

NOTICE OF TERMINATION

THIS IS A NOTICE OF TERMINATION dated April 26, 2001, by and between Valleydale (5) Development, LLP, whose mailing address is c/o L. W. Cave Real Estate, P. O. Box 81322, Mobile, AL 36689 ("Landlord"), and The Melmark Group, Inc., as Alternate Plan Administrator for the JJSA Liquidating Trust U/A dated February 6, 2001, whose mailing address is 3800 I-55 North, Suite B, Jackson, MS 39211 ("Tenant").

Valleydale (5) Development Company, an Alabama corporation, Landlord's predecessor in interest, and Delchamps, Inc., an Alabama corporation, Tenant's predecessor in interest, entered into that certain Lease Agreement dated September 1, 1987, as amended ("Lease"), which Lease was recorded in Book 155 at Page 60 in the records of the Judge of Probate of Shelby County, Alabama, on October 13, 1987.

Landlord and Tenant hereby acknowledge that the Lease was terminated effective as of October 21, 2000.

EXECUTED as of the date first herein specified.

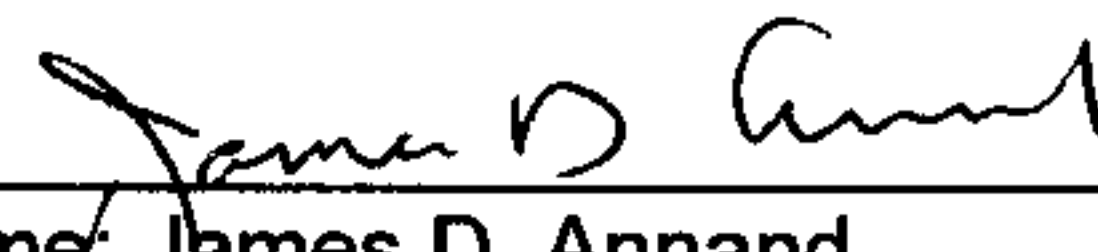
LANDLORD:

Valleydale (5) Development, LLP

By: 
Name: L. W. CAVE
Title: MANAGING PARTNER

TENANT:

The Melmark Group, Inc., as Alternate Plan Administrator
for the JJSA Liquidating Trust U/A dated February 6, 2001

By: 
Name: James D. Annand
Title: President

Inst # 2001-21432

05/29/2001-21432
09:36 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
012 DLH 47.00

Inst # 2001-21432

**STATE OF ALABAMA
COUNTY OF MOBILE**

Personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named L.W. Cave, who acknowledged that he is the duly constituted and acting Managing Partner of Valleydale (5) Development, LLP, an Alabama limited liability partnership, and who acknowledged further that in such capacity he signed, executed and delivered the above and foregoing instrument for and on behalf of said partnership, having first been duly authorized so to do.

Given under my hand and seal of office on this 27th day of April, 2001.

Teresa Ann Topolnicki
Notary Public

My commission expires:

7-11-01

Teresa Ann Topolnicki
Notary Public, State of Alabama
My Commission Expires 7/11/2001

**STATE OF MISSISSIPPI
COUNTY OF HINDS**

Personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named James D. Annand, who acknowledged that he is the duly constituted and acting President of The Melmark Group, Inc., a Delaware corporation, as Plan Administrator for the JJSA Liquidating Trust U/A dated February 6, 2001, and who acknowledged further that in such capacity he signed, executed and delivered the above and foregoing instrument for and on behalf of said corporation, having first been duly authorized so to do.

Given under my hand and seal of office on this 26th day of April, 2001.

Chad Butler
Notary Public

My commission expires:

MISSISSIPPI STATEWIDE NOTARY PUBLIC
MY COMMISSION EXPIRES JULY 25, 2003

MAY 31 2000
WARREN A. GUNTZ, JR., CLERK
UNITED STATES BANKRUPTCY COURT
NEW ORLEANS, LA

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

In re:

JITNEY-JUNGLE STORES OF
AMERICA, INC., et al.,¹

Debtors.

