

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
Fleming Companies, Inc., <u>et al.</u> , <sup>1</sup>	)	Case No. 03-10945 (MFW)
	)	(Jointly Administered)
Debtors.	)	

**DEBTORS' APPLICATION FOR AN ORDER  
AUTHORIZING EMPLOYMENT AND RETENTION OF  
AON CONSULTING & INSURANCE SERVICES AS ACTUARIES TO THE DEBTORS**

The debtors and debtors in possession (the "Debtors") in the captioned cases (collectively, the "Debtors"), hereby file this application (the "Application") requesting entry of an order under section 327(a) of title 11 of the United States Code (the "Bankruptcy Code") and Federal Rules of Bankruptcy Procedure 2014 and 2016 authorizing the employment and retention of Aon Consulting & Insurance Services ("Aon") to provide actuarial services to Debtor Core-Mark International, Inc. ("Core-Mark"). The facts supporting the relief sought in this Application are summarized below, and further set forth in the Affidavit of Leslie Karen Soo Hoo (the "Soo Hoo Affidavit"), attached hereto as Exhibit A and incorporated by reference herein. In further support of this Application, the Debtors respectfully represent as follows:

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<sup>1</sup> 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.

### Jurisdiction

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper under 28 U.S.C. §§ 1408 and 1409. This is a core proceeding as defined in 28 U.S.C. § 157(b)(2).

2. The statutory predicate for the relief requested herein is section 327 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”).

### Background

3. On April 1, 2003 (the “Petition Date”), the Debtors filed their voluntary petitions for relief under chapter 11 of the Bankruptcy Code (the “Chapter 11 Cases”). The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this case. An official committee of unsecured creditors (the “Committee”) was appointed on April 9, 2003.

4. The Debtors are currently preparing a motion (the “Core-Mark Pension Plan Motion”) for court consideration seeking relief in connection with the Core-Mark International, Inc., Non Bargaining Employees Pension Plan (The “Core-Mark Pension Plan”). There were approximately 617 participants in the Core-Mark Pension Plan. The plan was frozen on September 30, 1986.<sup>2</sup> The Core-Mark Pension Plan has remained frozen since the Debtors acquired Core-Mark in April, 2002. Aon has provided general plan administration actuarial

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<sup>2</sup> There were seven (7) participants who continued to accrue benefits under the Core-Mark Pension Plan through September 30, 1989.

services for the Core-Mark Pension Plan since September, 1983. The Debtors now seek to retain Aon to assist in the preparation and prosecution of the Core Mark Pension Plan Motion.

**Relief Requested**

5. By this Application, the Debtors seek to employ and retain Aon pursuant to section 327(a) of the Bankruptcy Code to perform actuarial services in connection with the preparation of materials in support of the Core-Mark Pension Plan Motion, effective as of October 15, 2003 as described more specifically below.

6. The Debtors are familiar with the professional standing and reputation of Aon. Furthermore, Aon has a wealth of experience in the context of providing actuarial services and likewise has experience in providing those services in the context of restructurings and reorganizations. Aon has provided actuarial services in connection with the Core-Mark Pension Plan since September, 1998. As a result, Aon has developed a great deal of institutional knowledge regarding the Core-Mark Pension Plan. Such experience and knowledge will be valuable to the Debtors in their efforts to efficiently and effectively prepare and prosecute the Core-Mark Pension Plan Motion. Accordingly, the Debtors wish to retain Aon to provide actuarial services in connection with the Core-Mark Pension Plan Motion.

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3 3 Aon has performed pre-petition and post-petition services for Fleming in connection with the general administration of the Core-Mark Pension Plans. While some of the pre-petition fees incurred for such general administration work were paid by the company, pursuant to United States Department of Labor guidelines, a significant portion of Aon's fees were paid out of pension plan assets. Aon has provided general administration services post-petition. Similarly, a significant portion the fees for this work have been paid out of pension plan assets. The Debtors seek to retain Aon in connection with its work regarding the Core-Mark Pension Plan Motion, as the Debtors believe Bankruptcy Court approval is required for Aon to be retained to perform such services.

7. The services of Aon are necessary to enable the Debtors to maximize the value of their estates and to reorganize successfully. Further, Aon is well qualified and able to represent the Debtors in a cost-effective, efficient and timely manner.

#### **Scope of Services**

8. Aon will provide such actuarial services to the Debtors as the Debtors, their attorneys, financial advisors, and Aon deem appropriate and feasible in order to assist the Debtors in the preparation and prosecution of the Core-Mark Pension Plan Motion including the following:

- a. Preparation of pension plan minimal funding projections;
- b. Preparation of plan termination liability reports;
- c. Preparation of affidavit(s) in support of Core-Mark Pension Plan Motion;
- d. Performance of services in connection with appearance as expert witness in connection with Core-Mark Pension Plan Motion (if necessary);
- e. Performance of other actuarial services deemed by Debtors and Aon to be necessary and required in connection with the Core-Mark Pension Plan Motion.

#### **Aon's Disinterestedness**

9. Aon has informed the Debtors that, except as may be set forth in the Soo Hoo Affidavit, it (i) has no connection with the Debtors, their creditors or other parties in interest in this case, (ii) does not hold any interest adverse to the Debtors' estate; and (iii) believes it is a "disinterested person" as defined within Sec. 101(14) of the Bankruptcy Code.

10. Aon will periodically review its files to ensure that no conflicts or other disqualifying circumstances exist or arise. If any new facts or circumstances are discovered, Aon will supplement its disclosure to the Court.

11. Other than with its own partners and employees, Aon has not agreed to share with any person or firm the compensation to be paid for professional services rendered in connection with these cases.

12. Aon is owed \$1,050 with respect to its pre-petition fees and expenses for actuarial services incurred for the Core-Mark defined benefit pension plan in October of 2001.

**Terms of Retention**

13. The Debtors understand that Aon intends to apply to the Court for allowances of compensation and reimbursement of expenses for the forensic accounting services in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, corresponding local rules, orders of this Court and guidelines established by the United States Trustee. The customary hourly rates, subject to periodic adjustments, charged by Aon's personnel anticipated to be assigned to this case are as follows:

Senior Vice Presidents	\$470
Vice Presidents	\$350-\$400
Assistant Vice Presidents	\$300-\$340
Consultants	\$200-\$290
Associates	\$150-\$280
Administration / Paraprofessionals	\$100

14. The hourly rates set forth above are Aon's standard hourly rates for work of this nature. It is Aons' policy to charge its clients in all areas of practice for all direct out-of-

pocket expenses incurred in connection with the client's case, including certain flat-rate amounts that reflect an allocation of estimated costs, including those associated with airline ticketing and general office services, such as computer usage, telephone charges, facsimile transmissions, postage, and photocopying.

**Notice**

15. Notice of this Application has been given to (a) the United States Trustee; (b) counsel to the senior secured lenders; (c) counsel to the Official Committee of Unsecured Creditors; and (d) those persons who have requested notice pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

**No Prior Request**

16. No prior Application for the relief requested herein has been made to this or any other Court.

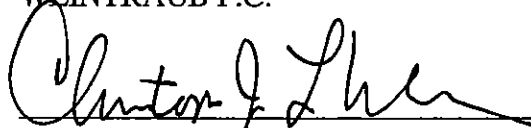
WHEREFORE, the Debtors request entry of an Order, substantially in the form attached hereto, authorizing the Debtors to employ and retain the actuarial services firm of Aon Consulting & Insurance Services as actuaries to the Debtors and granting such other and further relief as is just and proper.

Dated: November 7, 2003

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