

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

PROOF OF CLAIM



496129

Bar Date Ref # 1-N-408

In re
Core-Mark International, Inc

Case Number
03-10944

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.

Name of Creditor and Address
Michael B. Batlan 0354652496129
c/o Tara J Schleicher
121 SW Morrison St Ste 600
Portland OR 97204

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.

Creditor Telephone Number ()

CREDITOR TAX I D #

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 Personal injury/wrongful death Retiree benefits as defined in 11 U.S.C. § 1114(a)
 Services performed Taxes Wages, salaries, and compensation (Fill out below)
 Money loaned Other (describe briefly) **settlement of preference claim (see attached)** Your social security number _____
 Unpaid compensation for services performed from _____ to _____
 (date) (date)

2 DATE DEBT WAS INCURRED 6-25-03

3 IF COURT JUDGMENT, DATE OBTAINED

4 TOTAL AMOUNT OF CLAIM AS OF PETITION DATE \$ 127,490.77 * (unsecured) \$ _____ (secured) \$ 11,000.00 (unsecured priority) \$ _____ (total)
 *in the alternative

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) **(1)(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.

**FILED
SEP 15 2003
BMC**

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

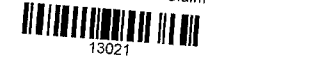
THIS SPACE FOR COURT USE ONLY
FILED
 SEP 15 2003
BMC
 Filing Companies Claim

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).
Tara J. Schleicher
Attorney for Claimant

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



13021

ATTACHMENT TO PROOF OF CLAIM

In re Core-Mark International, Inc
Bankruptcy Case No 03-10944
Petition Date April 1, 2003

Creditor	Michael B Batlan, Disbursing Agent for the Bankruptcy Estate of Dwight Estby Enterprises, Inc ("Disbursing Agent")
Attachments	1 Letter dated June 4, 2003 from Opton & Galton, attorneys for Core-Mark International, Inc 2 Settlement and Release Agreement between Michael B Batlan, Disbursing Agent for the Bankruptcy Estate of Dwight Estby Enterprises, Inc and Core-Mark International, Inc
Amount of Claim	\$11,000, plus interest at the statutory rate from March 27, 2003 until paid in full
Basis for Claim	Disbursing Agent filed an adversary proceeding against Core-Mark in the United States Bankruptcy Court for the District of Oregon asserting a right to recover the amount of \$127,490.77 in alleged preferential transfers for payments made to Core-Mark within 90 days preceding the bankruptcy filing by Dwight Estby Enterprises, Inc. Core-Mark asserted defenses and the parties agreed to a settlement in the amount of \$11,000. The settlement amount has not been paid.
Basis for Admin Claim	The Settlement and Release Agreement was not returned to Disbursing Agent for execution until June 4, 2003 even though it was pre-dated by the Debtor. Disbursing Agent executed the Settlement and Release Agreement on June 25, 2003 making this a post-petition debt. Further, Disbursing Agent asserts the agreement is an executory contract under 11 U.S.C. § 365. In the alternative, if this claim is not deemed administrative or an executory contract, then the claim is a general unsecured claim in the amount of \$127,490.77.

LAW OFFICES OF
OPTON & GALTON
1440 AMERICAN BANK BUILDING
621 S W MORRISON
PORTLAND OREGON 97205

MICHAEL P. OPTON*
MICHAEL L. GANGLE §
KYLE C. LEWIS

TELEPHONE 503 226 0368
FACSIMILE 503 273 8842
E-MAIL *ogpd@aol.com*

OF COUNSEL
ZANLEY F. GALTON
*OREGON AND NEW YORK BARS
§OREGON AND WASHINGTON BARS

June 4, 2003

Tara Schleicher
Farleigh, Wada & Witt, P C
121 SW Morrison St #600
Portland, OR 97204

Re *In re Dwight Estby Enterprises, Inc*
U S B C Case No 300-33118-rld11

Dear Tara

Enclosed please find the following documents


- 1 Two originals of the Settlement and Release Agreement Please have the documents signed and have one of the originals returned to me,
- 2 The original of the Withdrawal of Claim No 3 (Core-Mark International, Inc), and
- 3 The following pleadings from the Fleming International Bankruptcy U S B C Case No 03-10945 (MFW)
 - A Order Authorizing Debtors to Employ and Compensate Certain Professional Utilized in the Ordinary Course of Debtors' Business,
 - B Order Authorizing Debtors to Employ and Compensate Certain Professional Utilized in the Ordinary Course of Debtors' Business,
 - C Notice of Motion for Order Authorizing Debtors to Employ and Compensate Certain Professional Utilized in the Ordinary Course of Debtors' Business, and
 - D Notice of Commencement of Chapter 11 Bankruptcy Cases and Meeting of Creditors

RECEIVED
JUN 05 2003
FARLEIGH, WADA
& WITT, PC

Tara Schleicher
June 4, 2003
Page 2

Please call if you have any questions

Sincerely,


Kyle C Lewis

KCL ld
Enclosures
cc Paula Young (w/o enclosures)