) Chapter 11

) Case No. 99-17191
) (Jointly Administered)

) Judge Thomas M. Braham III

**ORDER UNDER 11 U.S.C. § 365 AUTHORIZING THE DEBTORS TO REJECT
CERTAIN UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY**

Upon the motion (the "Motion") of the above-captioned debtors and debtors in possession (collectively, the "Debtors"), requesting entry of an order under 11 U.S.C. § 365 authorizing the Debtors to reject the Rejected Leases,² and the Court having considered the Motion; and no previous motion for the relief requested therein having been made; and due and proper notice of the Motion having been given; and it appearing that sufficient cause exists for granting the requested relief; and that the relief requested under the Motion is in the best interests of the Debtors' estates and creditors, it is hereby:

ORDERED that the Motion is granted; and it is further

¹ The Debtors are the following entities: Jetway-Jungle Stores of America, Inc., Delchamps, Inc., Southern Jetway-Jungle Stores, Inc., Jetway-Jungle Bakery, Inc., JJ Construction Corp., McCarty-Holmes Co., Inc., Southern Jetway-Jungle Company, Supermarket Cigarette Sales, Inc., Pops and Save, Inc. and P&S Operations, Inc.

² Capitalized terms not otherwise defined have the meanings ascribed to them in the Motion.

NO.99090681.1

Tab # 43

Bham
Store

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ORDERED that the Debtors are authorized to reject the Rejected Leases as of the date possession of the leased premises was or will be returned to each lessor under the Rejected Leases; and it is further

ORDERED that the Debtors do not waive any claims they may have against any of the lessors under the Rejected Leases, whether or not related to the Rejected Leases; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: New Orleans, Louisiana
May 26, 2000
0

signed: T.M. Brahney, III

The Honorable Thomas M. Brahney III
United States Bankruptcy Judge

-2-

NOTED 09/22/00

09/22/00 FRI 15:33 [TX/RX NO 50201

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

In re:	)	
	)	Chapter 11
JITNEY-JUNGLE STORES OF	)	
AMERICA, INC., et al., ¹	)	Case No. 99-17191
	)	(Jointly Administered)
Debtors.	)	
	)	Judge Thomas M. Brahney III

**FIFTH MOTION FOR ENTRY OF AN ORDER UNDER 11 U.S.C. § 365
AUTHORIZING THE DEBTORS TO REJECT CERTAIN
UNEXPIRED LEASES OF NON-RESIDENTIAL REAL PROPERTY**

The above-captioned debtors and debtors in possession (collectively, the "Debtors"), by and through their undersigned attorneys, hereby move this Court pursuant to this motion (the "Motion") for entry of an order under 11 U.S.C. § 365 authorizing the Debtors to reject certain unexpired leases of non-residential real property. In support of the Motion, the Debtors respectfully state as follows:

Jurisdiction

1. The Court has jurisdiction over the Motion under 28 U.S.C. § 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(N). Venue of these chapter 11 cases in this district is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are sections 365 and 105(a) of title 11 of the United States Code (as amended, the "Bankruptcy Code")

Background

3. For approximately the last 80 years, the Debtors have been a leading operator of supermarkets in the southeastern United States. The Debtors currently operate 152 supermarkets

¹The Debtors are the following entities: Jimcy-Jungle Stores of America, Inc., Delchamps, Inc., Interstate Jimcy-Jungle Stores, Inc., Jimcy-Jungle Bakery, Inc., JJ Construction Corp., McCarty-Holman Co., Inc., Southern Jimcy Jungle Company, Supermarket Cigarette Sales, Inc., Pump and Save, Inc. and P&S Operations, Inc.

located throughout Mississippi and Alabama, as well as in select markets in Louisiana, Florida, Tennessee and Arkansas. The Debtors are the largest supermarket operator in Mississippi, and the second largest supermarket operator in Alabama and Louisiana. The Debtors operate their supermarkets under various trade names, including "Jitney-Jungle," "Mega," "Delchamps," "Premier" and "Sack and Save."

4. The Debtors also currently operate gas station and car wash facilities strategically located near many of their supermarkets. Additionally, the Debtors operate 10 liquor stores in Florida located adjacent to their supermarkets.

5. On October 12, 1999, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code (the "Petition Date"). 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.

6. No trustee or examiner has been appointed in the Debtors' chapter 11 cases.

7. A committee of unsecured creditors was appointed on October 25, 1999 pursuant to section 1102(a) of the Bankruptcy Code (the "Creditors' Committee").

Relief Requested

8. Jitney-Jungle Stores of America, Inc. ("Jitney") and Delchamps, Inc. ("Delchamps"), two of the above-referenced debtors and debtors in possession, collectively seek authority to reject the eight unexpired leases of non-residential real property listed on Exhibit A attached hereto (collectively, the "Rejected Leases").

