

Exhibit 6

ASSIGNMENT, ASSUMPTION AND RELEASE AGREEMENT

Fleming CA-022/Ralphs #978

San Carlos, California

THIS ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT ("Agreement") is made as of this 20th day of October, 2003, by and among _____ as debtor and debtor-in-possession operating under chapter 11 of the Bankruptcy Code (as hereinafter defined) ("Assignor"), and Ralphs Grocery Company, a Delaware corporation ("Assignee").

RECITALS

A. Assignor is currently the tenant under that certain lease dated as of February 10, 1967 (such lease, as amended, modified, supplemented or restated is hereinafter referred to as the "Lease") for the premises located at 810 Laurel Avenue, San Carlos, California and more specifically described in the Lease (the "Premises"). A copy of the Lease is attached hereto as Exhibit A. The Landlord under the Lease is _____ (the "Landlord");

B. Assignor is currently the sublandlord and Assignee is currently the subtenant under that certain sublease of the Premises dated as of September 14, 1987 (such sublease, as amended, modified, supplemented or restated is hereinafter referred to as the "Sublease"). A copy of the Sublease is attached hereto as Exhibit B;

C. On April 1, 2003, Assignor and various of its affiliates filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C §§ 101 et. seq. (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"). Assignor continues to operate its business and manage its properties as a debtor-in-possession; and

D. Assignor desires to assign (i) all of Assignor's right, title and interest as tenant under the Lease and (ii) all of Assignor's right, title and interest as sublandlord under the Sublease to Assignee; and Assignee is desirous of assuming, pursuant to Section 365(f) of the Bankruptcy Code and on the terms and conditions set forth herein, all of Assignor's obligations under the Lease and Sublease.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

1. Assignment and Assumption.

(a) Pursuant to the terms and conditions set forth in this Agreement, Assignor hereby grants, assigns, sets over and conveys to Assignee all of Assignor's right, title, and interest in the Premises, the Lease, Sublease and any security deposit under the Lease as of the date hereof; provided, however, Assignee shall pay to Assignor upon execution of this Agreement an amount equal to such security deposit currently held by Landlord to the extent the same has not been applied against obligations of Assignor. Assignee hereby accepts the foregoing assignment, without any merger of title relative to such interest with any other interest of Assignee in the Lease or the Sublease, whether as landlord, sublandlord or otherwise, and assumes and agrees to perform and fulfill all of Assignor's duties, responsibilities and obligations under the Lease and the Sublease arising or occurring from and after the date hereof. To the extent that the Lease is subject to a cure (pursuant to section 365 of the Bankruptcy Code and described in the Order or any order of the Bankruptcy Court relating to such cure liability), Assignor shall be responsible for any such cure (in the aggregate, the "Cure Costs"), and Assignor shall pay such Cure Costs at or prior to the Closing.

(b) Further, pursuant to Section 365(f) of the Bankruptcy Code, on and after the Closing, Assignor and its estate shall be relieved from any liability for any breach of the Lease and Sublease occurring after the Closing, and Assignee agrees to defend and indemnify Assignor against, and hold Assignor harmless from, any and all claims, actions, proceedings, suits, costs, liabilities, losses, damages or expenses, arising or occurring after the Closing in connection with the performance or observance or the failure or refusal to perform or observe (i) any agreement or obligation of the tenant under the Lease or any term or provision thereof required to be performed by the tenant under the Lease after the date of this Agreement; or (ii) any agreement or obligation of the sublandlord under the Sublease or any term or provision thereof required to be performed by sublandlord under the Sublease after the date of this Agreement.

(c) Upon entry of the order of the Bankruptcy Court approving the assignment and assumption of the Lease and Sublease on the terms and conditions set forth herein (the "Order"), the parties shall attach a copy of the Order to this Agreement as Exhibit C, and the Closing shall occur in the manner provided herein.

2. Consideration. The total consideration to be paid by Assignee in connection with the assignments contemplated hereunder is \$360,000.00 (the "Purchase Price"). Upon execution of this Agreement, Assignee shall pay to Assignor a deposit equal to ten percent (10%) of the Purchase Price (the "Deposit"). Upon the Closing, Assignee shall pay the balance of the Purchase Price to Assignor, plus or minus prorations. Said Deposit and balance of the Purchase Price shall be paid by certified or bank check made payable to Assignor, or by wire transfer to the account of Assignor pursuant to written wire instructions to be provided by Assignor. Said funds are to be released and paid as directed by the Order.

