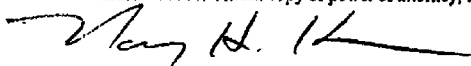



B 10 (Official Form 10) (12/08)

UNITED STATES BANKRUPTCY COURT Northern District of Texas		PROOF OF CLAIM
Name of Debtor: Opus West Construction Corporation		Case Number: 09-34360
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): Miller Builders, L.L.P.		<input checked="" type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: 17-1 (if known) Filed on: 11/9/2009
Name and address where notices should be sent: Nancy H. Hamren Coats, Rose, Yale, Ryman & Lee, P.C. 3 E. Greenway Plaza, Suite 2000, Houston, TX 77048 Telephone number: 713-653-7362		
Name and address where payment should be sent (if different from above): 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: \$ 322,999.00		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: \$ _____ *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
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. Claimant reserves its right to seek pre- and post- petition interest and attorney's fees.		
2. Basis for Claim: <u>Provided labor and/or materials for the improvement of real property</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 <u>Crossing at Fort Bend Parkway (14404 1/2 Hillcroft, Houston, TX 77085)</u> Value of Property: \$ <u>Unknown</u> Annual Interest Rate <u> </u> % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ <u>Full Amount</u> Basis for perfection: <u>Lien Affidavit attached as Exhibit A</u> Amount of Secured Claim: \$ <u>Unknown</u> Amount Unsecured: \$ <u>322,999.00</u> unless equity in the property		
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: 4/9/2010	Signature: 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.  Nancy H. Hamren, Attorney	
		FOR COURT USE ONLY  OPUS WEST 00671

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.

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LAPP
EV

20090255599
06/12/2009 RP3 \$24.00

STATE OF TEXAS §
§
§
COUNTY OF HARRIS §
**AFFIDAVIT CLAIMING MECHANICS' AND
MATERIALMEN'S LIEN**

BEFORE ME, a notary public in and for the State of Texas, on this day personally appeared the undersigned, who being by me duly sworn, on oath states:

1. My name is Michael S. Miller. I am the Managing Partner of Miller Builders, L.L.P. ("Claimant") and am authorized to make this affidavit on its behalf as the sworn statement of its claim.

2. Claimant furnished labor and/or materials for the improvement of the following described property in Harris County, Texas:

Commonly known as 14404 1/2 Hillcroft Street, Houston, Texas 77085 and as more particularly described Reserve A, Block 1, Crossing at Fort Bend Parkway, as shown on that certain Subdivision and Development Plat recorded at Film Code no. 597210 of the Map Records of Harris County, Texas D

3. The labor and/or material was furnished for such improvement to Opus West Construction Corporation. The last known addresses of Opus West Construction Corporation are 15455 North Dallas Parkway, Suite 450, Addison, Texas 75001, 2555 East Camelback Road, Suite 800, Phoenix, Arizona 85016 and/or c/o Tax Department, 10350 Bren Road West, Minnetonka, Minnesota 55343. The labor and/or material was furnished pursuant to an agreement with Opus West Construction Corporation during the months of February through April, 2009.

4. Opus West Construction Corporation is the original contractor for such improvement, whose last known addresses are 15455 North Dallas Parkway, Suite 450, Addison, Texas 75001 and/or 2555 East Camelback Road, Suite 800, Phoenix, Arizona 85016.

5. Opus West, L.P. and/or its General Partner, Opus West Corporation, are the owners or reputed owners of the land and improvements thereon, whose last known address is 2555 East Camelback Road, Suite 800, Phoenix, Arizona 85016. Lee

6. To the extent that the managing individuals/entities of Opus West Construction Corporation, Opus West, L.P. and/or Opus West Corporation are related pursuant to Section 53.026 of the Texas Property Code and thereby making Claimant the original contractor, Claimant asserts a constitutional lien as provided under Article 16, Section 37 of the Texas Constitution, and makes this sworn statement of claim in support thereof.

