EXHIBIT 1

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: December 29, 2003 at 4:00 p.m.
Hearing Date: January 5, 2004 at 2:00 p.m.

NOTICE OF DEBTORS' MOTION FOR AN ORDER (I) (A) AUTHORIZING DEBTORS TO OBTAIN REPLACEMENT POST-PETITION FINANCING UNDER 11 U.S.C. § 364 AND BANKRUPTCY RULE 4001(c) AND DEL. BANKR. LR 4001-2 AND ASSIGN THE EXISTING SECURED LENDERS' LIENS TO THE REPLACEMENT LENDERS, AND (B) AUTHORIZING DEBTORS TO PAY CERTAIN COMMITMENT AND RELATED FEES AND EXPENSES RELATING TO THE REPLACEMENT POST-PETITION FINANCING, (II) GRANTING ADEQUATE PROTECTION PURSUANT TO 11 U.S.C. §§ 361 AND 363; AND (III) AUTHORIZING DEBTORS TO REPAY CERTAIN OUTSTANDING OBLIGATIONS UNDER THE PRE-PETITION CREDIT AGREEMENT AND THE POST-PETITION LOAN AGREEMENT

To: (a) the Office of the United States Trustee, (b) counsel to the Senior Secured Lenders, (c) counsel to the Official Committee of Unsecured Creditors; (d) those persons who have requested notice pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure; (e) Reclamation claimants;(f) PACA claimants; (g) counsel for the DSD class action Plaintiffs; (h) counsel for the Mountain Jubilee parties; (i) UCC lienholders; (i) landlords of the Debtors nonresidential real property leases not included in the C&S sale; (j) State Attorneys General; and (k) the Internal Revenue Service.

The above-captioned debtors and debtors in possession (collectively, the "Debtors") have filed the *Debtors' Motion For An Order (I) (A) Authorizing Debtors To Obtain Replacement Post-Petition Financing Under 11 U.S.C. § 364 And Bankruptcy Rule 4001(C) And Del. Bankr. LR 4001-2 And Assign The Existing Secured Lenders' Liens To The Replacement Lenders, And (B) Authorizing Debtors To Pay Certain Commitment And Related Fees And Expenses Relating To The Replacement Post-Petition Financing, (II) Granting Adequate Protection Pursuant To 11 U.S.C. §§ 361 And 363; And (III) Authorizing Debtors To Repay Certain Outstanding Obligations Under The Pre-Petition Credit Agreement And The Post-Petition Loan Agreement* (the "Motion") with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801 (the "Bankruptcy Court"). A true and correct copy of the Motion is enclosed herewith.

[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.; 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.

Any objection or response to the relief requested in the Motion must be filed in writing with the United States Bankruptcy Court for the District of Delaware, Marine Midland Plaza, 824 Market Street, 5th Floor, Wilmington, Delaware 19801 **no later than December 29, 2003 at 4:00 p.m. prevailing Eastern time.**

At the same time, you must also serve a copy of the objection or response upon: (1) counsel to the Debtors, Kirkland & Ellis LLP, 777 South Figueroa Street, Los Angeles, California 90017, Attn: Richard Wynne, Esquire and Geoffrey A. Richards, Esquire, Kirkland & Ellis LLP, 200 East Randolph Street, Chicago, Illinois, 60601 and Pachulski, Stang, Ziehl, Young, Jones & Weintraub P.C., 919 North Market Street, 16th Floor, P.O. Box 8705, Wilmington, Delaware 19899-8705 (Courier 19801), Attn: Laura Davis Jones, Esquire; (2) counsel to Senior Secured Lenders, White & Case, 1155 Avenue of the Americas, New York, New York 10036-2787, Attn: Andrew P. DeNatale, Esquire and Greenberg Traurig LLP, The Brandywine Building, 1000 West Street, Suite 1540, Wilmington, Delaware 19801, Attn: Scott D. Cousins, Esquire; (3) counsel to the Official Committee of Unsecured Creditors, Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 1005, Attn: Dennis F. Dunne, Esquire, and Pepper Hamilton LLP, 100 Renaissance Center, Suite 3600, Detroit, Michigan 48243-1157, Attn: I. William Cohen, Esquire, and Pepper Hamilton LLP, 1201 Market Street, Suite 1600, Wilmington, Delaware, Attn: David M. Fournier, Esquire; and (4) Office of the U. S. Trustee, 844 King Street, Room 2313, Wilmington, Delaware 19801, Attn: Joseph McMahon, Esquire.

A HEARING ON THE MOTION WILL BE HELD ON **JANUARY 5, 2004 AT 2:00 P.M. PREVAILING EASTERN TIME**, BEFORE THE HONORABLE MARY F. WALRATH, UNITED STATES BANKRUPTCY COURT, MARINE MIDLAND PLAZA, 824 MARKET STREET, 6TH FLOOR, WILMINGTON, DE 19801.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF DEMANDED BY THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: December 16, 2003

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/s/ Christopher J. Lhulier
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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.	)	
	)	
	)	

DEBTORS' MOTION FOR AN ORDER (I) (A) AUTHORIZING DEBTORS TO OBTAIN REPLACEMENT POST-PETITION FINANCING UNDER 11 U.S.C. § 364 AND BANKRUPTCY RULE 4001(c) AND DEL. BANKR. LR 4001-2 AND ASSIGN THE EXISTING SECURED LENDERS' LIENS TO THE REPLACEMENT LENDERS, AND (B) AUTHORIZING DEBTORS TO PAY CERTAIN COMMITMENT AND RELATED FEES AND EXPENSES RELATING TO THE REPLACEMENT POST-PETITION FINANCING, (II) GRANTING ADEQUATE PROTECTION PURSUANT TO 11 U.S.C. §§ 361 AND 363; AND (III) AUTHORIZING DEBTORS TO REPAY CERTAIN OUTSTANDING OBLIGATIONS UNDER THE PRE-PETITION CREDIT AGREEMENT AND THE POST-PETITION LOAN AGREEMENT

The above-captioned debtors and debtors in possession (collectively, the "Debtors") file this motion (this "Motion") for an order (the "Order") (I) (A) authorizing the Debtors to obtain replacement post-petition financing under section 364 of title 11 of the United States Code (the "Bankruptcy Code"), and Rules 4001(c) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Del. Bankr. LR 4001-2, pursuant to which the Debtors may borrow up to an aggregate principal amount of $250 million, consisting of $240 million

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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.

under a revolving credit facility with a Letter of Credit Subfacility, and a $10 million Tranche B facility (the "Replacement DIP Credit Facility"), in accordance with the terms set forth in the Senior Secured, Super Priority Debtor in Possession Credit Agreement, dated as of January __, 2004, by and between Fleming Companies, Inc. and certain of its subsidiaries as borrowers (collectively, the "Borrowers"), General Electric Capital Corporation as Agent ("GE Capital" or the "Agent") and GECC Capital Markets Group, Inc. as Lead Arranger (the "Lead Arranger") and other lenders to be syndicated thereunder (the Agent, the Lead Arranger and such other lenders referred to collectively herein as the "Replacement DIP Lenders"), and substantially in the form attached hereto as Exhibit A (the "Replacement DIP Credit Facility Loan Documents"), and assigning the liens of the existing lenders to the Replacement DIP Lenders, and (B) authorizing the Debtors to pay to GE Capital certain fees and reimburse certain expenses under the Replacement DIP Credit Facility; (II) granting adequate protection pursuant to sections 361 and 363 of the Bankruptcy Code; and (III) authorizing the Debtors to repay certain obligations and cash collateralize certain letter of credit obligations under the Pre-Petition Credit Agreement and Post-Petition Loan Agreement (as each is defined herein). In support of this Motion, the Debtors respectfully state as follows:

PRELIMINARY STATEMENT

1. The Debtors have reached the critical juncture in these cases. Having shed their underperforming divisions and stabilized their operations including their customer fill rates, the Debtors are now able to reorganize and distribute to their creditors a significant portion of the equity in their convenience division ("Fleming Convenience") along with recoveries on other assets of the Debtors. The Debtors have successfully negotiated the joint plan of reorganization

(the "Plan") with the official committee of unsecured creditors (the "Committee"). The Plan, which was filed on December 12, 2003, contemplates confirmation in the second quarter of 2004 and a distribution to creditors in the form of equity in the reorganized entity.

