

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

IN RE:)	
	)	Chapter 11
BUILDING MATERIALS HOLDING CORPORATION, <i>et al.</i> , ¹)	
	)	Case No. 09- <u>12074</u> ()
Debtors.)	
	)	Joint Administration Requested
)	

DEBTORS' MOTION FOR INTERIM AND FINAL ORDERS (A) AUTHORIZING THE DEBTORS TO CONTINUE INSURANCE COVERAGE ENTERED INTO PREPETITION AND TO PAY OBLIGATIONS RELATING THERETO; (B) AUTHORIZING THE DEBTORS TO MAINTAIN POSTPETITION FINANCING OF INSURANCE PREMIUMS; AND (C) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS

Building Materials Holding Corporation and its affiliates, as debtors and debtors in possession (collectively, the "**Debtors**"), submit this Motion (the "**Motion**") for the entry of Interim and Final orders substantially in the form annexed hereto as **Exhibit A** and **Exhibit B** (a) authorizing the Debtors to continue prepetition insurance policies and programs and to pay obligations relating thereto; (b) authorizing the Debtors to maintain premium financing agreements for insurance coverage entered into prepetition; and (c) authorizing banks and other financial institutions to receive, process, honor, and pay checks or electronic transfers used by the Debtors to pay the foregoing and to rely on the representations of such Debtors as to which

¹ 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.

checks are issued and authorized to be paid in accordance with this Motion. In support thereof, the Debtors respectfully represent:²

JURISDICTION AND VENUE

1. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. sections 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. section 157(b). Venue is proper pursuant to 28 U.S.C. sections 1408 and 1409.

RELIEF REQUESTED

2. By this Motion, the Debtors, pursuant to sections 105, 362, 363, 364, 1107(a), and 1108 of title 11 of the United States Code (the "***Bankruptcy Code***") and Federal Rules of Bankruptcy Procedure 6003 and 6004, request authority to continue, in their sole discretion, to (a) maintain all prepetition insurance policies, (b) maintain existing Premium Financing Agreements (as defined herein), and (c) pay all obligations in respect of the foregoing, on an uninterrupted basis, consistent with their practices prior to the Petition Date, including the payment of all premiums, deductibles, adjustments, administrative expenses, brokers' fees and other charges incurred whether relating to the period prior to or after the Petition Date (together, the "***Insurance Obligations***").

3. To the extent any of the Debtors' employees or former employees are asserting claims under the Workers' Compensation Programs (as defined herein), the Debtors request that the Court modify the automatic stay under section 362 of the Bankruptcy Code to permit these employees to proceed with their claims under the Workers' Compensation

² A description of the Debtors' business and the reasons for filing these Chapter 11 Cases is set forth in the Declaration of Paul S. Street in Support of Chapter 11 Petitions and First Day Relief (the "***Street Declaration***"), filed contemporaneously with this Motion. This Motion is supported by the Street Declaration.

Programs. This modification of the automatic stay pertains solely to claims under the Workers' Compensation Programs.

4. Finally, the Debtors seek entry of an order authorizing banks and other financial institutions to receive, process, honor, and pay checks or electronic transfers used by the Debtors to pay the foregoing and to rely on the representations of such Debtors as to which checks are issued and authorized to be paid in accordance with this Motion.

BACKGROUND

5. On the date hereof (the "*Petition Date*"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the "*Chapter 11 Cases*"). The Debtors continue to operate their businesses and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these Chapter 11 Cases, and no committees have been appointed or designated.

6. The Debtors are one of the largest providers of residential building products and construction services in the United States. The Debtors distribute building materials, manufacture building components (e.g., millwork, floor and roof trusses, and wall panels), and provide construction services to professional builders and contractors through a network of 31 distribution facilities, 43 manufacturing facilities, and five regional construction services facilities.

7. The Debtors operate under two brand names: BMC West® and SelectBuild®.

- ***BMC West.*** Under the BMC West brand, the Debtors market and sell building products, manufacture building components, and provide construction services to professional builders and contractors. Products include structural lumber and building

materials purchased from manufacturers, as well as manufactured building components such as millwork, trusses, and wall panels. Construction services include installation of various building products and framing. The Debtors currently offer these products and services in major metropolitan markets in Texas, Washington, Colorado, Idaho, Utah, Montana, North Carolina, California, and Oregon.

- **SelectBuild.** Under the SelectBuild brand, the Debtors offer integrated construction services to production homebuilders, as well as commercial and multi-family builders. Services include wood framing, concrete services, managing labor and construction schedules, and sourcing materials. The Debtors currently offer these services in major metropolitan markets in California, Arizona, Nevada and Illinois.

8. The Debtors operate in metropolitan areas that have historically outpaced U.S. averages for residential building permit activity (largely in the Southern and Western portions of the United States). Based on National Association of Home Builders building permit activity, the Debtors provide building products and construction services in 9 of the top 25 single-family construction markets.

9. Prior to the Petition Date, the Debtors, with the assistance of their professionals and advisors, pursued several avenues to try to maximize the value of the Debtors' business, including conducting a process to sell the Debtors' business. The Debtors' prepetition sale process did not, however, yield offers that reflected, in the Debtors' business judgment, the true value of the Debtors' business operations.

