UNITED STATES BANKRUPTCY COURT For the District of Delaware		PROOF OF CLAIM			
In re Fleming Companies, Inc., et al		Case Number 03-10945 (MFW)			
NOTE. This claim 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.					
Creditor Name (Person of entity debtor owes) Oppenheimer (ompanies Inc. dba Interstate Potato Packer Division		☐ 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.			
Address Line 1 c/o Sheila R Schwager		Check box if you have never received any notices from the bankruptcy court in this case			
Address Time 2 Hawley Troxell Ennis & Hawley, LLP		☐ Check box if the address differs from the address on the envelope sent to you by the court			
Add ess 1 inc 5 P O Box 1617 ( ity ST ZIP Boise 1D 83702				I HIS SPACE IS FOR COURT USL ONLY	
	umber By Which Creditor Identifies Debtor				
		Check here		iled claim dated	
1 BASIS FOR CLA	DV.		□ amends		
☐ Goods sold	Personal mjury/wrongful death	☐ Retiree	benefits as defined in 11 USC § 1114(a)	2 Date Debt Incurred (MMDDYY)	
☐ Senuces pertor	rmed   Taxes	□ Wages	salaries and compensation (Fill out below)		
☐ Money loaned	☐ Other (Describe Briefly)	Your so	ocial security No	3 If Court Judgment Date Obtained	
		Unpai trom	d compensation to services performed		
			(date) (date)		
4 CLASSIFICATION OF CLAIM Under the Bankruptcy Code all claims are classified as one or more of the following (1) Unsecured nonpriority (2) Unsecured Priority (3) Secured It is possible for part of a claim to be in one category and part in another CHECK THE APPROPRIATE BOX OR BOXES that best describe your claim and STATE THE AMOUNT OF THE CLAIM AT TIME CASE FILED					
SLCURLD CLAIM Attach evidence of perfection of security interest Brief Description of Collateral			■ UNSECURED PRIORITY CLAIM Specify the priority of the claim  □ Wages salaries or commissions (up to \$4.650) earned not more than 90 days before filing of the bankruptcy petition or cessation of the debtor s		
☐ Real Fstate ☐ Motor Vehicle ☐ Other (Describe briefly					
Amount of arrearage and other charges at time case filed included in secur claim above if any \$			ed		
☐ UNSECURED NONPRIORITY CLAIM			☐ Up to \$2 100 of deposits toward purchase lease or rental of property or services for personal family or household use 11 USC § 507(a)(6)		
A claim is unsecured if there is no collateral or lien on property of the esecuting the claim or to the extent that the value of such property is less the amount of the claim.			than		
the amount of the Cignii		☑ Other Specify applicable paragraph of 11 USC \$ 507(a)_(1)			
5		PACA Claim			
5 AMOUNT OF CLAIM AT TIME CASE FILED					
(Secred)			(Unexauted Northounty) (Unexauted Printly)		
Check this box if claim includes charges in addition to the principal amount of the claim. Attach itemized statement of all additional charges					
6 CREDITS AND SETOPES The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. In filing this claim claimant has deducted all amounts that claimant owes to debtor.  THIS SPACE IS FOR COURT USE ONLY					
7 SUPPORTING DO ilemized statements of available explain. It is	FILED				
8 TIME STAMPLD COPY To receive an acknowledgment of the filing of and copy of this proof of claim			n enclose a stamped sell addressed envelope		
Date	Sign and print the name and title if any of the creditor or either person authorized to file this claim (attach copy of power of attorney, if any)  Joy L Barwick, Kirtland & Packard, LLP,		r person authorized to file this claim (attach	SEP 15 2003	
Sept 15, 2003			BMC		
Penalty for presenting fraudulent claim Fine of up to \$500 000 or imprisonment for up to 2 years of both 18 U.S.C. 65 152 and 3571					
		/ \		09570	

### Kristin Shaffer

From Tom Clough

Sent Tuesday, May 27, 2003 2 31 PM =

To 'ccipione@alixpartners com'
Cc Kristin Shaffer; Larry Lipschultz
Subject FlemingPACAClaimSummary doc

