

UNITED STATES BANKRUPTCY COURT <u>NORTHERN</u> DISTRICT OF <u>ILLINOIS</u>		PROOF OF CLAIM
Name of Debtor Kmart Corporation		Case Number 02-02474
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 (The person or other entity to whom the debtor owes money or property) Walter E. Holbrook		THIS SPACE IS FOR COURT USE ONLY
Name and address where notices should be sent Richard E. Zuckerman, Esq. Honigman Miller Schwartz and Cohn LLP 2290 First National Building, Detroit, MI 48226		
Telephone number 313-465-7618		
Account or other number by which creditor identifies debtor		
		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 <input type="checkbox"/>
		<input checked="" type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case
		<input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court
		Check here <input type="checkbox"/> replaces if this claim <input type="checkbox"/> amends a previously filed claim, dated _____
1. Basis for Claim		
<input type="checkbox"/> Goods sold		
<input checked="" type="checkbox"/> Services performed		
<input type="checkbox"/> Money loaned		
<input type="checkbox"/> Personal injury/wrongful death		
<input type="checkbox"/> Taxes		
<input checked="" type="checkbox"/> Other <u>Indemnification and See Exhibit A attached</u>		
<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a)		
<input type="checkbox"/> Wages, salaries, and compensation (fill out below)		
Your SS #- _____		
Unpaid compensation for services performed from _____ to _____ (date) (date)		
2. Date debt was incurred: September 6, 2001 and on-going, see Exhibit A attached		3. If court judgment, date of obtained:
4. Total Amount of Claim at Time Case Filed:		\$3,635.94 and see Exhibit A attached
If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below		
<input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principle amount of the claim. Attach itemized statement of all interest or additional charges		
5. Secured Claim.		6. Unsecured Priority Claim.
<input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Value of Collateral: \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____		<input type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority \$ _____ Specify the priority of the claim <input type="checkbox"/> Wages, salaries, or commissions (up to \$4,300)* 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) <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4) <input type="checkbox"/> Up to \$1,950* of deposits toward purchase lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6) <input type="checkbox"/> Alimony maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7) <input type="checkbox"/> Taxes or penalties owed to governmental of 11 U.S.C. § 507(a)(8) <input type="checkbox"/> Other Specify applicable paragraph of 11 U.S.C. § 507(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
7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.		THIS SPACE IS FOR COURT USE ONLY 856 RECEIVED TRUMBULL SERVICES COMPANY 3-26-02 2002 MAR 26 PM 2:43 Sm BANKRUPTCY
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 documents are not available, explain. If the documents are voluminous, attach a summary.		
9. Date - Stamped Copy: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.		
Date March <u>13</u> , 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) <u>Walter E. Holbrook</u>		
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.		

Supporting Documents to Proof of Claim of Walter E. Holbrook
In re: Kmart Corporation, et. al, Case No. 02-B02474

- | | |
|-----------|---|
| Exhibit A | Explanation of Basis for Indemnification |
| Exhibit B | Bill Payment History Report and Outstanding Bills of Honigman
Miller Schwartz and Cohn LLP |
| Exhibit C | Kmart Corporation's By-Laws |
| Exhibit D | Kmart Corporation's Letter to Walter Holbrook dated September
4, 2001. |

EXHIBIT A

Exhibit A
to Proof of Claim of Walter E. Holbrook
In re: Kmart Corporation, et. al, Case No. 02-B02474

Walter E. Holbrook's Proof of Claim is based upon Kmart Corporation's indemnification of him under (1) Michigan law; (2) Kmart Corporation's Articles of Incorporation; (3) Kmart Corporation's By-Laws (including any Amended and Restated By-Laws) (attached as Exhibit C); and (4) Kmart Corporation's Letter to Walter E. Holbrook dated September 4, 2001 (attached as Exhibit D).

This indemnification claim includes but is not limited to "attorneys' fees, judgments, penalties, fines and amounts paid or to be paid in settlement reasonably incurred by [Holbrook]" in connection with "any threatened, pending or completed action (including any civil, criminal, administrative or investigative suit or proceeding) by reason of the fact that [Holbrook] is or was a director or officer of the Company . . .". See Kmart Corporation By-Laws, Article VII Section 3 (attached as Exhibit C).

The amount of unpaid attorney fees and costs incurred as of January 22, 2002 (the "Petition Date") was \$3,635.94. See Exhibit B. The outstanding balance through March 6, 2002 is \$3,635.94. Id. Mr. Holbrook reserves the right to seek indemnification for the entire outstanding balance, including any attorney fees and costs incurred from the date of this Proof of Claim forward.

Although Mr. Holbrook denies any liability, to the extent that a judgment is entered against him, or any other claim subject to indemnification arises, he reserves the right to amend this Proof of Claim.