2. To facilitate the Plan and preserve all other reorganization efforts, the Debtors must refinance the Pre-Petition Lenders (as defined herein). The Pre-Petition Lenders and the Prior DIP Lenders (as defined herein), who are owed approximately $300.6 million including outstanding letters of credit, will not wait to be paid down through the Plan confirmation process and instead have required that the Debtors sell Fleming Convenience in order to be promptly paid. Pursuant to the commitments made to the Pre-Petition Lenders, the Debtors have obtained bids for the sale of Fleming Convenience.

3. However, the Debtors and the Committee have concluded that an expedited sale process will not benefit the Debtors' unsecured creditors, and that greater value can be provided through the Plan. To preserve the Debtors' ability to fully pursue the Plan possibilities, the Debtors must promptly refinance the Pre-Petition Lenders and the Prior DIP Lenders in order to accommodate the lenders and avoid a potentially destabilizing cash collateral fight. By this Motion, the Debtors propose to do just that: replace the Pre-Petition Lenders and the Prior DIP Lenders with the Replacement DIP Lenders under the terms of the Replacement DIP Lender Credit Facility. The Debtors will use this new $250 million facility and all or substantially all of the Debtors' available cash on hand to pay down $300.6 million of debt owed to the Pre-Petition Lenders and the Prior DIP Lenders. The Debtors are not seeking to use cash in the Escrows (as defined herein) or Court-ordered or previously agreed to reserves, such as the FSA reserve, to satisfy their obligations to the Pre-Petition Lenders or the Prior DIP Lenders.

4. At the request of certain reclaiming creditors, the Court has ordered the Debtors to adjudicate the validity and value of the six hundred and sixteen (616) reclamation claims asserted

in these cases by separate adversary proceeding. The Debtors are currently preparing the complaints and expect to file them shortly. The relief requested in this Motion cannot await the disposition of 616 adversary proceedings. The Debtors predict, however, that the reclaiming creditors (who have been free to press their claims since July 21,2003 and have chosen not to) will take precisely that position in response to this Motion.

5. In taking that position, the reclaiming creditors will utterly fail, as they have in the past, to provide any legal basis for the accommodation they seek. Unlike the past, however, it is no longer appropriate for the Debtors to accommodate the reclaiming creditors (which past accommodations were for the sole purpose of moving this reorganization forward). And, were the Debtors to do so now, they would do so at the expense and to the detriment of the other creditors of these estates.

6. Ultimately, the reclaiming creditors remain unsecured creditors whose rights, whatever they are subsequently determined to be, are conclusively subordinate to the rights of the Pre-Petition Lenders and the Prior DIP Lenders. As such, the law does not empower them to defeat or delay the proper exercise of the senior secured creditors rights no matter how hard or loud they cry injustice. And like the law, this Court should disregard their protests and grant the relief requested.

7. The pay down of the obligations owing to the Pre-Petition Lenders and the Prior DIP Lenders will buy the Debtors the time necessary to pursue the Plan while ensuring that the Debtors can, if desired, proceed with a methodical sales process. The Debtors believe that granting the Motion significantly enhances the Debtors' ability to reorganize Fleming Convenience and reduces the likelihood that the Debtors will be forced to sell their remaining operating assets in the near term to the detriment of their creditors. Accordingly, the Debtors respectfully submit that the Motion is in the best interests of their estates and should be granted.

JURISDICTION

8. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

9. The statutory bases for the relief requested herein are §§ 105(a), 361, 362, 363 and 364 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001(b), 4001(c) and 9014, and Del. Bankr. LR 4001-2.

BACKGROUND

10. On April 1, 2003 (the "Petition Date"), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtors have retained possession of their respective assets and are authorized, as debtors in possession, to continue the operation and management of their respective businesses.

11. On April 14, 2003, the United States Trustee appointed the Committee. No trustee or examiner has been appointed in these cases.

A. The Pre-Petition Loans

12. Fleming Companies, Inc. ("Fleming") is party to that certain Credit Agreement, dated as of June 18, 2002, among Deutsche Bank Trust Company Americas, as Administrative Agent, JPMorgan Chase Bank and Citicorp North America, Inc., as Syndication Agents, Lehman Commercial Paper Inc. and Wachovia Bank, National Association, as Documentation Agents, Deutsche Bank Securities Inc. and J.P. Morgan Securities Inc., as Joint Book Managers, Deutsche Bank Securities Inc., J.P. Morgan Securities Inc. and Solomon Smith Barney Inc., as Joint Lead Arrangers, and the lenders party thereto (the "Pre-Petition Credit Agreement"),

pursuant to which these lenders (collectively, the "Pre-Petition Lenders"), among other things, made loans and advances to Fleming and issued or caused to be issued letters of credit on Fleming's behalf. All of the remaining Debtors executed guarantees in favor of the Pre-Petition Lenders.

13. As of the Petition Date, Fleming was indebted to the Pre-Petition Lenders under the Pre-Petition Credit Agreement in the aggregate principal amount of $604 million, in addition to Pre-Petition interest accrued thereon, plus costs, fees and expenses pursuant to Section 9.03 of the Pre-Petition Credit Agreement, as well as obligations incurred in connection with treasury services not to exceed $50 million (collectively, the "Pre-Petition Indebtedness").[2]

B. The Post-Petition Loans

14. On May 7, 2003, this Court entered its *Final Order Authorizing (i) Post-Petition Financing Pursuant to 11 U.S.C. § 364 and Bankruptcy Rule 4001(c); (ii) Use of Cash Collateral Pursuant to 11 U.S.C. § 363 and Bankruptcy Rule 4001(b) and (d); (iii) Grant of Adequate Protection Pursuant to 11 U.S.C. §§ 361 and 363; and (iv) Approving Secured Inventory Trade Credit Program and Granting of Subordinate Liens, Pursuant to 11 U.S.C. §§ 105 and 364(c)(3) and Rule 4001(c)* (the "Final DIP Order"), authorizing certain borrowings and incurrence of other indebtedness under the Post-Petition Loan Agreement (as defined in the Final DIP Order). Pursuant to the Final DIP Order, this Court authorized the Debtors to use the Pre-Petition Lenders' cash collateral, on the terms and subject to the conditions set forth therein and in the Post-Petition Loan Agreement. See Final DIP Order ¶ 3. The lenders under the Post-Petition Loan Agreement are collectively referred to herein as the "Prior DIP Lenders".

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[2] Furthermore, there was an automatic $5 million step-up in one of the pre-petition letters of credit such that the overall exposure of the Pre-Petition Lenders grew to $609 million. Because of reductions in various letters of credit balances, the net balance owing to the Pre-Petition Lenders was $607.1 million.

15. Initially, the Debtors drew up to approximately $50 million under the funded portion of the Post-Petition Loan Agreement. The Debtors paid down that balance through their ordinary operations. However, the Post-Petition Loan Agreement provided that upon the disposition of certain assets, the Prior DIP Lenders' commitment under the Post-Petition Loan Agreement would be reduced. Upon the Debtors' sale of certain of their wholesale grocery operations to C&S Acquisition LLC ("C&S"), the Prior DIP Lenders' commitment was effectively terminated.