3. Release. Assignee acknowledges and agrees that all obligations of Assignor, as sublandlord under the Sublease, have been satisfied through the date hereof or hereby waived and released, with the result that Assignor shall not have any obligation whatsoever under the Sublease (or with respect to the Premises) arising from and after the date hereof. Assignee, for itself, its successors and assigns, does hereby release, acquit, satisfy and forever discharge Assignor, Assignor's affiliates, owners, parent companies and subsidiaries, and their respective past, present and future shareholders, officers, directors, employees, agents, attorneys, representatives, guarantors and predecessors (the "Released Parties") from, and do hereby covenant and agree never to institute or cause to be instituted any suit or other form of action or proceeding of any kind or nature whatsoever, including, but not limited to those for rejection damages under Section 365 of the Bankruptcy Code, against the Released Parties based upon any claims, demands, indebtedness, agreements, promises, causes of action, obligations, damages or liabilities of any kind or nature whatsoever, in law or equity, whether or not known, suspected or claimed, that Assignee has ever had, claimed to have, now has or may hereafter have or claim to have, if any, against the Released Parties by reason of the matter, cause, thing, document, agreement, instrument, act or omission of the Released Parties, arising out of the Lease, the Sublease or the occupancy of the Premises.

4. Closing. The consummation of the assignment and assumption of the Lease pursuant to this Agreement (the "Closing") shall take place not later than two (2) business days after the date of entry by the Bankruptcy Court of the Order, and shall be held at the offices of Assignor's counsel or at such other location as Assignor shall reasonably designate.

5. Court Approval. Promptly following mutual execution and delivery of this Agreement, Assignor shall, at Assignor's sole cost and expense, file a motion with the Court seeking the Order and shall use its reasonable efforts to obtain the Order. This Agreement, however, shall constitute an irrevocable offer by Assignee to consummate the transactions described herein on the terms hereof.

6. Remedies. If the Bankruptcy Court does not approve the assignment and assumption of the Lease and Sublease pursuant hereto for any reason other than a material breach of this Agreement by Assignee, then this Agreement shall terminate, the Deposit shall be refunded to Assignee, and Assignee shall have no further claims against Assignor.

7. Free and Clear of Liens, Claims and Encumbrances. At Closing, the assignment and assumption of the Lease and Sublease shall be made free and clear of any liens, claims and encumbrances against Assignor's interest in (i) the Lease (other than any liens, claims and encumbrances of Landlord's lender or mortgagee) and (ii) the Sublease (other than any liens, claims and encumbrances of Landlord's or Assignee's lender or mortgagee), to the extent permitted under the Bankruptcy Code.

8. Adequate Assurance Data. Prior to or with the execution of this Agreement by Assignee, Assignee shall supply Assignor with (i) the full name and identity of Assignee; (ii) a current financial statement or such other proof of financial condition of Assignee; (iii) a written statement of Assignee's expected use of the Premises; (iv) such other information relating to the proposed business to be conducted at the Premises and retail experience of Assignee; (v) a projection of gross sales, if the Lease contains a percentage rent provision; and (vi) such other

documentation as may be reasonably requested by the Bankruptcy Court to demonstrate "adequate assurance of future performance" by Assignee.

9. Possession. Assignor agrees to provide Assignee with possession of the Premises at Closing.

10. Representations and Warranties.

(a) Assignor. Assignor hereby represents and warrants to Assignee the following:

(i) Subject to the entry and effectiveness of the Order, this Agreement has been duly and validly executed and delivered by Assignor and constitutes a valid and binding agreement of Assignor, enforceable against Assignor in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium and other laws affecting creditor's rights generally from time to time in effect and to general equitable principles; and

(ii) The copy of the Lease attached hereto as Exhibit A is a true, accurate and complete copy of the Sublease (and all amendments thereto).

(iii) The copy of the Sublease attached hereto as Exhibit B is a true, accurate and complete copy of the Sublease (and all amendments thereto).

(b) Assignee. Assignee hereby represents and warrants to Assignor the following:

(i) This Agreement has been duly and validly executed and delivered by Assignee and constitutes a valid and binding agreement of Assignee, enforceable against Assignee in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium and other laws affecting creditor's rights generally from time to time in effect and to general equitable principles; and

(ii) That Assignee will, at all times after the date of this Agreement, be able to demonstrate "adequate assurance of future performance" under the Lease as that term is defined in Section 365 of the Bankruptcy Code.

