

Fill in this information to identify the case:

Debtor 1 Limetree Bay Refining, LLC

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Southern District of Texas

Case number 21-32351



RECEIVED

AUG 30 2021

Official Form 410

Proof of Claim

BMC GROUP

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?		Thomas McKowen 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?		Where should payments to the creditor be sent? (if different)
	Lee J. Rohn, Esq.		
	Name		Name
	1108 King Street, Suite 3		
	Number Street		Number Street
	Christiansted VI 00820		
City State ZIP Code		City State ZIP Code	
Contact phone (340) 778-8855		Contact phone _____	
Contact email info@rohnlaw.com		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? _____	

LIMETREE POC

 00046

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? \$ 750,000.00 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.
see attached, Complaint

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. \$ _____

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:

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

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

Amount entitled to priority

\$ _____

☐ 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.

\$ _____

* 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 08/26/2021

MM / DD / YYYY

/s/ Lee J. Rohn

Signature

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

Name	<u>Lee J. Rohn</u>		
	First name	Middle name	Last name
Title	<u>Attorney</u>		
Company	<u>Lee J. Rohn & Associates, LLC</u>		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	<u>1108 King Street, Suite 3</u>		
	Number	Street	
	<u>Christiansted</u>	<u>VI</u>	<u>00820</u>
	City	State	ZIP Code
Contact phone	<u>(340) 778-8855</u>		Email <u>info@rohnlaw.com</u>

FILED

June 10, 2021

SX-2021-CV-00470

TAMARA CHARLES
CLERK OF THE COURT

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

THOMAS A. MCKOWEN,

Plaintiffs,

v.

PINNACLE SERVICES, LLC, LIMETREE
BAY REFINING, LLC, LIMETREE BAY
TERMINALS, LLC, EARL
WORTHINGTON AND ELITE
TURNAROUND SPECIALISTS,

Defendants.

CIVIL NO. _____

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW Plaintiff, **THOMAS A. MCKOWEN**, by and through undersigned counsel, and files his Complaint against Defendants **PINNACLE SERVICES, LLC, LIMETREE BAY REFINING, LLC, LIMETREE BAY TERMINALS, LLC, EARL WORTHINGTON AND ELITE TURNAROUND SPECIALISTS**, and alleges the following:

1. This Court has jurisdiction over this matter pursuant to 4 V.I.C. § 76.
2. Plaintiff, Thomas McKowen, at all times relevant was a resident of St. Croix, U.S. Virgin Islands.
3. Defendant, Pinnacle Services, LLC, is, upon information, a Virgin Islands Limited Liability Corporation performing work in the U.S. Virgin Islands.
4. Defendant, Limetree Bay Refining, LLC, is, upon information, a Virgin Islands Limited Liability Corporation doing business in the Virgin Islands.
5. Defendant, Limetree Bay Terminals, LLC, is, upon information, a Virgin Islands

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Limited Liability Corporation doing business in the Virgin Islands.

6. Defendant, Earl Worthington, at all times relevant was a resident of St. Croix, U.S.V.I. doing work in the Virgin Islands.
7. Defendant, Elite Turnaround Specialists, is, upon information, a Texas corporation at all time relevant doing business in the U.S. Virgin Islands.
8. In or about April 2020, Plaintiff reached out to Alan Yarosh, Vice President of Maintenance of Limetree Refining and Terminal, and gave him Plaintiff's resume.
9. Based upon contact from Limetree, Plaintiff also provided his references.
10. A few days later Earl Worthington, Planning Manager for Limetree Refining, contacted Plaintiff for a phone interview.
11. Defendant, Earl Worthington, informed Plaintiff that his references checked out and offered Plaintiff the job as a Maintenance Planner, to be employed by Elite Turnaround Specialists (ETS), but controlled and supervised by Limetree Bay Terminals and Refinery. Plaintiff accepted the job.
12. Plaintiff arrived on St. Croix to work with Limetree through ETS on May 27, 2020.
13. From the beginning of his employment, Worthington was constantly rude and negative towards Plaintiff.
14. Earl Worthington, at meetings, would sometimes ask for suggestions, but if Plaintiff made any, Worthington would yell at him, and be abusive. He did not treat the other employees in the same manner.
15. Even though ETS paid Plaintiff, Worthington would give Plaintiff verbal authorization to work overtime, which Plaintiff would work, but then Worthington would not sign off

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on the document necessary to have Plaintiff paid overtime. This happened repeatedly.

