Case 10-10411 Doc 1 Filed 04/14/10 Entered 04/14/10 21:30:14 Desc Main Document Page 1 of 10

United States Bankruptcy C Western District of North Caro								Voluntary Petition				
Name of Debtor (if individual, enter Last, First, Middle): Spearman, Joe D Sr.				Name	of Joint De	ebtor (Spouse	e) (Last, First,	Middle):				
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):							Joint Debtor i trade names)	n the last 8 years				
Last four dig	e, state all)	Sec. or Indi	vidual-Taxp	ayer I.D. ((ITIN) No./0	Complete E		our digits o		r Individual-T	axpayer I.D. (ITIN)	No./Complete EIN
Street Addre	ess of Debto	•	Street, City,	and State)):	ZIP Code		Address of	Joint Debtor	r (No. and Stro	eet, City, and State):	ZIP Code
						28731						Zii Code
County of R Henders		of the Prin	cipal Place o	of Busines	s:		Count	y of Reside	ence or of the	Principal Pla	ce of Business:	
Mailing Add	dress of Deb	otor (if diffe	erent from st	reet addres	ss):		Mailir	ng Address	of Joint Debt	tor (if differen	t from street address	s):
					Г	ZIP Code	:					ZIP Code
Location of (if different				r								
	(Form of O	f Debtor Organization)		Пио	(Check	of Business		Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box)				
See Exhi	(Check one box) ■ Individual (includes Joint Debtors) See Exhibit D on page 2 of this form. □ Corporation (includes LLC and LLP) □ Partnership		☐ Sing in 1 ☐ Rail ☐ Stoo			s defined	☐ Chapt ☐ Chapt ☐ Chapt ☐ Chapt ☐ Chapt ☐ Chapt	er 9 er 11 er 12	of : □ Ch	apter 15 Petition for a Foreign Main Prod apter 15 Petition for a Foreign Nonmain	ceeding Recognition	
Other (If debtor is not one of the above entities, check this box and state type of entity below.)			☐ Other Tax-Exempt Entity (Check box, if applicable) ☐ Debtor is a tax-exempt organizat under Title 26 of the United State Code (the Internal Revenue Code		e) ganization ed States	defined "incurr		(Check onsumer debts,	bus for	bts are primarily siness debts.		
	Fi	ling Fee (C	heck one bo	x)		Check	one box:		Chap	oter 11 Debto	rs	
☐ Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A. ☐ Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.				Debtor is not if: Debtor's agg- are less than all applicable A plan is bein Acceptances	a small busineregate nonco \$2,343,300 (ea boxes: no filed with of the plan w	ness debtor as on ntingent liquid amount subject this petition.	ated debts (excl	2. § 101(51D). S.C. § 101(51D). Luding debts owed to in on 4/01/13 and every to one or more classes of	hree years thereafter).			
Statistical/A ■ Debtor e □ Debtor e there wil	estimates that estimates that	nt funds will nt, after any	l be availabl	perty is ex	cluded and	administrat		es paid,		THIS	SPACE IS FOR COUR	T USE ONLY
Estimated N 1- 49	Tumber of C □ 50- 99	reditors 100- 199	□ 200- 999	1,000- 5,000	5,001- 10,000	10,001- 25,000	25,001- 50,000	50,001- 100,000	OVER 100,000			
Estimated A So to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	\$100,000,001 to \$500 million	\$500,000,001 to \$1 billion				
Estimated Li \$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	\$100,000,001 to \$500 million	\$500,000,001 to \$1 billion				

Case 10-10411 Doc 1 Filed 04/14/10 Entered 04/14/10 21:30:14 Desc Main Page 2 of 10 Document B1 (Official Form 1)(4/10) Page 2 Name of Debtor(s): Voluntary Petition Spearman, Joe D Sr. (This page must be completed and filed in every case) All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet) Case Number: Location Date Filed: Where Filed: - None -Location Case Number: Date Filed: Where Filed: Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet) Name of Debtor: Case Number: Date Filed: See Attachment District: Relationship: Judge: Exhibit B Exhibit A (To be completed if debtor is an individual whose debts are primarily consumer debts.) (To be completed if debtor is required to file periodic reports (e.g., I, the attorney for the petitioner named in the foregoing petition, declare that I forms 10K and 10Q) with the Securities and Exchange Commission have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 under each such chapter. I further certify that I delivered to the debtor the notice and is requesting relief under chapter 11.) required by 11 U.S.C. §342(b). ☐ Exhibit A is attached and made a part of this petition. X <u>/s/ H. Trade Elkins</u> April 14, 2010 Signature of Attorney for Debtor(s) (Date) H. Trade Elkins 29197 Exhibit C Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety? Yes, and Exhibit C is attached and made a part of this petition. No. Exhibit D (To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.) Exhibit D completed and signed by the debtor is attached and made a part of this petition. If this is a joint petition: ☐ Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition. Information Regarding the Debtor - Venue (Check any applicable box) Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District. There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District. Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District. Certification by a Debtor Who Resides as a Tenant of Residential Property (Check all applicable boxes) Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.) (Name of landlord that obtained judgment)

(Address of landlord) □ Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and □ Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition. □ Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(1)).

