


B 10 (Official Form 10) (12/08)

UNITED STATES BANKRUPTCY COURT		District of Arizona	PROOF OF CLAIM
Name of Debtor: Opus West Corporation		Case Number: 09-34356-hdh-11 (Jointly Administered)	
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): Bank of the West, under that certain Promissory Note Secured by Deed of Trust Dated May 28, 2008		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____	
Name and address where notices should be sent: Bank of the West c/o John G. Sestak, Jr., Esq., Jennings, Strouss & Salmon 201 E. Washington St., 11th Floor, Phoenix, AZ 85004-2385			
Telephone number: 602-262-5827			
Name and address where payment should be sent (if different from above): RECEIVED NOV 09 2009 BMC GROUP		<input type="checkbox"/> Check this 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"/> Check this box if you are the debtor or trustee in this case.	
Telephone number:			
1. Amount of Claim as of Date Case Filed: <u>\$10,606,485.68</u> If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. <input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507 (a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507(a)(5). <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507(a)(____). Amount entitled to priority: \$ _____	
2. Basis for Claim: <u>See Attached</u> (See instruction #2 on reverse side.)			
3. Last four digits of any number by which creditor identifies debtor: _____ 3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)			
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: <u>\$8,910,000**(see attached)</u> Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim, if any: <u>\$5,233.53 (lt chg); \$4,146.64 (int.)</u> Basis for perfection: <u>Deed of Trust</u> Amount of Secured Claim: <u>\$8,910,000.00</u> Amount Unsecured: <u>\$1,696,485.68</u>			
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.			
7. 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. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.)			
DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.			
If the documents are not available, please explain:			
Date: <u>11/9/09</u>		Signature: <u>John G. Sestak Jr., attorney for Bank of the West</u> The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.	
		FOR COURT USE ONLY OPUS WEST  00532	

ATTACHMENT TO PROOF OF CLAIM

Amount of claim: No less than \$10,606,485.68 plus any additional interest, fees and costs as permitted and appropriate under state law and the Bankruptcy Code

Basis of Claim:

On or about May 28, 2008 Opus West Corporation (“Opus West”) as borrower and Bank of the West (“BOW”) as agent and lender entered into a Building Loan Agreement/Disbursement Schedule, wherein the BOW agreed to lend Opus West up to \$20,000,000 for the construction of a commercial office park in Carlsbad, California known as Opus Point Flex II – Lots 7-11 (the “Carlsbad Property”). To evidence the loan, Opus West also executed a Promissory Note Secured by Deed of Trust (the “Carlsbad Note”) on May 28, 2007 (also in the amount of \$20,000,000) in favor of BOW as Trustee and Beneficiary. The loan was secured by a Construction Deed of Trust Assignment of Leases and Rents, Security Agreement and Fixture Filing [California] dated May 28, 2008 and recorded in the official records of the San Diego County Recorder’s Office on May 28, 2008 as Doc. # 2008-0286372. A UCC-1 was also filed with the Minnesota Secretary of State on May 30, 2008 listing Opus West as the Debtor and BOW as the secured party. A recent appraisal report reflected an “As Is” Market Value of \$8,910,000. The balance owed under the Carlsbad Note, including interest and fees, on the Petition Date was \$10,606,485.68, which includes \$4,146.64 in accrued interest and a late charge of \$5,233.53. The balance owed is well in excess of the value of the current collateral.

Documentation:

The Carlsbad Note, Deed of Trust, and UCC-1 were previously attached to Bank of the West’s Motion for Approval of Agreement to Modify the Automatic Stay (filed on 7/30/2009 as Docket # 216 in Case No. 09-34356-hdh-11), as Exhibits E, F, and G respectively. Any further documentation can be provided by contacting Bank of the West’s counsel, John G. Sestak, Jr. at Jennings, Strouss & Salmon 201 E. Washington St., 11th Floor, Phoenix, AZ 85004-2385, 602-262-5827.

Northern District of Texas Claims Register

09-34356-hdh11 Opus West Corporation

Judge: Harlin DeWayne Hale

Chapter: 11

Office: Dallas

Last Date to file claims: 11/09/2009

Trustee:

Last Date to file (Govt):

<p><i>Creditor:</i> (12484140) Bank of the West c/o Carolyn J. Johnsen, Esq. Jennings, Strouss & Salmon, PLC 201 E. Washington St., 11th Floor Phoenix, AZ 85004- 2385</p>	<p>Claim No: 48 <i>Original Filed</i> <i>Date:</i> 11/09/2009 <i>Original Entered</i> <i>Date:</i> 11/09/2009</p>	<p><i>Status:</i> <i>Filed by:</i> CR <i>Entered by:</i> Johnsen, Carolyn <i>Modified:</i></p>
--	--	--

<p>Unsecured claimed: \$1696485.68 Secured claimed: \$8910000.00 Total claimed: \$10606485.68</p>
--

<p><i>History:</i> <u>Details</u> <u>48-1</u> 11/09/2009 Claim #48 filed by Bank of the West, total amount claimed: \$10606485.68 (Johnsen, Carolyn)</p>

<p><i>Description:</i> (48-1) Real Estate</p>

<p><i>Remarks:</i></p>

Claims Register Summary