

UNITED STATES BANKRUPTCY COURT-NORTHERN DISTRICT OF TX

PROOF OF CLAIM COPY

Name of Debtor
OPUS WEST CONSTRUCTION CORP.

Case Number 09-34360

(This space for court use)

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. Section 503..

Name of Creditor (The person or other entity to whom the debtor owes money or property)
ALPHA INSULATION & WATERPROOFING, INC.

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.

Name & address where notices should be sent:
c/o The Gardner Law Firm
Thomas J. Walthall
745 E. Mulberry, Suite 500
San Antonio, Texas 78212
Telephone number: (210) 733-8191

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

RECEIVED NOV 09 2009 BMC GROUP

- Goods sold
Services performed
Money loaned
Personal injury/wrongful death
Taxes
XX-Other Mechanic's Lien Affidavits attached hereto

- Retiree benefits as defined in 11 U.S.C. § 1114(a)
Wages, salaries, and compensation (FILL OUT BELOW)
Your Social Security #
Unpaid compensation for services performed from
(date) To (date)

2. Date debt was incurred:

3. If court judgment, date obtained: N/A

4. Total amount of claim at time case filed: \$ 47,624.40

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 an itemized statement of all interest or additional charges.

5. Secured Claim.

XX - Check this box if your claim is secured by collateral (including a right of setoff)
Brief description of collateral:
Real Estate Motor Vehicle
XX Other Secured by Mechanic's Lien Affidavits, attached hereto.
Amount of arrearage and other charges at time case filed included in secured claim, if any:
\$ 47,624.40

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)(___).
*Amounts are subject to adjustment on 4/1/98 and every three 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.

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. Attached is an Amended Lien Affidavit

9. Date-Stamped copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and a copy of this proof of claim.

Date: November 6, 2009 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):
Thomas J. Walthall, Jr.
The Gardner Law Firm
Texas State Bar No. 20821600
Attorneys for Alpha Insulation & Waterproofing, Inc.

(This space for court use)
OPUS WEST
00631

ADJC.1

** Billing Detail Inquiry **

Date:08/19/2009

Company: 45 ALPHA INSUL & WTRPRFG - HOU

Thru:08/31/2009

Job: 1354
CROSSING AT FORT BEND

Contract Amount: 37,860
Billed To Date : 16,000

Contr Date: / /
Est Compl : / /

Cust	--Invoice--				Payments/	
Number	Number	Date	Amount	Retainage	Adjustments	Balance
36958	OPUS WEST CONSTRUCTION CORP.					
	1358	05/25/09	14,400.00		.00	14,400.00
	RETN	05/25/09	1,600.00	1,600.00	.00	1,600.00
	Customer totals		16,000.00	1,600.00	.00	16,000.00
	Job totals		16,000.00	1,600.00	.00	16,000.00

NOTICE: THIS IS NOT A LIEN
THIS IS ONLY AN AFFIDAVIT CLAIMING A LIEN

AFFIDAVIT CLAIMING MECHANIC'S AND MATERIALMAN'S LIEN

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Matt Carpenter the undersigned Affiant, who swore on his oath that the following facts are true:

My name is Matt Carpenter. I am the Operations Manager of Alpha Insulation & Waterproofing, Inc. ("Alpha Insulation"). This Affidavit is made on behalf of Alpha Insulation to perfect the Mechanic's and Materialman's Lien against the real property described below.

1. Alpha Insulation has an unpaid claim in the amount of \$14,400.00 for labor and materials furnished on the construction of improvements generally known as the Crossing at Ford Bend construction project ("Project"). The claimed amount of \$14,400.00 is, within my personal knowledge, just and true, the same is due and unpaid, and all just and lawful offsets, payments and credits have been allowed. The claim amount is for labor and materials furnished and described below, on which a systematic record has been kept.

2. The name and last known address of the owner or reputed owner of the real property and improvements upon which this claim is made is: Opus West, L.P., 2555 E. Camelback Road, Suite 800, Phoenix, Arizona 85016-9267 ("Owner").

1EE

3. The claim amount of \$14,400.00 represents the unpaid contract price due claimant, or in the alternative, is the reasonable value of the unpaid portion of Alpha Insulation's labor and materials furnished, which are described below.