EXHIBIT B

205568
71121

LAW OFFICES
Honigman Miller Schwartz and Cohn LLP
2290 First National Building
660 Woodward Avenue
Detroit, Michigan 48226-3583
(313) 465-7000
I.D. NO. 38-1407377

Mr. Walter Holbrook
365 Saw Mill Lane
Ponte Verda, FL 32082

March 5, 2002
INVOICE NUMBER: 541677

RE: K Mart San Juan Inquiry - Matter # 71121

For professional services rendered through March 5, 2002:

Total Fees	\$621.25
Total Disbursements	169.31
Total Current	<u>\$790.56</u>
Total Unpaid Prior Balances	2,845.38
Total Due	<u>\$3,635.94</u>

TIME DETAIL

Date	Name	Hours	Amount	Description
01/04/02	M. Hahn	0.25	43.75	Conf call with Richard Zuckerman and T. Cranmer re: status of case.
01/09/02	R. Zuckerman	0.50	192.50	Status call from KMart outside counsel John Hogan at Holland and Knight, Miami.
01/14/02	R. Zuckerman	0.25	96.25	Status discussion with Cranmer.
01/16/02	R. Zuckerman	0.25	96.25	Letter to Kmart. Call from Cranmer re case status.
01/21/02	R. Zuckerman	0.50	192.50	Status call from client. Call to John Hogan.
Total Hours and Fees		1.75		<u>\$621.25</u>

DISBURSEMENT DETAIL

Date	Description	Rate	Amount
01/11/02	Meals VENDOR: Zuckerman, Richard E.; INVOICE#: 1902REZ; DATE: 01/11/2002 - CC; 205568/71121 Dinner while in Tampa FL re;case status		169.11
Sub Total Itemized			169.11
	Photocopying and Other Document Production	1 pages @0.20	0.20
Sub Total Summarized			0.20
Disbursements Total			<u>\$169.31</u>

DISBURSEMENT SUMMARY

Description	Rate	Amount
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Meals		169.11
Photocopying and Other Document Production	1 pages @0.20	0.20

Total Disbursements **\$169.31**

ATTORNEY TIME SUMMARY

Name	Description	Hours	Amount
Zuckerman, Richard	Status call from KMart outside counsel John Hogan at Holland and Knight, Miami., Status discussion with Cranmer., Letter to Kmart. Call from Cranmer re case status., Status call from client. Call to John Hogan.	1.50	577.50
Hahn, Marcy A	Conf call with Richard Zuckerman and T. Cranmer re: status of case.	0.25	43.75
Total Hours and Fees		1.75	<u>\$621.25</u>

OUTSTANDING RECEIVABLES

Date	Invoice #	Billed Amount	Credit Amount	Total A/R
01/08/02	535865	2,845.38	0.00	2,845.38
Total Outstanding Receivables				<u>\$2,845.38</u>

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Mr. Walter Holbrook
365 Saw Mill Lane
Ponte Verda, FL 32082

March 5, 2002
INVOICE NUMBER: 541677

CURRENT INVOICE

<u>Matter ID</u>	<u>Matter Name</u>	<u>Matter Amount</u>
71121	K Mart San Juan Inquiry	790.56

CURRENT INVOICE TOTAL **\$790.56**

PRIOR OUTSTANDING INVOICES

<u>Invoice No.</u>	<u>Invoice Date</u>	<u>Invoice Amount</u>	<u>Credit Amount</u>	<u>Outstanding Balance</u>
535865	01/08/02	2,845.38	0.00	2,845.38

SUBTOTAL PRIOR INVOICES **\$2,845.38**

TOTAL DUE **\$3,635.94**

PLEASE RETURN THIS REMITTANCE ADVICE WITH YOUR PAYMENT.
If you have any questions regarding this statement, please contact the attorney
responsible for this matter. Thank you.

INVOICE PAYABLE UPON RECEIPT

205568
71121

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660 Woodward Avenue
Detroit, Michigan 48226-3583
(313) 465-7000
I.D. NO. 38-1407377

Mr. Walter Holbrook
365 Saw Mill Lane
Ponte Verda, FL 32082

January 8, 2002
INVOICE NUMBER: 535865

RE: K Mart San Juan Inquiry - Matter # 71121

For professional services rendered through December 31, 2001:

Total Fees	\$2,835.00
Total Disbursements	10.38
Total Due	<u>\$2,845.38</u>

TIME DETAIL

Date	Name	Hours	Amount	Description
09/06/01	R. Zuckerman	0.50	187.50	Status call with client re indemnification letter from KMart.
09/07/01	R. Zuckerman	0.75	281.25	Status call from client. Voice and emails from co counsel re strategy.
09/14/01	R. Zuckerman	0.25	93.75	Call from investigators re telephone interview.
09/19/01	R. Zuckerman	0.75	281.25	Meeting of co counse for individualsl to discuss case status and strategy
09/19/01	M. Hahn	0.75	116.25	Meeting with Richard Zuckerman, T. Cramner and D. DuMouchelle re: strategy.
09/24/01	R. Zuckerman	0.50	187.50	Voice mail and phone call to/from investigator re client interview. Call to client re same.
09/25/01	R. Zuckerman	1.50	562.50	Telephonic interview of client by KMart investigators (Al Lane). Confer with client re same; calls to co counsel re same.
10/23/01	R. Zuckerman	0.25	93.75	Confer with Cranmer re case status.
11/19/01	R. Zuckerman	0.50	187.50	Status call to Cranmer.
11/20/01	R. Zuckerman	1.00	375.00	Call from KMart investigator re follow up questions. Calls to/from Cranmer re same.
11/26/01	R. Zuckerman	0.75	281.25	Review resolutions. Review opinion letters.
12/04/01	R. Zuckerman	0.50	187.50	Status call from client re call from KMart Investigator Al Lane.