(iii) The copy of the Sublease attached hereto as Exhibit B is a true, accurate and complete copy of the Sublease (and all amendments thereto).

11. "As Is" Transaction. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ASSIGNEE HEREBY ACKNOWLEDGES AND AGREES THAT, THE ASSIGNOR MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER RELATING TO THE INTEREST (INCLUDING, WITHOUT LIMITATION, INCOME TO BE DERIVED FROM OR EXPENSES TO BE INCURRED IN CONNECTION WITH THE PREMISES; THE PHYSICAL CONDITION OF THE PREMISES OR THE IMPROVEMENTS; THE SQUARE FOOTAGE OF THE PREMISES OR THE IMPROVEMENTS; THE PRESENCE OR ABSENCE OF ANY "HAZARDOUS MATERIALS" IN, ON OR ABOUT THE PREMISES

OR ANY OTHER MATTER RELATING TO THE ENVIRONMENTAL CONDITION OF THE PREMISES; THE ZONING OF THE PREMISES; THE POSSIBILITY OF DEVELOPING OR USING THE PREMISES IN THE MANNER CONTEMPLATED BY ASSIGNOR OR OBTAINING ANY CONSENTS, PERMITS, APPROVALS, AUTHORIZATIONS OR ENTITLEMENTS IN CONNECTION THEREWITH; THE VALUE OF THE INTEREST; THE FITNESS OF THE PREMISES FOR ANY PARTICULAR PURPOSE OR USE; THE ACCURACY, COMPLETENESS, OWNERSHIP OR TRANSFERABILITY OF ANY DOCUMENTS OR OTHER MATERIALS FURNISHED TO ASSIGNEE WITH RESPECT TO THE PREMISES (OR ANY PORTION THEREOF); THE TITLE OF THE PREMISES; OR ANY OTHER MATTER OR THING RELATING TO THE PREMISES OR THE INTEREST). ASSIGNEE ALSO ACKNOWLEDGES THAT ASSIGNEE HAS CONDUCTED OR WAIVED THE RIGHT TO AN INDEPENDENT INSPECTION AND INVESTIGATION OF THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PREMISES AND ALL SUCH OTHER MATTERS RELATING TO OR AFFECTING THE PREMISES AND/OR THE INTEREST AS ASSIGNEE DEEMED NECESSARY OR APPROPRIATE AND THAT ASSIGNEE IS ACQUIRING THE INTEREST HEREUNDER BASED SOLELY UPON SUCH INDEPENDENT INSPECTIONS AND INVESTIGATIONS OR ASSIGNEE'S INDEPENDENT JUDGMENT. ACCORDINGLY, ASSIGNEE HEREBY ACCEPTS THE PREMISES AND INTEREST "AS IS" AND "WITH ALL FAULTS."

12. Commission. The parties hereto represent and warrant to the other that there is no commission or other fee payable by as a result of this Agreement or the transactions contemplated hereunder.

13. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of California. The parties agree that the Bankruptcy Court shall have exclusive jurisdiction over any disputes hereunder, and they each hereby consent to such jurisdiction.

(b) This Agreement sets forth the entire agreement and understanding of the parties with respect to the transactions contemplated hereby and supersedes any prior instruments, arrangements and understandings relating to the subject matter hereof.

(c) Assignor may assign its rights and obligations hereunder to any trustee appointed by the Bankruptcy Court. Assignee may not assign its rights and obligations hereunder to any party without Assignor's written consent and, following Bankruptcy Court approval, any assignment of this Agreement by Assignee must also be permitted by the terms of the Lease or agreed to by the Landlord.

(d) This Agreement may be executed with counterpart signature pages or in more than one counterpart, all of which shall be deemed one and the same agreement.