7. The labor and/or material furnished by Claimant is generally described as building site and concrete work.

EXHIBIT A

8. The amount due, owing and unpaid to claimant for such labor and/or material is \$322,999.00, (which includes retainage in the amount of \$70,522.60) which is true, correct, and just, with all just and lawful offsets, payments, and credits known to affiant allowed.

9. Claimant's mailing address is P.O. Box 1847, Pearland, Texas 77588. Claimant's physical address is 12813 Webercrest, Houston, Texas 77048.

10. Claimant sent notices to Opus West Construction Corporation and Opus West Corporation, by certified mail, return receipt requested, on May 15, 2009.

Claimant claims a lien against all the above described property and improvements thereon in the amount shown above pursuant to Chapter 53 of the Property Code of the State of Texas, and makes this sworn statement of claim in support thereof.

MILLER BUILDERS, L.L.P.

Michael S. Miller

Michael S. Miller, Managing Partner

(2)
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10R

Subscribed and sworn to before me by the said Michael S. Miller this 9th day of June, 2009, to certify which witness my hand and seal of office.



Kathy D. Koster
Notary Public in and for the
STATE OF TEXAS

STATE OF TEXAS

COUNTY OF Harris

§
§
§

BEFORE ME, the undersigned authority, on this day personally appeared Michael S. Miller, Managing Partner of Miller Builders, L.L.P., known to me to be the person whose name is subscribed to the foregoing instrument, who after being by me duly sworn acknowledged that the statements contained above are true and correct, that he executed same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this 9th day of June, 2009.



Kathy D. Koster
Notary Public in and for the
STATE OF TEXAS

2009 JUN 10 10:58 AM

AFTER RECORDING RETURN TO:

Tom R. Barber
Coats, Rose, Yale, Ryman & Lee, P.C.
2600 South Shore Blvd., Suite 200
League City, Texas 77573

FILED FOR RECORD
8:00 AM

JUN 12 2009

Candice B. Kayman
County Clerk, Harris County, Texas

2009 JUN 12 8:00 AM

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 Public Records on the date and at the time
specified herein by me, and was duly RECORDED in the Official Public Records of Real Property of Harris
County, Texas on

JUN 12 2009



Candice B. Kayman
COUNTY CLERK
HARRIS COUNTY, TEXAS

Northern District of Texas Claims Register

09-34360-hdh11 Opus West Construction Corporation

Judge: Harlin DeWayne Hale **Chapter:** 11

Office: Dallas

Last Date to file claims:

Trustee:

Last Date to file (Govt):

Creditor: (12791003) Miller Builders, L.L.P. c/o Nancy H. Hamren Coats, Rose, Yale, Ryman & Lee, P.C. 3 E. Greenway Plaza, Suite 2000 Houston, TX 77046	Claim No: 17 <i>Original Filed</i> Date: 11/09/2009 <i>Original Entered</i> Date: 11/09/2009 <i>Last Amendment</i> Filed: 04/09/2010 <i>Last Amendment</i> Entered: 04/09/2010	Status: Filed by: CR Entered by: Modified:
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Unsecured claimed: \$322999.00

Total claimed: \$322999.00

History:

Details 17-1 11/09/2009 Claim #17 filed by Miller Builders, L.L.P., total amount claimed: \$454488.9
 (Hamren, Nancy)

Details 17-2 04/09/2010 Amended Claim #17 filed by Miller Builders, L.L.P., total amount claimed:
 \$322999 (Hamren, Nancy)

Description: (17-2) Amends Claim No. 17-1

Remarks: (17-1) Secured Amount Unknown
 (17-2) See Exhibit A

Claims Register Summary

Case Name: Opus West Construction Corporation

Case Number: 09-34360-hdh11

Chapter: 11

Date Filed: 07/06/2009

Total Number Of Claims: 1

	Total Amount Claimed	Total Amount Allowed
Unsecured	\$322999.00	
Secured		
Priority		
Unknown		
Administrative		
Total	\$322999.00	\$0.00