Total Hours and Fees **8.00** **\$2,835.00**

DISBURSEMENT DETAIL

Date	Description	Rate	Amount
09/27/01	Telephone Charges 9042802171; 4 Mins.		0.64
10/15/01	Telephone Charges 9042802171; 54 Mins.		8.64

Date	Description	Rate	Amount
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Sub Total Itemized 9.28

Mobile Phone Charges 1.10

Sub Total Summarized 1.10

Disbursements Total **\$10.38**

DISBURSEMENT SUMMARY

Description	Rate	Amount
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Mobile Phone Charges 1.10

Telephone Charges 9.28

Total Disbursements **\$10.38**

ATTORNEY TIME SUMMARY

Name	Description	Hours	Amount
Zuckerman, Richard	Status call with client re indemnification letter from KMart., Status call from client. Voice and emails from co counsel re strategy., Call from investigators re telephone interview., Meeting of co counse for individualsl to discuss case status and strategy, Voice mail and phone call to/from investigator re client interview. Call to client re same., Telephonic interview of client by KMart investigators (Al Lane). Confer with client re same; calls to co counsel re same., Confer with Cranmer re case status., Status call to Cranmer., Call from KMart investigator re follow up questions. Calls to/from Cranmer re same., Review resolutions. Review opinion letters., Status call from client re call from KMart Investigator Al Lane.	7.25	2,718.75
Hahn, Marcy A	Meeting with Richard Zuckerman, T. Cramner and D. DuMouchelle re: strategy.	0.75	116.25
Total Hours and Fees		8.00	<u>\$2,835.00</u>

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Mr. Walter Holbrook
365 Saw Mill Lane
Ponte Verda, FL 32082

January 8, 2002
INVOICE NUMBER: 535865

CURRENT INVOICE

<u>Matter ID</u>	<u>Matter Name</u>	<u>Matter Amount</u>
71121	K Mart San Juan Inquiry	2,845.38

CURRENT INVOICE TOTAL **\$2,845.38**

TOTAL DUE **\$2,845.38**

PLEASE RETURN THIS REMITTANCE ADVICE WITH YOUR PAYMENT.
If you have any questions regarding this statement, please contact the attorney
responsible for this matter. Thank you.

INVOICE PAYABLE UPON RECEIPT

EXHIBIT C

EXHIBIT 3b

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By-Laws
of Kmart Corporation
A Michigan Corporation
(Inc. Mar. 9, 1916)

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September 1995

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I, _____, Secretary of Kmart Corporation, a Michigan corporation, hereby certify that the following is a true and complete copy of the By-Laws of said Corporation as amended to the date of this certificate and now in force.

In witness whereof, I have hereunto set my hand and affixed the seal of the Corporation at the City of Troy, Michigan, this ____ day of _____ A.D. 19__.

Secretary

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By-Laws
of Kmart Corporation

A Michigan Corporation

(Inc. Mar. 9, 1916)

ARTICLE I Stockholders' Meetings

Section 1. Annual Meeting. The annual meeting of stockholders for the election of directors and for the transaction of any other business authorized or required to be transacted by the stockholders, shall be held at the principal office of the Company on the fourth Tuesday in May in each year at nine o'clock A.M., or at such other place and time as the Board of Directors may designate. Any annual meeting not held at the time prescribed therefor may be held at any time thereafter to which said meeting may be adjourned or for which it may be called.

Section 2. Special Stockholders' Meetings. Special meetings of stockholders other than those regulated by statute may be called by the Chairman or Vice Chairman of the Board, or by the Board of Directors, either by a Directors' resolution or a written instrument signed by a majority of the Directors.

Section 3. Notice of Meetings. Written notice of the time, place and purposes of a meeting of stockholders shall be given not less than twenty (20) nor more than sixty (60) days before the date of the meeting, either personally or by mail, to

each stockholder of record entitled to vote at the meeting. If mailed, such notice shall be

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deemed to be given when deposited in the United States mail, addressed to the stockholder at his or her address as it appears on the stock transfer books of the Company, with postage prepaid.

Section 4. Quorum. At all meetings of stockholders, except where it is otherwise provided by law, the holders of a majority of the outstanding shares entitled to vote, being present in person or represented by proxy, shall constitute a quorum for all purposes.

Section 5. Inspectors of Election. Prior to the annual meeting of stockholders, the Chairman or Vice Chairman of the Board or the President shall appoint at least two Inspectors of Election to act as inspectors at such meeting and at any meeting of stockholders which may be held during the ensuing year. It shall be the duty of Inspectors of Election to receive and classify all proxies as received, and check same with the record of stockholders entitled to vote at such meetings, to tabulate votes, and to report to the chairman of the meeting the total number of shares represented at the meeting in person or by proxy, and the result of the voting.

