

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	
Garden Oaks Maintenance Organization, Inc., Debtor	§	Case No. 18-60018-H2-11
	§	
	§	
	§	

OBJECTION TO CLAIM #367 FILED BY W.W. GRAINGER INC.

THIS IS AN OBJECTION TO YOUR CLAIM. THE OBJECTING PARTY IS ASKING THE COURT TO DISALLOW THE CLAIM THAT YOU FILED IN THIS BANKRUPTCY CASE. YOU SHOULD IMMEDIATELY CONTACT THE OBJECTING PARTY TO RESOLVE THE DISPUTE. IF YOU DO NOT REACH AN AGREEMENT, YOU MUST FILE A RESPONSE TO THIS OBJECTION AND SEND A COPY OF YOUR RESPONSE TO THE OBJECTING PARTY WITHIN 30 DAYS AFTER THE OBJECTION WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE OBJECTION IS NOT VALID. IF YOU DO NOT FILE A RESPONSE WITHIN 30 DAYS AFTER THE OBJECTION WAS SERVED ON YOU, YOUR CLAIM MAY BE DISALLOWED WITHOUT A HEARING.

A HEARING HAS BEEN SET FOR THIS OBJECTION FOR JANUARY 25, 2021 AT 2:00PM, COURTROOM 400, 4TH FLOOR, 515 RUSK, HOUSTON, TX 77002.

1. The Debtor filed a voluntary chapter 11 petition on April 11, 2018.
2. The Debtor was unable to confirm a plan, and the case was converted to a chapter 7 on June 6, 2019.
3. Randy Williams was appointed Chapter 7 Trustee.
4. On July 16, 2019, the Trustee issued his *Notice of Assets*, with a claims bar date of October 21, 2019.

5. On August 28, 2018, W.W. Grainger Inc. filed claim #367, asserting an unsecured claim in the amount of \$12,853.71.
6. The Debtor has never conducted any business with W.W. Grainger, and does not owe them any money.
7. In addition, the claim itself indicates that it should have been filed in a different case – case #18-33815, *In re Koontz-Wagner Custom Controls Holdings LLC*.
8. The Trustee asks the Court to disallow Claim #367.

WHEREFORE, the Trustee requests the Court to disallow Claim #367, and to grant him such other and further relief, at law or in equity, to which he may be justly entitled.

Dated: December 23, 2020.

Respectfully submitted,

By: /s/ Johnie Patterson

Johnie Patterson

State ID# 15601700

COUNSEL FOR THE CHAPTER 7
TRUSTEE

OF COUNSEL:

WALKER & PATTERSON, P.C.

P.O. Box 61301

Houston, TX 77208

713.956.5577

713.956.5570 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Objection* was served upon W.W. Grainger Inc., 401 South Wright Rd. W4E.C37, Janesville, WI 53546, by first class, U.S. mail, postage prepaid on December 23, 2020.

By: /s/ Johnie Patterson

Johnie Patterson

Fill in this information to identify the case:

Debtor 1 Koontz-Wagner Custom Controls Holdings LLC

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Southern District of Texas

Case number 18-33815

United States District Court
Southern District of Texas
FILED

AUG 28 2018

David J. Enright, Clerk of Court

Official Form 410

Proof of Claim

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached 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. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>W.W. Grainger, Inc.</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>W.W. Grainger, Inc.</u> Name <u>401 South Wright Road W4E.C37</u> Number Street <u>Janesville</u> <u>WI</u> <u>53546</u> City State ZIP Code Contact phone <u>608-898-5450</u> Contact email <u>Char.Walters@grainger.com</u>	Where should payments to the creditor be sent? (if different) Name _____ Number Street _____ City State ZIP Code _____ Contact phone _____ Contact email _____ Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>6</u> <u>4</u> <u>0</u> <u>3</u>
7. How much is the claim?	\$ <u>12,853.71</u> . Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>Goods Sold - (See Statement)</u>
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input checked="" type="checkbox"/> Other. Describe: <u>Goods Sold</u> Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☐ No

☒ Yes. Check all that apply:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ _____

☐ Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☒ Other. Specify subsection of 11 U.S.C. § 507(a)(2) that applies.