16. Finally, Plaintiff went to Michael Sales, Assistant Vice President of Limetree Refinery, and Daryl O'geer, Turnaround Manager, as to his treatment by Worthington, and the failure to be paid overtime.
17. These gentlemen suggested Plaintiff take notes on a daily basis as to work done, and problems with Worthington, so a pattern could be established.
18. Plaintiff did so, and frequently texted them as overtime, and specific problems with Earl Worthington occurred.
19. During the second week of June, 2020, Worthington came into Plaintiff's office, shut the door, and made a big show of telling Plaintiff he wanted him to apply to work for Limetree directly.
20. Worthington bragged to Plaintiff that Worthington could "click a button and have you hired".
21. Plaintiff actually believed Worthington was serious, applied for the position with Limetree and was interviewed.
22. The rule was that local hires had to be given precedence over off island hires. Plaintiff qualified as a local hire as Limetree classified him as a local employee, and did not pay Plaintiff per diem after a time at work.
23. Worthington instead selected Brain Rhodes, who worked for CO Chemical, who was an off-island hire.
24. In order to defuse the situation, and to obtain Plaintiff as a Planner in his

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department, Mr. O'geer told Worthington that he would like Plaintiff to be transferred to him as Turnaround Planner and Scheduler around September.

25. The way Worthington complained about Plaintiff, and appeared to dislike him, all persons believed Worthington would agree to transfer Plaintiff.

26. Instead, Worthington refused, and informed Mr. O'geer saying "that's not the plan, I have for him".

27. On September 14, 2020, Plaintiff had a meeting with Worthington, and went through each of the instances Worthington had been rude, or disrespectful, or failed to sign for overtime worked.

28. Worthington did nothing to improve the working relationship, and it actually got worse.

29. On October 9, 2020, Plaintiff texted Alan Yarosh, the Vice President of Maintenance, and requested to have a meeting with him.

30. On October 10, 2020, Plaintiff met with Alan Yarosh and discussed his problems with Worthington, including not getting paid for overtime.

31. Alan Yarosh's response was that Worthington's actions made no sense, as he had heard nothing but good things about Plaintiff.

32. Yarosh represented to Plaintiff, he would talk to Worthington about Plaintiff's complaints, but not name Plaintiff specifically, but represent to Worthington that he had several complaints against Worthington.

33. On October 12, 2020, Plaintiff received an email from Worthington ordering Plaintiff to come to his office "at once".

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34. When Plaintiff got to the office, Worthington was red faced, closed the door and in a loud voice informed Plaintiff that Plaintiff has to have Worthington's permission to work, and get paid for overtime, and told Plaintiff to acknowledge that.
35. Plaintiff acknowledged that Worthington was one of the persons who could assign Plaintiff overtime, but Mr. O'Geer could also require Plaintiff to work overtime, which he had done.
36. The nastiness by Worthington only got worse, and Worthington still would not approve Plaintiff's overtime, as well as missing payments for per diem and housing.
37. On October 15, 2020, Plaintiff contacted LB Energy requesting Limetree's third-party dispute number to make a complaint against Worthington. On October 16, 2020, Plaintiff made a formal complaint against Worthington.
38. Finally, Plaintiff could not take the stress and nastiness, and sent an email to Mr. Sales, O'Geer, Yarosh and Worthington that he was resigning effective October 27, 2020.
39. An hour later, Yarosh sent Plaintiff an email that said, "sorry it did not work out", to leave now, and Plaintiff would be paid for the next two weeks.
40. Plaintiff forwarded those emails to Brain Lever, CEO of Limetree Refinery and Robert (Bob) Weldzius, Vice President of Limetree Refinery and Terminals.
41. Plaintiff received a return email from Brain Lever that he was off-island, and would not be back until November 5, 2020.
42. Plaintiff received a return email from Bob Weldzius that he wanted to talk to Plaintiff.
43. On October 13, 2020, Plaintiff received a text from Travis Penn, of ETS, that Plaintiff

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needed to meet to sign paperwork, box up his office, and return his rental car.

44. On October 13, 2020, Plaintiff spoke to Bob Weldzius and explained what had occurred, including not having been paid overtime, and other payments.

45. Bob Weldzius informed Plaintiff he thought Plaintiff worked for Limetree and that he would speak to Alan Yarosh and Human Resources at Limetree and get back to Plaintiff.

46. Bob Weldzius never got back to Plaintiff.

47. To this date, Plaintiff has never been paid his earned overtime, plus twelve weeks' worth of per diem totaling over \$10,000.00.

