

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.)
)
)

**ORDER AUTHORIZING AND APPROVING ARBITRATION OF CLAIMS AND
CAUSES OF ACTION ASSERTED BY OR AGAINST THE DEBTORS AND/OR
PRICE CHOPPER FOODS**

Upon consideration of the motion of the above-captioned debtors and debtors in possession (collectively, the “Debtors”), seeking entry of an Order authorizing and approving arbitration of claims and causes of action asserted by or against the Debtors (the “Motion”) and/or Price Chopper Foods LLC, Geoffrey Stickler, Gail A. Stickler, Richard Guest and Maggie Brohm (collectively “Price Chopper Foods”); and it appearing that the relief requested is in the best interests of the Debtors’ estates and creditors; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. §§ 1408 and 1409; and adequate notice of the Motion having been given; and it appearing that no other notice need be given; and after due

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.

deliberation and sufficient cause appearing therefore, it is hereby ORDERED THAT:

1. The Motion is granted.
2. The Debtors are authorized to institute an arbitration proceeding against Price Chopper Foods in order to resolve the Debtors' claims.
3. Arbitrators selected from the national roster of the AAA arbitrators are authorized to proceed with the arbitration.
4. Pursuant to section 362(d) of the Bankruptcy Code, the automatic stay is modified to allow Price Chopper Foods to assert and pursue any counter-claims in the arbitration proceeding without any presumption as to the validity or enforceability of such counter-claims.
5. Pursuant to sections 362(d) and 553 of the Bankruptcy Code, Price Chopper Foods is authorized to offset any amount that the arbitrators determine it owes to Debtors against any amount the Debtors owe Price Chopper Foods so long as the amounts owed to and by the Debtors are both debts that arose prepetition or are both debts that arose postpetition.
6. Price Chopper Foods is prohibited from enforcing any award or collecting any amount awarded to Price Chopper Foods in the arbitration proceeding except as by set off as stated above or by the filing of a Proof of Claim as required by the Order Pursuant to Sections 105(a), 501, 502, and 1111(a) of the Bankruptcy Code and Bankruptcy Rules 2002(a)(7), 3003(c)(3) and 5005(a) Establishing a Bar Date for Filing Proofs of Claim and Proofs of Interest and Approving Form and Manner of Notice Thereof entered on June 25, 2003 by this Court.

7. Debtors are authorized to pay their portion of the (i) administrative fees and expenses incurred in the arbitration proceeding, (ii) the arbitrators' fees and expenses and (iii) any other fees and costs (including witness' expenses) incurred in the arbitration proceeding, and the AAA and the arbitrators are authorized to apply the payments to satisfaction of fees and expenses incurred in the arbitration proceeding.

8. Price Chopper Foods' motion to lift the stay is moot.

9. The Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: _____, 2004

The Honorable Mary F. Walrath
Chief United States Bankruptcy Judge