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is effective as of the 24 day of March, 2003, by and between Michael B Batlan, Disbursing Agent ("Disbursing Agent") for the bankruptcy estate of Dwight Estby Enterprises, Inc , and Core-Mark International, Inc ("Core-Mark")

RECITALS

1 Dwight Estby Enterprises, Inc ("Debtor") filed a voluntary Chapter 11 petition on April 25, 2000 (the "Petition Date"), commencing this bankruptcy proceeding, U S Bankruptcy Court for the District of Oregon Case No 300-33118-rld11

2 On or about May 25, 2001, Michael B Batlan was duly appointed Chapter 11 trustee for the Debtor On or about December 28, 2001, Debtor's Third Amended Plan of Reorganization (the "Plan") was confirmed Under the Plan, Michael B Batlan was appointed Disbursing Agent and vested with authority to pursue all claims arising under Chapter 5 of the U S Bankruptcy Code

3 Disbursing Agent filed an adversary proceeding, *Michael B Batlan v Core-Mark International, Inc* , Adv Proc No 02-03558-rld (the "Adversary Proceeding"), against Core-Mark asserting a right to recover, pursuant to U S Bankruptcy Code §547(b), the amount of \$127,490 77 in alleged preferential transfers for payments made by the Debtor to Core-Mark within 90 days preceding the Petition Date Core-Mark has asserted certain defenses to receipt of the transfers, including new value and contemporaneous exchange The assertions of Disbursing Agent and of Core-Mark are collectively referred to herein as the "Claims "

4 The parties hereto desire to settle the Claims

NOW THEREFORE, in consideration of the above Recitals incorporated herein, the mutual promises, covenants and representations contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending legally to be bound, hereby agree as follows

1 **Bankruptcy Court Approval**

The settlement terms of this Agreement are subject to and conditioned upon the approval of the United States Bankruptcy Court, District of Oregon

2 **Payment to Disbursing Agent**

Core-Mark agrees to pay to Disbursing Agent the sum of \$11,000, receipt of which is due within seven (7) days after approval of this Agreement by the Bankruptcy Court or expiration of the objection period with no objections having been filed, whichever is earlier

3 **Mutual Release**

The parties hereby release, acquit, and forever discharge each other from any and all claims, liens, demands, actions, causes of actions, suits, or causes of suits known or unknown, including without limitation, any and all claims arising from the transactions and transfers surrounding the Claims. This release shall be effective upon receipt and honor of the payment referenced in paragraph 2 above.

4 **Waiver of Proofs of Claim**

Core-Mark agrees to waive any and all claims it may have against the Disbursing Agent or the estate, including but not limited to its unsecured Proof of Claim filed in the amount of \$36,966.22. Core-Mark further agrees to waive the right to file a proof of claim for the settlement amount or any other amount in this bankruptcy proceeding.

5 **Dismissal With Prejudice**

Upon completion of all conditions contained herein and performance of all obligations hereunder, the Disbursing Agent agrees to file a Notice of Dismissal of the Adversary Proceeding against Core-Mark with prejudice and without costs or attorney fees to either party.

6 **Neutral Interpretation**

This Agreement is a product of negotiation among the parties and represents jointly conceived, bargained for and agreed upon language which is mutually determined by the parties to express their intentions in entering into this Agreement. Any ambiguity or uncertainty in this Agreement shall be deemed to be caused by or attributed to all parties hereto collectively. In any action to enforce or interpret this Agreement, this Agreement shall be construed in a neutral manner and no term or provision of this Agreement, or this Agreement as a whole, shall be construed more or less favorably to any party to this Agreement.

7 **Voluntary Agreement**

Each of the parties hereto executes and delivers this Agreement after being fully informed of its terms, contents and effect. Each of the parties hereto has had and hereby acknowledges the opportunity to seek advice from an attorney of their own choosing, and no compromise or representation of any kind, other than as set forth herein, has been made to any party hereto or any one acting in behalf of such party. Each party hereto hereby acknowledges that, except as otherwise provided in this Agreement, this is a full, complete and final settlement and mutual release in favor of each party hereto.

8 **No Admission of Wrongdoing.**

This Agreement is entered into solely for the purpose of resolving the Claims. Each of the parties hereto understands that none of the parties admits to any wrongdoing or liability of any sort.

9 **Successors and Assigns**

The terms of this Agreement shall inure to the benefit of, and shall be binding upon, the successors and assigns of any party hereto.

10 **Entire Agreement**

The Agreement reflects the entire Agreement between the parties, and no statements, promises or inducements made by anyone that are not contained herein shall be valid or binding, unless in writing and executed by all parties hereto.

11 **Attorney Fees**

If any party institutes any suit or action to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover such sum as the court may judge reasonable as attorneys' fees at trial and on any appeal, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction).

12 **Governing Law**

The terms of this Agreement shall be governed by, and construed in accordance with, the laws of the State of Oregon.

13 **Severability**

If any term of this Agreement, or the application thereof to any person or circumstances shall to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law. The parties hereby agree that they will negotiate in good faith to replace such invalid provision with a valid provision in a timely manner.