•

Importance High

**T** 

FlemingPACAClaimS ummary doc

Mr Charles A Cipione

Attached is the Oppenneimer Companies, Inc , Interstate Potato Packers Divsion's PACA Claim Summary for debts owed by Fleming Companies

Thanks,

Tom Clough Assistant Credit Manager Oppenheimer Companies, Inc

1

### Oh. ENHEIMER COMPANIES, IN-

Wells Fargo Center 877 West Main Street, Suite 700 • Boise Idaho 83702 • Phone (208) 343 4883

May 27, 2003

Charles A Cipione Alix Partners, LLC Via e-mail

Dear Mr Cipione

### Subject: Fleming Companies PACA Claim Summary For License Number 780342

This PACA claim summary is submitted by Oppenheimer Companies, Inc. on behalf of its Interstate Potato Packers Division. The total amount owed is \$ 5 672 20

Fleming Kansas City Division Invoice # 7052(Exhibit A-1&2) \$ 6,133 62

\$ -122 67 Cash Discount

\$ -626 50 Allowed Deduct

\$ -3,914 30 Ck# 25572045

\_\_\_\_

Balance Due \$ 1,470 15

Fleming Kansas City Division Invoice # 1117(Exhibit B-1,2,&3) \$ 2,546 05 Not Paid

Fleming Geneva Division Invoice # IPP0000596 (Exhibit C-1&2) \$8,961 60

\$ -179 23 Cash Discount

\$ -366 56 Allowed Deduct

\$ -6759 81 Ck# 25774489

\_\_\_\_

Balance Due \$ 1,656 00

If further information is needed, please advise us by return e-mail to tom\_clough@oppcos com

