UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

PROOF OF CLAIM

s134887

Scheduled Claim Ref # 2-F2-22513

YOUR CLAIM IS SCHEDULED AS

$1 060 18 UNSECURED

In re

Fleming Companies Inc

Case Number

03-10945

NOTE This form should not be used to make a claim for an administrative expense arising after the commencement of the case A request for payment of an administrative expense may be filed pursuant to 11 U S C § 503

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim Attach copy of statement giving particulars

☐ Check box if you have never received any notices from the bankruptcy court in this case

☐ Check box if this address differs from the address on the envelope sent to you by the court

Name of Creditor and Address

0354429411011

LIEBERT CORPORATION
PO BOX 70474
CHICAGO IL 60673

Creditor Telephone Number ( )

The amounts reflected above constitute your claim as scheduled by the Debtor If you agree with the amounts set forth herein and have no other claim against the Debtor you do not need to file this proof of claim EXCEPT as stated below

If the amounts shown above are listed as Contingent Unliquidated or Disputed a proof of claim must be filed
If you have already filed a proof of claim with the Bankruptcy Court or BMC you do not need to file again

CREDITOR TAX I D #	ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR	Check here if this claim ☐ replaces or ☐ amends a previously filed claim dated _____

1 BASIS FOR CLAIM

☐ Goods sold
☒ Services performed
☐ Money loaned
☐ Personal injury/wrongful death
☐ Taxes
☐ Other (describe briefly)
☐ Retiree benefits as defined in 11 U S C § 1114(a)
☐ Wages salaries and compensation (Fill out below)
Your social security number _____
Unpaid compensation for services performed from _____ (date) to _____ (date)

2 DATE DEBT WAS INCURRED 3/7/03 + 3/27/03

3 IF COURT JUDGMENT, DATE OBTAINED

4 TOTAL AMOUNT OF CLAIM AS OF PETITION DATE

$ 1060.18	$	$	$
(unsecured)	(secured)	(unsecured priority)	(total)

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below

☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim Attach itemized statement of all interest or additional charges

5 SECURED CLAIM

☐ Check this box if your claim is secured by collateral (including a right of setoff)

Brief description of collateral

☐ Real Estate
☐ Motor Vehicle
☐ Other _____

Value of collateral $ _____

Amount of arrearage and other charges at time case filed included in secured claim above if any $ _____

6 UNSECURED PRIORITY CLAIM

☐ Check this box if you have an unsecured priority claim

Specify the priority of the claim

☐ Wages salaries or commissions (up to $4 650*) earned within 90 days before filing of the bankruptcy petition or cessation of the Debtor s business whichever is earlier 11 U S C § 507(a)(3)

☐ Contributions to an employee benefit plan 11 U S C § 507(a)(4)

☐ Up to $2 100* of deposits toward purchase lease or rental of property or services for personal family or household use - 11 U S C § 507(a)(6)

☐ Alimony maintenance or support owed to a spouse former spouse or child 11 U S C § 507(a)(7)

☐ Taxes or penalties owed to governmental units 11 U S C § 507(a)(8)

☐ Other Specify applicable paragraph of 11 U S C § 507(a) _____

Amounts are subject to adjustment on 4/1/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment

7 CREDITS The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim

8 SUPPORTING DOCUMENTS *Attach copies of supporting documents,* such as promissory notes purchase orders invoices itemized statements of running accounts contracts court judgments mortgages security agreements and evidence of perfection of lien DO NOT SEND ORIGINAL DOCUMENTS If the documents are not available explain If the documents are voluminous attach a summary

9 DATE-STAMPED COPY To receive an acknowledgment of your claim, please enclose a self-addressed stamped envelope and an additional copy of this proof of claim

The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is received on or before 4 00 p m , September 15, 2003, Pacific Daylight Time

BY MAIL TO
Bankruptcy Management Corporation
P O BOX 900
El Segundo, CA 90245-0900

BY HAND OR OVERNIGHT DELIVERY TO
Bankruptcy Management Corporation
1330 East Franklin Avenue
El Segundo, CA 90245

THIS SPACE FOR COURT USE ONLY

FILED
AUG 11 2003
BMC

Fleming Companies Claim
03014

DATE SIGNED
8/7/03

SIGN and print the name and title if any of the creditor or other person authorized to file this claim (attach copy of power of attorney if any)
Linda Surwitz Credit Administrator