14 **Counterparts**

This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

15 Authority

Each party represents and warrants that he/she/it has the authority to enter into, and be bound by, this Agreement

16 Headings

The headings in this Agreement are for convenience of reference only and are not a material part of this Agreement

MICHAEL B BATLAN

MBB, Trustee
Dated 6/25/03

CORE-MARK INTERNATIONAL, INC

Paula Young
Print Name Paula Young
Title Credit Manager
Dated 3-24-03

APPROVED AS TO FORM

FARLEIGH, WADA & WITT, P C

By *Tara J Schleicher*
Tara J Schleicher, OSB #95402
Of Attorneys for Disbursing Agent

OPTION & GALTON

By *Kyle Lewis*
Kyle C Lewis, OSB #72187
Of Attorneys for Core-Mark
International, Inc

FARLEIGH WADA & WITT PC
Attorneys at Law

Matthew A. Aibaugh
Valerie T. Auerbach
Michelle M. Bertolino
Michelle S. Druce
T. Scott Farleigh
Laurv Hennings
Michelle Holman Keim
David R. Ludwig
Kimberley Hanks McGair
Peter C. McKittrick
Hollis K. McMilan
Robert N. Muraski
Kathryn P. Salyer
Dean T. Sandow
Karen E. Saul
Tara J. Schleicher
Harold B. Scoggins III
Brad C. Stanford
Mark R. Wada
Brian R. Witt

September 12, 2003

Bank of America Financial Center
121 SW Morrison Street
Suite 600
Portland Oregon 97204 3136
(503) 228 6044
Telecopier (503) 228 1741

Sisters Office
Three Creeks Building
220 South Ash St
P O Box 1866
Sisters Oregon 97759
(541) 549 4958
Telecopier (541) 549 4959

*Oregon and Washington Bars
†Oregon and California Bars
‡Of Counsel

Via Overnight Delivery

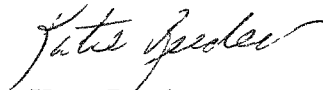
Bankruptcy Management Corporation
1330 East Franklin Avenue
El Segundo, CA 90245

Re *In re Core-Mark International, Inc*
Bankruptcy Case No 03-10944

I enclose an original and two copies of a Proof of Claim to be filed on behalf of Michael B. Batlan, Disbursing Agent for the Bankruptcy Estate of Dwight Estby Enterprises, Inc. Upon filing please return a date-stamped copy to this office using the enclosed self-addressed, postage-prepaid envelope.

Thank you for your assistance.

Sincerely,



Katie Reeder
Paralegal

KREEDER@FWWLAW.COM

KR/kr

Enclosures

cc Michael B. Batlan

**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 May 20, 2005, document(s) were appended to Claim Number **13021** for the following reason(s)

- Stipulation and Order
- New Supporting Documents
- Change of Address
- Claim Disallowed per Order, Docket Number 11152 EOD 5/20/05
- Other Creditor Letter dated _____

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

In re)	Chapter 11
)	
Fleming Companies, Inc , <u>et al</u> , ¹)	Case No 03-10945 (MFW)
)	(Jointly Administered)
Debtors)	
)	Relates to Docket No 10845

**ORDER GRANTING THE PCT'S OBJECTION TO CLAIM NUMBERS 13021 AND
17334 ASSERTED BY MICHAEL B BATLAN AS DISBURSING AGENT
FOR THE DWIGHT ESTBY ENTERPRISES, INC. BANKRUPTCY ESTATE**

Upon consideration of the PCT's² objection to Claim Numbers 13021 and 17334 filed by Michael B Batlan, solely in his capacity as disbursing agent for the Dwight Estby Enterprises, Inc bankruptcy estate, and no previous application having been made, and it appearing that this Court has jurisdiction over this matter pursuant to 28 U S C §§ 157 and 1334, and it appearing that this is a core proceeding pursuant to 28 U S C § 157(b)(2), and it appearing that venue of the proceeding and the PCT's objection is proper pursuant to 28 U S C §§ 1408 and 1409, and due and proper notice having been given and no further notice being required, and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED that the PCT's objection is sustained, and it is further

ORDERED that Claim Number 13021 is disallowed in its entirety, and it is further

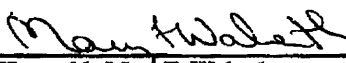
ORDERED that Claim Number 17334 is reclassified and allowed as a general unsecured claim in the amount of \$11,000, and it is further

¹ The former Debtors whose cases are still open are Core-Mark International, Inc , Fleming Companies, Inc , ASI Office Automation, Inc , C/M Products, Inc , Core-Mark Interrelated Companies, Inc., Core-Mark Mid-Continent, Inc , General Acceptance Corporation, Head Distributing Company; Marquise Ventures Company, Inc , and Minter-Weisman Co

² Capitalized terms not defined herein are as defined in the PCT's objection.

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated May 19, 2005



Honorable Mary F. Walrath
Chief United States Bankruptcy Judge