(e) Any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder ("Notices") shall be in writing and shall be given as follows: (i) by hand delivery; (ii) by Federal Express or other

reputable express courier service; or (iii) by facsimile transmission (other than for notices of default):

If to Assignor:

Fleming Companies, Inc.
1945 Lakepoint Drive
Lewisville, TX 75057
Attention: General Counsel
Facsimile: (972) 906-1860

With a copy to:

Kirkland & Ellis
200 E. Randolph Drive
Chicago, IL 60601
Attention: Robert T. Buday, Esq.
Facsimile: (312) 861-2200

If to Assignee:

Ralphs Grocery Company
1100 West Artesia Boulevard
Compton, California 90220
Attention: Mary M. Kasper, Esq.
Legal Department
Facsimile: (310) 884-2610

or at such other address or to such other addressee or to such other facsimile number as the party to be served with Notice shall have furnished in writing to the party seeking or desiring to serve Notice as a place for the service of Notice. Notices shall be deemed to have been rendered or given on the date received or on the date they are deemed to be received as hereinafter set forth. The inability to deliver Notices because of changed address of which no notice was given, or rejection or refusal to accept any Notice offered for delivery shall be deemed to be receipt of the Notice as for the date of such inability to deliver or rejection or refusal to accept delivery.

(f) This Agreement can be amended only by a written instrument duly executed by each of the parties.

(g) The parties agree to execute such additional instruments as may be reasonably necessary to carry out the provisions of this Agreement.

(h) If any action is brought by either party against the other party, the prevailing party shall be entitled to recover court costs and reasonable attorneys' fees and costs actually incurred.

(i) This Agreement is deemed to have been drafted jointly by the parties, and any uncertainty or ambiguity shall not be construed for or against either party as an attribution of drafting to either party.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been duly executed this 20th day of October, 2003.

ASSIGNOR:

_____, a(n) _____

By: _____

Name: _____

Title: _____

ASSIGNEE:

RALPHS GROCERY COMPANY, *mark*
A Delaware corporation

By: *Thomas E. Gast*

Name: Thomas E. Gast

Title: Senior Vice President

EXHIBIT A

Lease

[See Attached]

EXHIBIT B

Sublease

[See Attached]

EXHIBIT C

Order

[See Attached]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)
) Chapter 11
FLEMING COMPANIES, INC., et al.,¹)
) Case No. 03-10945 (MFW)
) (Jointly Administered)
)
Debtors.)
)

Objection Deadline: October 13, 2003 at 4:00 p.m. prevailing Eastern time
Hearing Date: October 20, 2003 at 2:00 p.m. prevailing Eastern time

**ORDER: (A) AUTHORIZING SALE OF CERTAIN OF THE DEBTORS' REAL
PROPERTY FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND
ENCUMBRANCES; AND (B) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF
CERTAIN UNEXPIRED LEASES**

Upon consideration of the motion of the above captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an Order: (A) Authorizing Sale of Certain of the Debtors' Real Property Free and Clear of All Liens, Claims, Interests and Encumbrances; and (B) Authorizing Assumption and Assignment of Certain Unexpired Leases [Docket No. 3833] (the "Sale Motion"); on September 12, 2003 the Debtor's Motion for Order: (A) Authorizing and Scheduling an Auction for the Sale of Certain of the Debtors' Real Property; (B) Approving the Terms and Conditions of Such Auction, Including Bidding Procedures Related Thereto; and (C)

¹ The Debtors are the following entities: Core-Mark International, Inc.; Fleming Companies, Inc.; ABCO Food Group, Inc.; ABCO Markets, Inc.; ABCO Realty Corp.; ASI Office Automation, Inc.; C/M Products, Inc.; Core-Mark Interrelated Companies, Inc.; Core-Mark Mid-Continent, Inc.; Dunigan Fuels, Inc.; Favar Concepts, Ltd.; Fleming Foods Management Co., L.L.C.; Fleming Foods of Texas, L.P.; Fleming International, Ltd.; Fleming Supermarkets of Florida, Inc.; Fleming Transportation Service, Inc.; Food 4 Less Beverage Company, Inc.; Fuelserv, Inc.; General Acceptance Corporation; Head Distributing Company; Marquise Ventures Company, Inc.; Minter-Weisman Co.; Piggly Wiggly Company; Progressive Realty, Inc.; Rainbow Food Group, Inc.; Retail Investments, Inc.; Retail Supermarkets, Inc.; RFS Marketing Services, Inc.; and Richmar Foods, Inc.