Section 6. Voting. At all meetings of stockholders, every stockholder of record as of the applicable record date shall be entitled to vote, either in person or by proxy appointed by instrument in writing, subscribed by such stockholder or by his authorized agent. Each outstanding share of capital stock is entitled to one vote on each matter submitted to a vote, except as otherwise provided in the Articles of Incorporation. A vote may be cast either orally or in writing, at the discretion of the chairman of the meeting.

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Section 7. Adjournments. Any annual or special meeting of stockholders, whether or not a quorum is present, may be adjourned from time to time by a majority vote of the shares present in person or by proxy. Unless the Board of Directors fixes a new record date for the adjourned meeting, it is not necessary to give notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and at the adjourned meeting only such business is transacted as might have been transacted at the original meeting.

Section 8. Conduct of Business. Only such business shall be conducted at a meeting of stockholders as is specified in the notice of meeting (or any supplement thereto) or as may be properly brought before the meeting by or at the direction of the Board of Directors or by a stockholder entitled to vote at such meeting. In addition to any other applicable requirements and limitations (including requirements of the Securities Exchange Act of 1934, as amended, and rules and regulations thereunder with respect to inclusion of proposals in the Company's proxy solicitation materials), for business to be properly brought before a meeting by a stockholder (other than the nomination of candidates for election as directors as provided in Article II, Section 2), notice thereof in writing must be delivered to the Secretary of the Company not later than (a) with respect to an annual meeting of stockholders, ninety (90) days in advance of such meeting, provided, however, if the annual meeting is not held on or within eight (8) days of the date set forth in Article I, Section 1 and if less than one hundred (100) days notice or public disclosure of the date of the meeting is given to stockholders, such notice by a stockholder must be not later than the tenth day following the date on which notice or public disclosure of the date of the meeting was first given to the stockholders and (b) with respect to a special meeting of stockholders, such notice by a stockholder must be not later than the tenth day following the date on which notice or public disclosure of the date of the meeting was first given to the

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stockholders. A stockholder's notice to the Secretary shall set forth as to any matter the stockholder proposes to bring before the meeting (a) the name and address of the stockholder, (b) a brief description of the business desired to be brought before the meeting and the reasons for conducting such business at the meeting, and (c) any material interest of the stockholder in such business. The chairman of the meeting may rule out of order any business not properly brought before the meeting in compliance with the foregoing procedures.

ARTICLE II Directors

Section 1. Number and Term of Office. The number of directors constituting the entire Board of Directors of the Company shall be not less than seven (7) nor more than twenty-one (21) and shall be determined in the manner set forth in the Articles of Incorporation. Classifications of directors pursuant to the Articles of Incorporation shall be by the Board of Directors. All directors shall be stockholders in the Company. At each annual meeting of stockholders, directors shall be elected by a plurality of the votes cast, to hold office as provided in the Articles of Incorporation and until their successors are elected and qualified.

Section 2. Nominations of Director Candidates. Nominations of candidates for election as directors may be made by the Board of Directors or by any stockholder entitled to vote for the election of directors. Nominations by a stockholder must be made by notice in writing delivered to the Secretary of the Company not later than (a) with respect to an election to be held at an annual meeting of stockholders, ninety (90) days in advance of such meeting, provided, however, if the annual meeting is not held on or within eight (8) days of the date set forth in Article I, Section 1 and if less than

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one hundred (100) days notice or public disclosure of the date of the meeting is given to stockholders, such notice by a stockholder must be not later than the tenth day following the date on which notice or public disclosure of the date of the meeting was first given the stockholders, and (b) with respect to an election to be held at a special meeting of stockholders, such notice by a stockholder must be not later than the tenth day following the date on which notice or public disclosure of the date of the meeting was first given the stockholders. A stockholder's notice to the Secretary shall set forth: (a) the name and address of the stockholder, (b) the name, age and business address of each nominee proposed in such notice, (c) such other information concerning each nominee as must be disclosed of nominees in proxy solicitations pursuant to proxy rules of the Securities and Exchange Commission, and (d) the written consent of each nominee to serve as a director if so elected. The chairman of the meeting may refuse to acknowledge the nomination of any person not made in compliance with the foregoing procedures. A stockholder's compliance with the foregoing procedures shall not require the Company to include a proposed nominee in the Company's proxy solicitation materials.

Section 3. Removal of Directors. Subject to the rights of holders of any series of preferred stock then outstanding, any director may be removed from office at any time either (a) by vote of the holders of a majority of the shares entitled to vote at an election of directors, but only for cause, or (b) by vote of a majority of the other directors, with or without cause.

Section 4. Vacancies. Any vacancy in the Board of Directors through death, resignation, disqualification or other cause, or because of an increase in the number

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of directors, may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum, for a term of office continuing only until the next election of directors by the stockholders.