16. Accordingly, the Debtors' only obligations under the Post-Petition Loan Agreement are approximately $18.5 million in outstanding letters of credit. Having paid down $325 million of their obligations, the Debtors' aggregate outstanding obligations under both the Pre-Petition Credit Agreement and Post-Petition Loan Agreement are approximately $300.6 million.

C. The Liens of the Pre-Petition Lenders and Prior DIP Lenders

17. Prior to the filing of these Chapter 11 Cases, the Pre-Petition Lenders had first priority, properly perfected liens on substantially all of the Debtors' assets, except real estate. This Court approved, pursuant to the Final DIP Order, the granting of additional replacement liens on substantially all of the Debtors' assets to protect the Pre-Petition Lenders from any diminution in value of their pre-petition collateral. The Final DIP Order provided that the replacement liens granted to the Pre-Petition Lenders were deemed perfected as of the Petition Date and are not subject to or pari passu with any lien or security interest existing as of the Petition Date other than specifically provided in the Final DIP Order. In addition, the Final DIP Order granted a superpriority administrative expense claim under section 507(b) of the Bankruptcy Code to the Pre-Petition Lenders to further ensure the payment of any diminution claim.

18. Pursuant to paragraph 48 of the Final DIP Order, the deadline by which parties could commence any adversary proceeding or contested matter challenging the validity, enforceability or priority these liens expired on the 75th day after the Petition Date. The Debtors did not contest the liens. The Committee did not challenge the liens. In fact, no creditor or party in interest other than an unofficial committee of creditors for Dunigan Fuels, Inc. challenged the liens, and that challenge was only as to the relatively de minimis assets of Dunigan Fuels. Therefore, in accordance with the Final DIP Order, because no such adversary proceeding or contested matter was properly commenced as of such date, the Pre-Petition Obligations and the Pre-Petition Indebtedness constitute allowed claims, not subject to subordination, for all purposes in these Chapter 11 Cases, and the Pre-Petition Agents' and the Pre-Petition Lenders' liens on and security interests in the Pre-Petition Collateral are deemed legal, valid, binding, perfected, enforceable and otherwise unavoidable, and the Pre-Petition Obligations and the Pre-Petition Indebtedness and the Pre-Petition Agents' and the Pre-Petition Lenders' liens on and security interests in the Pre-Petition Collateral are not subject to any other or further challenge by any party in interest.

19. As part of the Final DIP Order, the Court granted the Prior DIP Lenders liens on substantially all of the assets of the Debtors. The Prior DIP Lenders also were granted a superpriority administrative expense claim under section 507(b) of the Bankruptcy Code to provide them with adequate security for the post-petition loans. The Final DIP Order provided that the liens granted to the Prior DIP Lenders were deemed perfected as of the Petition Date and are not subject to or pari passu with any lien or security interest existing as of the Petition Date other than specifically provided in the Final DIP Order.[3]

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3 For purposes of this Motion, all such liens and rights of the Pre-Petition Lenders, and all such liens and rights of the Prior DIP Lenders, shall collectively be referred to as the "Existing Liens".

D. The Need for the Replacement DIP Credit Facility

20. As noted above, the Debtors have no ability to borrow under the terms of the Post-Petition Loan Agreement because the Prior DIP Lenders' commitment has been permanently reduced to zero by the terms of the Post-Petition Loan Agreement. The Debtors are able to use the cash collateral of the Pre-Petition Lenders under the terms of the Final DIP Order, and have letters of credit issued. Given the pressure from the Pre-Petition Lenders to be repaid, the Debtors have pursued parallel goals of selling Fleming Convenience while preparing to reorganize around this business segment. To that end, the Debtors have solicited bids from potential acquirers. A number of interested parties have conducted due diligence and have submitted bids for this business segment. Although the Pre-Petition Lenders and the Prior DIP Lenders have required that the Debtors proceed with the sale of Fleming Convenience on an expedited basis, the Debtors and the Committee have concluded that a sale at this time will result in lower recoveries to creditors than would be available to creditors under a plan.

21. Balanced against the requirement of the Pre-Petition Lenders and the Prior DIP Lenders to have the Debtors immediately pursue a sale is the Committee's desire that the Debtors reorganize around Fleming Convenience and distribute a portion of the equity in the reorganized entity to their constituents. The Debtors share the Committee's view that this outcome has the potential to produce higher recoveries for unsecured creditors. To ensure the continuing pursuit of parallel paths, the Debtors and the Committee have successfully negotiated the terms of the Plan and disclosure statement ("Disclosure Statement"). Among other things, the terms of the Plan provide that unsecured creditors will receive distributions in the form of equity in Fleming Convenience and recoveries on account of other assets of the Debtors. The

Plan and Disclosure Statement were filed with the Court on December 12, 2003, and the Debtors have sought a hearing on the adequacy of the Disclosure Statement on January 21, 2004.

22. Yet in order to continue to preserve maximum optionality in an effort to ensure that creditors receive the best possible recovery given the posture of these cases, the Debtors need additional time to explore the Plan without rushing into the sale of Fleming Convenience. And the only way that the Debtors believe they will have prolonged access to the funds necessary to consummate a sale or reorganization that will produce the best recovery for creditors is by replacing the Pre-Petition Lenders and the Prior DIP Lenders.

1. The Prior Pay Down

23. On August 15, 2003, the Court approved the Debtors' sale of their wholesale division to C&S (the "C&S Sale Order"). The sale to C&S closed on or about August 23, 2003. The Debtors received approximately $255.8 million in cash at the closing, net of all deductions and escrows. Subsequent to the consummation of this sale, the Debtors' cash on hand totaled approximately $516 million,[4] excluding PACA/PASA, "DSD" sale-related and other escrows set up by the Debtors throughout theses cases, either by Court order or by agreement of the parties (collectively, the "Escrows"). All or substantially all of the Debtors' cash constituted the cash collateral of the Pre-Petition Lenders. Given the superior rights of the Pre-Petition Lenders in this cash and given that the Debtors did not need, and could not use a substantial portion of, this cash pursuant to the terms of their budget with the Pre-Petition Lenders, the Pre-Petition Lenders sought repayment of a significant portion of the Pre-Petition Indebtedness.

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[4] Cash at the time of the hearing on the Pay Down Motion was approximately $575 million. Immediately prior to the pay down, the Debtors had approximately $607 million in cash on hand.

24. Concerned that an excessive payment to the Pre-Petition Lenders could leave the Debtors with unreasonably small working capital, net of the Escrows and certain reserves, the Debtors negotiated with the Pre-Petition Lenders to accept partial repayment in an amount less than they had requested. At the same time, Debtors needed additional liquidity in their borrowing base to provide adequate inventory funding for Fleming Convenience. The Debtors and Pre-Petition Lenders agreed that the Pre-Petition Lenders would initially accept a partial repayment of $325 million, considerably less than they were owed. They also agreed that the Debtors would pursue a multi-track strategy to better effectuate both the repayment to these lenders and a favorable reorganization. The Pre-Petition Lenders, therefore, agreed to increase the Debtors' availability for Fleming Convenience, and agreed to allow the Debtors time to first obtain a refinance and negotiate a joint plan of reorganization with the Committee.

25. However, the Pre-Petition Lenders were unwilling to leave themselves with effectively no exit strategy in the event that the Debtors ultimately failed to obtain the refinance or negotiate a consensual plan. As such, the Debtors agreed, and the Committee agreed, that they would begin marketing Fleming Convenience for possible sale, would solicit bids by December 12, 2003, and file a bid procedures motion by January 5, 2004. To the good fortune of all of their creditors, the Debtors' hard work in pursuit of these multiple goals has resulted in the Plan and replacement financing. The Debtors are now poised (and have time) to determine with the Committee the path of maximum recovery for their creditors.

