

# UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

## PROOF OF CLAIM Chapter 11

In Re Kmart Corporation, et al.

Case Numbers 02-02462 through  
02-02499

Name of Debtor: (see attached for complete list of debtors)

Case Number:

Your claim is scheduled as follows:

Class

UNSECURED NON PRIORITY

Amount

\$975.00 CONTINGENT,  
DISPUTED

10590867

This Space is for Court Use  
Only

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):

DEPT OF LABOR OSHA  
1047 US HIGHWAY 127 SOUTH  
SUITE 4  
FRANKFURT, KY 40601

11 3500782

- ☐ 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.
- ☐ 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.

If address differs from above, please complete the following:

Creditor Name:

Telephone: # (502) 564-3070

Address:

City/St/Zip:

Account or other number by which creditor identifies debtor:

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

- ☐ 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 \_\_\_\_\_ to \_\_\_\_\_  
(date) (date)

## 2. Date debt was incurred:

1-15-2002

## 3. If court judgment, date obtained:

## 4. Total Amount of Claim at Time Case Filed:

\$ 975.00

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)( ).

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.

This Space is for Court Use Only

RECEIVED  
TRUMBULL SERVICES  
JAN 11 2002

Date

4-3-02

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):

Gordon R. S. Lane, Deputy General Counsel, KY Labor Cabinet

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.

2921  
4/9/02

RECEIVED  
DIVISION OF COMPLIANCE

2002 FEB 11 A 8:46

Kmart Corporation  
Resource Center  
3100 West Big Beaver Road  
Troy MI 48064-3163

February 7, 2002

Mr. Rick Pearcy  
c/o Kentucky Labor Department  
Division of OSH Compliance  
1047 U. S. Highway 127 South, Suite 4  
Frankfort, KY40601

Re: Kmart Store, 101 Town and Country Lane, Hazard, KY  
Inspection # 304703903, 11/19/2001

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Dear Mr. Pearcy:

Regarding the above inspection and resolution discussed at the informal conference on 2/5/02, at your District Office, in Frankfort.

Kmart accepts the reduced penalty of \$975.00 regarding said violations. As indicated during the conference, all issue items have been abated and store management has additionally initiated programs and procedures to prevent reoccurrence.

The finalized version of the Citation and Penalty Notice can be directed to my attention, here at Kmart's Headquarters.

On the matter of the penalty payment, Kmart has filed a Chapter 11, Petition of Bankruptcy. Seeing this inspection was a pre-petition event, outstanding debts, have to be channeled through the bankruptcy courts. I'm certain your counsel can provide guidance in this area.

I apologize for this inconvenience, however understand by law this is the course of action that must be followed.

Please thank Mr. Howard, on behalf of our Store and Loss Control Managers, for the assistance and courtesies extended to them at Tuesday's meeting.

Thanking you, for today's help.

Regards,

Dick Koch  
Manager, Corporate Safety

cc: Chris Canoles, Director Corporate Safety; Blanch Everage SM 7627

PAUL E. PATTON  
GOVERNOR



JOE NORSWORTHY  
SECRETARY

COMMONWEALTH OF KENTUCKY  
LABOR CABINET  
OCCUPATIONAL SAFETY AND HEALTH PROGRAM



Anthony Russell  
Director  
Division of Education  
and Training  
502-564-3070  
502-564-4769 FAX

February 8, 2002

Anthony E. Long  
Director  
Division of Compliance  
502-564-3070  
502-564-5723 FAX

Steve Forbes  
Federal/State Coordinator  
502-564-3070

Blanche Everage, Store Manager  
Kmart  
101 Town & Country Lane  
Hazard, KY 41701

RE: AMENDMENTS TO CITATION(S)  
Inspection #: 304703903  
CSHO: S0140 / 007-02

Dear Ms. Everage:

Pease find the following amendments to the original citation, based on the findings of the informal conference conducted on February 5, 2002:

The violation classification for Citation 1, Item 2, is amended from serious to other-than-serious and the assessed penalty of \$1300.00 is deleted.

Total adjusted penalty = \$975.00.

Copies of all changes must be posted in the establishment along with a copy of the original citation.

If you have any further questions do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sininger".

Bill Sininger  
Safety Program Manager

BS/lg



**Kentucky Labor Cabinet**  
Occupational Safety and Health Program  
1047 US HIGHWAY 127 SOUTH  
SUITE 4  
FRANKFORT, KY 40601  
Phone: (502)564-7360 FAX: (502)564-5723



## Citation and Notification of Penalty

**To:**  
Kmart  
and its successors  
101 Town & Country Lane  
Hazard, KY 41701

**Inspection Number:** 304703903  
**Inspection Date(s):** 11/19/2001 - 11/19/2001  
**Issuance Date:** 01/15/2002

**Inspection Site:**  
101 Town & Country Lane  
Hazard, KY 41701

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

This Citation and Notification of Penalty (this Citation) describes violations of the Kentucky Occupational Safety and Health Statute. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends, Federal and state holidays) from your receipt of this Citation and Notification of Penalty you mail a notice of contest to the Kentucky Labor Cabinet Division of KY-OSH Compliance at the address shown above. Issuance of this Citation does not constitute a finding that a violation of KRS Chapter 338, or any standard, rule, order or regulation filed pursuant thereto, has occurred unless there is a failure to contest as provided for in KRS Chapter 338, or, if contested, unless this Citation is affirmed by the Review Commission.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a conspicuous place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends, Federal and State holidays), whichever is longer.

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the Division of KY-OSH Compliance during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be

submitted to the Division of KY-OSH Compliance within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 3 Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far.

