

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

PROOF OF CLAIM



562294

Bar Date Ref # 2-NVM-20914

In re
Fleming Companies, Inc, et al,

Case Number
03-10945 (MFW)

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.

If you have already filed a proof of claim with the Bankruptcy Court or BMC, you do not need to file again.

Name of Creditor and Address

Kenneth W Cooper
1649 Ash Ln
Corinth TX 76210

0354653562294

Creditor Telephone Number (940) *497-1185*

CREDITOR TAX ID #
568-54-0838

ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR

Check here 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 _____ to _____
(date) (date)

2 DATE DEBT WAS INCURRED

3 IF COURT JUDGMENT, DATE OBTAINED

4 TOTAL AMOUNT OF CLAIM AS OF PETITION DATE
 \$ *2,772.00* (unsecured) \$ _____ (secured) \$ _____ (unsecured priority) \$ *2,772.00* (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.

THIS SPACE FOR COURT USE ONLY
FILED

SEP 08 2003

DMC
Fleming Companies Claim



08824

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

DATE SIGNED

9-1-03

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).

Kenneth W Cooper

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

COPY

INVOICE

KEN COOPER
1649 Ash Lane
Connht, TX 76210
Vendor #9014372

INVOICE NO 0031
DATE April 12, 2003

Cost/Profit Code 21625

Billed to FLEMING COMPANIES, INC
P O Box 26687
Oklahoma City, OK 73126-8877

<u>DATE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
3/23/03 thru 3/29/03	Services rendered (Produce Sales Manager West Texas,Dallas Rainbows)	\$ 1,386.00
3/30/03 thru 4/05/03	Services rendered (Produce Sales Manager West Texas,Dallas Rainbows)	\$ 1,386 00

INVOICE TOTAL	\$ 2,772.00
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Approver's Signature	
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Note: Original invoice submitted 4/5/03 to James Thatcher for approval and submission for payment.

CONSULTING AGREEMENT

This Agreement, is made as of the 2nd day of October, 2002 by and between FLEMING COMPANIES, INC (hereinafter referred to as "Company") and KENNETH WAYNE COOPER (hereinafter referred to as "Consultant")

1 Term of Agreement The Company hereby retains the services of Consultant and Consultant hereby accepts such retention with the Company on a month to month basis beginning on the 7th of October

2 Duties of Consultant During the term of this Agreement, Consultant will render advisory and consulting services to the Company and will give the Company the benefit of his special knowledge, skills, contacts, and business experience performing such services, which shall include but not limited to produce marketing, merchandising, product quality, gross margin management and supporting the Company's overall produce operations in Dallas, Texas and the West Texas Region

3 Compensation

A For his services hereunder, the Company agrees to pay Consultant \$1,386 00 per week payable on a bi-weekly basis during the term of this Agreement

B During the term of this Agreement, the Company agrees to reimburse Consultant for travel expenses incurred by Consultant while performing his services to the Company, which are supported by bonafide written receipts, copies of which shall be furnished to the Company upon request. Consultant agrees to abide by any restrictions and/or conditions the Company may establish at any time with respect to such travel expenses

C It is expressly understood that Consultant is an independent contractor and not an employee of Company. Therefore Consultant is solely responsible for the payment of all income, self employment, FICA and any and all other taxes applicable to Consultant's earnings hereunder. As an independent contractor, it is understood that Consultant is not eligible for and Company will not maintain or provide, any workers compensation, unemployment, medical insurance, paid sick days, paid vacation days or any other benefits. No other compensation shall be paid to Consultant except as specifically provided for in Paragraphs 3 A & B above

4 Time Consultant agrees to devote at least five (5) days per week to his duties under this Agreement

5 Trade Secrets and Confidential Information Consultant acknowledges that because of his performance of services for the Company, Consultant will gain access to and become familiar with certain information of the Company which the Company deems proprietary and confidential

("Confidential Information") Consultant shall not, except with the prior written consent of the Company, directly or indirectly divulge, reveal, report, publish, transfer or otherwise disclose such Confidential Information to any person or entity. Furthermore, Consultant shall not use such Confidential Information to the detriment of Company. Consultant confirms that such information is the exclusive property of the Company.

