

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

**PROOF OF CLAIM**



444085

Bar Date Ref # r3138

In re **FLEMING COMPANIES, INC.** 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**

0354653444085

JR Simplot Co  
Mark A Amendola  
Martyn & Associates  
820 Superior Ave NW 10th Fl  
CLEVELAND, OH 44113

Creditor Telephone Number (216) 861-4700

CREDITOR TAX ID # ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR Check here  replaces or amends a previously filed claim dated \_\_\_\_\_ if this claim

**1 BASIS FOR CLAIM**

- Goods sold
- Services performed
- Money loaned
- Personal injury/wrongful death
- Taxes
- Other (describe briefly): Perishable Agricultural Commodities
- 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** March 2003 **3 IF COURT JUDGMENT, DATE OBTAINED**

**4 TOTAL AMOUNT OF CLAIM AS OF PETITION DATE** \$ \_\_\_\_\_ (unsecured) \$ \_\_\_\_\_ (secured) \$ 193,844.61 (unsecured priority) \$ 193,844.61 (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): PACA Trust  
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 USC Sec 499

**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**  
SEP 15 2003

**BMC**

Fleming Companies Claim

DATE SIGNED: 9-12-03  
SIGN and print the name and title of any of the creditor or other person authorized to file this claim (attach copy of power of attorney if any):  
Mark A Amendola Mark A Amendola, Esq.

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



12930

**ADDENDUM**

Claimant has properly preserved its trust rights under the Perishable Agricultural Commodities Act ("PACA"), 7 U S C §499 *et seq* for produce sold on credit to the Debtor. Accordingly, Claimant asserts that all of the (i) fruits and vegetables in the Debtor's inventory, (ii) accounts receivable from the sales of such products, and (iii) proceeds from such sales, irrespective of whether such assets are physically in the possession of the Debtor or a third party, are subject to Claimant's Trust claims under the PACA and do not constitute property of the Debtor's Bankruptcy Estate. By law, Claimant has a super priority to payment ahead of all other claims, including ahead of secured claims and administrative expense claims. To the extent that Claimant does not receive payment in full from the Debtor's trust assets, then the remainder of Claimant's claim is general unsecured.

STATEMENT OF ACCOUNT FOR ALL FLEMING CUSTOMERS AS OF 4/1/83

CST# 601 CARLAND

INV#	INV DATE		ORIGINAL INV REC	CURRENT AMOUNT DUE
197 93	03/10/83	French Fries	\$1 061 64	\$1 061 64
199X12	03/15/83	French fries	2 411 69	\$2 133 69
CUSTOMER TOTALS				\$3 495 33

CST# 6046 MUMFORD

INV#	INV DATE		ORIGINAL INV REC	CURRENT AMOUNT DUE
198670	03/07/80	French Fries	\$10 658 00	\$1 658 00
CUSTOMER TOTALS				\$10,658 00

CST# 6077 PHOENIX

INV#	INV DATE		ORIGINAL INV REC	CURRENT AMOUNT DUE
194 40	03/07/83	French fries	564 30	\$564 30
CUSTOMER TOTALS				\$564 30

CST# 6114 ALTOONA

INV#	INV DATE		ORIGINAL INV REC	CURRENT AMOUNT DUE
401640	04/01/83	French fries	\$4 722 00	\$4 722 00
CUSTOMER TOTALS				\$4,722 00

CST# 6222 LINDSAY

INV#	INV DATE		ORIGINAL INV REC	CURRENT AMOUNT DUE
104458	03/05/83	French Fries	\$3 952 20	\$3,952 20
104911	03/29/83	French Fries	\$3 952 20	\$3,952 20
104227	01/11/83	French fries	2 331 28	\$2,331 28
CUSTOMER TOTALS				\$10,635 68

CST# 6274 SOUTHAVEN

INV#	INV DATE		ORIGINAL INV REC	CURRENT AMOUNT DUE
198874	03/23/83	French Fries	13 418 77	13 418 77
101916	04/01/83	French Fries	13 703 34	13 703 34
CUSTOMER TOTALS				\$13,120 61

CST# 6490 BROOKSARD

INV#	INV DATE		ORIGINAL INV REC	CURRENT AMOUNT DUE
109959	03/23/83	French fries	3 857 70	3 857 70
CUSTOMER TOTALS				\$3 857 70

CST# 6718 NASHVILLE

INV#	INV DATE		ORIGINAL INV REC	CURRENT AMOUNT DUE
104110	01/04/83	French fries	2 125 90	2 125 90
CUSTOMER TOTALS				\$2 125 90

CST# 6714 LACROSSE

INV#	INV DATE		ORIGINAL INV REC	CURRENT AMOUNT DUE
104998	03/21/83	French fries	7 635 00	7 635 00
101111	03/21/83	French fries	1 100 00	1 100 00
CUSTOMER TOTALS				\$7 635 00

CST# 6718 HERRICK

INV#	INV DATE		ORIGINAL INV REC	CURRENT AMOUNT DUE
101 00	11 20 81	French fries	111 11	111 11
100 104	03 20 83	French fries	1 100 11	1 100 11
101 00	03 20 83	French fries	1 100 11	1 100 11
CUSTOMER TOTALS				\$36 282 68

CST# 6718 TIBBETS & PETER

INV#	INV DATE		ORIGINAL INV REC	CURRENT AMOUNT DUE
101 00	0 7 83	French fries	1 100 11	1 100 11
101 00	0 7 83	French fries	1 100 11	1 100 11
101 00	11 17 81	French fries	1 100 11	1 100 11
CUSTOMER TOTALS				\$79 204 55

\$6 260 48 are shredded HB that are only blanched & frozen  
 \$3 440 40 are shredded HB that are only blanched & frozen  
 \$5 087 28 are shredded HB that are only blanched & frozen

CST# 6718 LINDSAY

INV#	INV DATE		ORIGINAL INV REC	CURRENT AMOUNT DUE
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STATEMENT OF ACCOUNT FOR ALL FLEMING CUSTOMERS AS OF 4/1/03

INV#	INV DATE		INV REC	AMOUNT DUE
394900	03/04/03	French Fr es	\$2,240 00	\$2,240 00
401828	03/26/03	French Fries	\$8,800 00	\$8,800 00
CUSTOMER TOTALS				\$11,040 00

CSTE 6902 GARLAND

INV#	INV DATE		ORIGINAL	CURRENT
			INV REC	AMOUNT DUE
395750	03/10/03	French Fries	\$542 80	\$542 80
398565	03/10/03	French Fries	\$774 08	\$774 08
402419	03/24/03	French Fries	\$2,596 00	\$2,596 00
CUSTOMER TOTALS				\$3,912 88

CST# 7025 MINNEAPOLIS

INV#	INV DATE	PRODUCT	ORIGINAL	CURRENT
			INV REC	AMOUNT DUE
394357	03/04/03	French Fries	\$3,483 36	\$3,483 36
400107	03/28/03	French Fries	\$3,108 02	\$3,108 02
CUSTOMER TOTALS				\$6,591 38

GRAND TOTAL DUE SIMPLOT BY FLEMING CUSTOMERS \$193,844 61