Section 5. Regular Meetings. Regular meetings of the Board of Directors may be held, either within or without the State of Michigan, at such time and at such place as may from time to time be determined by the Board of Directors, and no notice shall be required to be given of any regular meeting.

Section 6. Special Meetings. Special meetings of the Board of Directors may be held, either within or without the State of Michigan, by resolution of the Board of Directors or whenever called by the Chairman or Vice Chairman of the Board, or the President, or a Vice President or the Secretary of the Company, provided that notice thereof is given personally to the last known address of each director either by mail, not less than forty-eight (48) hours before such meeting, or by telephone or telegram, not less than twenty-four (24) hours before such meeting, or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances. Any director may waive notice of any special meeting. Neither the business to be transacted at, nor the purpose of, a special meeting need be specified in the notice or waiver of notice of the meeting.

Section 7. Quorum and Voting. A majority of the members of the Board then in office shall constitute a quorum for the transaction of business, except where otherwise provided by law or the Articles of Incorporation or the By-Laws; but a majority of members present at any regular or special meeting, although less than a quorum, may adjourn the meeting from time to time, without notice. The vote of the majority of

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members present at a meeting at which a quorum is present constitutes the action of the Board, unless the vote of a larger number is required by law or the Articles of Incorporation or the By-Laws.

Section 8. Action of Directors Without A Meeting. Except as otherwise provided by law, action required or permitted to be taken pursuant to authorization voted at a meeting of the Board or a committee thereof may be taken without a meeting if, before or after the action, all members of the Board or of the committee consent thereto in writing. The written consents shall be filed with the minutes of the proceedings of the Board or committee. The consent has the same effect as a vote of the Board or committee for all purposes.

Section 9. Chairman of the Board. The Board of Directors may elect a Chairman of the Board from among the members of the Board. If the Board of Directors has elected a Chairman of the Board, the Chairman shall preside at all meetings of stockholders and of the Board of Directors and shall perform such duties as may be designated by the Board of Directors.

Section 10. Vice Chairman of the Board. The Board of Directors may elect a Vice Chairman of the Board from among the members of the Board. If the Board of Directors has elected a Vice Chairman of the Board, the Vice Chairman shall perform such duties as may be designated by the Chairman of the Board, subject to the direction of the Board of Directors.

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ARTICLE III Officers

Section 1. Officers. The officers of the Company shall be a President, one or more Vice Presidents, a Secretary and a Treasurer. The Board of Directors shall have power to add designations to the aforesaid offices and to create such other offices as it may from time to time deem expedient, and shall, at some convenient time after each annual meeting, elect officers of the Company for the ensuing year.

Section 2. The President. The President shall perform such duties as may be designated by the Board of Directors, and shall have authority to execute on behalf of the Company any and all contracts, agreements, bonds, deeds, mortgages, leases or other obligations of the Company. In the absence or incapacity of the President, the Board of Directors shall determine which other officer shall perform the duties of that office.

Section 3. The Vice Presidents. The Vice Presidents shall perform such duties as may be designated by the Chairman of the Board or the President, subject to the direction of the Board of Directors. Any Vice President shall have authority to execute on behalf of the Company any and all contracts, agreements, bonds, deeds, mortgages, leases or other obligations of the Company.

Section 4. The Treasurer. The Treasurer shall have the custody of and be responsible for all funds and securities of the Company, subject to the control of the Board of Directors. The Treasurer shall keep bank accounts in the name of the Company and shall exhibit the books and accounts to any director upon application at the principal office of the Company during ordinary business hours. The Treasurer shall perform all duties incident to the position of Treasurer, subject to the control of the Board of

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Directors, and shall have authority to sign and endorse all notes, checks, drafts and other obligations of the Company.

Section 5. The Secretary. The Secretary shall keep a record in proper books provided for that purpose of all the meetings and proceedings of the Board of Directors and the minutes of the stockholders' meetings, and shall keep such other records and shall perform such other duties as the Board of Directors or Chairman of the Board shall designate. The Secretary shall notify the directors and stockholders of their respective meetings, shall attend to the giving and serving of all notices of the Company, and shall in general do and perform all the duties pertaining to the office, subject to the control of the Board of Directors.

The Secretary shall keep a stock certificate book and transfer book at the office of the Company, or at such other place or places as may be chosen by the Board of Directors. The Secretary shall keep careful data from which a list of stockholders can be compiled, and shall furnish such list upon order of the Board of Directors. The Secretary shall have the custody of the seal of the Company, and shall attach the same to instruments required to be executed under the seal of the Company.

Section 6. Divisional, Operations and Regional Vice Presidents and Junior Officers. The Board of Directors may elect such junior officers as it may from time to time deem expedient. In addition, the Board of Directors and the Chairman of the Board may each elect such Divisional Vice Presidents, Operations Vice Presidents and Regional Vice Presidents as each may from time to time deem expedient. The Divisional Vice Presidents, Operations Vice Presidents, Regional Vice Presidents and junior officers shall have such powers and authority and shall perform such duties as may be

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assigned to them by the Board of Directors, the Chairman of the Board or the senior officer to whom they report.