Penalty for presenting fraudulent claim is a fine of up to $500 000 or imprisonment for up to 5 years or both 18 U S C §§ 152 AND 3571

See Other Side For Instructions

DUPLICATE INVOICE FOR Accounts Payable
Fax Number 260/460-8078-
Telephone 260/460-8000-

Provided By Linda Sivinski Tel 614/841 7041-

INVOICE

Invoice Number CI0001563608
Customer No 169763
Order No C90000330

Liebert Corporation

1050 Dearborn Drive
Columbus, OH 43085

800/669-8436-
614/841-7055-

BILLED TO	SHIPPED TO
FLEMING COMPANIES	FLEMING COMPANIES
Accounts Payable	3405 MEYER RD
Accounts Payable Manager	FORT, IN
PO BOX 11909	46803
FORT WAYNE, IN 46861	FLEMING COMPANIES

INVOICE DATE 03-07-03
DUE DATE 04-06-03

PURCHASE ORDER PETER QUAST

Shipped	Item Number	Description	Price	Ext
1	011	ESSENTIALSVCNPWR30-50KVA	0	270 87
1	012	ESNTLSVCVRLABATT221-250CELLS	0	259 22

Original Total $530 09

TOTAL BALANCE DUE $530 09

DUPLICATE INVOICE FOR Accounts Payable
Fax Number 260/460-8078-
Telephone 260/460-8000-

Provided By Linda Sivinski Tel 614/841-7041-

INVOICE

Invoice Number CI0001565981
Customer No 169763
Order No C90000330

Liebert Corporation

1050 Dearborn Drive
Columbus, OH 43085

800/669-8436-
614/841-7055-

BILLED TO	SHIPPED TO
FLEMING COMPANIES	FLEMING COMPANIES
Accounts Payable	3405 MEYER RD
Accounts Payable Manager	FORT, IN
PO BOX 11909	46803
FORT WAYNE IN 46861	FLEMING COMPANIES

INVOICE DATE 03-27-03
DUE DATE 04-26-03

PURCHASE ORDER PETER QUAST

Shipped	Item Number	Description	Price	Ext
1	013	ESSENTIALSVCNPWR30-50KVA	0	270 87
1	014	ESNTLSVCVRLABATT221-250CELLS	0	259 22

Original Total $530 09

TOTAL BALANCE DUE $530 09

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re. Fleming Companies, Inc et al
Case No 03-10945-(MFW)-11

DOCUMENTS APPENDED TO CLAIM

On October 10, 2005 document(s) were appended to Claim Number **3104** for the following reason(s)

☒ Settlement Agreement dated 9/29/05

☐ Proof of Payment attached

☐ Change of Address Request

☐ Notice of Withdrawal of 43rd Omnibus Objection

☐ Other Docket Number 11834

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Settlement Agreement"), effective upon execution by all parties hereto, is made and entered into by and between PCT ("Plaintiff") and Scariano Bros LLC ("Defendant") on September 29, 2005

RECITALS

WHEREAS, on April 1, 2003, Fleming Companies, Inc and its affiliated chapter 11 debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware, commencing cases which are jointly administered under Case No. 03-10945 (MFW) (the "Bankruptcy Cases"), and

WHEREAS, on July 27, 2004, the Court entered an order confirming the Debtors' and Official Committee of Unsecured Creditors' Third Amended and Revised Joint Plan of Reorganization of Fleming Companies, Inc and its Filing Subsidiaries under Chapter 11 of the United States Bankruptcy Code (the "Plan"), which Plan became effective on August 23, 2004, and

WHEREAS, PCT was created pursuant to the Plan to, among other things, prosecute, compromise and otherwise liquidate causes of action stated in the Complaint; and

WHEREAS, on March 7, 2005, Plaintiff filed in the United States Bankruptcy Court for the District of Delaware a complaint (the "Complaint") against Defendant, styled PCT v Scariano Bros LLC, Adv Pro No 05-75812, and

WHEREAS, Plaintiff believes that it has valid claims against Defendant for the counts as stated in the Complaint, and Defendant believes that it has valid defenses to Plaintiff's claims; and

WHEREAS, in view of the expense and difficulty in litigating the merits of Plaintiff's claim(s) and Defendant's defenses, the parties have decided to resolve this matter amicably and without further litigation.

