

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In re:

OPUS SOUTH CORPORATION, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 09-11390 (MFW)

Jointly Administered

*Ref. Dkt. # 872*

**ORDER GRANTING 400 BEACH DRIVE, L.L.C.'S MOTION TO CONVERT  
CASE FROM CHAPTER 11 TO CHAPTER 7 OF THE BANKRUPTCY CODE**

400 Beach Drive, L.L.C., a debtor and debtor-in-possession in the above-captioned bankruptcy case (the "Debtor"), having filed that certain *Debtor 400 Beach Drive, L.L.C.'s Motion to Convert Case from Chapter 11 to Chapter 7 of the Bankruptcy Code* (the "Motion")<sup>2</sup>; and a hearing on the Motion having been held; and adequate and sufficient notice of the Motion having been given; and the Court having reviewed and considered (i) the Motion, (ii) all pleadings related thereto and (iii) the arguments of counsel made, and the evidence proffered or adduced, at the hearing:

**NOW, THEREFORE, IT HEREBY IS FOUND AND DETERMINED THAT:**

A. This Court has jurisdiction over the Motion under 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding under 28 U.S.C. § 157(b)(2)(A). Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408.

B. The statutory predicates for the relief sought in the Motion are Section 1112(a) of the Bankruptcy Code and Federal Rules of Bankruptcy Procedure 1017(f)(2) and 9013.

C. As evidenced by the affidavits of service on file with the Court, (i) sufficient notice and a reasonable opportunity to object or be heard with respect to the Motion has been

<sup>1</sup> The debtors in these cases, along with the last four digits of each debtor's federal tax identification number, are: Opus South Corporation (4928); Clearwater Bluff, L.L.C. (1608); Waters Edge One, L.L.C. (3936); and 400 Beach Drive, L.L.C. (0489). The mailing address for each debtor is 10350 Bren Road W, Minnetonka, Minnesota 55343.

<sup>2</sup> Capitalized terms used herein and not otherwise defined herein shall have the meaning given to them in the Motion.

provided in accordance with the Bankruptcy Code and Bankruptcy Rules, (ii) such notice was appropriate under the circumstances and (iii) no other or further notice of the Motion is or shall be required except as set forth herein.

D. The Debtor, prior to the granting of the relief pursuant to this Order, was a debtor and debtor-in-possession in this case pending under Chapter 11 of the Bankruptcy Code.

E. The Debtor's Chapter 11 case was not originally commenced as an involuntary case.

F. The above-captioned case was not previously converted to a case under Chapter 11 of the Bankruptcy Code.

**NOW, THEREFORE, IT HEREBY IS ORDERED THAT:**

1. The Motion is GRANTED.
2. Pursuant to Section 1112(a) of the Bankruptcy Code, the Chapter 11 case of the Debtor is converted to a case under Chapter 7 of the Bankruptcy Code, effective as of the date hereof.
3. The Debtor shall:
  - a. turn over to the chapter 7 trustee all records requested by the Chapter 7 trustee and property of the estate under the Debtor's custody and control as required by Bankruptcy Rule 1019(4); and
  - b. within 15 days of the date of this order, file a schedule of unpaid debts incurred after commencement of the superseded case including the name and address of each creditor as required by Bankruptcy Rule 1019(5).
4. The Debtor shall, within 30 days from the date of this order, file and transmit to the United States Trustee a final report and account as required by Bankruptcy Rule 1019(5)(A).
5. A representative of the Debtor and, if requested by the Chapter 7 trustee, counsel to the Debtor in the Chapter 11 case, shall appear at the first meeting of creditors pursuant to Sections 341(a) and 343 of the Bankruptcy Code, and such representative shall be available to testify at such meeting.

6. Except to the extent otherwise previously ordered by the Court, all professionals retained in the Debtor's Chapter 11 case under Section 327 of the Bankruptcy Code (except for those "ordinary course" professionals retained by the Debtor) shall file their final fee applications within thirty (30) days of the date of this Order.

7. The deadline to object to a final fee application shall be fifteen (15) days after the date of the filing of such final fee application (the "Objection Deadline").

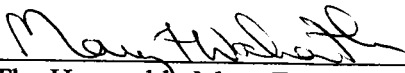
8. A hearing to consider all timely filed final fee applications shall be held at the next omnibus hearing date scheduled after the Objection Deadline.

9. The jointly-administered Case No. 09-11390 shall exclude the newly-converted bankruptcy case of the Debtor as of the date of this Order, and the original order authorizing these cases to be jointly-administered shall no longer be effective as to the Debtor.

10. Any and all pleadings filed with the Court with respect to the Debtor shall be filed on the docket for the converted bankruptcy case under Case No. 09-11396 and not jointly-administered under Case No. 09-11390.

11. The Court shall retain jurisdiction over disputes pertaining to this Order.

Dated: Jan. 25, 2010

  
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The Honorable Mary F. Walrath  
United States Bankruptcy Judge