26. On October 10, 2003, the *Joint Motion of Debtors and Pre-Petition Agents for Authorization, pursuant to Section 363 and 105 of the Bankruptcy Code, to Pay Amounts to the Pre-Petition Agents on Behalf of the Pre-Petition Lenders* (the "Paydown Motion") was filed. After addressing the arguments raised by objectors at the November 4, 2003 hearing, the Debtors and the Pre-Petition Lenders agreed to continue the Paydown Motion to the November 25, 2003

hearing. Responding to concerns raised by certain objectors to the Paydown Motion, the Debtors and the Pre-Petition Lenders revised the draft order approving the Paydown Motion and, on December 5, 2003, this Court entered its *Order Approving Joint Motion of Debtors and Pre-Petition Agents For Authorization, Pursuant to Sections 363 and 105 of the Bankruptcy Code, to Pay Amounts to the Pre-Petition Agents on Behalf of the Pre-Petition Lenders* (the "Pay Down Order"). Pursuant to the Pay Down Order, the Court authorized the Debtors to reduce the amount of the Pre-Petition Indebtedness by $325 million, thereby decreasing the outstanding balance to approximately $282.1 million.

2. The Debtors Successfully Negotiate the Replacement DIP Lender Facility

27. As part of the exchange for agreeing to receive payment in an amount less than initially sought, the Pre-Petition Lenders required the Debtors to file a bid procedures motion no later than January 5, 2004 or promptly repay the outstanding portion of the Pre-Petition Indebtedness. The Debtors have requested that the Pre-Petition Lenders defer the deadline to file a bid procedures motion, currently set for January 5, 2004, due to the success that the Debtors have had with negotiating the Replacement DIP Lender Facility with the Replacement DIP Lenders. This facility, when coupled with the Debtors' available cash on hand, enables the Debtors to repay the Pre-Petition Lenders and the Prior DIP Lenders. However, consistent with their obligation to the Prior DIP Lenders and the Pre-Petition Lenders, the Debtors solicited and have in fact received several bids for Fleming Convenience by the December 12, 2003 bid deadline.

28. While the Pre-Petition Lenders and the Prior DIP Lenders have agreed to postpone the January 5, 2004 deadline if this Motion is approved on January 5th, they have not agreed to a continuance if the Motion is denied, delayed or deferred. Accordingly, the Debtors expect that if this Motion is not approved so that the Pre-Petition Lenders and the Prior DIP

Lenders can be promptly repaid, the Pre-Petition Lenders and the Prior DIP Lenders will require that the Debtors file a bid procedures motion and move forward to consummate a prompt sale of Fleming Convenience.

29. To alleviate this pressure and provide the Debtors with the time necessary to pursue that alternative which provides the best recoveries for the Debtors' constituents, the Debtors have worked hard during the last several months to obtain replacement DIP financing. The Debtors have had discussions regarding potential terms and structures for a new credit facility to be used to pay down certain obligations outstanding under the Pre-Petition Indebtedness (as defined in the Final DIP Order) and the Post-Petition Loan Agreement, as described in greater detail below. The Debtors have received several financing proposals for a new credit facility. Based upon the proposals received, the Debtors moved into advanced discussions with the two replacement DIP lenders whose proposals were most promising.

30. Each of those two potential replacement DIP lenders required the Debtors to obtain authority from the Bankruptcy Court to reimburse expenses before proceeding with further negotiations. Accordingly, the Debtors filed a motion with the Court requesting authorization to reimburse expenses, up to $250,000, of each of those potential DIP lenders. On November 25, 2003, the Court granted the motion, entering its *Order Authorizing Expense Reimbursement to Proposed Replacement DIP Lenders Pursuant to 11 U.S.C. §§ 105(a) and 363(b)* (the "Replacement DIP Expense Order"). Pursuant to the Replacement DIP Expense Order, the Court authorized the Debtors to pay up to $250,000, and reimburse necessary appraisal costs incurred in connection with the replacement DIP negotiations and expenses incurred relating to negotiating and documenting the replacement DIP facility, to each of the two potential replacement DIP lenders.

31. The Debtors continued negotiations with each of the potential replacement DIP lenders, and concluded that their best available replacement debtor-in-possession financing was the Replacement DIP Credit Facility offered by GE Capital. The Replacement DIP Credit Facility provides the Debtors with greater flexibility and access to a greater amount of liquidity, and economic terms comparable to those of the other potential replacement DIP financiers. On December 6, 2003, Fleming Companies, Inc., on behalf of the Debtors, and GE Capital, entered into a replacement DIP financing commitment letter (the "Replacement DIP Commitment Letter").

32. Subsequent to December 6, 2003, the Debtors and their professionals negotiated with GE Capital and its professionals the Replacement DIP Facility, the terms of which are similar to the terms of the Replacement DIP Commitment Letter. The Debtors now file this Motion requesting authority to enter into the Replacement DIP Credit Facility, and borrow up to an aggregate principal amount of $250 million, consisting of $240 million under a revolving credit facility with a Letter of Credit Subfacility, and a $10 million Tranche B facility, on terms substantially similar to those terms set forth in the Replacement DIP Credit Facility Loan Documents attached hereto as Exhibit A.

33. Because of the fast track required by the plan and sale processes and the Debtors' desire to provide parties-in-interest with adequate notice, the Replacement DIP Credit Facility remains subject to, inter alia, receipt and review of the business plan and revised projections satisfactory to GE Capital in all respects, and completion of legal due diligence with results reasonably satisfactory to GE Capital. Accordingly, the parties expect that, although the salient terms are set forth in the Replacement DIP Credit Facility Loan Documents, the documents may

be revised to reflect modifications as the final aspects of GE Capital's diligence process is completed.[5]

34. The Debtors also request, pursuant to this Motion, and distinct from their request for authority to enter into the Replacement DIP Credit Facility, authority to pay certain fees and expenses to GE Capital as provided under the Replacement DIP Credit Facility. GE Capital has required, as a pre-condition to providing the Replacement DIP Credit Facility, that the Debtors, on or before 5:00 p.m. (New York Time) on January 7, 2004, deliver payment of (a) a commitment fee equal to 1.00% of the Revolving Loan commitment of $240 million, and (b) a commitment fee of 1.00% of the Tranche B Loan commitment of $10 million (the fees in (a) and (b) together, the "Replacement DIP Commitment Fee"). GE Capital has required that GE Capital's rights to receive the Replacement DIP Commitment Fee and reimbursement of all reasonable costs and expenses incurred in connection with the preparation of the Replacement DIP Credit Facility be entitled to priority as administrative expense claims under section 503(b)(1) of the Bankruptcy Code, and be paid to GE Capital on or before January 7, 2004, whether or not the Replacement DIP Credit Facility closes.

35. In addition, the Debtors request the authority to pay down and cash collateralize their obligations to the Pre-Petition Lenders and the Prior DIP Lenders in an aggregate amount of approximately $300.6 million. The Debtors request authority to use all or substantially all of their cash on hand, except for the amounts in the Escrows (as defined herein) and Court ordered or previously agreed to reserves (including the FSA reserve), as well as proceeds from the

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[5] The Debtors shall make available black-lines of the Replacement DIP Credit Facility Loan Documents, marked to show any changes from the versions attached hereto as Exhibit A, when the documents become final.

Replacement DIP Credit Facility, to effectuate the pay down of the Pre-Petition Lenders and the Prior DIP Lenders.