Page 3 of 10 Document B1 (Official Form 1)(4/10)

Voluntary Petition

(This page must be completed and filed in every case)

Signature(s) of Debtor(s) (Individual/Joint)

I declare under penalty of perjury that the information provided in this petition is true and correct.

If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. [If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. §342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

▼ /s/ Joe D Spearman, Sr.

Signature of Debtor Joe D Spearman, Sr.

Signature of Joint Debtor

Telephone Number (If not represented by attorney)

April 14, 2010

Date

Signature of Attorney*

X /s/ H. Trade Elkins

Signature of Attorney for Debtor(s)

H. Trade Elkins 29197

Printed Name of Attorney for Debtor(s)

The Elkins Law Firm, PA

Firm Name

228 6th Avenue East Suite 1B Hendersonville, NC 28792

Address

Email: htelkins@prodigy.net

828-692-2205 Fax: 828-692-8469

Telephone Number

April 14, 2010

Date

*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

Date

Name of Debtor(s):

Spearman, Joe D Sr.

Signatures

Signature of a Foreign Representative

Page 3

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only one box.)

- ☐ I request relief in accordance with chapter 15 of title 11. United States Code. Certified copies of the documents required by 11 U.S.C. §1515 are attached.
- ☐ Pursuant to 11 U.S.C. §1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

Signature of Foreign Representative

Printed Name of Foreign Representative

Date

Signature of Non-Attorney Bankruptcy Petition Preparer

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.

Printed Name and title, if any, of Bankruptcy Petition Preparer

Social-Security number (If the bankrutpcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.)(Required by 11 U.S.C. § 110.)

Date

Address

Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose Social Security number is provided above.

Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. §110; 18 U.S.C. §156.

Case 10-10411 Doc 1 Filed 04/14/10 Entered 04/14/10 21:30:14 Desc Main Document Page 4 of 10

In re	Joe D Spearman, Sr.	Case No.	
		1	

Debtor

FORM 1. VOLUNTARY PETITION Pending Bankruptcy Cases Filed Attachment

Joe D. Spearman, Jr.

Western District of North Carolina Son and Business Partner

Spearman Food Distributors, Inc. Western District of North Carolina

Spearman Furniture, Inc.

Western District North Carolina

10-10409 04/14/10

Vice-President George Hodges

10-10410 04/14/10

Vice-President George Hodges

Case 10-10411 Doc 1 Filed 04/14/10 Entered 04/14/10 21:30:14 Desc Main Document Page 5 of 10

B 1D (Official Form 1, Exhibit D) (12/09)

United States Bankruptcy Court Western District of North Carolina

		Western British of I (of the out office		
In re	Joe D Spearman, Sr.		Case No.	
		Debtor(s)	Chapter	11

EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH CREDIT COUNSELING REQUIREMENT

Warning: You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.

- 1. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. *Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency*.
- □ 2. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 14 days after your bankruptcy case is filed.
- □ 3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the seven days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now. [Summarize exigent circumstances here.]

If your certification is satisfactory to the court, you must still obtain the credit counseling briefing within the first 30 days after you file your bankruptcy petition and promptly file a certificate from the agency that provided the counseling, together with a copy of any debt management plan developed through the agency. Failure to fulfill these requirements may result in dismissal of your case. Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. Your case may also be dismissed if the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit counseling briefing.

☐ 4. I am not required to receive a credit counseling briefing because of: [Check the applicable statement.] [Must be accompanied by a motion for determination by the court.]

Case 10-10411 Doc 1 Filed 04/14/10 Entered 04/14/10 21:30:14 Desc Main Document Page 6 of 10

B 1D (Official Form 1, Exhibit D) (12/09) - Cont.	Page 2			
☐ Incapacity. (Defined in 11 U.S.C. § 109(h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.); ☐ Disability. (Defined in 11 U.S.C. § 109(h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.); ☐ Active military duty in a military combat zone.				
☐ 5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. § 109(h) does not apply in this district.				
I certify under penalty of perjury that the	information provided above is true and correct.			
Signature of Debtor:	/s/ Joe D Spearman, Sr.			
D . April 44 2040	Joe D Spearman, Sr.			
Date: April 14, 2010				