48. Plaintiff, who had become a Virgin Island resident, began looking for jobs on St. Croix.

49. Plaintiff applied online to Pinnacle Services, LLC on November 1, 2020, for the position it had posted as a Terminal Planner and Scheduler at Limetree Refining and Limetree.

50. A couple of days later Plaintiff was called by Frank Abednego, of Pinnacle, and was asked if he was still interested in the position because he, and Pinnacle, believed Plaintiff was a fit for the position.

51. Plaintiff went to Pinnacle and was interviewed for the position.

52. Limetree employee, Harry Stevens, then called Plaintiff and interviewed him, and told Plaintiff that Frank Abednego would be in touch with him by November 9, 2020.

53. On November 9, 2020, Plaintiff was contacted by Frank Abednego of Pinnacle and offered the job at \$70.00 an hour, a 13 ½ month contract from November 16, 2020 to

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December 31, 2021, minimum 40 hours a week, no per diem, but all other benefits.

54. Plaintiff accepted.

55. On November 3, 2020, Plaintiff was drug screened, did the blood work, took the right to know classes, which were the pre requisites for starting work on November 16, 2020.

56. On November 13, 2020, Plaintiff signed the contract of employment with Defendant Pinnacle, to work with Limetree, and was told again to report to work on November 16, 2020, to pick up his badge, which Pinnacle issues.

57. On November 16, 2020, Plaintiff appeared and provided Pinnacle the paperwork to receive his badge. Plaintiff waited two and half hour in the parking lot.

58. Plaintiff was told by a Pinnacle employee that there was a security hold on his name that prevented Pinnacle from issuing the badge. She explained the only time she has seen such a hold was if the applicant had a safety accident, or did something unsafe, and the President of Limetree has to approve the employee to return. She told Plaintiff to go home and wait.

59. Plaintiff contacted Robert Weldzius and told him what had occurred.

60. Robert Weldzius promised to look into what happened, and get back to Plaintiff.

61. Robert Weldzius never got back to Plaintiff.

62. Plaintiff contacted Alan Yarosh and asked him if he had blocked his name to security.

63. Yarosh admitted that he, in his capacity of a management employee for Limetree Refining and Terminal.

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64. Plaintiff asked Yarosh why Limetree would have done such a thing and he responded, "he was not going to round two with you and Earl [Worthington].
65. Plaintiff tried to explain that from his interview with Pinnacle, he had been told that his supervisor would be George Williams, not Earl Worthington.
66. Alan Yarosh, on behalf of Limetree, more or less stated that he didn't care.
67. Plaintiff made repeated calls to Pinnacle as to when he would be allowed to go to work, with no response.
68. On November 19, 2020, Plaintiff contacted Limetree to please remove the block on his name.
69. Franklin Quow, Assistant General Counsel for Limetree Bay Refining and Limetree Bay Terminals, LLC, responded by email and informed Plaintiff that because he had filed an EEOC complaint, Limetree was now retaliating against Plaintiff for complaints of discrimination, and further blocking Plaintiff's employment.
70. Plaintiff responded in November 2020, that all he wanted was "that my badge status, black ball be removed, and myself allowed back inside the facility to fulfil my contract with Pinnacle".
71. On November 20, 2020, upon information, Limetree pretended to pull the position from Pinnacle.
72. On November 20, 2020, Frank Abednego of Pinnacle contacted Plaintiff by phone and claimed, "Limetree had pulled the position", and sent an email confirming Limetree's actions.
73. Plaintiff then went online and found multiple jobs posted with various contractors for

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Limetree Planners.

74. Plaintiff applied for those jobs and they were pulled.

75. Limetree tried to claim it no longer had a need for any planners, but that is belied by the fact that they continue to post multiple positions for planners that fit Plaintiff's qualifications, but refused to allow any such contractors to hire Plaintiff.

76. As a result of Defendants' acts and omissions, Plaintiff has suffered loss of income, economic damages, loss of capacity to earn income, mental anguish, pain and suffering, and loss of enjoyment of life, all of which are expected to continue into the foreseeable future.