36. A proposed order (the "Replacement DIP Credit Facility Order") authorizing the Replacement DIP Credit Facility and the assignment of the Existing Liens is attached substantially in the form hereto as Exhibit B.

E. Summary of the Replacement DIP Credit Facility

37. Set forth below is a general summary of some of the major terms contained in the Replacement DIP Credit Facility. If any conflict arises as to the interpretation of the provisions contained below, the Replacement DIP Credit Facility, incorporated by reference as if set forth in full herein, shall control.[6]

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[6] Capitalized terms contained in this subsection not otherwise defined herein shall have the meanings ascribed to such terms in the Replacement DIP Credit Facility, and the exhibits thereto.

Amount and Availability	Revolving Loan up to $240 million (USD), including a Letter of Credit Subfacility, and a revolving Tranche B Loan up to $10 million (USD).
Revolving Loan Amount and Availability	Up to $240 million (USD) (including a Letter of Credit Subfacility in an amount to be mutually agreed by GE Capital and the Borrowers). Letters of Credit will be issued by a bank or by GE Capital and/or one of its affiliates, on terms mutually acceptable to GE Capital and the Borrowers, and will be guaranteed or otherwise backed by all Replacement DIP Lenders. The Revolving Loan will include a sublimit for Canadian borrowings (whether such borrowings are made in U.S. dollars or Canadian dollars) in an amount equal to $80 million (USD) or the Canadian equivalent thereof. The Revolving Loan will also include a swingline subfacility of up to $20 million (USD). Borrowers shall have no access to the Revolving Loan at any time unless the Tranche B Loan is fully funded at such time. The Revolving Loan availability will be (a) up to 85% of the Core-Mark Group's (as hereinafter defined) eligible accounts receivable (including Canadian receivables), (b) up to the lesser of (i) 65% of Borrowers' eligible inventory (including Canadian inventory) valued at the lower of cost (FIFO) or market, or (ii) 85% of net orderly liquidation value of the Core-Mark Group's eligible inventory, and (c) up to 90% of the Core-Mark Group's unaffixed tax stamps in each case, less reserves. Agent will retain the right from time to time to establish advance rates, standards of eligibility and reserves against Revolving Loan Availability in its reasonable discretion pursuant to the terms of the final Replacement DIP Credit Facility documents. The face amount of all outstanding letters of credit under the Letter of Credit Subfacility will be reserved in full against Revolving Loan Availability. Inventory to be appraised by an appraiser reasonably acceptable to Agent. The "Core-Mark Group" shall mean Core-Mark International, Inc. and each of its subsidiaries as well as other Fleming Convenience operations.

Term of Revolving Loan	The earlier of (i) 12 months or (ii) the date of substantial consummation of a plan of reorganization in the Chapter 11 Cases provided that, simultaneously therewith, all amounts outstanding under the Replacement DIP Credit Facility have been paid in full in cash and all commitments thereunder have terminated.
Tranche B Loan Amount and Availability	Up to $10 million. The Tranche B Loan will be a revolving credit facility available to Borrowers on a first-in, last-out basis. Tranche B Loan Availability will be limited to an additional amount over and above any Availability under the Revolving Loan equal to the lesser of (A) up to 10% of the Core-Mark Group's eligible inventory (including Canadian inventory) valued at the lower of cost (FIFO) or market, or (B) 7.5% of net orderly liquidation value of eligible inventory, in each case less reserves. Agent will retain the right from time to time to establish advance rates, standards of eligibility and reserves against Tranche B Loan Availability in its reasonable discretion pursuant to the terms of the final Replacement DIP Credit Facility documents. Inventory to be appraised by an appraiser reasonably acceptable to Agent.
Term of Tranche B Loan	The earlier of (i) 12 months or (ii) the date of substantial consummation of a plan of reorganization in the Chapter 11 Cases provided that, simultaneously therewith, all amounts outstanding under the Replacement DIP Credit Facility have been paid in full in cash and all commitments thereunder have terminated.
Interest Rate	For all loans, at Borrower's option, at either (i) absent a default, a 1, 2 or 3-month reserve-adjusted LIBOR Rate plus the Applicable LIBOR Margin, or (ii) a floating rate equal to the Index Rate (higher of the prime rate as reported by The Wall Street Journal or 50 basis points over the federal funds rate) plus the Applicable Index Margin. For the avoidance of doubt, during the continuance of a default, Borrowers may neither convert Index Rate loans into LIBOR Rate Loans

nor continue any LIBOR Rate loan as such following the expiration of the applicable LIBOR period, but any existing LIBOR Rate loans may continue as such until the expiration of the applicable LIBOR period.

Interest will be payable monthly in arrears and calculated on the basis of a 365/366-day year and actual days elapsed (except LIBOR which shall be paid at the expiration of each LIBOR period and calculated on the basis of a 360-day year and actual days elapsed). LIBOR mechanics and breakage costs to be contained in the DIP Facility documentation.

Applicable Margins for Revolving Loan

Applicable margins will apply as follows:
If the Outstanding Portion of Availability under the Revolving Loan is $\leq$ 1/3, then: (a) the Applicable Revolver Index Margin is 1.00%; (b) the Applicable Revolver LIBOR is 2.25%; and (c) the Applicable L/C Margin is 2.25%.

If the Outstanding Portion of Availability under the Revolving Loan is > 1/3, but $\leq$ 2/3, then: (a) the Applicable Revolver Index Margin is 1.25%; (b) the Applicable Revolver LIBOR is 2.50%; and (c) the Applicable L/C Margin is 2.50%.

If the Used Portion of Availability under the Revolving Loan is > 2/3, then: (a) the Applicable Revolver Index Margin is 1.50%; (b) the Applicable Revolver LIBOR is 2.75%; and (c) the Applicable L/C Margin is 2.75%.

Applicable Margins for Tranche B Loan

Applicable Tranche B Index Margin	2.75%
Applicable Tranche B LIBOR Margin	4.00%
Applicable Unused Facility Fee Margin	0.50%

Fees

Fees consist of:

(i) Commitment Fee equal to 1.00% of the Revolving Loan commitment due and payable upon Bankruptcy Court approval as provided in the third

to last of paragraph of the Replacement DIP Credit Facility Commitment Letter (the "Revolver Commitment Fee");

(ii) Closing Fee equal to 1.00% of the Revolving Loan commitment ("Revolver Closing Fee") payable to GE Capital at closing, against which will be credited the prior payment of the Commitment Fee;

(iii) Commitment Fee of 1.00% of the Tranche B Loan commitment due and payable upon Bankruptcy Court approval as provided in the Replacement DIP Credit Facility ("Tranche B Commitment Fee", and together with the Revolver Commitment Fee, the "Commitment Fee");

(iv) Closing Fee of 1.00% of the Tranche B Loan commitment ("Tranche B Closing Fee") payable to GE Capital at closing, against which will be credited the prior payment of the Commitment Fee;

(v) Arrangement Fee of 0.25% of the aggregate amount of the Replacement DIP Facility, less a credit of $250,000, payable to GE Capital at closing;

(vi) If the Borrowers (or any successor companies) enter into a Plan of Reorganization facility ("POR Facility") with the Agent prior to June 30, 2004, whereby GE Capital is the administrative agent of such POR Facility, then 50.0% of the Revolver Closing Fee and the Tranche B Closing Fee will be credited towards any POR Facility closing fee payable to GE Capital thereunder. If the Borrowers (or any successor companies) enter into a POR Facility with the Agent after June 30, 2004 but prior to January 7, 2005, whereby GE Capital is the administrative agent of such POR Facility, then 33.33% of the Revolver Closing Fee and the Tranche B Closing Fee will be credited towards any POR Facility closing fee payable to GE Capital thereunder;

(vii) Letter of Credit Fee equal to the Applicable L/C Margin (calculated on the basis of a 360-day year and actual days elapsed) on the face amount of Letters of Credit, payable monthly in arrears, plus

any reasonable costs and expenses incurred by Agent in arranging for the issuance or guaranty of Letters of Credit plus any reasonable charges assessed by the issuing financial institution;

(viii) Unused Facility Fee equal to the Applicable Unused Facility Fee Margin (calculated on the basis of a 360-day year and actual days elapsed) on the average unused daily balance of the Replacement DIP Credit Facility, payable to Agent monthly in arrears. For purposes of the calculation of the used portion of the financing, the issued and outstanding amount of Letters of Credit shall be counted as usage;

(ix) Collateral Monitoring Fee of $20,833.33 per month, payable to Agent monthly in advance beginning on the closing date.