Case 10-10411 Doc 1 Filed 04/14/10 Entered 04/14/10 21:30:14 Desc Main Document Page 7 of 10

B4 (Official Form 4) (12/07)

United States Bankruptcy Court Western District of North Carolina

In re	Joe D Spearman, Sr.	Case No.		
		Debtor(s)	Chapter	11

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS

Following is the list of the debtor's creditors holding the 20 largest unsecured claims. The list is prepared in accordance with Fed. R. Bankr. P. 1007(d) for filing in this chapter 11 [or chapter 9] case. The list does not include (1) persons who come within the definition of "insider" set forth in 11 U.S.C. § 101, or (2) secured creditors unless the value of the collateral is such that the unsecured deficiency places the creditor among the holders of the 20 largest unsecured claims. If a minor child is one of the creditors holding the 20 largest unsecured claims, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m).

(1)	(2)	(3)	(4)	(5)
Name of creditor and complete mailing address including zip code	Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted	Nature of claim (trade debt, bank loan, government contract, etc.)	Indicate if claim is contingent, unliquidated, disputed, or subject to setoff	Amount of claim [if secured, also state value of security]
Bank of America 4161 Piedmont Parkway Greensboro, NC 27410	Bank of America 4161 Piedmont Parkway Greensboro, NC 27410	Credit card purchases		47,984.00
Carolina First Bank 535 Greenville Highway Hendersonville, NC 28792	Carolina First Bank 535 Greenville Highway Hendersonville, NC 28792	Lot 12, Macedonia Lakes (Lake House)		1,500,000.00 (573,000.00 secured)
Carolina First Bank 535 Greenville Highway Hendersonville, NC 28792	Carolina First Bank 535 Greenville Highway Hendersonville, NC 28792	980 Upward Road, Flat Rock, NC 28731; Title to this parcel of real property vested in affiliate debtor - listed for informational purposes as this pa		1,500,000.00 (1,178,700.00 secured)
Carolina First Bank 535 Greenville Highway Hendersonville, NC 28792	Carolina First Bank 535 Greenville Highway Hendersonville, NC 28792	Credit card purchases		940.00
FIA CSNA P.O. Box 17054 Wilmington, DE 19884	FIA CSNA P.O. Box 17054 Wilmington, DE 19884	Credit card purchases		12,572.00
First Citizens Bank P.O. Box 27607 Raleigh, NC 27607	First Citizens Bank P.O. Box 27607 Raleigh, NC 27607	Credit card purchases		17,474.00
First Premier Bank 3820 N. Louise Avenue Sioux Falls, SD 57107	First Premier Bank 3820 N. Louise Avenue Sioux Falls, SD 57107	Credit card purchases		319.00

Case 10-10411 Doc 1 Filed 04/14/10 Entered 04/14/10 21:30:14 Desc Main Document Page 8 of 10

B4 (Offic	rial Form 4) (12/07) - Cont.		
In re	Joe D Spearman, Sr.	Case No.	
	Debtor(s)		

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS

(Continuation Sheet)

(1)	(2)	(3)	(4)	(5)
Name of creditor and complete mailing address including zip code	Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted	Nature of claim (trade debt, bank loan, government contract, etc.)	Indicate if claim is contingent, unliquidated, disputed, or subject to setoff	Amount of claim [if secured, also state value of security]

DECLARATION UNDER PENALTY OF PERJURY ON BEHALF OF A CORPORATION OR PARTNERSHIP

I, **Joe D Spearman**, **Sr.**, the debtor in this case, declare under penalty of perjury that I have read the foregoing list and that it is true and correct to the best of my information and belief.

Date April 14, 2010	Signature	/s/ Joe D Spearman, Sr.
		Joe D Spearman, Sr.
		Debtor

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both. 18 U.S.C. §§ 152 and 3571.

Bank of America 4161 Piedmont Parkway Greensboro, NC 27410

Carolina First Bank 535 Greenville Highway Hendersonville, NC 28792

FIA CSNA P.O. Box 17054 Wilmington, DE 19884

First Citizens Bank P.O. Box 27607 Raleigh, NC 27607

First Premier Bank 3820 N. Louise Avenue Sioux Falls, SD 57107

Henderson County Tax Collector 200 North Grove Street Hendersonville, NC 28792

Internal Revenue Service P.O. Box 21126 Philadelphia, PA 19114

Joe D. Freeman, Jr. 980 Upward Road Flat Rock, NC 28731

North Carolina Department of Revenue Bankruptcy Department P.O. Box 1168 Raleigh, NC 27602-1168

Vanwinkle Law Firm Attn: Albert Sneed, Esq. PO Box 7376 Asheville, NC 28802 Vanwinkle Law Firm Attn: Albert Sneed PO Box 7376 Asheville, NC 28802