Basis for Relief

9. Section 365(a) of the Bankruptcy Code provides that a debtor in possession, "subject to the court's approval, may ... reject any executory contract or unexpired lease of the

debtor." 11 U.S.C. § 365(a). "This provision allows a trustee to relieve the bankruptcy estate of burdensome agreements which have not been completely performed." Stewart Title Guaranty Co. v. Old Republic National Title Company, 83 F.3d 735, 741 (5th Cir. 1996) *citing* In re Murxco Petroleum, Inc., 15 F.3d 60, 62 (5th Cir. 1994). The decision to assume or reject an executory contract or unexpired lease is a matter within the "business judgment" of the debtor. See National Labor Relations Board v. Bildisco (In re Bildisco), 682 F.2d 72, 79 (3d Cir. 1982)("The usual test for rejection of an executory contract is simply whether rejection would benefit the estate, the 'business judgment' test").

10. Since the Petition Date, the Debtors have been continuously reviewing their leases and markets to determine which of their stores and facilities will be part of their strategic business plan. In the course of their analysis, the Debtors have determined that the stores and warehouse facility under the Rejected Leases do not fit their strategic plan. Prior to the Petition Date, Jitney and Delchamps operated the supermarkets and warehouse facility under the Rejected Leases.

11. The supermarkets at each of these sites have been closed, or are in the process of being closed by the Debtors. Without exception, these stores were underperforming and, in some instances, were in competition with other of the Debtors' store locations in the same geographical area.

12. Due to the Debtors' downsizing of their operations, including the Debtors' exit from the Memphis, Tennessee and Little Rock, Arkansas markets, the Debtors no longer require the storage capacity and inventory reserves the warehouse provided. Accordingly, the warehouse facility subject to the Rejected Leases is not necessary to the Debtors' continued operations.

13. After reviewing and assessing the terms of the Rejected Leases, the Debtors determined that these agreements have little, if any, value given the term of the leases and the markets in which the stores and warehouse are located. Prior to rejecting the Rejected Leases, the Debtors attempted to market the Rejected Leases. Nevertheless, and due in part to the continuing burden the Debtors are suffering as a result of the administrative expenses arising under the Rejected Leases, the Debtors have decided that any continued attempt to market and sell the Rejected Leases would be significantly more costly than any potential value that might be realized by any future sale, assignment or sublease.

14. Given that these stores and warehouse are or have been closed or are not operational, it is crucial that the Debtors relieve themselves of the administrative expenses arising under the Rejected Leases. If the relief requested in the Motion is granted, the Debtors will save approximately \$251,279.09 per month in rent expenses and approximately \$355,934.73 per year in annual tax, common-area-maintenance and insurance charges which arise under the Rejected Leases. Accordingly, Jitney and Delchamps, in the exercise of their business judgment, have determined that it is in the best interests of the Debtors' creditors and estates to reject all of the Rejected Leases immediately.

15. Jitney and Delchamps may have claims against a lessor arising under, or independently of, the lease with such lessor. Jitney and Delchamps do not waive such claims by the filing of this Motion or the rejection of the Rejected Leases.

16. In light of the urgent need to reject the Rejected Leases to avoid unnecessary administrative expenses, the Debtors request that the Court enter an order approving the rejection of all of the Rejected Leases as of the respective date either Jitney or Delchamps has already returned or will return possession of each of the leased premises to the lessor under each of the Rejected

Leases. With respect to any rejection of the Rejected Leases to which an objection is received, the Debtors request that if such objection is withdrawn or overruled by the Court, the Rejected Lease to which an objection was filed be deemed to be rejected as of the date possession of the leased premises was or would have been returned by the Debtors.

No Prior Request

17. No previous request for the relief sought in this Motion has been made to this or any other court.

Notice

18. Notice of this Motion has been given to (i) the United States Trustee, (ii) counsel to the Debtors' postpetition lenders, (iii) counsel to the Creditors' Committee; (iv) the lessors under the Rejected Leases; (v) twenty (20) random creditors; and (vi) all entities who have filed a notice of appearance and request for service in these cases pursuant to Bankruptcy Rule 2002. The Debtors submit that such notice is adequate and appropriate under the circumstances.

WHEREFORE, the Debtors respectfully request that the Court enter an order (i) authorizing the Debtors to reject each of the Rejected Leases as provided herein and (ii) granting such other relief as is just and proper.

