UNITED STATES COURTS
DISTRICT OF IDAHO

JUL 17 1998

10:30 a.m. REC'D
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IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF IDAHO

In re:	)	
HARWARD, PAUL REES and HARWARD, JANET LOUISE,	)	Case No. 97-02754
Debtors,	)	SUMMARY ORDER

The Chapter 7 Trustee ("Trustee") objects to a claim of John Ward. The trustee contends the claim is not a secured claim, as contended by John Ward, since his claim of lien was not perfected as required by I.C. § 45-507.

FACTS

The Debtors filed their petition for relief under Chapter 7 of Title 11 United States Code, on September 9, 1997. The Debtors are builders of residential properties. One of the Debtors' unfinished houses was sold pursuant to court order and proceeds deposited into escrow with instructions that valid lienholders be paid the amount of their liens. Intermountain West Insulation recorded a lien

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in the amount of $2,931.00 and John Ward recorded his lien in the amount of $6,861.38. Checks were made in favor of each of them for the amounts shown. The Trustee now moves for an order requiring the checks be redrawn in his favor for the benefit of the unsecured creditors due to the invalidity of the liens. Only John Ward contests the motion.

DISCUSSION

The Trustee alleges that both Intermountain and John Ward failed to serve or mail a copy of their lien on the Debtors as owner of the property in question. I.C. § 45-507 clearly mandates:

> A true and correct copy of the claim of lien shall be served on the owner or reputed owner of the property either by delivering a copy thereof to the owner or reputed owner personally or by mailing a copy thereof by certified mail to the owner or reputed owner at his last known address. Such delivery or mailing shall be made no later than twenty-four (24) hours following the filing of said claim of lien.

I.C. § 45-507.

At the hearing on the motion John Ward appeared and admitted he had not served the Debtors in the manner provided by I.C. § 45-507. The facts are not disputed.

"To be effective, a copy of the mechanic's or materialman's lien must be served on the 'owner or reputed owner' within twenty-four hours of its being filed. This is

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a statutory condition for an effective lien." *Ashley Glass Co., Inc. v. Hoff,* 123 Idaho 544, 547 (1991). The liens of Intermountain and John Ward fail the statutory requirements for effective and valid liens.

Accordingly, it is

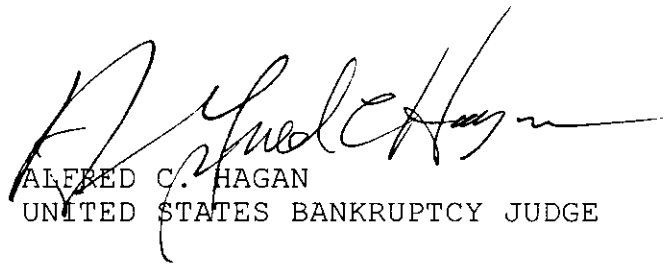
ORDERED:

1. Intermountain West Insulation's lien is not valid and of no force and effect.

2. John Ward's lien is not valid and of no force and effect.

3. Checks made payable to Intermountain and John Ward for payment of their liens shall be canceled and reissued in favor of the Trustee for the benefit of the Debtor's estate.

Dated this 17th day of July, 1998.



ALFRED C. HAGAN
UNITED STATES BANKRUPTCY JUDGE

ACH:jbc

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CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I mailed a true copy of the document to which this certificate is attached, to the following named person(s) at the following addresses(es), on the date shown below:

DATED: 7-17-98

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