

United States Bankruptcy Court - District of Delaware PROOF OF CLAIM

Name of Debtor Fleming Companies, Inc Case Number 03-10945(MWF) Bar Date Ref #2-NVM-53292
NOTE This form should not be used to make a claim for an administrative expense arising after the commencement of the case
Name of Creditor (The person or other entity to whom the debtor owes money or property) VIP Transportation
Name and address where notices should be sent VIP Transportation P O Box 27916 Fresno, CA 93729
Telephone number (559) 297-1209
Account or other number by which creditor identifies debtor

1 Basis for Claim
Goods sold
Services performed
Money loaned
Personal injury/wrongful death
Taxes
Other
Retiree benefits as defined in 11 U.S.C. § 1114(a)
Wages, salaries, and compensation (fill out below)
Your SS #
Unpaid compensation for services performed from (date) to (date)

2 Date debt was incurred 2/1/00 thru 7/16/03 3 If court judgment, date obtained

4 Total Amount of Claim at Time Case Filed \$ 27,283 64
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 if any \$

6 Unsecured Priority Claim
Check this box if you have an unsecured priority claim
Amount entitled to priority \$
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 4/1/04 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 the filing of your claim, enclose a stamped self-addressed envelope and copy of this proof of claim
Date September 14, 2003 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) Jimmy Morales, Supervisor

THIS SPACE IS FOR COURT USE ONLY
FILED
SEP 15 2003
BMC
03-09-15 PM 05:11 IN
Fleming Companies Claim



*Timothy C. Springer*

*Attorney at Law*

*6632 E. Parkher*

*Fowler, California 93625*

TIMOTHY C SPRINGER, ESQ

***Please Respond To:***

*Telephone (559) 834-3213*

*Facsimile (559) 834-1042*

September 15, 2003

Bankruptcy Management Corporation      **VIA FED EX SAME DAY DELIVERY**  
1330 East Franklin Avenue  
El Segundo, California 90245

Re                      In re FLEMING COMPANIES, INC  
                            Delaware Bankruptcy Court Case No 03-10945(MWF)

Dear Sir/Madam

Enclosed please find the duly executed proof of claim for VIP  
TRANSPORTATION, in the above referenced case

Please return a conformed copy to my office in the enclosed self  
addressed, postage paid envelope

Sincerely yours,

LAW OFFICES OF TIMOTHY C SPRINGER

  
Curt Kammeraad

Cc    Harvey Contreras

*Timothy C. Springer*

*Attorney at Law*

*6632 E. Parkview*

*Fowler, California 93625*

**TIMOTHY C. SPRINGER, ESQ.**

*Telephone (559) 834-3213*

*Facsimile (559) 834-1042*

**September 18, 2003**

**Courtney Hutchinson  
Jackie Bush  
Bankruptcy Management Corporation  
1330 East Franklin Avenue  
El Segundo, California 980245**

**VIA FACSIMILE: (310) 640-8071  
VIA U.S. MAIL (Original)**

**Re Our Client . V.I.P. Transportation  
Delaware Case No. . 03-10945(MFW)  
Debtor(s) : FLEMING COMPANIES, INC., et al**

**Dear Ms. Hutchinson and Ms. Bush:**

**Enclosed please find my declaration pertaining to the late received proof of claim, submitted on behalf of my client V.I.P. Transportation, as per the instructions I received this date**

**I ask that you notify me of your decision as soon as you can as if I am required to seek and obtain leave of the court time is of the essence. I believe it is both fair and reasonable to permit the filing, no creditor is otherwise unfairly prejudiced, nor is the debtor unfairly prejudiced by the filing on 9/15/2003 at approximately 5:00 p m**

**I thank you in advance for your thoughtful consideration. If there is additional information you require please contact my office immediately so that I can provide same.**

**Sincerely yours,**

  
**Timothy C Springer**

1 **3**  
**Timothy C. Springer, #207229**  
2 **LAW OFFICES OF TIMOTHY C SPRINGER**  
**6632 E Parlier Avenue**  
3 **Fowler, California 93625**  
**Telephone (559) 834-3213**  
4 **Facsimile (559) 834-1042**  
5 **Attorney for Creditor,**  
**V.L.P. TRANSPORTATION**

7 UNITED STATES BANKRUPTCY COURT  
8 DISTRICT OF DELAWARE

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10 IN RE	)	CASE NO 03-10945 (MFW)
	)	(Jointly Administered)
11 FLEMING COMPANIES, INC, et al	)	
	)	Chapter 11
12 Debtors	)	<b>DECLARATION OF TIMOTHY C. SPRINGER</b>
	)	<b>IN SUPPORT OF CLAIMS ADMINISTRATOR</b>
	)	<b>ACCEPTING LATE FILING OF PROOF OF</b>
	)	<b>CLAIM BY CREDITOR V.I.P.</b>
	)	<b>TRANSPORTATION</b>
	)	[NO HEARING]