COUNT I

77. The Plaintiff sets forth paragraph 1 through 76 as if fully set forth herein.

78. Plaintiff and Pinnacle entered into a contract.

79. Defendant Pinnacle Services, LLC breached that contract.

80. Plaintiff has suffered damages as alleged.

COUNT II

81. The Plaintiff sets forth paragraph 1 through 80 as if fully set forth herein.

82. Defendant Elite Turnaround Specialists (ETS) failed to properly pay Plaintiff for his per diem and overtime pay in violation of the Virgin Islands Fair Wage and Hour Act

83. As a result, Plaintiff has suffered economic damages, as well as statutory damages.

COUNT III

84. The Plaintiff sets forth paragraph 1 through 83 as if fully set forth herein.

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85. Plaintiff had an employment contract with ETS.

86. Defendant ETS violated that employment contract.

87. As a result, Plaintiff suffered damages.

COUNT IV

88. The Plaintiff sets forth paragraph 1 through 87 as if fully set forth herein.

89. Defendant Limetree conspired with, and, upon information, demand that ETS violate contractual and statutory obligations as to Plaintiff's per diem, and overtime.

90. As a result, Plaintiff has suffered economic as well as statutory damages.

COUNT V

91. The Plaintiff sets forth paragraph 1 through 90 as if fully set forth herein.

92. Defendant Earl Worthington made false representations to others as to per diem, and approved work for overtime, and Plaintiff's job performances.

93. As a result of those false representations, Plaintiff was not paid per diem, or overtime, and was terminated.

COUNT VI

94. The Plaintiff sets forth paragraph 1 through 93 as if fully set forth herein.

95. Defendants Limetree Bay Refining and Terminals, and Earl Worthington, torturously interfered with Plaintiff's employment contract with ETS.

96. As a result, Plaintiff was terminated from that employment.

97. As a result, Plaintiff suffered damages.

COUNT VII

98. The Plaintiff sets forth paragraph 1 through 97 as if fully set forth herein.

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99. Defendant Limetree Bay Refinery and Terminals, Earl Worthington and ETS constructively discharged Plaintiff.

100. As a result, Plaintiff has suffered damages.

COUNT VIII

101. The Plaintiff sets forth paragraph 1 through 100 as if fully set forth herein.

102. Defendants Limetree Bay Refining and Limetree Bay Terminals, LLC have tortuously interfered with Plaintiff's contract with ETS.

103. Those Defendants have also tortuously interfered with Plaintiff's contract with Pinnacle.

104. Those Defendants have also tortuously interfered with prospective contracts with other contractors attempting to hire Planners to work at Limetree.

105. As a result, Plaintiff has suffered damages.

COUNT IX

106. The Plaintiff sets forth paragraph 1 through 105 as if fully set forth herein.

107. Defendants Limetree Bay Refining and Limetree Bay Terminals have retaliated against Plaintiff for filing a claim of discrimination.

108. Those actions are in violation of the Virgin Islands Civil Right Acts.

109. As a result, Plaintiff suffered damages.

WHEREFORE, Plaintiff prays for damages as they may appear, and for pre and post judgment interest, and for costs and fees, and for such other relief as this court deems fair and just.

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LEE J. ROHN AND ASSOCIATES, LLC
Attorneys for Plaintiff

DATED: June 10, 2021

BY: /s/ Lee J. Rohn
Lee J. Rohn, Esq.
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Southern District of Texas Claims Register

21-32351 Limetree Bay Services, LLC and Official Committee of Unsecured Creditors

Bankruptcy Judge: David R Jones

Chapter: 11

Office: Houston

Last Date to file claims: 11/15/2021

Trustee:

Last Date to file (Govt): 01/10/2022

Creditor: (11950259)
Thomas McKowen
c/o/ Lee J. Rohn & Association,
LLC
1108 King Street, Suite 3
Christiansted, VI 00820

Claim No: 6
Original Filed
Date: 08/26/2021
Original Entered
Date: 08/26/2021

Status:
Filed by: CR
Entered by: Lee J Rohn
Modified:

Amount claimed: \$750000.00

History:

Details 6-1 08/26/2021 Claim #6 filed by Thomas McKowen, Amount claimed: \$750000.00 (Rohn, Lee)

Description: (6-1) Proof of Claim

Remarks:

Claims Register Summary

Case Name: Limetree Bay Services, LLC and Official Committee of Unsecured Creditors

Case Number: 21-32351

Chapter: 11

Date Filed: 07/12/2021

Total Number Of Claims: 1

Total Amount Claimed*	\$750000.00
Total Amount Allowed*	

*Includes general unsecured claims

The values are reflective of the data entered. Always refer to claim documents for actual amounts.

	Claimed	Allowed
Secured		
Priority		
Administrative		