

ORIGINAL

United States Bankruptcy Court Northern District of Illinois (Eastern Division) PROOF OF CLAIM

In re (Name of Debtor) Kmart Corporation Case Number 02-B02474

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" of payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor(The person or entity to whom the debtor owes money or property) 2020 STRINGTOWN ROAD, LLC

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

Name and Addresses Where Notices Should be Sent C/O THE CAPSTONE GROUP 205 EAST 42ND STREET, SUITE 1916 NEW YORK, NEW YORK 10017 ATTN: JOHN F. LAGEN

Check box if you have never received any notices from the bankruptcy court in this case

Check box if the address differs from the address on the envelope sent to you by the court

THIS SPACE IS FOR COURT USE ONLY

ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR STORE NO. 4834

Check here if this claim replaces amends a previously filed claim dated

1. BASIS FOR CLAIM Goods sold Services performed Money loaned Personal injury/wrongful death Taxes Other (Describe briefly) LEASE REJECTION DAMAGES AND RELATED AMOUNTS AS SET FORTH ON ATTACHMENT

Retiree benefits as defined in 11 U.S.C. § 1114(a) Wages, salaries, and compensation (Fill out below) Your social security number Unpaid compensations for services performed from (date) to (date)

2. DATE DEBT WAS INCURRED Various

3 IF COURT JUDGMENT, DATE OBTAINED

4. CLASSIFICATION OF CLAIM. Under the Bankruptcy Code all claims are classified as one or more of the following: (1) Unsecured Nonpriority, (2) Unsecured Priority, (3) Secured. It is possible for part of a claim to be in one category and part in another. CHECK THE APPROPRIATE BOX OR BOXES that best describe your claim and STATE THE AMOUNT OF THE CLAIM.

SECURED CLAIM \$ Attach evidence of perfection of security interest Brief Description of Collateral: Real Estate Motor Vehicle Other (Describe briefly) Amount of arrearage and other charges included in secured claim above, if any \$ UNSECURED NONPRIORITY CLAIM \$ 1,185,908.14 A claim is unsecured if there is no collateral or lien on property of the debtor securing the claim or to the extent that the value of such property is less than the amount of the claim

UNSECURED PRIORITY CLAIM \$ Specify the priority of the claim Wages, salaries, or commissions (up to \$2,000), earned not more than 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 \$900 of deposits toward purchase, lease or rental of property or services for personal, family or household use - 11 U.S.C. § 507(a)(6) Taxes or penalties of governmental units - 11 U.S.C. § 507(a)(7) Other

5. TOTAL AMOUNT OF CLAIM AT TIME CASE FILED \$ 1,185,908.14 (Unsecured) (Secured) (Priority) \$ 1,185,908.14 Check this box if claim includes prepetition charges in addition to the principal amount of the claim. Attach itemized statement of all additional charges

6. CREDITS AND SETOFFS: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim, in filing this claim, claimant has deducted all amounts that claimant owes to debtor. 7 SUPPORTING DOCUMENTS: Attach copies of supporting documents such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, or evidence of security interests. If the documents are not available, explain If the documents are voluminous, attach a summary. 8. TIME 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.

THIS SPACE IS FOR COURT USE ONLY RECEIVED COURT SERVICES DIVISION 03/25 PM 3:25 BANKRUPTCY

Date: March 25, 2002

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) 2020 Stringtown Road, LLC BY [Signature], authorized signatory

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

3/25/02 ML 762

**Case No. 02-B02474**

**Debtor: Kmart Corporation**

**Creditor: 2020 Stringtown Road, L.L.C.**

**KMART STORE SITE #4834  
1840 DOUGLAS AVENUE  
BREWTON, ALABAMA**

### **LEASE TERMINATION DAMAGE CLAIM**

That certain lease dated November 27, 1991, as modified November 10, 1992, by and between 2020 Stringtown Road, L.L.C., Landlord by assignment dated December 10, 2000, from The Welk Group, Inc., by assignment dated April 28, 1999, from PEREGRINE PROPERTIES LIMITED PARTNERSHIP by assignment dated July 24, 1995, from MISSION LEASING by assignment dated December 23, 1992, from BDKM, Inc., and KMART CORPORATION, as Tenant.

2020 Stringtown Road, L.L.C., is owner in fee simple of that certain plot, piece or parcel of real property commonly known as 1840 Douglas Avenue, situated in the City of Brewton, County of Escambia, State of Alabama, consisting of approximately 7.795 acres of land and the improvements appurtenant thereto consistently primarily of one (1) single story building containing approximately 91,266 square feet leasable space, plus non-exclusive rights to use for parking and access approximately 4.786 acres adjacent thereto.

The term of the Lease was Twenty-five (25) years (Lease Article 2), with rent commencing on or about August 31, 1992 (Estoppel Certificate dated). The Annual Rent set forth in the lease is \$421,133.00 (\$35,094.42 per month)(Lease Article 3), and Tenant paid as additional rent all real estate taxes and special assessments (Lease Article 5). In addition, the Lease required Tenant to maintain and repair the Premises (Lease Article 15), and maintain fire insurance with extended coverage at full replacement cost, personal injury and property damage insurance (Lease Article 10), as well as

11 U.S.C. § 502 states:

(a) A claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest, including a creditor of a general partner in a partnership that is a debtor in a case under chapter 7 of this title, objects.

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that -

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(6) if such claim is the claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds -

(A) the rent reserved by such lease, without acceleration, for the greater of one year, or 15 percent, not to exceed three years, of the remaining term of such lease, following the earlier of -

(i) the date of the filing of the petition; and

(ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property; plus

(B) any unpaid rent due under such lease, without acceleration, on the earlier of such dates . . . .