\$ 6,635.90

* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☒ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

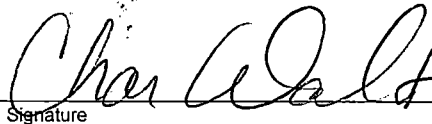
I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 08/24/2018

MM / DD / YYYY



Signature

Print the name of the person who is completing and signing this claim:

Name	<u>Char Walters</u>		
	First name	Middle name	Last name
Title	<u>Special Collection Associate</u>		
Company	<u>W.W. Grainger</u>		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	<u>401 S. Wright Rd.</u>		
	Number	Street	
	<u>Janesville</u>	WI	<u>53546</u>
	City	State	ZIP Code
Contact phone	<u>608-898-5450</u>	Email	<u>char.walters@grainger.com</u>

ADDENDUM TO PROOF OF CLAIM

W.W. Grainger, Inc. (“**Grainger**”), hereby submits this addendum (the “**Addendum**”) to its proof of claim (the “**Proof of Claim**”) against **Koontz-Wagner Custom Controls Holdings LLC** and its administratively consolidated debtors¹ (collectively, the “**Debtors**”) and in support thereof states as follows:

General Background

1. On **July 11, 2018** (the “**Petition Date**”), the Debtors filed voluntary petitions for relief under Chapter 11 of Title 11, United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the **Southern District of Texas**. The Debtors remain in possession of their property and continue to operate their businesses as debtors-in-possession pursuant to Bankruptcy Code §§ 1107(a) and 1108.

Claims of Grainger Against the Debtors

Pre-Petition Claim

2. Grainger’s claim arises from unpaid invoices for goods provided by Grainger to the Debtors prior to the Petition Date. Attached as Exhibit 1 is a spreadsheet of amounts owed by the Debtors to Grainger for pre-Petition Date goods provided by Grainger to the Debtors totaling **\$12,853.71**. Accordingly, the Debtors are liable to Grainger in the total amount of at least **\$12,853.71**.

¹The Debtors consist of the following entities:

Administrative Claim

3. Pursuant to Bankruptcy Code section 503(b)(9), any claim for goods received by the Debtors within the 20 day period prior to the Petition Date is entitled to administrative expense priority status. *See* 11 U.S.C. § 503(b)(9). During the 20 days prior to the Petition Date, Grainger provided certain goods to the Debtors. Attached as Exhibit 2 is a spreadsheet detailing those amounts owed by the Debtors to Grainger for pre-Petition Date goods provided by Grainger to the Debtors during this 20 day period prior to the Petition Date. Accordingly, the Debtors are liable to Grainger in the total amount of **\$6,635.90** administrative claims pursuant to Bankruptcy Code section 503(b)(9) (the “**Section 503(b)(9) Claim**”).

Total Claim of Grainger

4. Accordingly, the Debtors are liable to Grainger in the total amount (the “**Claim**”) of at least **\$12,853.71** comprising:

- a. **\$6,635.90** remaining due and unpaid as an administrative, Section 503(b)(9) Claim; and
- b. **\$6,217.81** = **\$12,853.71** – **\$6,635.90** as a general unsecured claim for goods delivered to the Debtors.

5. Grainger requests allowance and payment of the Claim as stated herein. To the extent that the Section 503(b)(9) Claim is not allowed by this Court, the Proof of Claim is filed as an unsecured claim in the entire amount of **\$12,853.71**. To the extent this claim accrues after the Petition Date as a result of the actions or positions taken by the Debtors, or as otherwise allowed by law, this claim is asserted as an administrative expense claim of a first priority under Bankruptcy Code section 503.

Reservation of Other Claims and Rights

6. The filing of this Proof of Claim is not intended and should not be construed to be an election of remedies, waiver of any past, present or future defaults or events of default, or a waiver or limitation of any rights, remedies, claims, or interest of Grainger. The filing of this Proof of Claim is not and should not be construed as: (1) a waiver of jury trial rights; or (2) a waiver or limitation of any right, interest, or cause of action held by Grainger.

7. Grainger expressly includes a claim against the Debtors and each and every one of the affiliates of the Debtors and others purporting to act on their behalf, for the benefit derived from the use of any of the Debtors' assets or the proceeds of such assets traceable to such person, and for imposition of constructive trusts or equitable liens thereon, subrogation and all other claims thereto, and for any and all other legal or equitable remedies, rights, and interest to which Grainger may be entitled by virtue of the use, possession and enjoyment by the Debtors or any of the affiliates of the Debtors or any other recipient of any of the Debtors' assets or the proceeds of such assets, either directly or indirectly. Grainger further reserves any and all rights against parties other than the Debtors based on the foregoing facts and circumstances.

