

**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)

**R.J. TURNER & SONS, INC.’S RESPONSE TO THE DEBTOR’S
FIRST OMNIBUS OBJECTION TO CLAIMS**

COMES NOW, R.J. Turner & Sons, Inc. (hereinafter “Turner”), a party in interest in the bankruptcy proceeding and the holder of two claims against the Debtor and the estate of the Debtor and for its Response to the Debtor’s First Omnibus Objection to Claims states to the Court as follows:

1. Debtor filed for relief under Chapter 11 of the United States Bankruptcy Code on April 1, 2003. Debtor is a Debtor-In-Possession and has continued in possession of its real and personal property.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(G).

3. Turner is a Missouri Corporation, operating an independent grocery retail business in Springfield, Greene County, Missouri.

4. On May 5, 1999 Turner entered into a Facility Standby Agreement and a certain sub-lease agreement with the Debtor concerning the operation and supply of inventory to the Turner grocery operations as well as the sub-lease of the store location in Springfield.

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.

5. Upon the filing of bankruptcy, Turner prepared two proofs of claim for filing with the bankruptcy court. One claim was based upon the Facility Standby Agreement and the second claim was based upon the sub-lease agreement for the use of the commercial space for the store location at 1730 S. Campbell, Springfield, Missouri. It was Turner's intent to file two separate proofs of claim with the bankruptcy court based upon the separate contracts for any damages pre-petition and for any to arise post-petition.

6. Because of the size of this bankruptcy proceeding, Bankruptcy Management Corporation was designated as the claims agent. The claims agent maintains a list of all claim filings.

7. On or about August 5, 2003 Turner filed two proofs of claim with the claims agent. One claim was filed as a contingent, unliquidated claim for any sums due under the Facility Standby Agreement and the second claim was a contingent, unliquidated claim for any sums due based upon the sub-lease agreement for the store at 1730 S. Campbell, Springfield, Missouri. The first claim has been designated as number 2235 and the second as claim number 2237 by the claims agent and as reflected in the claims agent records. Turner intended to file two separate claims each based upon a separate contract.

8. On or about December 5, 2003 Debtor filed an objection to the claim number 2237 as being a duplicate of claim number 2235. Each claim is dated the same and each claim indicates that it is for an unknown amount. However, the claims represent two separate contractual obligations and are independent of the other.

9. Claim 2235 and 2237 are separate and distinct claims and arise out of two different contracts. Each proof of claim contains an Exhibit "A" and other supporting documents. A review of the supporting documents and of the Exhibit "A" attached to each indicate that each claim arises out of a different contract with the Debtor and stands on its own. One claim is based upon the Facility Standby Agreement and the other claim is based upon the sub-lease agreement for the use of the premises at 1730 S. Campbell, Springfield, Missouri.

10. Debtor's motion seeks to eliminate claim 2237 because it is purported to be a duplicate. The Debtor proposes to leave claim 2235. The grounds upon which the Debtor's objection is based are erroneous and the relief requested would prejudice Turner. Each filed claim represents a separate contract with Debtor and Turner is entitled to file such claims for damages which have resulted to it both pre and post petition.

11. Disallowance and expungement of claim 2237 would prejudice the rights of Turner by eliminating a separate and distinct claim. Disallowance would deprive Turner of the ability to assert a claim in the estate for the sub-lease agreement and prevent and bar Turner from participating in any dividend of the estate once the amount of the claimed damages are determined by the Court.

12. The Debtor has now rejected the sub-lease agreement, which is the subject of claim 2237, and Turner has certain rejection damages which are represented by claim 2237 and the claim can and will be amended to reflect the same as both an unsecured claim and an administrative claim.

13. Turner requests that the Court overrule the Debtor's objection to claim 2237 and allow both claims to stand because each is separate and distinct.

14. Debtor's request inappropriately designates the claims as duplicates and would prejudice Turner.

WHEREFORE, Turner requests that the Debtor's request to disallow claim 2237 be overruled and that the Court allow the claim as filed.

Dated: December 29, 2003

ELZUFON, AUSTIN, REARDON,
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served by electronic notice and/or United States Mail, First Class postage prepaid, this 29th day of December, 2003, to:

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I certify the foregoing to be true and correct under the penalty of perjury.

Dated: December 29, 2003

/s/ Charles J. Brown, III
Charles J. Brown, III