

UNITED STATES BANKRUPTCY COURT For the District of Delaware		PROOF OF CLAIM
In re Fleming Companies, Inc		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 or entity debtor owes) Transamerica Equipment Financial Services Corporation Attn Todd Meyer 4975 Preston Park Blvd, Ste 320 Plano TX 75093-5150 Please also send all notices to Jeffrey C Wisler Esq Connolly Bove Lodge & Hutz LLP, 1220 Market Street, P O Box 2207, Wilmington, DE 19801	<input type="checkbox"/> 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 <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court	THIS SPACE IS FOR COURT USE ONLY
ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR	Check here if this claim <input type="checkbox"/> replaces a previously filed claim dated _____ <input type="checkbox"/> amends	
1 BASIS FOR CLAIM	<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Goods sold <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Wages salaries and compensation (Filled out below) <input type="checkbox"/> Services performed <input type="checkbox"/> Taxes Your social security no _____ <input type="checkbox"/> Money loaned <input checked="" type="checkbox"/> Other (Describe Briefly) Master Lease Agreement Unpaid compensation for services performed from _____ to _____	2 Date Debt Incurred (MM/DD/YY) 3 If Court Judgement Date Obtained / /
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		
<input type="checkbox"/> SECURED CLAIM Attach evidence of perfection of security interest Brief Description of Collateral <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other (Describe briefly) Amount of arrearage and other charges at time case filed included in secured claim above if any \$ _____	<input type="checkbox"/> UNSECURED PRIORITY CLAIM – Specify the priority of the claim <input type="checkbox"/> Wages salaries or commissions (up to \$2000) earned not more than 90 days before filing of the bankruptcy petition or cessation of the debtor's business whichever is earlier – U.S.C. § 507(a)(3) <input type="checkbox"/> Contributions to an employee benefit plan – U.S.C. § 507(a)(4) <input type="checkbox"/> Up to \$900 of deposits toward purchase lease or rental of property or services for personal family or household use – 11 U.S.C. § 507(a)(6) <input type="checkbox"/> Taxes or penalties of governmental units – 11 U.S.C. § 507(a)(7) <input type="checkbox"/> Other – specify applicable paragraph of 11 U.S.C. § 507(a)	
5 AMOUNT OF CLAIM AT TIME CASE FILED		
(Secured)	\$192,759	(Unsecured Priority)
<input type="checkbox"/> 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 SETOFFS 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 claimed owes to debtor		THIS SPACE IS FOR COURT USE ONLY
7 SUPPORTING DOCUMENTS <i>Attach copies of supporting documents</i> such as promissory notes purchase orders invoices itemized statements of running accounts contracts court judgments or evidence of security interest If the documents are not available explain If the documents are voluminous attach a summary See attached		
8 TIME STAMPED COPY To receive an acknowledgment of the filing of your claim enclosed a stamped self addressed envelope and copy of this proof of claim		
Date 9/10/03	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) Transamerica Equipment Financial Services Corporation By <u>Todd Meyer</u> Todd Meyer	

Penalty for presenting fraudulent claim Fine of up to \$500,000 or imprisonment for up to 5 years or both 18 U.S.C. §§ 152 and 3571

Fleming Companies Claim



FILED
SEP 11 2003
- BMC

**ATTACHMENT TO TRANSAMERICA EQUIPMENT FINANCIAL SERVICES
CORPORATION'S PROOF OF CLAIM AGAINST FLEMING COMPANIES, INC**

1 Fleming Companies, Inc ("Debtor") leases certain computer equipment from Transamerica, including, but not limited to, two (2) IBM zSeries machine type 2064 model 1C6, serial nos 186FA and 1870A, and related equipment (collectively "Equipment") under a Term Lease Master Agreement No 3410000 between IBM Credit Corporation and the Debtor ("Lease")¹ Transamerica is the owner of the Equipment

2 The Lease is a "true lease" and is not a disguised financing arrangement

3 As of the commencement of the Debtor's bankruptcy, the Debtor owed Transamerica \$192,759 for rent and late fees due under the Lease Accordingly, Transamerica has an unsecured claim against the Debtor in the amount of \$192,759 ("Claim")

4 To the best of Transamerica's knowledge, its Claim is not subject to any setoff or counterclaim

5 Transamerica expressly reserves all rights and remedies that it has or may have against the Debtor or any other person or persons liable for all or part of the indebtedness claimed herein This proof of claim is filed to protect Transamerica from forfeiture of its Claim The filing of this proof of claim is not (a) a waiver or release of Transamerica's rights or remedies against any person, entity or property, (b) an election of a remedy, or (c) a waiver of the right to assert a different or enhanced classification or priority in respect of the Claim asserted herein

6 To the extent that the Lease is recharacterized as a financing arrangement, Transamerica has a valid, perfected, first priority, purchase money security interest in the Equipment and this claim shall be deemed to assert such a secured claim

7 Transamerica expressly reserves its right to amend or supplement this proof of claim or to file additional proofs of claim for additional claims, including administrative expense claims for the Debtor's post-petition use of the Equipment, if necessary

¹A copy of the Lease is available upon request



Transamerica
Finance Corporation
Equipment Finance and Lease Division
4975 Preston Park Boulevard
Suite 520
Plano, Texas 75093-5150

September 10, 2003

Bankruptcy Management Corporation
1330 Franklin Avenue
El Segundo, CA 90245

Re Fleming Companies, Inc Case No 03-10945 Proof of Claim

Dear Sir/Madam

Enclosed please find an original and one copy of a Proof of Claim with attachment for filing. Please send a file-stamped copy back to our office in the self-addressed, stamped envelope.

Thank you,

Sincerely,

A handwritten signature in black ink, appearing to read "Jeanie Hurtado". The signature is fluid and cursive, with a large initial "J".

Jeanie Hurtado
Senior Administrator

enclosures