd., Gresham, Oregon and Lease OR-013CL, located at 1875 North First Street, Hermiston, Oregon (together, the “Oregon Leases”). In the Rejection Motion, the Debtors seek to reject their interests in, among others, the Oregon Leases.

II. RESPONSE

4. AGI has significant interests in the Oregon Leases and seeks to confirm by this Objection that any rejection by the Debtors of the Oregon Leases will not adversely affect AGI nor imbue the current lessors of the Oregon Leases with any additional rights or remedies in respect of AGI.

5. The Debtors have represented that the proposed rejection of the Assigned Leases will not affect in any way the substantive rights of Third Party Assignees.

The rejection of the Assigned Leases will not effect a forfeiture of the Assignees’ leasehold interest under the Assigned Leases, constitute a default under the same, nor otherwise prejudice, affect, alter, modify or amend the rights of the Assignees under their respective Assigned Leases, including, without limitation, their right of continued possession of the respective leased premises.

Rejection Motion, at ¶ 7; Proposed Order Authorizing Rejection of Unexpired Leases of Nonresidential Real Property, at ¶ 5.

6. Provided that all lessors of the Assigned Leases are bound by these provisions and are foreclosed from exercising any rights or remedies against Third Party Assignees based on the Debtors’ rejection of such Assigned Leases, AGI does not object to the Rejection Motion.

7. Moreover, AGI believes that any lessor’s failure to respond to the Rejection Motion or this Objection should be deemed a waiver of any rights they might otherwise attempt to enforce against Third Party Assignees, including AGI.

8. To the extent that lessors of the Assigned Leases are not bound by the language of the Rejection Motion and proposed order highlighted above, AGI objects to the proposed rejection of the Assigned Leases and requests that this issue be further briefed by all interested parties before rejection of any of the Assigned Leases.

III. CONCLUSION

WHEREFORE, for the reasons stated above, AGI submits this Objection to the Rejection Motion and seeks to clarify that AGI's leasehold rights remain unaffected and unlimited by the relief requested in the Rejection Motion.

Dated: October 10, 2003
Wilmington, Delaware

DAVIS WRIGHT TREMAINE LLP
Jennifer L. Dumas (WA Bar No. 31242)
2600 Century Square, 1501 Fourth Avenue
Seattle, Washington 98101
Telephone: (206) 622-3150

- and -

CONNOLLY BOVE LODGE & HUTZ LLP

/s/ Karen C. Bifferato
Karen C. Bifferato (No. 3279)
The Nemours Building
1007 North Orange Street
P.O. Box 2207
Wilmington, DE 19899
Telephone: (302) 658-9141
Fax: (302) 658-0380

Attorneys for Associated Grocers,
Incorporated