18 I, TIMOTHY C SPRINGER, hereby declare as follows

- 19
- 20 1. I am an attorney at law duly licensed to practice before all courts in the State of California and the  
21 United States District and Bankruptcy Courts in California
  - 22 2. I represent creditor HARVEY CONTRERAS, dba V.I.P TRANSPORTATION (hereafter  
23 "CREDITOR") in connection with the above referenced proceedings
  - 24 3. I will seek and obtain *pro hac vice* appointment to represent creditor in the United States  
25 Bankruptcy Court, District of Delaware, in any contested proceeding or adversary matter affecting creditor  
26 in connection with the above captioned case

27 DECLARATION BY TIMOTHY C SPRINGER

1 4. On or about July 28, 2003, creditor was mailed a "Notice of Deadline For The Filing Of Proofs Of  
2 Claim And Proofs Of Interest", together with a blank proof of claim This was the first notice of any kind  
3 mailed to creditor in connection with the above referenced case

4 5. Creditor thereafter made an appointment with his usual and customary counsel to discuss the matter  
5 on August 22, 2003, which was the earliest available date

6 6. Thereafter, my office was contacted and referral of creditor to my office for representation in this  
7 matter occurred I was not able to discuss this matter with my client until September 10, 2003

8 7. My client, as per my instructions, gathered records and associated documents to enable my office to  
9 prepare and submit a proof of claim on his behalf Appropriate review prior to submission could not be  
10 performed until the evening of September 14, 2003

11 8. My office contacted Federal Express and I was assured that the proof of claim could be and would  
12 be delivered by 3 30 p m on September 15, 2003, by use of its Same Day Delivery Service

13 9. My office made timely arrangements with Federal Express Same Day Service via reference number  
14 3903739, for pickup on the morning of September 15, 2003, at 828 N Van Ness Avenue, Fresno, CA  
15 93728, by Cal Couriers, LLC, and assured hand delivery of the package to the Bankruptcy Management  
16 Corporation, 1330 East Franklin Avenue, El Segundo, CA 90245 by 3:30 p m on September 15, 2003

17 10. The sum of \$204 06 was paid for this same day service via credit card to ensure delivery prior to  
18 4 00 p m on September 15, 2003

19 11. At 10 00 a m , or shortly thereafter, Cal Couriers, LLC arrived at the pickup location, and my office  
20 provided Cal Couriers, LLC with the executed proof of claim for creditor I was again assured by the Cal  
21 Couriers, LLC courier that the package would be delivered no later than 3 30 p m , on September 15, 2003,  
22 that such was being taken to a flight for transport immediately, and would, thereafter, be hand delivered by  
23 courier to the Bankruptcy Management Corporation at the above referenced East Franklin Avenue address

24 12. Attached to this declaration is a copy of the Cal Courier, LLC pickup receipt, Number cc08105, for  
25 the pickup of the package for delivery to the Bankruptcy Management Corporation  
26  
27  
28

1 13. I subsequently was contacted by Cal Courier, LLC that the delivery on September 15, 2003 had  
2 been accomplished but such was not made until approximately 5.00 p m instead of 3 30 p m

3 14. I contacted the Bankruptcy Management Corporation on 9/17/2003 and was instructed to provide  
4 the within declaration, together with a cover letter addressed to Courtney Hutchinson or Jackie Bush

5 15. I request the Claims Administrator of this case to allow the proof of claim by creditor to be received  
6 and filed with the court notwithstanding hand delivery on 9/15/2003 after 4 00 p m , on the grounds that I  
7 reasonably and justifiably relied upon, and paid fees associated with, same day delivery by Federal Express  
8 Same Day Service, with same to occur prior to the time bar of 4 00 p m on 9/15/2003 required by the  
9 notice

10 16. Creditor's proof of claim was otherwise received at the proper address for hand delivery, by the  
11 Bankruptcy Management Corporation, on the same day Additional time will be required to properly  
12 process all claims for submission to the court, and creditor's claim has not caused, nor will it cause, any  
13 delays in the processing of any other claim in this matter by the Bankruptcy Management Corporation

14 I have read the foregoing declaration and the same is true and correct to the best of my knowledge  
15 under penalty of perjury under the laws of the State of California

16 Executed this 17<sup>th</sup> Day of September 2003, at Fresno, California.

17  
18 

19 **Timothy C. Springer, Attorney for Creditor**  
20 **V.I.P. TRANSPORTATION**

