

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 08/30/2021  
Claim # 406

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? Realty Income Corporation (Waycross, GA)  
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?  
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)  
**Where should notices to the creditor be sent?**  
Demetri Lahanas, Esq. Associate General Counsel  
Name  
Realty Income Corporation 11995 El Camino Real  
Number Street  
San Diego, CA CA 92130  
City State ZIP Code  
Contact phone (858) 284-5327  
Contact email dlahanas@realtyincome.com  
**Where should payments to the creditor be sent? (if different)**  
Name  
Number Street  
City State ZIP Code  
Contact phone  
Contact email  
Uniform claim identifier for electronic payments in chapter 13 (if you use one):  
\_\_\_\_\_

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: \_\_\_\_\_

7. How much is the claim? \$ 454,288.03. 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.  
Unpaid rent and rejection damages

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. \$ 274,461.51

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

\$                      0.00

\$                      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 08/30/2021  
MM / DD / YYYY

Demetri Lahanas, Esq.

Signature

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

Name Demetri Lahanas, Esq.  
First name Middle name Last name

Title Associate Vice President, Senior Legal Counsel

Company Realty Income Corporation  
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 - Buffets 4 - Realty Income - Waycross POC.pdf

Description -

**Fill in this information to identify the case:**

Debtor Name: FRESH ACQUISITIONS, LLC, et al. – Case No. 21-30721 (SGJ)

Debtor Name: Fire Mountain Restaurants, LLC – Case No. 21-30729 (SGJ)

UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS

Official Form 410

# Proof of Claim

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

<b>1. Who is the current creditor?</b>		<b>Realty Income Corporation (Waycross, GA)</b>	
		Name of the current creditor (the person or entity to be paid for this claim)	
		Other names the creditor used with the debtor	
<b>2. Has this claim been acquired from someone else?</b>		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes From whom?	
<b>3. Where should notices and payments to the creditor be sent?</b>		<b>Where should notices to the creditor be sent?</b>	<b>Where should payments to the creditors be sent? (if different)</b>
		Demetri Lahanas, Esq. Associate Vice President, Senior Legal Counsel Realty Income Corporation 11995 El Camino Real San Diego, CA 92130 Tel: (858) 284-5327 Email: <a href="mailto:dlahanas@realtyincome.com">dlahanas@realtyincome.com</a>	
		Kelley Drye & Warren LLP 3 World Trade Center 175 Greenwich Street New York, NY 10007 Attn: Robert L. LeHane, Esq. Email: <a href="mailto:rlehane@kelleydrye.com">rlehane@kelleydrye.com</a>	
<b>4. Does this claim amend one already filed?</b>		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Claim number on court claims registry (if known) Filed on
<b>5. Do you know if anyone else has filed a proof of claim for this claim?</b>		<input checked="" type="checkbox"/> No <input type="checkbox"/> 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 Last 4 digits of the debtor's account or any number you use to identify the debtor:

7. How much is the claim?

\$454,288.03\*

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)

**\*CLAIMANT RESERVES ITS RIGHT TO FILE AN AMENDED CLAIM**

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.

**Unpaid rent and related charges and rejection damages due under lease for premises located Waycross, GA. (See Attached)**

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.**

\$274,461.51

11. Is this claim subject to a right or setoff?

No  
 Yes

Identify the property:

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

- Yes  
 No

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

*Check all that apply.*

- 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)(2)/503 that applies. See Attached

**Amount entitled to priority**

\$ \_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

**13. Does this claim qualify as an Administrative Expense under 11 U.S.C. §503(b)(9)?**

- No

Yes. Amount that qualifies as an Administrative Expense under 11 U.S.C. §503(b)(9): \$ \_\_\_\_\_  
 Indicate date goods were received by debtor. Attach proof of delivery of such goods

**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 August 30, 2021

**Realty Income Corporation**

By: \_\_\_\_\_

*Robert L. LeHane*  
**Robert L. LeHane**  
**Kelley Drye & Warren LLP**  
**Counsel for Realty Income Corporation**

**Fire Mountain Restaurants, LLC**  
**Ryan's Store #2419**  
**2330 Memorial Dr**  
**Waycross, GA 31501**  
**(RI File #2096)**

**Filing Date: April 20, 2021**  
**Rejection Date: April 20, 2021**

<b>Lease Information</b>			
Lease Commencement		11/01/06	
Expiration Date		09/30/21	
Current Base Monthly Rent		\$18,040.54	

<b>Pre-petition Claim</b>			
December 2019 Rent		\$17,686.80	
March 2020 Rent Late Fee		\$1,238.08	
April 2020 - April 2021 Rent		\$232,758.32	
2020 Property Taxes		\$22,778.31	
Estimated Cleanup Costs		\$50,000.00	
Attorney Fees		\$3,821.75	
<b>Total</b>			<b>\$328,283.26</b>

<b>Rejection Damages</b>			
<b>Monthly Charges</b>			
<b>\$23,479.15</b>	4/202021-4/30/2021	\$8,609.02	
	5 months Charges	\$117,395.75	
	<b>Total Rejection Damages</b>	<b>\$126,004.77</b>	<b>\$126,004.77</b>

<b>TOTAL DUE</b>			<b>\$454,288.03</b>
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