Section 7. Removal. Any officer elected or appointed by the Board of Directors may be removed at any time with or without cause by the Board of Directors.

Section 8. Vacancies. Vacancies among officers of the Company during the year may be filled by the Board of Directors for the unexpired portion of the term.

ARTICLE IV Committees

Section 1. Executive/Finance Committee. There shall be an Executive and Finance Committee chosen by the Board of Directors at its first meeting after this By-Law is adopted and thereafter at its first meeting following the annual meeting of stockholders of the Company each year. The Executive and Finance Committee shall consist of not less than three members of the Board, one of whom shall be the Chairman of the Board. One member shall be designated as chairman by the Board. During the intervals between meetings of the Board of Directors and subject to such limitations as provided by law or by resolution of the Board, the Committee shall possess and may exercise all powers and authority of the Board of Directors in the management and direction of the affairs of the Company and shall be responsible for review of corporate financial policies and procedures and shall recommend to the Board dividend policy, corporate financing, the issuance and sale of company securities and investment of funds, and shall perform such other duties as the Board may prescribe. The Committee shall keep minutes of its proceedings, and all action by the Committee shall be reported at the next meeting of the Board of Directors.

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Section 2. Audit Committee. There shall be an Audit Committee chosen by the Board of Directors at its first meeting after this By-Law is adopted and thereafter at its first meeting following the annual meeting of stockholders each year. The Audit Committee shall consist of not less than three members of the Board, none of whom shall be an officer of the Company or any of its subsidiaries. One member shall be designated as chairman by the Board. The Committee shall recommend to the Board the conditions, compensation and term of appointment of independent certified public accountants for the auditing of the books and accounts of the Company and its subsidiaries. From time to time, as considered necessary and desirable, the Committee shall confer with such accountants for the exchanging of views relating to the scope and results of the auditing books and accounts of the Company and its subsidiaries and shall provide to the Board such assistance as may be required with respect to the corporate and reporting practices of the Company. The Committee shall perform such other duties as the Board may prescribe.

Section 3. Compensation and Incentives Committee. There shall be a Compensation and Incentives Committee chosen by the Board of Directors at its first meeting after this By-Law is adopted and thereafter at its first meeting following the annual meeting of stockholders each year. The Committee shall consist of not less than three members of the Board, none of whom shall be an officer of the Company or any of its subsidiaries. No person may be a member of this Committee who is, or within one year prior to his appointment to the Committee was, eligible for selection as a person to whom rights or benefits may be granted pursuant to any stock option or other long term incentive plan of the Company or any of its subsidiaries. One member shall be designated as chairman by the Board. The Committee shall determine the nature and amount of compensation of all senior officers and directors of the Company. As may be

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prescribed by the Board of Directors, the Committee shall administer any stock

option or other long term incentive plan of the Company and perform other prescribed duties.

Section 4. Nominating Committee. There shall be a Nominating Committee chosen by the Board of Directors at its first meeting following the annual meeting of stockholders each year. The Nominating Committee shall consist of not less than three members of the Board, none of whom shall be an officer of the Company or any of its subsidiaries. One member shall be designated as chairman by the Board. The Committee shall recommend to the Board nominees for election as directors, and shall perform such other duties as the Board may prescribe.

Section 5. Committee Vacancies; Quorum, Voting and Procedures. Each member of a committee shall serve at the pleasure of the Board of Directors, and vacancies on a committee may be filled by the Board at any time. The Board may also increase the number of members of a committee at any time. A majority of all members of a committee shall constitute a quorum, and the affirmative vote of a majority of all the members of a committee shall constitute the action of the committee. Each committee shall determine its own rules of procedure and shall meet as provided by such rules, or by resolution of the Board, or on the call of the committee chairman or any member thereof.

Section 6. Other Committees. The Board of Directors may by resolution establish such other committees as may be desirable, the responsibilities and duties of which may be prescribed by the Board, subject to such limitations as provided by law.

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ARTICLE V Capital Stock

Section 1. Certificates. Certificates of shares of the capital stock of the Company shall be in such form as shall be approved by the Board of Directors, signed by the Chairman or Vice Chairman of the Board, the President or a Vice President and also by the Secretary or an Assistant Secretary or by the Treasurer or an Assistant Treasurer. The seal of the Company may be engraved on the certificates instead of being manually affixed, and the signature of officers may be facsimile signatures if the certificate is countersigned by a transfer agent or registered by a registrar other than the Company itself or its employee. All certificates of stock shall be consecutively numbered, and the name(s) and address of the person(s) to whom issued, the number of shares and date of issue, shall be entered on the stock transfer books of the Company. All certificates of stock surrendered to the Company for transfer shall be cancelled and, except in the case of lost or destroyed certificates as hereinafter provided, no new certificate shall be issued until the former certificate or certificates for the shares represented thereby shall have been surrendered and cancelled.

Section 2. Lost Certificates. When a certificate of stock previously issued is alleged to have been lost or destroyed, a new certificate may be issued therefor upon such terms and indemnity to the Company as the Board of Directors may prescribe.

