

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
FLEMING COMPANIES, INC., et al.,)	Case No. 03-10945 (MFW)
)	
Debtors.)	Hearing Date: November 17, 2003
)	
)	

**LIMITED OBJECTION OF QUAKER SALES & DISTRIBUTION, INC.
TO AMENDED MOTION OF DEBTORS FOR ENTRY OF AN ORDER
AUTHORIZING AND APPROVING ARBITRATION OF CERTAIN CLAIMS
AND CAUSES OF ACTION ASSERTED BY OR AGAINST THE DEBTORS**

Quaker Sales & Distribution, Inc. (“Quaker”), by its attorneys, submits this Limited Objection to the Amended Motion of Debtors for Entry of an Order Authorizing and Approving Arbitration of Certain Claims and Causes of Actions Asserted by or Against the Debtors (the “Arbitration Motion”), and states:

1. On or about October 29, 2003, Quaker filed a Motion to Modify the Automatic Stay Pursuant to 11 U.S.C. § 362(d) to Permit the Setoff of Mutual Prepetition Obligations (the “Quaker Setoff Motion”).

2. In the Quaker Setoff Motion, Quaker seeks to set off certain prepetition amounts that it owes Fleming from certain prepetition amounts that Fleming owes Quaker.

3. On or about October 31, 2003, the Debtors filed the Arbitration Motion, in which they seek to compel arbitration of various matters, including those apparently involving setoff claims. The Debtors seek to compel arbitration where the applicable agreement between the Debtors and the other contracting party contain a provision requiring arbitration of disputes.

They further seek authority to enter into an agreement with any party to arbitrate disputes where their agreements do not contain an arbitration clause. See Arbitration Motion at ¶¶ 9 and 15(b).

4. Quaker and Fleming were party to a number of agreements, but none of them contain an arbitration provision. As a result, Fleming cannot compel Quaker to arbitrate any disputes between them. See Painewebber Inc. v. Hartmann, 921 F.2d 507, 511 (3rd Cir. 1990)(“As a matter of contract, no party can be forced to arbitrate unless that party has entered into an agreement to do so.”).

5. Quaker does not oppose the relief sought by the Debtors provided that it in no way be interpreted to require the arbitration of any of the issues raised in the Quaker Setoff Motion.

Dated: November 17, 2003

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Case Numbers: 03-10945 (MFW) *et al.*

FLEMING COMPANIES, INC., *et al.*

Chapter 11
(Jointly Administered)

Debtors.

CERTIFICATE OF SERVICE

I, David L. Finger, hereby certify that on this 17th day of November, 2003, a copy of the Limited Objection of Quaker Sales and Distribution, Inc. to Amended Motion of Debtors for Entry of an Order Authorizing and Approving Arbitration of Certain Claims and Causes of Actions Asserted by or Against the Debtors was served on each of the following by electronic mail and overnight mail:

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