Dated: New Orleans, Louisiana
April 26, 2000

Respectfully submitted,
KIRKLAND & ELLIS
James H.M. Sprayregen
James A. Stempel
Anup Sathy
Samuel A. Schwartz
200 East Randolph Drive
Chicago, Illinois 60601
(312) 861-2000

- and -

PHELPS DUNBAR, L.L.P.

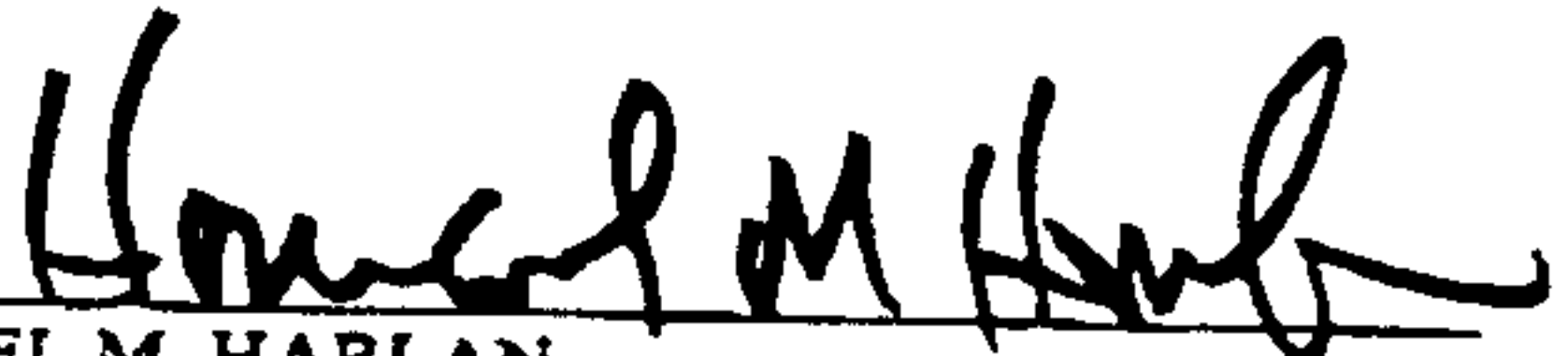


Sessions A. Hootsell III (Bar No. 17630)
Brent B. Barriere (Bar No. 2818)
Hansel M. Harlan (Bar No. 23117)
Texaco Center
400 Poydras Street
New Orleans, Louisiana 70130-3245
(504) 566-1311

Co-Counsel for the Debtors and Debtors in Possession

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this Fifth Motion for Entry of an Order Under 11 U.S.C. §365 Authorizing the Debtors to Reject Certain Unexpired Leases of Non-Residential Real Property via United States mail, properly addressed, this 26th day of April, 2000.



HANSEL M. HARLAN

Lease Rejection

<u>Supermarket Name/Location</u>	<u>Landlord/Notice Parties</u>
1. Supermarket No. 212 Birmingham, Alabama	Valleydale (5) Development LLP c/o LW Cave Real Estate PO Box 81322 Mobile, Alabama 36689
2. Supermarket No. 213 Birmingham, Alabama	Aronov Realty Company Inc. Forest Square Shopping Center PO Box 235021 Montgomery, Alabama 36123-5021
3. Supermarket No. 214 Birmingham, Alabama	Center Point Associates 2614 19 th St. South Birmingham, Alabama 35209
4. Supermarket No. 215 Birmingham, Alabama	Bluff Park (AL) Development Company c/o Helms Roark Inc. 418 Scott Street Montgomery, Alabama 36104
5. Supermarket No. 216 Gardendale, Alabama	Gardendale (5) Development Company c/o LW Cave Real Estate PO Box 81322 Mobile, Alabama 36689
6. Supermarket No. 242 Northport, Alabama	The Rubin Organization Inc. The Bellevue 200 South Broad Street, 4 th Floor Philadelphia, PA 19102
7. Supermarket No. 243 Tuscaloosa, Alabama	Brauvin/Delchamps LP 30 N. LaSalle Suite 3100 Chicago, IL 60602
8. Warehouse No. 2 Jackson, MS	Sherman Warehouse Corporation One Fruit of the Loom Drive P.O. Box 90015 Bowling Green, KY 42102-9015 Attn: Calvin McKay

Inst # 2001-21432

05/29/2001-21432

09:36 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

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