

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

BAGEL BROS BAKERY & DELI, INC.

Case No. 98-11441

Debtor

In re

R&J HOLDINGS OF BUFFALO, INC.

Case No. 98-11442

Debtor

In re

BAGEL BROTHERS MAPLE, INC.

Case No. 98-11443

Debtor

Both Ohio Farmers' Motion and Bagel Brothers Maple, Inc.'s own request (in its opposing papers) are granted. The Court's decision dated April 3, 2001 is amended as follows:

Page 3, third full paragraph, first sentence is amended to read: "The evidence provided in the form of Robert Gershberg's testimony suggests that Ohio Farmers invoices were paid with checks drawn on accounts in the name of the respective Ohio corporations, though no documentary evidence was offered in that regard."

Page 8, second full paragraph, third sentence is amended to read: "Although it is clear that Ohio Farmers knew of the Ohio corporations and delivered to them, and might have seen payment of their invoices by checks drawn on accounts in the names of the various Ohio corporations (as was suggested by the testimony of Robert Gershberg), there is not a scintilla of evidence to suggest that Ohio Farmers was told or otherwise led to believe, until after Maple's

Chapter 11 filing, that it was only the Ohio corporations that were to be liable.”

Page 12, first full paragraph is amended to read: “In sum, this case is about a state of confusion caused by Maple’s principals, and they may not be heard to benefit from their own wrong. Ordinarily, that would not be visited upon Maple (or its other creditors), but by some time in 1995, it owned nearly all the Buffalo stores. Even in 1993, Maple was one instrumentality by which the Gershbergs could enjoy the reputation upon which it obtained credit from Ohio Farmers. But more importantly, it is the entity into which virtually all value of the brothers’ bagel business eventually flowed.”

SO ORDERED.

Dated: Buffalo, New York
May 18, 2001

/s/ Michael J. Kaplan

Hon. Michael J. Kaplan, U.S.B.J.