

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

<b>IN RE:</b>	)	
	)	<b>Chapter 11</b>
<b>BUILDING MATERIALS HOLDING</b>	)	
<b>CORPORATION, <i>et al.</i>,<sup>1</sup></b>	)	<b>Case No. 09-12074 (KJC)</b>
	)	
<b>Debtors.</b>	)	<b>Jointly Administered</b>
	)	
	)	<b>Ref. Docket Nos. 653</b>
	)	

**FEE AUDITOR'S FINAL REPORT REGARDING FIRST INTERIM QUARTERLY FEE  
REQUEST OF ARENT FOX LLP**

Direct Fee Review LLC ("DFR"), appointed and employed as the Fee Auditor in the above-captioned bankruptcy proceedings and acting in its capacity regarding the First Interim Fee Application of Arent Fox LLP for compensation for services rendered and reimbursement of expenses as Counsel to the Official Committee of Unsecured Creditors for the period June 26, 2009 through August 31, 2009 ("Fee Request") seeking approval of fees in the amount of \$457,213.00 and reimbursement of expenses in the amount of \$7,188.28, submits its final report.

**BACKGROUND**

In performance of audit procedures and in preparation of this report designed to quantify and present factual data relevant to the requested fees, disbursements and expenses contained herein, DFR reviewed the monthly fee statements and the Fee Requests, including each of the billing and expense entries listed in the exhibits to the monthly statements, for compliance with 11 U.S.C. § 330, Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, as amended February 1, 2009 ("Local Rules"), and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, issued January 30, 1996 ("Guidelines").

**DISCUSSION**

For the compensation period of June 26, 2009 through August 31, 2009 Arent Fox LLP submitted monthly fee applications in the amount of \$457,213.00 as actual, reasonable and

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<sup>1</sup> The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

necessary and reimbursement of expenses in the amount of \$7,188.28. For the Fee Request period, \$3,359.00 was charged for fee applications.


1. Based upon a review for reasonableness DFR noted the entries listed in Exhibit A which may be considered excessive. In general DFR deems charges in excess of \$15/\$25/\$50 for breakfast/lunch/dinner to be not reasonable. Some of these entries appear to be compound. After review by the firm of these charges, the firm withdrew charges in the amount of \$252.26; we recommend a reduction in expense of this amount.
2. Local Rule 2016-2 provides in section (d) (viii) that travel time during which no work is performed shall be separately described and may be billed at no more than 50% of regular hourly rates. It appears that some non-working travel time has used the full hourly rates applied to a reduced number of hours for these travel entries. On future applications, we requested and the firm agreed that the entire amount of actual travel time will be billed at 50% of the ordinary hourly rate for greater clarity.
3. In the Monthly Fee Application for July 1, 2009 through July 31, 2009 we noted that Arent Fox LLP increased the hourly rates of its professional during the first interim period. After discussions with the firm it was discovered "that the rates charged for certain of our associates in the first monthly application were not the respective associate's current rates due to an error in our accounting system; specifically, the rates in the application were lower than their actual current rates and no rate change has occurred since our retention. Due to the small amount at issue, we elected not to amend or modify the first application to increase the rates; rather, we chose to just correct it in the following monthly applications." We accept the firm response and reiterate that their method of dealing with this is to the benefit of the Debtor.

### **CONCLUSION**

Regarding the First Interim Fee Application and the fees and expenses discussed in the previous sections, DFR submits its report for the First Interim Fee Application of Arent Fox LLP as Counsel to the Official Committee of Unsecured Creditors for compensation for services rendered and reimbursement of expenses for the Period from June 26, 2009 Through August 31, 2009 and we recommend the approval of fees in the amount of \$457,213.00 and reimbursement of expenses in the amount of \$ 6,936.02 (\$7,188.28 minus \$252.26).

Respectfully submitted,

**DIRECT FEE REVIEW LLC**

By:   
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**FEE AUDITOR**

**Exhibit A:**

		MEALS - CHRISTOPHER GIAIMO 0812:DINNER W D KERRIGAN, M DERSVIS,
331.79	20090812	K LANE
		OUT-OF-TOWN MEALS - CHRISTOPHER GIAIMO 0706:MEALS:TRAVEL
79.38	20090706	DEST: NEW YORK
		MEALS - CHRISTOPHER GIAIMO 0707:LUNCH:VARIOUS
357.92	20090707	ASSOCIATIONS:TRAVEL DEST: NEW YORK
		OUT-OF-TOWN MEALS - KATIE LANE 0701:MEALS:TRAVEL DEST:
64.00	20090701	DELAWARE
		OUT-OF-TOWN MEALS - KATIE LANE 0706:MEALS:TRAVEL DEST:
162.55	20090706	DELAWARE

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served by First Class United States mail to the attached service list on this 24th day of November, 2009.

By:   
W. J. Dryer

**SERVICE LIST**  
**Notice Parties**

**The Applicants**

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Washington, DC 20036

**The Debtor**

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**Office of the United States Trustee**  
OFFICE OF THE U.S. TRUSTEE  
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