

Fill in this information to identify the case:

Debtor 1 Fire Mountain Restaurants, LLC

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Northern District of Texas, Dallas Division

Case number 21-30729-11

E-Filed on 05/19/2021
Claim # 109

Official Form 410

Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. **Who is the current creditor?** West Virginia State Tax Department
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?** No
 Yes. From whom? _____

3. Where should notices and payments to the creditor be sent? <small>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</small>	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
	<p><u>Eric M. Wilson</u> Name</p> <p><u>West Virginia State Tax Department Bankruptcy</u> Number Street</p> <p><u>Charleston</u> <u>WV</u> <u>25323</u> City State ZIP Code</p> <p>Contact phone <u>(304) 558-0740</u></p> <p>Contact email <u>Eric.M.Wilson@wv.gov</u></p> <p>Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____</p>	<p>_____ Name</p> <p>_____ Number Street</p> <p>_____ City State ZIP Code</p> <p>Contact phone _____</p> <p>Contact email _____</p>

4. **Does this claim amend one already filed?** No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____
MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?** No
 Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: 8 0 0 3

7. How much is the claim? \$ 61,174.39. Does this amount include interest or other charges? No Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.
TAXES

9. Is all or part of the claim secured? No Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No Yes. Amount necessary to cure any default as of the date of the petition. \$ 0.00

11. Is this claim subject to a right of setoff? No Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check one:

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ 0.00

\$ 0.00

\$ 0.00

\$ 54,359.30

\$ 0.00

\$ 0.00

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 05/19/2021
MM / DD / YYYY

/s/ Lora L. Rutledge
Signature

Print the name of the person who is completing and signing this claim:

Name Lora L. Rutledge
First name Middle name Last name

Title Paralegal

Company West Virginia State Tax Department
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____
Number Street

City State ZIP Code

Contact phone _____ Email _____

Attachment 1 - Fresh Acquisitions -- Fire Mountain Restaurants LLC - POC.pdf
Description -

<p>PROOF OF CLAIM FOR WEST VIRGINIA STATE TAXES ND-TX</p>		<p>The Debtors in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number are as follows: Alamo Fresh Payroll, LLC (1590); Fresh Acquisitions, LLC (2795); Alamo Ovation, LLC (9002); Buffets LLC (2294); Hometown Buffet, Inc. (3002); Tahoe Joe's Inc. (7129); OCB Restaurant Company, LLC (7607); OCB Purchasing, Co. (7610); Ryan's Restaurant Group, LLC (7895); Fire Mountain Restaurants, LLC (8003); Food Management Partners, Inc. (7374); FMP SA Management Group, LLC (3031); FMP-Fresh Payroll, LLC (8962); FMP-Ovation Payroll, LLC (1728); and Alamo Buffets Payroll, LLC (0998). The Debtors' principal offices are located at 2338 N. Loop 1604 W., Suite 350, San Antonio TX, 78248, United States.</p>
<p>In matter of: Fresh Acquisitions, LLC Fire Mountain Restaurants, LLC Case No. 21-30729 xxx-xx-8003</p>	<p>Case Number: 21-30721 CH. 11</p>	

- The creditor is the West Virginia State Tax Division, whose address is P. O. Box 766, Charleston, WV 25323-0766
- The amount of all payments, credit and setoffs on this claim has been credited and deducted for the purpose of making this proof of claim.
- The basis for the claim is taxes, interest, additions to tax and penalties due and owing to the State of West Virginia under Chapter 11 of the West Virginia Code.
- The **TOTAL AMOUNT** of the claim is \$ **61,174.39**

A. SECURED CLAIM (NOTICE OF STATE TAX LIEN FILED)					TOTAL: \$	
Type of Tax	Period	Tax Due	Interest	Additions	Date Recorded	County Location

B. PRIORITY CLAIMS (UNDER BANKRUPTCY CODE 507 (a)(8))					TOTAL: \$ 54,359.30	
<u>Ryans</u>						
Sales/Use	3/31/16	.00	13.18			
Sales/Use	2/29/20	24,403.03	2,257.25			
Sales/Use	3/31/20	25,525.04	2,160.80			

C. UNSECURED NON-PRIORITY					TOTAL: \$ 6,815.09	
Type of Tax	Period	Tax Due	Interest	Additions		
<u>Ryans</u>						
Sales/Use	3/31/16	-	-	2,548.64		
Sales/Use	2/29/20	-	-	1,586.26		
Sales/Use	3/31/20	-	-	2,680.19		

- The classification of the claim is:
 - Taxes, interest, and additions to tax secured by statutory tax lien perfected prior to petition date,
 - Taxes and interest entitled to priority under 11 U.S.C. 507 (a)(8) and not secured by a lien,
 - Taxes, interest, additions to tax and penalties not entitled to priority under 11 U.S.C. 507 (a)(8) and not secured by a lien.
- This claim consists of taxes due, interest at statutory rate, and additions to tax and/or penalties not in compensation for actual pecuniary loss, all computed to the petition date. This claim is based upon tax returns filed by the debtor or an audit of the debtor's records, unless estimated in the absence of returns or audit. This claim supersedes any prior claims filed by the State Tax Division.
- No judgment has been rendered on this claim.

Date: 5/19/21

Lara L. Rutledge