Pursuant to the above, 2020 Stringtown Road, L.L.C., will make a Lease Termination Claim based upon the annual rent, plus Tenant's obligations outstanding at the time the petition was filed.

Term of Lease: 25 years commencing August 31, 1992  
Remaining at 01/10/02: 15.64 years  
15% x 15.64 years: 2.35 years  
2.35 years x \$421,133/year: \$989,663 plus real estate taxes, insurance, and repairs  
Annual Rent: \$421,133 plus real estate taxes, insurance, and repairs

Lease Termination Claim

Base Rent:	\$ 989,662.50
Real Estate Taxes:	64,314.80
Insurance:	66,360.24
Deferred Maintenance:	65,570.55
<b>Total Lease Termination Claim:</b>	<b>\$ 1,185,908.14</b>

BREWTON, AL PROPERTY  
COST ESTIMATE

DESCRIPTION	COST ESTIMATE
<b>EXTERIOR</b>	
Foundation	
Walls	OK
Roof	OK
Exterior Components of Mechanical Systems	OK
Fascia	OK
Tenant Signs (note damage to building)	\$ 4,200.00
Paint - Exterior Block, Rails and Fascia	\$ 13,500.00
Service Drives	
Fences	
Exterior Doors - Paint and Repair	\$ 1,175.00
Walkways - Pressure Wash	\$ 1,200.00
<b>PARKING LOT</b>	
Paving	
Curbing	
Clearing, Sealing, Striping	\$ 7,051.20
Loading Areas	
<b>GROUNDS</b>	
Landscaping - Rear and fenced area	\$ 1,350.00
<b>INTERIOR</b>	
Floor Slab	OK
Paint Walls	\$ 8,000.00
Repair and replace ceiling	\$ 1,800.00
Light Fixtures	\$ 4,094.35
Floor Covering - clean, wax and replace tiles	\$ 17,500.00
Floor Drains	OK
Toilet facilities - clean and paint	\$ 1,200.00
Windows - clean	\$ 1,600.00
Interior Doors	OK
Paint	
<b>HVAC</b>	
OK	
<b>ELECTRICAL SYSTEM</b>	
<b>PLUMBING</b>	
<b>FIRE PROTECTION SYSTEM/ ALARMS</b>	
Repair and secure kitchen and other	\$ 2,900.00
<b>MISCELLANEOUS</b>	
Rubbish removal	
Pest Control	
<b>TOTAL COST ESTIMATE</b>	<b>\$ 65,570.55</b>

**LEASE TERMINATION CLAIM**

Base Rent	\$ 989,662.55
Real Estate Tax	\$ 64,314.80
Insurance	\$ 66,360.24
Deferred Maintenance	\$ 65,570.55
<b>Total Lease Termination Claim</b>	<b>\$ 1,185,908.14</b>

BOB BONNER  
TAX COLLECTOR  
ESCAMBIA COUNTY  
P.O. BOX 407  
BREWTON, AL 36427  
251-867-0215

FIRST CLASS  
MAIL  
US POSTAGE  
PAID  
PERMIT NO. 122

TAX NOTICE

PROPERTY IDENTIFICATION:

15-05-16-3-001-001-001

MAIL TO:

Welk Group, Inc

ACCOUNT NO: 18075

NO. OF PARCELS: 1

TOTAL TAXES DUE: 524.80

YOUR CANCELLED CHECK IS YOUR RECEIPT

YOUR CHECK NO. \_\_\_\_\_

RETAIN THIS PORTION FOR YOUR RECORDS

ACCOUNT NO: 18075

NO. OF PARCELS: 1

TOTAL TAXES DUE: 524.80

RETURN THIS STUB WITH PAYMENT

BOB BONNER  
TAX COLLECTOR  
ESCAMBIA COUNTY  
P.O. BOX 407  
BREWTON, AL 36427  
251-867-0215

FIRST CLASS  
MAIL  
US POSTAGE  
PAID  
PERMIT NO. 122

TAX NOTICE

PROPERTY IDENTIFICATION:

15-05-16-2-007-001-001

MAIL TO:

Welk Group, Inc

ACCOUNT NO: 18074

NO. OF PARCELS: 1

TOTAL TAXES DUE: 26843.20

YOUR CANCELLED CHECK IS YOUR RECEIPT

YOUR CHECK NO. \_\_\_\_\_

RETAIN THIS PORTION FOR YOUR RECORDS

ACCOUNT NO: 18074

NO. OF PARCELS: 1

TOTAL TAXES DUE: 26843.20

RETURN THIS STUB WITH PAYMENT

ROBINSON BROG LEINWAND GREENE GENOVESE & GLUCK P.C.

1345 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10105-0143

(212) 603-6300

TELECOPIER (212) 956-2164

Fred B. Ringel

March 22, 2002

WRITER'S DIRECT DIAL 603-6301  
NUMBER  
E-MAIL [FBR@robinsonbrog.com](mailto:FBR@robinsonbrog.com)  
FAX: 581-5981

**VIA EXPRESS OVERNIGHT MAIL**

Trumbull Services  
P.O. Box 426  
Windsor, Connecticut 06095

RE: Kmart Corporation, *et al.*  
Chapter 11 Case No. 02-B02474  
(Jointly Administered)

Gentlemen:

I enclose herewith and original and one (1) copy of Proof of Claim on behalf of Cap Realty 01-Edinburgh, LLC and an original and one (1) copy of Proof of Claim on behalf of 2020 Stringtown Road, LLC against Kmart Corporation. Please cause the original to be filed and return a "FILE STAMPED" copy to me in the enclosed self-addressed stamped envelopes.

Please contact me with any questions.

Very truly yours,



**Fred B. Ringel**

FBR/tef

Enclosures

cc: John F. Lagan, Esq. —w/o enclosures  
The Capstone Group