• Page 2

May 27, 2003

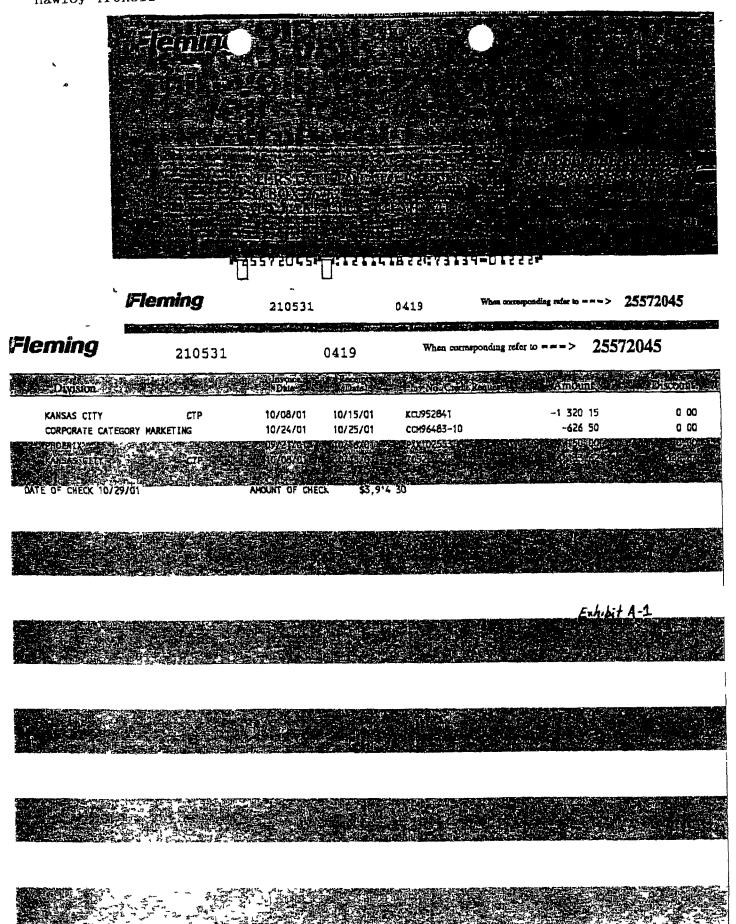
Sincerely

Tom Clough Assistant Credit Manager

OCI

TC

cc Kristin Shaffer, Larry Lipschultz



Hawley Troxell

## Interstate Pol. to Packers

Remit To

P O BOX 26762 SALT LAKE CITY

UT 84126

Invoice 7052

Bill To

FLEMING - KC DIVISION\*\* CTP/KANSAS CITY DIVISION

PO BOX 24650

**OKLAHOMA CITY, OK 73124** 

Ship To

FLEMING - KC DIVISION\*\* FLEMING ALTERNATE WAREHO

KANSAS CITY, KS 66106

Purchase Order No

Qty

726717-KC Customer ID FLE002 DAYM01

Item ID

Shipping Method

Invoice Date

Payment Terms Ship Date

PICKUP

2% 10/NET 11 10/5/2001 10/8/2001

Broker ID St Number

16121

Ext Price

97 900-7243 6/5 Rainbow Str (30A34505) 580 900-1243 6/5 Interstate Str (30134472)

Description

9 06000 0 00000 9 06000 0 00000

Unit Price Promo

\$878 82 \$5,254 80

Subtotal \$6,133 62 Payment Terms Freight Allowance Cash Discount of \$122 67 will be allowed making the total payment \$6,133 62 Total \$6,010 95 if the total invoice is paid by 10/18/2001 and all prior indebtedness has been paid in full

Amounts unpaid pursuant to the payment terms above are past due and incur a Service Charge of 1 5% per month (an annual percentage rate of 18%) Service charges are compounded monthly
"The perishable agricultural commodities listed on this invoice are sold

subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U S C 499e(c)) The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities and any receivables or proceeds from the sale of these commodities until full payment is received "

Exhibit A-2

91/



# Interstate Potato Packers Featuring Affordable Brands of Products

## **INVOICE # 1117**

**December 7, 2001** 

TO: Jon Kobayashi Fleming Foods

CTP / Kansas City Division

P.O. Box 24650

Oklahoma City, OK 73124

Freight to return product that was ordered and then refused. Refer to PO #756420-KC.

**Total Due** 

\$2,546.05

Exhibit B-1

Pages 1 (Including cover page)

6/2601

Interstate Potato Packers 877 W. Main St., Suite 750 Boise, ID 83702

## **FAX**

To: Jon Kobayashi

Fleming

From: Bob Barfuss

Interstate Potato Boise, ID 83702

Phone:

Phone: 800-727-9939

Fax:

972-906-1525

Fax:

208-343-4490

Jon,

Purchase order #756420-KC was refused delivery today, 6/26/01. This order was refused because the product was Rainbow label and not Exceptional Value label. We, at Interstate Potato, received authorization to ship the Rainbow label from Bonnie, who was given authorization from you.

Per our conversation, Interstate will return the product to the plant and Fleming will pay the cost of the freight to ship and return the product. At the present time, I do not know what the freight costs will be because the load is still in transit. Once I know what the freight cost will be, I will send you an invoice.

Thanks for your help in working through this situation. Fleming has been a long-time customer of Interstate's and we do look forward to working with you in the future.

Thank you again,

Exhibit B-Z

**Bob Barfuss** 

#### Tom Clough

From Cindy Lindenberg

Sent Friday, March 28, 2003 9 30 AM

To 'JD Brous'

Subject RE Short Payment

Good afternoon JD, would you have a check number? As of today we haven't received any payment Please advise, thank you

----Original Message----

From JD Brous [mailto ]brous@email fleming com]

Sent Thursday, February 27, 2003 8 19 AM

To Cindy Lindenberg

Subject RE Short Payment

Cindy -

Should be approved this week

JD

>>> "Cindy Lindenberg" <cindy-lindenberg@oppcos com> 02/27/03 09 17AM >>> << Fwd Re Interstate>> Any word on when this will be re-paid to Interstate? Please advise, thank you Cindy Lindenberg
Direct Line 208-287-0130
Fax 208-343-4490

> Good morning JD, on 2/3/03 we followed up faxing you the information on the open freight bill for Kansas City that Esther was helping me with Where do we stand on payment? If you'd let me know so I can inform our accounting department it would be appreciated >