Security and Priority

To secure all obligations of Borrowers under the Replacement DIP Credit Facility, Agent, on behalf of itself and Lenders, will receive, assignment of the Existing Liens and pursuant to section 364(c)(2) and (d) of the Bankruptcy Code, through the final Replacement DIP Credit Facility documents and Bankruptcy Court orders reasonably acceptable to Lenders, a fully perfected first priority security interest in all of the existing and after acquired real and personal, tangible and intangible, assets of Borrowers, including, without limitation, all cash, cash equivalents, bank accounts, accounts, other receivables, chattel paper, contract rights, inventory, instruments, documents, securities (whether or not marketable), equipment, fixtures, real property interests, franchise rights, patents, tradenames, copyrights, intellectual property, general intangibles, avoidance actions, investment property, supporting obligations, letter of credit rights, commercial tort claims, causes of action and all substitutions, accessions and proceeds of the foregoing, wherever located, including insurance or other proceeds (subject to agreed exclusions consistent with the existing debtor-in-possession facility, collectively, the "Collateral").

All Collateral will be free and clear of other liens, claims, and encumbrances, except for encumbrances permitted by the final Replacement

DIP Credit Facility documents (and including certain encumbrances consistent with the order approving the existing Replacement DIP Credit Facility). In addition, Agent's liens on the Collateral will be subject to a reserve (the "Carve-Out") consistent with the carve-out for the Borrowers' existing credit facility for certain unpaid professional fees and other administrative expenses of Borrowers in the Chapter 11 Cases allowed by the Bankruptcy Court on a final basis to be set forth in the final Replacement DIP Credit Facility Loan Documents, the amount of such reserve to be reserved in full against Revolving Loan Availability and Tranche B Loan Availability.

In addition, Agent shall receive a pledge by each Borrower of all of the issued and outstanding capital stock of its subsidiaries (including Borrowers but excluding in excess of 65% of the stock of foreign subsidiaries). Each Borrower will cross-guarantee the obligations of the other Borrowers under the DIP Facility documents, except to the extent any such cross-guarantee by a foreign Borrower would cause material adverse tax consequences to Borrowers.

The obligations of each Borrower under the Replacement DIP Credit Facility will be joint and several among Borrowers and will have superpriority over any and all other administrative expenses pursuant to section 364(c)(1) and (d) of the Bankruptcy Code, subject only to the Carve-Out for certain administrative expenses described above and certain other Senior Claims to be defined in the final Replacement DIP Credit Facility Loan Documents.

Mandatory Prepayments

Subject to negotiated exclusions and thresholds, customary mandatory prepayments (to be negotiated) upon disposition of assets (including condemnation and insurance proceeds) and upon sale of equity, with no permanent reduction in the commitments.

Reporting

The final Replacement DIP Credit Facility Loan Documents will require Borrowers, as detailed in Annex E thereto, to provide Agent with (a) a statement of aggregate cash balances on a bi-weekly

	basis, and (b) monthly basis, internally prepared operating reports, and with respect to the Core-Group and each of its subsidiaries only, unaudited balance sheets and statements of income and cash flows. Borrowers will provide a weekly borrowing base certificate and other information reasonably requested by Agent. In addition, copies of all pleadings, motions, applications, financial information and other documents filed by or on behalf of any Borrower with the Bankruptcy Court or the U.S. Trustee in the Chapter 11 Cases, or distributed by or on behalf of any Borrower to any official committee in the Chapter 11 Cases, and such other reports and information respecting each Borrower's business, financial condition or prospects, shall be provided to Agent.
Events of Default	Events of default will include, but not be limited to, (i) the appointment of a trustee or examiner with enlarged powers to operate or manage the financial affairs of any Borrower; (ii) the dismissal or conversion of the Chapter 11 Cases, or granting relief from the automatic stay in favor of third parties except as contemplated by the definitive Replacement DIP Credit Facility Loan Documents; (iii) the assertion of claims arising under section 506(c) of the Bankruptcy Code against Agent or any Lender or the commencement of other actions adverse to Agent or any Replacement DIP Lender or their respective rights and remedies under the Replacement DIP Credit Facility or any Bankruptcy Court order related thereto; (iv) the incurrence of debt with priority equal to or greater than Agent's and Replacement DIP Lenders' (other than the Carve-Out); (v) any granting or imposition of liens other than purchase money and other liens permitted pursuant to the Replacement DIP Credit Facility Loan Documents; (vi) a post petition judgment liability or event that impairs the Borrowers' (taken as a whole) financial condition, operations, or ability to perform under the Replacement DIP Credit Facility or any Bankruptcy Court order related thereto; or (vii) any violation or breach of any representation, warranty, or covenant.
Other Terms and Conditions	The Replacement DIP Credit Facility contains other terms and conditions, all reasonably acceptable to

the Agent and subject to appropriate materiality qualifiers, thresholds and exceptions, including, but not limited to: (a) limitations on payments in respect of Pre-Petition obligations prior to Borrowers' plan of reorganization and limitations on Borrowers' ability to grant adequate protection in favor of third parties, in each case other than Pre-Petition payments and grants of adequate protection approved by the Bankruptcy Court after notice to Agent and a hearing; (b) Agent's reasonable rights of inspection; access to facilities, management and auditors; (c) cash management system for Borrowers; (d) limitation on use of letters of credit to support Pre-Petition obligations; (e) financial covenants, including minimum EBITDA and maximum capital expenditures; (f) borrowers shall engage an auditor, reasonably acceptable to Agent, by not later than September 30, 2004; (g) commercially reasonable insurance protection for Borrowers' industry, size, and risk and the collateral protection (terms, underwriter, scope, and coverage to be reasonably acceptable to Agent); Agent named as loss payee (property/casualty) and additional insured (liability); and non-renewal/cancellation/ amendment riders to provide 30 days advance notice to Agent; (h) limitations on commercial transactions, management agreements, service agreements, and borrowing transactions between any Borrower and its officers, directors, employees and affiliates; (i) limitations on, or prohibitions of, cash dividends, other distributions to equity holders, payments in respect of subordinated debt, payment of management fees to affiliates and redemption of common or preferred stock; (j) prohibitions of mergers, acquisitions, the sale of any Borrower, its stock or a material portion of its assets; (k) prohibitions of a direct or indirect change of control of any Borrower; and (l) customary yield protection provisions, including, without limitation, provisions as to capital adequacy, illegality, changes in circumstances and withholding taxes.

F. Trade Credit Lien Program, Escrows and Reserves Are Unaffected By this Motion

38. The Debtors previously sought, and the Court granted pursuant to the Final DIP Order, approval of their secured inventory trade credit lien program (the "Trade Credit Lien

Program")[7] and the granting of subordinated liens pursuant to sections 105 and 364(c)(3) of the Bankruptcy Code and Rule 4001(c). The Trade Credit Lien Program continues unaffected by the Replacement DIP Credit Facility Order.