Approving: Assignment Procedures for Affected Unexpired Leases [Docket No. 3666] (the “Procedures Motion”) having been filed and served on the parties identified in the Procedures Motion; on September 26, 2003, the Sale Motion having been filed and served on the parties identified therein; on September 26, 2003, the Auction Notice² having been served upon the persons in the manner specified in the Procedures Motion; on September 26, 2003, the Cure Notice having been served on each counterparty to an unexpired lease with any of the Debtors that is to be assumed and assigned; the Debtors having held the auction for the Assets in accordance with the Debtors’ Auction Procedures at the offices of Kirkland & Ellis LLP, 200 East Randolph Drive, Chicago, Illinois 60601-6636, on October 14, 2003 at 10:00 a.m. prevailing Central Time; the Court having reviewed the Sale Motion and any objections, responses and other papers before the Court in connection with the Auction; the Court having heard the statements of counsel in support of the sale of the Assets, as reflected in the record at the hearing before this Court on the Sale Motion; and the Court finding that (i) notice of the hearing on the Sale Motion and the opportunity of any party in interest to object to the sale of the Assets were adequate and appropriate as to all parties to be affected by the sale of the Assets and (ii) the legal and factual bases set forth at the hearing on the Sale Motion and as set forth in this Order establish just cause for the relief granted herein; the Court hereby makes the following Findings of Fact, and Conclusions of Law.

IT HAVING BEEN FOUND AND DETERMINED by this Court that:

² Capitalized terms not expressly defined herein have the meanings ascribed to such terms in the Procedures Motion.

1. The Court has jurisdiction over these chapter 11 cases pursuant to 28 U.S.C. §§ 157 and 1334. Venue of these chapter 11 cases is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. Due, adequate and sufficient notice of the Sale Motion, the Auction Notice, the Procedures Order, the Cure Notice and the Auction has been given to all affected parties in accordance with the procedures set forth in the Procedures Motion and the Sale Motion and in accordance with the Bankruptcy Rules and other applicable orders of the Bankruptcy Court, and no other or further notice is or shall be required.

3. The Auction was conducted in accordance with the Auction Notice in all material respects. No party in interest disputes that the Auction was so conducted.

4. At the Auction, the Debtors determined the highest and best offer for the each of the Assets.

5. The Debtors have selected the highest and best bidders (each, a "Buyer" and collectively, the "Buyers") for the properties identified on Exhibit A to this Order (each, an "Acquired Property" and collectively, the "Acquired Properties"). The Debtors selected each Buyer as the highest and best bidder with respect to the corresponding Acquired Property after consulting with the Committee and the Debtors' post-petition ~~lenders~~ agents in accordance with the Auction Notice.

6. O'Bryan Properties, LLC submitted at the Auction the second highest bid for the property located at 2806 North Knoxville, Peoria, Illinois, identified on Exhibit A.

7. The Debtors have selected the highest and best bidders~~bidders~~ bidding parties (each, ~~an~~ "Assignee Highest and Best Bidding Party" and collectively, the "Assignees Highest and Best Bidding Parties") for the properties identified on Exhibit B to this Order (each, an "Assigned Lease" and collectively, the "Assigned Leases"). The Debtors selected each

~~Assignee~~**Highest and Best Bidding Party** as the highest and best bidder with respect to the corresponding Assigned Lease after consulting with the Committee and the Debtors' post-petition ~~lenders~~**agents** in accordance with the Auction Notice.

8. ~~7.~~ Each Buyer is purchasing the Acquired Property in good faith and is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code, and is therefore entitled to the protection of that provision, and there is no evidence that any Buyer has not proceeded in good faith in all respects in connection with the Auction. There is no evidence that any Buyer has acted in violation of section 363(n) of the Bankruptcy Code.

Accordingly, it is hereby ORDERED that:

1. The Sale Motion is approved on the terms set forth herein. The sale of the Acquired Properties to each of the Buyers and the assumption and assignment, **or termination and/or rejection,** of each of the Assigned Leases to the ~~Assignees~~**Highest and Best Bidding Parties** is approved on the terms set forth herein.

2. Each objection to the Sale Motion, to the extent such objection has not been withdrawn or resolved, is hereby overruled and denied.

3. Each objection to the sale of the Acquired Property to a Buyer, to the extent such objection has not been withdrawn or resolved, is hereby overruled and denied.

4. Each objection to the assumption and assignment, **or to the termination and/or rejection, as appropriate,** of the Assigned Leases to an ~~Assignee~~**Highest and Best Bidding Party**, to the extent such objection has not been withdrawn or resolved, is hereby overruled and denied.