4. Alpha Insulation's labor and materials furnished for construction of improvements on the real property described below are generally described as: waterproofing, caulking and related labor and materials. This claim consists of said work performed and materials delivered during the following month: May 2009.

5. Claimant furnished the above-described labor and materials under a subcontract with Opus West Construction Corporation, whose last known address is 10375 Richmond Avenue, Suite 550, Houston, Texas 77042.

6. Alpha Insulation is the Original Contractor, and its address is 787 Bradfield Road, Houston, Texas 77060.

7. The legal description of the real property improved by Claimant's above-described labor and materials, and which real property and improvements thereon are sought to be charged with Alpha Insulation's lien, is:

ER 013 - 08 - 0189

Block 1, Res A, Res A2, Res A2-B and Red A3, Crossings at Fort Bend Parkway, Houston, Harris County, Texas

D

8. Alpha Insulation claims a mechanic's and materialman's lien upon the above-described real property and improvements thereon to secure payment of its claim in the amount of \$14,400.00 in accordance with the Texas Property Code and Texas Constitution.

9. Alpha Insulation's physical and mailing address is 787 Bradfield Road, Houston, Texas 77060.

10. Alpha Insulation's notices of mechanic's lien were sent to the Owner by United States, certified mail, return receipt requested, on the following dates: July 28, 2009 and August 12, 2009.

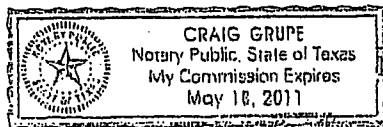
11. In compliance with the Texas Property Code, Alpha Insulation is sending one copy of this Affidavit to the Owner, at its last known address.

ALPHA INSULATION &
WATERPROOFING, INC.

10R

By: *Matt Carpenter*
Matt Carpenter
Operations Manager

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED BEFORE ME by the said Matt Carpenter this 12 day of August, 2009, to certify which witness my hand and seal of office.



Craig Grupe
Notary Public, State of Texas

ER 013 - 08 - 0190

ER 013 - 08 - 0191

20090365831
Pages 3
08/13/2009 08:23:04 AM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
BEVERLY KAUFMAN
COUNTY CLERK
Fees 20.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



Beverly L. Kaufman
COUNTY CLERK
HARRIS COUNTY, TEXAS

ADJC.1

** Billing Detail Inquiry **

Date:08/19/2009

Company: 35 ALPHA INSUL & WTRPRFG - DFW

Thru:08/31/2009

Job: 1462	Contract Amount: 200,351	Contr Date: / /
IWO ADDISON CIRCLE	Billed To Date : 200,351	Est Compl : / /

Cust --Invoice--				Payments/		
Number	Number	Date	Amount	Retainage	Adjustments	Balance

25980	OPUS WEST CONSTRUCTION CORP					
	4066	06/30/08	57,186.00	.00	57,186.00-	.00
	4133	07/31/08	24,030.00	.00	24,030.00-	.00
	4181	08/31/08	40,815.90	.00	40,815.90-	.00
	4277	09/30/08	20,286.90	.00	20,286.90-	.00
	4336	10/31/08	14,676.30	.00	14,676.30-	.00
	4465	12/31/08	7,511.40	.00	7,511.40-	.00
	4497	01/31/09	4,220.10	.00	4,220.10-	.00
	4527	02/28/09	11,589.30	.00	.00	11,589.30
	RETN	06/30/08	20,035.10	20,035.10	.00	20,035.10
	35659	11/14/08	13,437.00	.00	13,437.00-	.00
	CM5659	02/28/09	13,437.00-	.00	13,437.00	.00
	Customer totals		200,351.00	20,035.10	168,726.60-	31,624.40
	Job totals		200,351.00	20,035.10	168,726.60-	31,624.40

9325.00

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AFFIDAVIT CLAIMING MECHANIC'S AND MATERIALMAN'S LIEN

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Chuck Jahant, the undersigned Affiant, who swore on his oath that the following facts are true:

My name is Chuck Jahant. I am the Division Manager of Alpha Insulation & Waterproofing, Inc. ("Alpha Insulation"). This Affidavit is made on behalf of Alpha Insulation to perfect the Mechanic's and Materialman's Lien against the real property described below.