> Thank you,

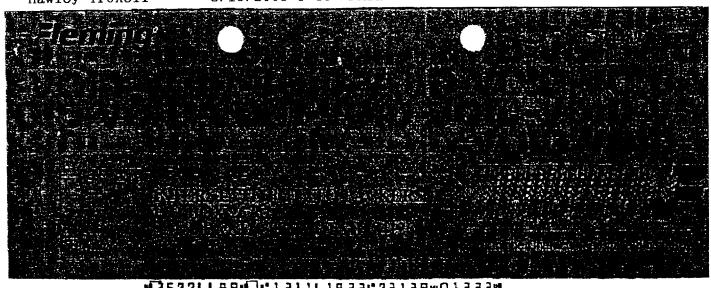
> Cindy Lindenberg

> Direct Line 208-287-0130

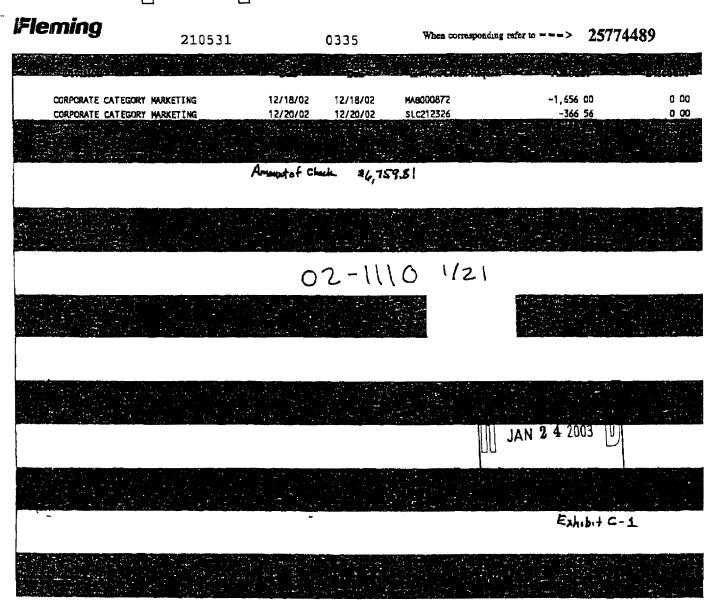
> Fax 208-343-4490

,

Exhibit B-3



# 257744B9# | 11121141B221173139#01222#



SEE INFORMATION ON BACK

Interstate Pol. o Packers

Remit To P O BOX 26762 SALT LAKE CITY UT 84126 Invoice IPP0000596

Bill To

o Shi FLEMING - GENEVA\*\*

CTP / GENEVA DIVISION PO BOX 24760

Hawley Troxell

**OKLAHOMA CITY OK 73124** 

Ship To

FLEMING - GENEVA\*\*
2001 W MAGNOLIA
GENEVA, AL 36340

Purchase Order No 180025-GE
Customer ID FLE008
Broker ID DAYM01
SI Number 18310

Shipping Method Payment Terms Ship Date Invoice Date

PICKUP 2% 10/NET 11 12/27/2002 12/31/2002

Qty	Item ID Description	Unit Price Promo Ext. Price
560	326-1244 12/2 Interstate CC (84968)	7 44000 0 00000 \$4,166 40
240	326-1245 6/5 Interstate Crinkle Cut (849699)	8 64000 0 00000 \$2,073 60
648	900-1248 12/20 Interstate Shoe(30568472)	4 20000 0 00000 \$2,721 60

Subtotal

91/

\$8,961 60

**Payment Terms** 

Freight Allowance

Cash Discount of \$179.23 will be allowed making the total payment amount \$8,782 37 if the total invoice is paid by 1/10/2003 and all prior indebtedness has been paid in full

Total

\$8,961 60

Amounts unpaid pursuant to the payment terms above are past due and incur a Service Charge of 1 5% per month (an annual percentage rate of 18%) Service charges are compounded monthly "The perishable agricultural commodities listed on this invoice are sold

subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U S C 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities and any receivables or proceeds from the sale of these commodities until full payment is received."

Exhbit C-2