8. Grainger expressly reserves its rights, remedies, interests, priorities, protections, claims, setoffs, and recoupments against the Debtors under Sections 510, 544, 545, 548, 549, 550, and 553 of the Bankruptcy Code, including claims to equitable subordination and the right and benefit at law or in equity of all Grainger's rights and interests.

9. Other than those documents named and described herein, there may be additional documents in the possession or under the control of the Debtors that would further support the claims hereunder. Grainger expressly reserves its right to supplement the foregoing Proof of Claim and Addendum against the Debtors and any of the affiliates of the Debtors after full disclosure of all relevant facts in these bankruptcy proceedings, whether pursuant to Bankruptcy

Code section 1104 or 1106, or such adversary actions or other legal proceedings as may be necessary or appropriate.

10. Grainger reserves the right to amend or supplement this Proof of Claim and Addendum or to file additional proofs of claims for additional claims, including, without limitation, claims for administrative expenses and all other claims, at law or in equity, arising prior to, on, or after the Petition Date. Grainger reserves the right to amend or supplement this Proof of Claim, if Grainger should deem it necessary and appropriate, for any reason including an updated statement of the amount then due, or for any other purpose for which a Proof of Claim filed in this proceeding could be amended.

11. Grainger does not consent to the jurisdiction of this Court for any purpose other than the proof and allowance of this Proof of Claim.

EXHIBIT 1

Total Pre-Petition Date Claim



W.W. Grainger, Inc
401 S. Wright Road
Janesville, WI 53546

Pre-Petition Statement

KOONTZ-WAGNER
20394 PINTO RD
CALDWELL ID 83607-8000

Invoice	PO	INV Date	Amount
9630969518	547027	12/01/17	\$452.00
9630969526	547031	12/01/17	\$452.00
9717986906	548836	03/05/18	\$24.91
9721442433	548885	03/08/18	\$43.46
9755771798	549330	04/12/18	-\$122.96
9770795236	549632	04/26/18	\$15.12
9778461153	549780	05/04/18	\$307.40
9825174072	550304	06/21/18	\$216.55
9830295201	550496	06/26/18	\$26.20
9836446766	550607	07/03/18	\$100.06
			\$1,514.74

KOONTZ-WAGNER CUSTOM CONTROLS HLDG
3801 VOORDE DR STE
A
SOUTH BEND IN 46628-1643

Invoice	PO	INV Date	Amount
9725146626	548947	03/13/18	\$517.87
9735342389	549085	03/22/18	\$553.55
9760802554	549456	04/17/18	\$2,551.97
9762306299	549497	04/19/18	\$165.00
9774358676	549748	05/01/18	\$155.60
9774885330	549756	05/01/18	\$594.10
9774950548	549748	05/01/18	\$325.29



W.W. Grainger, Inc
401 S. Wright Road
Janesville, WI 53546

9777624074	549456	05/04/18	\$182.50
9826265135	550411	06/22/18	\$466.20
9826365919	550411	06/22/18	\$311.98
9826680747	550411	06/22/18	\$48.70
9830400785	550495	06/26/18	\$4,349.24
9831157384	550495	06/27/18	\$28.22
9833091565	550526	06/28/18	\$1,001.00
9836036153	550411	07/03/18	\$87.75

\$11,338.97

Total \$12,853.71

EXHIBIT 2

Section 503(b)(9) Claim



W.W. Grainger, Inc
401 S. Wright Road
Janesville, WI 53546

503(B)9 Statement

KOONTZ-WAGNER
20394 PINTO RD
CALDWELL ID 83607-8000

Invoice	PO	INV Date	Amount
9825174072	550304	06/21/18	\$216.55
9830295201	550496	06/26/18	\$26.20
9836446766	550607	07/03/18	\$100.06

\$342.81

KOONTZ-WAGNER CUSTOM CONTROLS HLDG
3801 VOORDE DR STE A
SOUTH BEND IN 46628-1643

Invoice	PO	INV Date	Amount
9826265135	550411	06/22/18	\$466.20
9826365919	550411	06/22/18	\$311.98
9826680747	550411	06/22/18	\$48.70
9830400785	550495	06/26/18	\$4,349.24
9831157384	550495	06/27/18	\$28.22
9833091565	550526	06/28/18	\$1,001.00
9836036153	550411	07/03/18	\$87.75

\$6,293.09

Total \$6,635.90