5. With respect to the Acquired Properties, the Debtors are hereby authorized to take any and all actions necessary or appropriate to:

- (a) Consummate the proposed sales of the Acquired Properties to the Buyers in accordance with the terms and conditions set forth in the applicable purchase agreements (each, a "Purchase Agreement") between the Debtors and each Buyer, copies of which are attached hereto as Group Exhibit C; and
- (b) Perform, consummate, implement and close fully the sales to the Buyers of the Acquired Properties, together with all additional instruments and documents that may be reasonably necessary or desirable to implement such sales.

6. O'Bryan Properties, LLC is designated the second Highest and Best Bidding Party for the property located at 2806 North Knoxville, Peoria, Illinois.

7. ~~6.~~ With respect to the Assigned Leases, the Debtors are hereby authorized to take any and all actions necessary or appropriate to:

- (a) Consummate the proposed assignments or terminations and/or rejections, as appropriate, of the Assigned Leases to the Assignees Highest and Best Bidding Parties in accordance with the terms and conditions set forth in the applicable agreements (each, an "Assignment Agreement" or "Termination Agreement," as appropriate) between the Debtors and each Assignee Highest and Best Bidding Party, copies of which are attached hereto as Group Exhibit D; and
- (b) Perform, consummate, implement and close fully the assignments to the Assignees Highest and Best Bidding Parties of the Assigned Leases, together with all additional instruments and documents that may be reasonably necessary or desirable to implement such assignments.

8. ~~7.~~ The Subject to paragraph 13 hereof, the Acquired Properties shall be sold, assigned, transferred, conveyed and delivered to the Buyers free and clear of any and all liens,

claims, interests and encumbrances whatsoever on the terms provided in each Purchase Agreement, all of which are hereby authorized, ratified, and approved in their entirety.

9. ~~8-~~ Each Buyer is a good faith purchaser entitled to the protections afforded a purchaser pursuant to 11 U.S.C. § 363 (m), and there have not been and there are not any violations of section 363(n) of the Bankruptcy Code as a result of the approval of the sales of the Acquired Properties to the Buyers.

10. ~~9-~~ The Debtors are hereby authorized, pursuant to 11 U.S.C. § 365, to assume, or terminate and/or reject, as appropriate, and assign to each Assignee Highest and Best Bidding Party the corresponding Assigned Lease. As a condition to such assumption pursuant to section 365 of the Bankruptcy Code, the Debtors are hereby ordered to pay to counterparties to each Assigned Lease the cure amounts set forth in the Cure Notice, a copy of which notice is attached hereto as Exhibit E, which payments shall be in full and final satisfaction of all obligations and as full compensation to the non-Debtor parties for any pecuniary losses under such contracts or leases pursuant to 11 U.S.C. § 365(b)(1). The distribution of the cure payments to the non-Debtor parties shall be made as soon as practicable; provided, however, that if there is a dispute concerning any proposed cure amount, payment shall be made to the respective contract or lease counterparty only after resolution of such dispute, by this Court or by agreement of the parties.

11. ~~10-~~ The Debtors are hereby authorized, pursuant to 11 U.S.C. §§ 363 and 365, as applicable, to assign to each Assignee Highest and Best Bidding Party the corresponding Assigned Lease. Pursuant to section 365(k) of the Bankruptcy Code, the Debtors are relieved of any liability for any breach of the Assigned Lease occurring after the assignment, or the effective date of rejection and/or termination, of such Assigned Lease to such Assignee Highest and Best Bidding Party.

12. ~~11.~~ Each Assignee Highest and Best Bidding Party shall only be liable for those liabilities, responsibilities and obligations under the corresponding Assigned Lease arising from and after the closing date set forth in the corresponding Assignment Agreement, on the terms set forth in the corresponding Assignment Agreement.

13. ~~12.~~ Except as otherwise expressly provided in a Purchase Agreement, effective upon the transfer of an Acquired Property to a Buyer, any liens against such Acquired Property shall transfer and attached to the proceeds of the sale with the same force, validity, priority and effect, if any, as said liens had formerly attached to the Acquired Property, subject to the Debtors' ability to challenge ~~the extent, validity, priority and effect of the liens,~~ and subject to ~~and~~ (except as otherwise provided in any other order of this Court in these chapter 11 cases, including the Final DIP Order) the extent, validity, priority and effect of the liens.