**Right to Contest** - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Division of KY-OSH Compliance in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Kentucky Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.

**Penalty Payment** - Penalties are due within 15 working days of receipt of this notification unless contested. Make your check or money order payable to "KENTUCKY STATE TREASURER". Please indicate the Inspection Number on the remittance.

**Notification of Corrective Action** - For violations which you do not contest, you should notify the Kentucky Labor Cabinet Division of KY-OSH Compliance promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation. Please inform the Division of KY-OSH Compliance in writing of the abatement steps you have taken and of their dates, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc.

**Employer Discrimination Unlawful** - The law states that "No person shall discharge or in any manner discriminate against an employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Chapter or has testified or is about to testify in such proceeding or because of the exercise by such employee on behalf or himself or others of any right afforded by this Chapter". An employee who believes that he/she has been discriminated against may file a complaint no later than 120 days after the discrimination occurred with the Kentucky Labor Cabinet Division of KY-OSH Compliance at the address shown above.

**Notice to Employees** - Any employee or representative of employees, whose employer has received a citation, may file a written notice of contest with the Division of KY-OSH Compliance. The contest must be mailed to the Kentucky Labor Cabinet Division of KY-OSH Compliance at the address shown above and postmarked within 15 working days (excluding weekends, Federal and State holidays) of the receipt by the employer of this Citation and Notification of Penalty.



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with Kentucky OSH to discuss the citation(s) issued on 01/15/2002. The conference will be held at the Kentucky Labor Cabinet office located at 1047 US HIGHWAY 127 SOUTH, SUITE 4, FRANKFORT, KY, 40601 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

**Kentucky Labor Cabinet**  
Occupational Safety and Health Program

**Inspection Number:** 304703903  
**Inspection Dates:** 11/19/2001 - 11/19/2001  
**Issuance Date:** 01/15/2002  
**CSHO ID:** S0140  
**Optional Inspection Nbr:** 007-02



**Citation and Notification of Penalty**

**Company Name:** Kmart  
**Inspection Site:** 101 Town & Country Lane, Hazard, KY 41701

**Citation 1 Item 1 Type of Violation: Serious.**

**29 CFR 1910.36(b)(4):** Exits were not arranged and maintained as to provide free and unobstructed egress from all parts of the building or structure at all times when it was occupied. A lock or fastening was also installed to prevent free escape from the inside of the building:

- a. The emergency exit in the Receiving Department was not maintained free and unobstructed at all times while the building was occupied.
- b. The emergency exit in the back of the store near the office was not maintained free and unobstructed at all times while the building was occupied.

**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

02/19/2002  
\$ 975.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

**Kentucky Labor Cabinet**  
Occupational Safety and Health Program

Inspection Number: 304703903  
Inspection Dates: 11/19/2001 - 11/19/2001  
Issuance Date: 01/15/2002  
CSHO ID: S0140  
Optional Inspection Nbr: 007-02



**Citation and Notification of Penalty**

Company Name: Kmart  
Inspection Site: 101 Town & Country Lane, Hazard, KY 41701

**Citation 1 Item 2 Type of Violation: Serious**

**29 CFR 1910.176(b):** Storage of material created a hazard. Bags, containers, bundles, etc., that were stored in tiers were not stacked, blocked, interlocked and limited in height so that they were stable and secure against sliding or collapse:

- a. The employer did not ensure safe and secure storage of boxes of merchandise stacked in the Receiving Department, creating a hazard to employees in the area.
- b. The employer did not ensure safe and secure storage of boxes, bags and containers of merchandise in the Layaway Department, creating a hazard to employees in the area.
- c. Items such as cash registers, weighing approximately 50 to 75 pounds, were stored in boxes above employee lockers in the back of the store, creating a hazard to employees in the area.

Date By Which Violation Must be Abated:  
Proposed Penalty:

02/19/2002  
\$ 1300.00

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



**Kentucky Labor Cabinet**  
Occupational Safety and Health Program

Inspection Number: 304703903  
Inspection Dates: 11/19/2001 - 11/19/2001  
Issuance Date: 01/15/2002  
CSHO ID: S0140  
Optional Inspection Nbr: 007-02



**Citation and Notification of Penalty**

Company Name: Kmart  
Inspection Site: 101 Town & Country Lane, Hazard, KY 41701

**Citation 2 Item 1** Type of Violation: Other

29 CFR 1910.37(k)(2): Means of egress shall be continuously maintained free of all obstructions or impediments to full instant use in the case of fire or other emergency:

- a. Boxes stacked along the walkway at the back of the store, adjacent to the office area, created an impediment to reach the emergency exit located nearby.
- b. Boxes and bags of merchandise in the Layaway Department created an obstruction in reaching the exit door of this department.

Date By Which Violation Must be Abated:  
Proposed Penalty:

02/19/2002  
\$ 0.00

  
PROGRAM MANAGER, Bill Sminger

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

**Kentucky Labor Cabinet**  
Occupational Safety and Health Program  
1047 US HIGHWAY 127 SOUTH  
SUITE 4  
FRANKFORT, KY 40601  
Phone: (502)564-7360 FAX: (502)564-5723




## INVOICE

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**Company Name:** Kmart  
**Inspection Site:** 101 Town & Country Lane, Hazard, KY 41701  
**Issuance Date:** 01/15/2002  
**Summary of Penalties for Inspection Number** 304703903

Citation 1, Serious	= \$	2275.00
Citation 2, Other	= \$	0.00
<b>TOTAL PROPOSED PENALTIES</b>	<b>= \$</b>	<b>2275.00</b>

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Program Manager, Bill Sininger  
S0140 / 007-02

01-15-02  
Date