Section 3. Transfer of Shares. Transfer of shares of stock of the Company shall be made only on the stock transfer books of the Company, and the Company may decline to recognize the holder of any certificate of stock of the Company as a stockholder until

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the shares represented by such certificate are transferred into his or her name on the stock transfer books of the Company. The Company shall be entitled to treat the holder of record of any shares of stock as the absolute owner thereof, and shall not be bound to recognize any equitable or other claim to or interest in such shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by law. The Board of Directors may appoint one or more stock transfer agents and registrars (which

functions may be combined), and may require all stock certificates to bear the signature of such transfer agent and such registrar.

Section 4. Fixing of Record Date. For the purpose of determining stockholders entitled to notice of and to vote at a meeting of stockholders or an adjournment thereof, or for the purpose of determining stockholders entitled to receive payment of a dividend or allotment of a right, or for the purpose of any other action, the Board of Directors may fix in advance a date as the record date for any such determination of stockholders. The date shall not be more than sixty (60) nor less than ten (10) days before the date of the meeting, nor more than sixty (60) days before any other action.

ARTICLE VI

Sale of the Assets of the Company

Section 1. The entire assets, business and good will of the Company may be sold to any person, firm or corporation, either within or without the State of Michigan, upon such terms and conditions, and for such lawful consideration, as may be authorized by vote of majority of the whole Board of Directors, and approved by vote in person or by proxy, of the holders of not less than three-fourths (3/4) of the outstanding capital stock of the Company, given at an annual or at a special meeting of the stockholders called and held for that purpose.

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ARTICLE VII

Miscellaneous

Section 1. Seal. The seal of the Company shall be circular in form, with the words "Kmart Corporation, Michigan" on the circumference, and shall be kept in the charge and custody of the Secretary, to be affixed to all instruments requiring a seal.

Section 2. Fiscal Year. The fiscal year of the Company shall end on the last Wednesday in January in each year.

Section 3. Indemnification. Any director or officer of the Company who is or was a party or is threatened to be made a party or is otherwise involved in any threatened, pending or completed action (including any civil, criminal, administrative or investigative suit or proceeding) by reason of the fact that he or she is or was a director or officer of the Company or is or was serving another corporation, partnership, joint venture, trust or other enterprise at the request of the Company, including service with respect to employee benefit plans, shall be indemnified by the Company against expenses, including attorneys' fees, judgments, penalties, fines and amounts paid or to be paid in settlement reasonably incurred by such person in connection with the action. Such indemnification shall include the right to be paid by the Company any reasonable expenses incurred by such person in defending such action in advance of its final disposition.

Indemnification hereunder shall be to the fullest extent now or hereafter authorized by the Michigan Business Corporation Act, and shall be determined in the manner provided therein; provided, however, that the Company shall indemnify any person seeking indemnity in connection with an action (or part thereof) initiated by such

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person only if the action (or part thereof) was authorized by the Board of

Directors. It shall be a defense to any claim for indemnity hereunder that the claimant has not met the applicable standard of conduct for which indemnification is permitted under the Michigan Business Corporation Act.

The Company may, by action of its Board of Directors, provide indemnification to employees and agents to the same or a lesser extent as the foregoing indemnification of directors and officers.

Indemnification provided hereunder shall be a contract right between the Company and each director or officer of the Company who serves in such capacity at any time while this Section 3 is in effect; shall continue to a person who has ceased to serve in such capacity and shall inure to the benefit of the heirs, executors and administrators of such person; and shall not be exclusive of any other right which any person may have or hereafter acquire under any other written contractual agreement.

Neither the Company nor its directors or officers nor any person acting on its behalf shall be liable to anyone for any determination as to the existence or absence of conduct which would provide a basis for making or refusing to make any payment hereunder or for taking or omitting to take any other action hereunder, in reliance upon advice of counsel.

Section 4. Control Share Acquisitions. Chapter 7B of the Michigan Business Corporation Act (being Sections 450.1790 through 450.1799 of Michigan Compiled Laws) shall not apply to control share acquisitions of shares of the Company's capital stock.

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ARTICLE VIII

Amendments

Section 1. By Directors. These By-Laws may be amended, altered or repealed and new By-Laws may be adopted, at any meeting of the Board of Directors by a majority vote of the members of the Board then in office; provided, however, that the Board of Directors shall not amend, alter or repeal Article VI of these By-Laws.

Section 2. By Stockholders. These By-Laws may also be amended, altered or repealed and new By-Laws may be adopted at any meeting of stockholders, if such purpose is contained in the notice of meeting (pursuant to Article 1, Section 3), by a majority of the votes cast by the holders of shares entitled to vote thereon; provided, however, that Article VI of these By-Laws shall not be amended, altered or repealed without the consent of the holders of at least two-thirds (2/3) of the issued and outstanding capital stock of the Company, given in person or by proxy, at an annual or special meeting of the stockholders called and held for the purpose.