1. Alpha Insulation has an unpaid claim in the amount of \$35,844.50 for labor and materials furnished on the construction of improvements generally known as the Two Addison Circle construction project ("Project"). The claimed amount of \$35,844.50 is, within my personal knowledge, just and true, the same is due and unpaid, and all just and lawful offsets, payments and credits have been allowed. The claim amount is for labor and materials furnished and described below, on which a systematic record has been kept.

2. The name and last known address of the owner or reputed owner of the real property and improvements upon which this claim is made is: Opus West, L.P., 15455 Dallas Parkway, Suite 450, Addison, Texas 75001-6759 ("Owner").

3. The claim amount of \$35,844.50 represents the unpaid contract price due claimant, or in the alternative, is the reasonable value of the unpaid portion of Alpha Insulation's labor and materials furnished, which are described below.

4. Alpha Insulation's labor and materials furnished for construction of improvements on the real property described below are generally described as: fireproofing and related labor and materials. This claim consists of said work performed and materials delivered during each of the following months: January and February, 2009.

5. Claimant furnished the above-described labor and materials under a subcontract with Opus West Construction Corporation, whose last known address is 15455 N. Dallas Parkway, Suite 450, Addison, Texas 75001.

6. Alpha Insulation is the Original Contractor pursuant to Texas Property Code § 53.026, and its address is 1010 E. Dallas Road, Grapevine, Texas 76051.

7. The legal description of the real property improved by Claimant's above-described labor and materials, and which real property and improvements thereon are sought to be charged with Alpha Insulation's lien, is:

G W Fisher Abstract 482, Page 731, Tract 35.2, 3.371 acres, Addison, Dallas County, Texas; also known as 15725 N. Dallas Parkway, Addison, Dallas County, Texas

8. Alpha Insulation claims a mechanic's and materialman's lien upon the above-described real property and improvements thereon to secure payment of its claim in the amount of \$35,844.50 in accordance with the Texas Property Code and Texas Constitution.


9. Alpha Insulation's physical and mailing address is 1010 E. Dallas Road, Grapevine, Texas 76051.

10. Alpha Insulation's notices of mechanic's lien were sent to the Owner by United States, certified mail, return receipt requested, on the following dates: April 13, 2009; May 5, 2009; and May 14, 2009.

11. In compliance with the Texas Property Code, Alpha Insulation is sending one copy of this Affidavit to the Owner, at its last known address, and also one copy to Opus West Construction Corporation, at its last known address.

ALPHA INSULATION &
WATERPROOFING, INC.

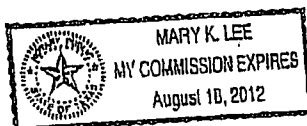
By:

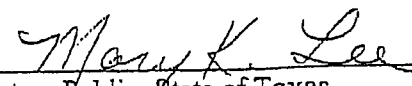


Chuck Jahant
Division Manager

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED BEFORE ME by the said Chuck Jahant this 14 day of May, 2009, to certify which witness my hand and seal of office.





Notary Public, State of Texas

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS



A stylized signature of John F. Warren is written over a rectangular area with a fine dotted background.

John F. Warren, County Clerk
Dallas County TEXAS
May 14 2009 01:02 PM
FEE: \$ 20.00

200900138022

The
Gardner
Law
Firm
A Professional Corporation

David F. Barton
Jay K. Farwell
Dawn B. Finlayson†††
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Gregory M. Huber
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†††Board Certified-Labor & Employment Law
Texas Board of Legal Specialization

November 6, 2009

Opus West Corporation, et al.
c/o BMC Group
18750 Lake Drive East
Chanhassen, MN 55317

Via Overnight Delivery

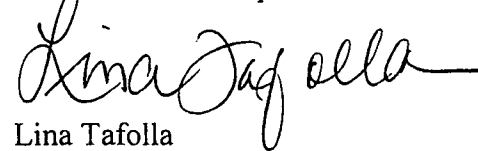
Re: Case No. 09-34360; In re: Opus West Construction Corporation, Debtor

Gentlemen:

Enclosed is an original and one copy of a Proof of Claim filed on behalf of Alpha Insulation & Waterproofing, Inc.

Very truly yours,

THE GARDNER LAW FIRM
A Professional Corporation



Lina Tafolla
Paralegal

:lt
Tjw/9325.002/1-opus west 11-6-09
Enclosures

✓ cc: Clifton R. Jessup, Jr.
Greenberg Traurig, LLP
2200 Ross Avenue, Suite 5200
Dallas, Texas 75201