39. Certain third parties have asserted that the Debtors, among others, hold property in trust for them pursuant to the Perishable Agricultural Commodities Act, as amended, 7 U.S.C. § 499e(c) ("PACA"), the Packers and Stockyards Act of 1921, as amended, 7 U.S.C. §§ 181 et seq. ("PASA") or other statutes of similar import. The valid claims of such third parties that meet all of the requirements for the imposition of a trust under PACA, PASA or other statutes of similar import, are referred to herein collectively as the "PACA Trust Claims". "PACA Trust Claimants" shall mean those third parties holding PACA Trust Claims to the extent of such PACA Trust Claims. The protections afforded by the Order granting this Motion are not intended to be a limitation, waiver, relinquishment or election of rights or remedies against the Debtors or non-Debtor third parties which are otherwise available to the PACA Trust Claims under applicable law. In addition, this Motion does not seek to repay the Pre-Petition Lenders or the Prior DIP Lenders with any of the funds held in escrow for the benefit of the PACA Trust Claims.

40. This Motion does not seek to repay the Pre-Petition Lenders or the Prior DIP Lenders with any of the funds held in reserve for the benefit of counterparties to facility standby

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7 The Trade Credit Lien Program was described in detail in the Debtor's Motion for (A) Interim and Final Approval of Post-Petition Financing, under 11 U.S.C. §§ 105, 361, 362, 363 AND 364, Fed. R. Bankr. P. 2002, 4001(b), 4001(c) and 9014, and Del. Bank. LR 4001-2, (B) Approving Terms of Trade Credit Program, and (C) Scheduling Final Hearing Pursuant To Bankruptcy Rule 4001(c), and the facts in support of the Trade Credit Program were previously set forth in the Motion for Order Authorizing the Payment of Critical Trade Vendors in Exchange for Continuing Relationship Pursuant to Customary Trade Terms, previously filed with this Court on April 2, 2003 and the Affidavit of Peter S. Willmott, Interim President and Chief Executive Officer of Fleming Companies, Inc., in Support of Certain First Day Motions, filed contemporaneously therewith.

agreements or supply agreements pursuant to the terms of the C&S Sale Order, as modified by the Court in connection with the December 6, 2003 hearing on the Motion for Order Establishing Amount of Adequate Protection Reserve Pursuant to Sale Order [Docket No. 3667]. During this hearing, the Court agreed to permit the Debtors to reduce the amount of the reserve required by paragraph 6 of the C&S Sale Order from $75 million to less than $40 million.[8]

41. Also, this Motion does not seek to repay the Pre-Petition Lenders or the Prior DIP Lenders with any of the funds held in any other Escrows, including the escrow established for the benefit of Farris Produce, Inc. and the other plaintiffs in the adversary proceeding of *Farris Produce, Inc., et al. v. Fleming Companies, Inc., et al.*, Case No. 03-10945 (MFW), Adv. Pro. 03-53069.[9]

RELIEF REQUESTED

42. By this Motion, the Debtors seek, inter alia, the Court's entry of a final order, after a final hearing under Bankruptcy Rule 4001(c)(2) or such other procedures as approved by the Court, pursuant to sections 361, 362, 363 and 364 of the Bankruptcy Code and Bankruptcy Rules 4001(c) and 9014, (I) (A) authorizing the Debtors to enter into and borrow funds under the Replacement DIP Credit Facility under terms substantially similar to those set forth herein and assign the Existing Liens to the Replacement DIP Lenders, and (B) authorizing the Debtors to pay GE Capital the Replacement DIP Commitment Fee and reimburse related expenses

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[8] As stated during the December 6, 2003 hearing, the Debtors intend to repay the Pre-Petition Lenders in an amount equal to the reduction in this reserve. If this payment has been made prior to the hearing on this Motion, the Debtors' request to pay down the Pre-Petition Lenders is hereby modified to take into account this payment.

[9] In the event that any of the Escrows or reserves are reduced or released by Court order or agreement of the parties prior to the hearing on this Motion, the Debtors' request to pay down the Pre-Petition Lenders includes a request to use the cash released from such Escrows and reserves to reduce the Pre-Petition Indebtedness. In the event that the Court grants this Motion and the Escrows or reserves are subsequently reduced, the Debtors' available cash will increase.

regardless of whether the Replacement DIP Credit Facility closes; (II) granting adequate protection; and (III) authorizing the Debtors to pay down certain obligations and cash collateralize certain letter of credit obligations under the Pre-Petition Credit Agreement and Post-Petition Loan Agreement.

BASIS FOR RELIEF REQUESTED

A. Approval of the Replacement DIP Credit Facility Is in the Best Interests of the Debtors' Estates

43. The Plan provides the Debtors' creditors with the highest recovery. The Plan requires that the Debtors have available liquidity for the next several months to fund the Debtors' reorganization efforts. Yet the Pre-Petition Lenders are not interested in funding the Debtors' plan process. They either want the assurance that they will be paid down on or about January 5, 2004 or they want the assurance that the Debtors will exclusively pursue the sale option on a short timeline. The Debtors are concerned that if they pursue a sale to the exclusion of the Plan process, creditor recoveries may be reduced. To avoid this outcome, the Debtors must be granted the relief requested in this Motion. Refinancing the Pre-Petition Lenders and the Prior DIP Lenders is the surest way, given the posture of these cases, to maximize creditor recoveries.

44. The Debtors will utilize their cash on hand (except for the Escrows and Court ordered and previously agreed to reserves) and a portion of the proceeds from the Replacement DIP Credit Facility, to (a) pay down certain obligations under the Pre-Petition Credit Agreement and the Post-Petition Loan Agreement, and (b) cash collateralize certain outstanding letter of credit obligations under the Pre-Petition Credit Agreement and the Post-Petition Loan Agreement. By paying down these obligations, the Debtors will free themselves of the restrictions and limitations on the Plan process imposed by the Pre-Petition Lenders and the Prior DIP Lenders. Since the Replacement DIP Lenders will provide the Debtors with the flexibility to pursue the Plan, the Debtors will be able to choose that alternative that provides their creditors with the highest and best recovery.

45. Without the Court's approval and entry of the Replacement DIP Credit Facility Order, the Debtors will not be able to pay down their obligations to the Pre-Petition Lenders and the Prior DIP Lenders. If they cannot pay off these obligations, the Debtors may be compelled to terminate their plan confirmation efforts and prematurely conduct a section 363 sale of Fleming Convenience which could result in substantially lower creditor recoveries.

B. Debtors' Access to Funds under the Replacement DIP Credit Facility Is Authorized under Law.

46. The loan under the Replacement DIP Credit Facility is authorized by section 364 of the Bankruptcy Code. Pursuant to section 364(c) of the Bankruptcy Code, a debtor may, in the exercise of its business judgment, incur secured debt if the debtor has been unable to obtain unsecured credit and the borrowing is in the best interests of the estate. See, e.g., In re Simasko Production Co., 47 B.R. 444, 448-9 (D. Colo. 1985) (authorizing interim financing agreement where Debtors' best business judgment indicated financing was necessary and reasonable for benefit of estate); In re Ames Dept. Stores, 115 B.R. 34, 38 (Bankr. S.D.N.Y. 1990) (with respect to post-petition credit, courts "permit debtors-in-possession to exercise their basic business judgment consistent with their fiduciary duties."); See also 3 Collier on Bankruptcy ¶ 364.03, at 364-7-18 (15th ed. rev. 1999).

section 364(c) of the Bankruptcy Code provides, in pertinent part, that:

> (c) If the trustee [or debtor in possession] is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt
>
> > (1) with priority over any and all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;
> >
> > (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or
> >
> > (3) secured by a junior lien on property of the estate that is subject to a lien.