NOW THEREFORE in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows

AGREEMENT

1 Within ten (10) days after the execution of this Settlement Agreement by all parties hereto, Defendant shall pay $2,500 00 in immediately available funds to Plaintiff in full and final satisfaction of the claims asserted in the Complaint (the "Settlement Amount") Checks should be made payable to "PCT" and mailed to

AlixPartners LLC
Adam Sanderson
2100 McKinney Ave , Suite 800
Dallas, TX 75201

2 Effective upon receipt of the Settlement Amount, Plaintiff releases, acquits and forever discharges Defendant and its respective agents from any and all claims, counterclaims, rights, demands, costs, damages, losses, liabilities, attorneys' fees, actions and causes of action whatsoever, whether known or unknown, liquidated, fixed, contingent, material, immaterial, disputed, undisputed, legal or equitable, which Plaintiff now has or hereafter may have against Defendant related to or arising from the causes of action stated in the Complaint

3 Effective upon receipt of the Settlement Amount by Plaintiff, Defendant releases, acquits and forever discharges Plaintiff and its agents from any and all claims, counterclaims, rights, demands, costs, damages, losses, liabilities, attorneys' fees, actions and causes of action

whatsoever, whether known or unknown, liquidated, unliquidated, fixed, contingent, material, immaterial, disputed, undisputed, legal or equitable, which Defendant now has or hereafter may have against Plaintiff related to or arising from the causes of action stated in the Complaint

4 Notwithstanding the foregoing, the parties do not release or waive the right to enforce any provision of this Settlement Agreement

5 Defendant agrees that it shall not file any additional proof of claim on account of the Settlement Amount and waives any claim that it may have under 11 U S C § 502(h) arising out of this Settlement Agreement

6 Defendant acknowledges that all of its claims filed in the Bankruptcy Cases, including, but not limited to, its proof of claim number 3104 filed on August 11, 2003, asserted in the amount of $1,489 12, and Plaintiff's objections, if any, thereto are resolved by this Settlement Agreement. The Defendant's claim is hereby withdrawn and is of no further force or effect and no distribution shall be made to Defendant by Plaintiff on account of such claim

7 This Settlement Agreement and the documents referred to herein constitute the entire agreement between the parties with regard to the subject matter hereof The Settlement Agreement may not be modified or amended except in writing signed by all signatories hereto or their successors in interest.

8. Immediately after receipt of the Settlement Amount by the PCT in immediately available funds and confirmation that such funds have been deposited into the PCT's account, Plaintiff shall cause a Stipulation of Dismissal with Prejudice to be executed on its behalf by its counsel and filed with the Bankruptcy Court

9 Defendant shall keep the Settlement Amount confidential and shall not disclose in any form or manner the nature of the Settlement Amount, except as required by law Defendant shall indemnify Plaintiff for any damages incurred by breaching the provisions of this paragraph

10 This Settlement Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing the document to be drafted. Each party is entering into this Settlement Agreement voluntarily, without duress, with the consultation and advice of its legal counsel (or upon a voluntary waiver of the right to such consultation and advice), and with full understanding of its terms

11 This Settlement Agreement shall be interpreted and construed in accordance with the provisions of the Bankruptcy Code and, where not inconsistent, the laws of the State of Delaware, without regard to the conflict of laws jurisprudence of the State of Delaware

12 Any dispute, action or proceeding arising out of or relating to this Settlement Agreement shall be within the exclusive jurisdiction of the United States Bankruptcy Court for the District of Delaware

13 This Settlement Agreement may be executed in any number of counterparts and such counterparts may, at the option of the executing party, be delivered by telefacsimile, each of which shall be deemed to be an original but all of which shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused the Settlement Agreement to be duly executed as set forth below

AGREED TO BY

PLAINTIFF

By: _____

Russell A Archer
KIRKLAND & ELLIS LLP
Attorneys for Plaintiff PCT

DEFENDANT

By: _____

Tara G Richard
JONES, WALKER, WAECHTER, POITEVANT, CARRERE & DENEGRE LLP

Attorneys for *Defendant Scariano Bros LLC*