6 Termination Notwithstanding anything contained herein to the contrary, either party may terminate this Agreement by providing written notice of termination to the other party at least thirty (30) days prior to the desired termination date, at which time any further payments to Consultant shall cease, except for those payments already earned by Consultant under paragraph 3A which remain outstanding on the date of termination.

7 Default and Arbitration

A In the event that either party breaches any of the terms stated herein, the non-breaching party shall give the breaching party written notice to correct said breach, and if said breach is not corrected within ten (10) days, then the non-breaching party may at its election terminate this Agreement upon the expiration of such ten (10) day period by sending written notice thereof to the other party or seek resolution of such default or any disputes arising hereunder by sending the other party a statement of claim and demand for arbitration. An action for breach of this Agreement must be commenced within one (1) year after the cause of action has occurred.

B Any claim controversy or dispute arising out of or relating to this Agreement, except as set forth herein, shall be settled by arbitration in Oklahoma City, Oklahoma, in accordance with the rules for arbitration of the American Arbitration Association. Any arbitration shall be undertaken pursuant to the Federal Arbitration Act, where possible, and the decision of the arbitrators shall be final, binding, and enforceable in any court of competent jurisdiction. In any dispute in which a party seeks in excess of \$50,000 in damages, three arbitrators shall be employed. Otherwise, a single arbitrator shall be employed. All costs relating to the arbitration, including attorney's fees, shall be allocated and charged as determined by the arbitrators. The arbitrators will not award punitive, consequential or indirect damages. Each party hereby waives the right to such damages and agrees to receive only those actual damages directly resulting from the claim asserted. In resolving all disputes between the parties, the arbitrators will apply the laws of the State of Oklahoma. The parties will be entitled to conduct document discovery by requesting production of documents. The arbitrators will resolve any discovery disputes by such prehearing conferences as may be needed. Either party may be entitled to pursue such remedies for emergency or preliminary injunctive relief in any court of competent jurisdiction, provided that each party agrees that it will consent to the stay of such judicial proceedings on the merits of both this Agreement and the related transactions pending arbitration of all underlying claims between the parties immediately following the issuance of any such emergency or injunctive relief.

8 Governing Law This Agreement shall be governed by and construed in accordance

with the laws of the State of Oklahoma

9 Entire Agreement This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes all other prior agreements and understandings, both oral and written, between the parties with respect to the subject matter herein and no modifications, changes or amendments to this Agreement shall be valid or enforceable unless made in writing and signed by both parties

10 No Third Party Beneficiaries Nothing in this Agreement, expressed or implied, is intended to confer any rights upon any person, other than Company and Consultant

11 Notices All notices hereunder shall be in writing and shall be deemed to have been duly given when mailed and telefaxed to the other party at the address and number set forth below

Company Fleming Companies Inc
1945 Lakepointe Drive
Lewisville, Texas 75057
Attention

Consultant Kenneth Wayne Cooper
1649 Ash Lane
Corinth, TX 76210

12 No Assignment Consultant may not assign its rights or delegate its duties hereunder without the prior written consent of the Company

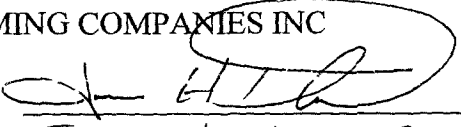
IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above

“COMPANY”

FLEMING COMPANIES INC

By

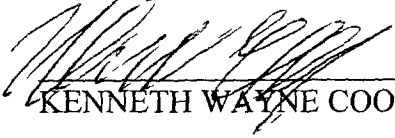
Its



JAMES H TAUSCHER
PRESIDENT SOUTHWEST
OPERATIONS RETAIL

“CONSULTANT”

By



KENNETH WAYNE COOPER