11 U.S.C. § 364(c).

47. Section 364(d)(1) of the Bankruptcy Code governs the incurrence of senior secured debt or "priming" liens. Pursuant to section 364(d)(1), the Court may, after notice and a hearing,

> (d) authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien only if--
>
> > (1) the trustee is unable to obtain such credit otherwise; and
> >
> > (2) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.

11 U.S.C. § 364(d)(1).

48. The Debtors satisfy the requirements of Bankruptcy Code § 364(d) because (i) they are unable to obtain credit from an alternative source and (ii) the interests of the Pre-Petition Lenders and the Prior DIP Lenders are adequately protected because a portion of the proceeds from the Replacement DIP Credit Facility and all or substantially all of the Debtors' available cash will be used to pay down certain outstanding obligations under the Pre-Petition

Indebtedness and the Post-Petition Loan Agreement in accordance with the negotiated terms set forth in the proposed Replacement DIP Credit Facility Order.

1. The Debtors Were Unable to Obtain Credit on More Favorable Terms

49. In satisfying the standards of section 364 of the Bankruptcy Code, a debtor need not seek credit from every available source but should make a reasonable effort to seek other sources of credit available of the type set forth in Bankruptcy Code §§ 364(a) and (b). See, e.g., In re Snowshoe Co., 789 F.2d 1085, 1088 (4th Cir. 1986) (trustee had demonstrated by good faith effort that credit was not available without senior lien by unsuccessfully contacting other financial institutions in immediate geographic area; "the statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable"); Ames, 115 B.R. at 40 (finding that debtors demonstrated the unavailability of unsecured financing where debtors approached several lending institutions).

50. The Debtors believe that the Replacement DIP Credit Facility represents the best source of credit available to them at this time. This belief is based on the experiences the Debtors have (i) seeking new financing to replace or supplement the financing provided by the Pre-Petition Lenders prior to the Petition Date, (ii) seeking the initial post-petition financing, and (iii) as they have sought replacement post-petition financing in connection with the current Motion. As discussed above, the Debtors, with assistance from their financial advisers, requested financing proposals from potential DIP lenders. Based on the proposals they received, the Debtors decided to move forward with two of those potential DIP lenders into detailed negotiations. Ultimately, the Debtors concluded that this Replacement DIP Credit Facility with GE Capital was the best of the potential replacement DIP financing available to them at this time.

2. The Pre-Petition Lenders and Prior DIP Lenders Are Adequately Protected

51. Although adequate protection is not defined in the Bankruptcy Code, § 361 provides the following three nonexclusive examples of what may constitute adequate protection:

> (1) requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent that the . . . use . . . under section 363 of this title . . . results in a decrease in the value of such entity's interest in such property; or
>
> (2) Providing to such entity an additional or replacement lien to the extent that such . . . use . . . results in a decrease in the value of such entity's interest in such property; or
>
> (3) granting such other relief . . . as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property.

52. Neither section 361 nor any other provision of the Bankruptcy Code defines the nature and extent of the "interest in property" of which a secured creditor is entitled to adequate protection under Bankruptcy Code § 363. However, the statute plainly provides that a qualifying interest demands protection where the use of the creditor's collateral will result in a decrease in "the value of such entity's interest in such property." 11 U.S.C. §§ 361, 363(e). United Savings Ass'n of Texas v. Timbers of Inwood Forest Assocs., Ltd., 484 U.S. 365, 108 S. Ct. 626, 98 L. Ed. 2d 740 (1988). See also In re Kain, 86 B.R. 506, 513 (Bankr. W.D. Mich. 1988); General Elec. Mortgage Corp. v. South Village, Inc., 25 B.R. 987, 989-90 & n.4 (Bankr. D. Utah 1982); and O'Toole, Adequate Protection and Post-petition Interest in Chapter 11 Proceedings, 56 AM. B.R. L. J. 251, 263 (1982).

53. Accordingly, under Timbers, the Pre-Petition Lenders are entitled to "adequate protection" against diminution in their interest in their collateral by reason of the priming liens.

The Debtors, the Pre-Petition Lenders and the Prior DIP Lenders have agreed to an adequate protection arrangement which involves the use of a portion of the proceeds under the proposed Replacement DIP Credit Facility and all or substantially all of the Debtors' available cash on hand to enable the Debtors to pay down most of their obligations under both the Pre-Petition Credit Agreement and the Post-Petition Loan Agreement.

54. Where, as here, the Pre-Petition Lenders are being paid down and letters of credit outstanding under the Pre-Petition Credit Agreement and the DIP Facility are being cash collateralized, it follows that collateral is not diminishing by its use, sale, or lease. Additionally, the proposed Replacement DIP Credit Facility (a) was negotiated in good faith and at arm's length among the parties, (b) reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties as debtors in possession and (c) is believed by each party to be fair and reasonable under the circumstances. For all of these reasons, the interests of the Pre-Petition Lenders and the lenders under the DIP Facility are adequately protected. See Kain, 86 B.R. at 513; In re Beker Indus. Corp., 58 B.R. 725, 736 (Bankr. S.D.N.Y. 1986).

C. The Replacement DIP Credit Facility Is Necessary to Preserve Assets of the Debtors' Estates.

55. Without the Replacement DIP Facility, the Debtors have little hope that they will be able to continue to pursue confirmation of the Plan. Without the prospect of a plan, the Debtors' creditors face the potential of a considerably diminished recovery range. Similarly sobering is that the Debtors will be required to sell Fleming Convenience even though there exists the very real prospect of confirming a plan that enables the Debtors to reorganize, preserve jobs and emerge as a strong multi-billion dollar national competitor in the convenience store distribution industry.

56. The Debtors believe that if they have greater flexibility with respect to selling or reorganizing Fleming Convenience, as well as greater flexibility regarding the timing of a sale or

other transactions, that they will be able to obtain a greater return for their creditors. For these reasons, access to credit under the Replacement DIP Credit Facility is critical to promote the continuation of Debtors' business, and provide them with greater flexibility to reorganize and/or conduct a sale of Fleming Convenience. But the Debtors cannot wait much longer for access to funds under the Replacement DIP Credit Facility without impairing their prospects for a reorganization; indeed, any substantial delay could have the same impact as denial of the Motion.

D. The Terms of the DIP Credit Facility Are Fair, Reasonable and Appropriate.

57. The Debtors are unable to obtain unsecured credit allowable solely as an administrative expense or credit secured by junior liens. The proposed Replacement DIP Credit Facility reflects the exercise of sound and prudent business judgment. The Debtors are not able to obtain similar financing on better terms. In the Debtors' considered business judgment, the Replacement DIP Credit Facility, as set forth in the Replacement DIP Credit Facility Order, is the best financing option available under the circumstances in these cases.

58. The proposed terms of the Replacement DIP Credit Facility are fair, reasonable and adequate in that the terms neither (a) tilt the conduct of these cases and prejudice the powers and rights that the Bankruptcy Code confers for the benefit of all creditors nor (b) prevent motions by parties in interest form being decided on their merits.

59. The proposed Replacement DIP Credit Facility provides that the security interests and administrative expense claims granted to the Replacement DIP Credit Facility Lenders are subject to a carve-out in the aggregate amount of (i) Professional Expenses and Committee Expenses that are approved or subsequently approved for payment by order of the Court that have been incurred and remain unpaid until a Carve-Out Event (as defined in the Replacement DIP Credit Facility Loan Documents); (ii) Professional Expenses and Committee Expenses that are incurred after such Carve-Out Event, and which are approved or subsequently approved for