14. ~~13.~~ This Order is and shall be effective as a determination that, upon transfer of an Acquired Property to a Buyer, all liens existing as to such Acquired Property conveyed to the Buyer have been and hereby are terminated and declared to be unconditionally released, discharged and terminated, and shall be binding upon and govern the acts of all entities, including all filing agents, filing officers, administrative agencies or units, governmental departments or units, secretaries of state, federal, state and local officials and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title of state of title in or to the Acquired Property conveyed to the Buyer. Except as otherwise provided in this Order, all liens of record as of the date of this Order shall be forthwith removed and stricken as against the Acquired Property. All entities described in this paragraph are authorized and specifically directed to strike all such recorded liens against the Acquired Property from their records, official and otherwise.

15. ~~14.~~ Subject to the provisions of this Order, if any person or entity which has filed statements or other documents or agreements evidencing liens on, or interests in, an Acquired Property does not deliver to the Debtors or the Buyer prior to the closing of the sale of such Acquired Property to the Buyer, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of liens and easements, and any other documents necessary for the purpose of documenting the release of all liens which the person or entity has or may assert with respect to the Acquired Property, the Debtors and/or the Buyer are hereby authorized and directed to execute and file such statements, instruments, releases and other documents on behalf of such person or entities with respect to the Acquired Property.

16. ~~15.~~ Each and every term and provision of this Order shall be binding in all respects upon the Buyer, the Debtors, the Debtors' bankruptcy estates, their creditors, all individuals or entities holding an interest in the Debtors, all other entities and third parties, including, without limitation, any entity purporting to hold a lien against the Acquired Property.

17. ~~16.~~ This Court retains jurisdictions to:

- (a) Interpret, implement and enforce the terms and provisions of this Order (including the injunctive relief provided in this Order) and the terms of the Purchase Agreements ~~and~~, the Assignment Agreements, the Termination Agreements, all amendments thereto and any waivers and consents thereunder and of each of the agreements executed in connection therewith;
- (b) Compel delivery of the Acquired Properties to the Buyers;
- (c) Compel delivery of the Assigned Leases to the Assignees Highest and Best Bidding Parties;

- (d) Resolve any disputes arising under or related to the sale of the Acquired Properties to the Buyers;
- (e) Resolve any disputes arising under or related to the assumption and assignment of the Assigned Leases to the Assignees **Highest and Best Bidding Parties**, including, without limitation, resolving cure amounts owing to counterparties to the Assigned Leases; and
- (f) Adjudicate all issues concerning alleged liens and any other alleged interests in and to the Acquired Properties or the proceeds of the sales, including the extent, validity, enforceability, priority and nature of all such alleged liens and any other alleged interests relating to the proceeds of the sales.

18. ~~17-~~In accordance with the terms of the Real Estate Retention Agreement (the "**Keen Engagement Letter**"), dated July 2, 2003, between Keen Realty, LLC ("**Keen**") and the Debtors, approved by this Court through its "Order Pursuant to 11 U.S.C. §§ 327(A), 328(A) and Fed.R.Bankr.P. 2014(A), 2016 and 5002 Authorizing the Employment and Retention of Keen Realty, LLC as Real Estate Consultant to the Debtors and Debtors in Possession, Nunc Pro Tunc to July 2, 2003," entered on July 25, 2003 [Docket No. 2161], Keen shall be paid its compensation due pursuant to the Keen Engagement Letter upon the closing of the transactions entered into as a result of the Auction.

19. ~~18-~~This Order shall be effective immediately upon entry pursuant to Rule 7062 and 9014 of the Federal Rules of Bankruptcy Procedure, and, notwithstanding Federal Rules of Bankruptcy Procedure 6004(g) and 6006(d), shall not be stayed.