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EXHIBIT D

Janet G. Kelley
Senior Vice President
General Counsel
248 463 1400



Kmart Corporation
Resource Center
3100 West Big Beaver Road
Troy MI 48084-3163
Fax 248 637 4857
248 463 1054
jkelley@kmart.com

VIA FED EX

September 4, 2001

Mr. Walter Holbrook
365 Sawmill Lane
Ponte Verde Beach, Florida 32082

Re: Advancement of Attorney's Fees and Expenses in connection with
Governmental investigations of Kmart Corporation with regard to conduct of
certain of its employees following Hurricane Georges (September 1998)

Dear Mr. Holbrook:

You have advised that you wish to engage Richard E. Zuckerman, Esq. of the firm of Honigman, Miller, Schwartz and Cohn to provide you independent legal counsel in connection with a pending investigation being undertaken by the FBI, U.S. Attorney's Office for the District of Puerto Rico and local authorities in Puerto Rico.

We are informed that the investigation involves allegations that following Hurricane Georges (i) certain employees of Kmart Corporation destroyed corporate property, (ii) misstated items of loss on internal reports and (iii) attempted to mislead corporate employees dealing with Kmart's insurers in an attempt to cause Kmart Corporation to submit improper insurance claims. During at least a portion of the time under investigation, you were employed by Kmart Corporation as a Regional Vice President with responsibility for its Southeastern Region.

The Corporation's counsel in Puerto Rico have been advised by federal authorities that you are one of the Corporation's employees who is a subject of this investigation. The Corporation itself is also a subject of this investigation. You have requested that Kmart Corporation advance your reasonable attorneys' fees and expenses with respect to this matter.

You have on several occasions advised Kmart Corporation's attorneys that you at all times acted consistent with the Corporation's Code of Business Conduct and at no time received from your superiors any instructions to have employees take actions that would lead to inappropriate items being claimed in any proof of loss Kmart would submit to its insurers, nor did you give any instructions to any subordinate to take inappropriate actions.

Michigan law [MCL §450.1564b(1)] and Kmart Corporation's bylaws authorize advancement of your reasonable legal fees and expenses in defending yourself in a governmental investigation of this nature providing both of the following conditions are met:

- (a) The person furnishes the corporation a written affirmation of his or her good faith belief that he or she has met the applicable standard of conduct set forth in §1561 and 1562.
- (b) The person furnishes the corporation a written undertaking, executed personally or on his or her behalf, to repay the advance if it is ultimately determined that he or she did not meet the standard of conduct set forth in §§1561 and 1562.

Michigan law also provides that the written undertaking required by MCL §450.1564b(1)(b):

"must be an unlimited general obligation of the person but may not be secured and may be accepted without reference to the financial ability of the person making repayment."

The applicable standard of conduct under MCL §450.1561 is as follows:

"The person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation or its shareholders, and with respect to a criminal action or proceeding, if the person had no reasonable cause to believe his or her conduct was unlawful."


You have advised Kmart Corporation's attorneys that your conduct at all times has fully complied with this statutory standard.

In accord with its corporate bylaws, Kmart Corporation will advance your reasonable attorneys' fees and expenses provided you execute and return the enclosed copy of this letter in order to satisfy the statutory requirements. Specifically by executing this letter:

- (a) You affirm that you have the good faith belief that your conduct at all relevant times has met the referenced statutory standard; and
- (b) You agree to pay Kmart Corporation all sums advanced pursuant to this agreement should it be ultimately determined, in accordance with applicable law, that you did not meet the referenced statutory standard of conduct. You also agree that this undertaking is an unlimited general personal obligation.

Kmart Corporation retains the right to terminate this advancement agreement at any time should it determine that it is appropriate to do so under applicable law and governing corporate bylaws.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet Kelley".

Janet G. Kelley

The foregoing is expressly acknowledged and agreed to.

Walter Holbrook

cc: Richard E. Zuckerman, Esq. (via Fed Ex)

LAW OFFICES
HONIGMAN MILLER SCHWARTZ AND COHN LLP

2290 FIRST NATIONAL BUILDING
660 WOODWARD AVENUE
DETROIT, MICHIGAN 48226-3583

FAX (313) 465-8000

MARCY A. HAHN
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LANSING, MICHIGAN
BINGHAM FARMS, MICHIGAN

March 25, 2002

VIA OVERNIGHT MAIL

Kmart Corp.
c/o Trumbull Services
P.O. Box 426
Windsor, Connecticut 06095

Re: In re Kmart Corporation, et. al., Case No. 02-B02474
U.S. Bankruptcy Court, Northern District of Illinois

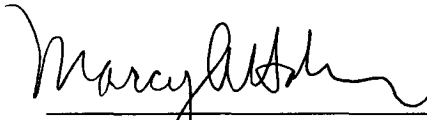
TO WHOM IT MAY CONCERN:

Enclosed for filing please find Walter E. Holbrook's Proof of Claim in connection with the above-captioned matter. Please return a time-stamped copy to me in the enclosed self-addressed, stamped envelope.

Sincerely,

Honigman Miller Schwartz and Cohn LLP

By:



Marcy A. Hahn

Enclosures