Wilmington, Delaware
Dated: October __, 2003

Hon. Mary F. Walrath

United States Bankruptcy Judge

Document comparison done by DeltaView on Monday, October 20, 2003 16:50:06

Item	
Document 1	file:///C:/Documents and Settings/HRahjoo/Desktop/Sale Orderv3.doc
Document 2	file:///C:/Documents and Settings/HRahjoo/Desktop/Sale Orderv6.doc
Rendering set	Basic K&E

Legend	
Insertion	
Deletion	
<i>Moved from</i>	
<u>Moved to</u>	
Format change	
Moved-deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Reading Summary		
No.	Change	Text
1-2	Change	"post-petition lenders in accordance" changed to "post-petition agents in accordance"
3-4	Insertion	6. O'Bryan Properties,...identified on Exhibit A.
5-6	Change	"6. The Debtors" changed to "7. The Debtors"
7-12	Change	"highest and best bidders...and collectively," changed to "highest and best bidding...Party" and collectively,"
13-14	Change	"collectively, the "Assignees") for the properties" changed to "collectively, the...for the properties"
15-16	Change	"selected each Assignee as the highest" changed to "selected each Highest and...Party as the highest"
17-18	Change	"post-petition lenders in accordance" changed to "post-petition agents in accordance"

19-20	Change	"7. Each Buyer is" changed to "8. Each Buyer is"	Each Buyer is"
21	Change	"and assignment of each of" changed to "and assignment, or...rejection, of each of"	
22-23	Change	"Leases to the Assignees is approved" changed to "Leases to the Highest and...Parties is approved"	
24	Change	"and assignment of the Assigned" changed to "and assignment, or to the...of the Assigned"	
25-26	Change	"Assigned Leases to an Assignee, to the extent" changed to "Assigned Leases to a...Party, to the extent"	
27-28	Insertion	6. O'Bryan Properties,...Peoria, Illinois.	
29-30	Change	"6. With respect" changed to "7. With respect"	With respect"
31	Change	"assignments of the Assigned" changed to "assignments or...of the Assigned"	
32-33	Change	"Leases to the Assignees in accordance" changed to "Leases to the Highest and...Parties in accordance"	
34	Change	"Assignment Agreement") between the" changed to "'Assignment Agreement" or...appropriate) between the"	
35-36	Change	"Debtors and each Assignee, copies of" changed to "Debtors and each Highest...Bidding Party, copies of"	
37-38	Change	"assignments to the Assignees of the Assigned" changed to "assignments to the...Parties of the Assigned"	
39-42	Change	"7. The Acquired Properties" changed to "8. Subject to paragraph...the Acquired Properties"	
43-44	Change	"8. Each Buyer is" changed to "9. Each Buyer is"	Each Buyer is"
45-46	Change	"9. The Debtors" changed to "10. The Debtors"	The Debtors"
47	Change	"365, to assume and assign" changed to "365, to assume, or...appropriate, and assign"	

48-49	Change	"assign to each Assignee the corresponding" changed to "assign to each Highest...Party the corresponding"
50-51	Change	"10. The Debtors" changed to "11. The Debtors"
52-53	Change	"assign to each Assignee the corresponding" changed to "assign to each Highest...Party the corresponding"
54	Change	"the assignment of such Assigned" changed to "the assignment, or the...of such Assigned"
55-56	Change	"Lease to such Assignee" changed to "Lease to such Highest and Best Bidding Party"
57-60	Change	"11. Each Assignee shall only" changed to "12. Each Highest and Best...Bidding Party shall only"
61-62	Change	"12. Except as otherwise" changed to "13. Except as otherwise"
63	Deletion	transfer and attached
64	Moved from	to challenge the extent,...and effect of the liens
65-66	Change	", and subject to and as otherwise" changed to "(except as otherwise"
67	Insertion	chapter 11 cases, including the Final DIP Order)
68	Moved to	the extent, validity,...and effect of the liens
69-70	Change	"13. This Order is" changed to "14. This Order is"
71-72	Change	"14. Subject to the" changed to "15. Subject to the"
73-74	Change	"15. Each and every" changed to "16. Each and every"
75-76	Change	"16. This Court retains" changed to "17. This Court retains"
77-78	Change	"Purchase Agreements and the Assignment" changed to "Purchase Agreements, the Assignment"
79	Change	"the Assignment Agreements," changed to "the Assignment...Termination Agreements,"

80-81	Change	"Leases to the Assignees;" changed to "Leases to the Highest and Best Bidding Parties;"
82-83	Change	"Leases to the Assignees, including," changed to "Leases to the Highest and...Parties, including,"
84-85	Change	"17. In accordance" changed to "18. In accordance"
86-87	Change	"18. This Order shall" changed to "19. This Order shall"

Statistics	
	Count
Insertions	48
Deletions	37
Moved from	1
Moved to	1
Format changed	0
Total changes	87