10. Contemporaneously with this prepetition marketing and sale effort, the Debtors engaged in good faith, arm's-length negotiations with significant holders of the Debtors' prepetition secured indebtedness to develop a way to de-lever the Debtors' business, while at the same time providing the Debtors' unsecured creditor constituency with a substantial recovery. These negotiations culminated in the proposed chapter 11 plan (the "**Plan**") and accompanying disclosure statement (the "**Disclosure Statement**"), filed contemporaneously with this Motion.

11. As set forth in greater detail in the Plan and Disclosure Statement, the Plan contemplates a restructure of the Debtors' balance sheet and ownership structure, as well as an immediate cash distribution to unsecured creditors and an opportunity for such creditors to receive full payment from the Reorganized Debtors, depending on business performance. The Debtors believe that the restructuring proposal embodied in the Plan provides the Debtors' creditors with the best means of maximizing value of the Debtors and their businesses. To implement this restructuring, the Debtors have obtained a commitment to provide \$80 million in the form of debtor-in-possession financing, which the Debtors seek to have approved by the Court contemporaneously herewith.

12. As of the Petition Date, the Debtors employ approximately 5,500 people. Approximately 300 of the Debtors' employees are represented by seven unions with whom the Debtors have collective bargaining agreements. For the 12 months ended March 31, 2009, the Debtors' total revenue totaled approximately \$1.1 billion. As of March 31, 2009 the book value of the Debtors' assets totaled approximately \$480 million and its liabilities totaled approximately \$481 million.

THE DEBTORS' INSURANCE POLICIES

13. In connection with the operation of their business, the Debtors maintain various insurance policies providing coverage for, among other things, workers' compensation claims, general liability, fiduciary liability, excess liability, directors' and officers' liability, excess directors' and officers' liability, property, marine, crime, kidnap and ransom, casualty loss, environmental site liability, automobile, and total umbrella (collectively, the "***Policies***").³ A

³ In addition to the Insurance Policies listed on Exhibit C, the Debtors maintain numerous other insurance policies and programs with respect to employee benefits, including health, dental, disability, and life insurance. These programs and policies are addressed in the Debtors' Motion for Entry of an Order Authorizing the [Footnote continued on next page]

schedule of the Policies is attached hereto as *Exhibit C* and incorporated herein by reference (the "*Policy Schedule*"). The Policies are essential to the preservation of the value of the Debtors' businesses, properties, and assets. In many cases, the regulations, laws, and contracts that govern the Debtors' commercial activities require insurance coverage such as that provided by the Policies.

14. The Debtors are required to pay, depending upon the applicable Policy, deductibles (the "*Deductibles*") based upon the terms of the individual Policies. The Deductibles reduce the amount that the insurance companies are required to pay for a claim arising thereunder. The amount of the Deductible required under each Policy is listed on *Exhibit C*. The Debtors' obligations to make these Deductible payments are secured by the Letters of Credit (defined below).

15. The Debtors' general liability Policies cover, *inter alia*, construction defect claims brought by homeowners against the Debtors and/or the general contractors who constructed their homes. In order to induce certain general contractors to purchase building materials and manufactured building components from the Debtors, in the ordinary course of business the Debtors issued certificates of insurance (the "*Certificates of Insurance*") to those general contractors to allow them to be covered by the Debtors' general liability Policies. It is essential that the Debtors be authorized to continue this coverage in order to maintain their business relationships with these general contractors.

[Footnote continued from previous page]

Debtors to Pay (a) Prepetition Wages, Salaries, and other Compensation; (b) Reimbursable Employee Expenses; (c) Employee Medical and Similar Benefits.

A. Brokers

16. The Debtors employ three insurance brokers, Marsh USA, Inc. ("**Marsh**"), Integro USA, Inc. ("**Integro**"), and Aon, Inc. ("**Aon**," and together with Marsh and Integro, the "**Brokers**") to assist with the procurement and negotiation of their Policies. In connection with these services, Debtors pay each of the Brokers an annual broker policy fee (collectively, the "**Brokers' Fees**"). The Brokers' Fees due to Marsh are payable in quarterly installments. For the current policy year cycle, the Debtors incurred approximately \$650,000 in Brokers' Fees. As of the Petition Date, the Debtors owe approximately \$102,500 in Brokers' Fees to Marsh for services relating to the prepetition period. There are no outstanding amounts owed to Aon or Integro for services relating to the prepetition period.

B. Letters of Credit and Cash Collateral Accounts

17. The Debtors' obligations to make Deductible and/or premium payments under certain of the Policies are secured by letters of credit that the Debtors caused to be issued for the benefit of their insurers (the "**Letters of Credit**"). If the insurers make postpetition draws on the Letters of Credit, the issuing banks will have secured claims for the amounts paid on account of the Letters of Credit. To the extent that an insurance company or third-party lender receives payments pursuant to this Motion and Order which satisfy the Debtors' outstanding obligations to such parties, the Debtors request that the Court order that such parties waive their rights to draw on the Letters of Credit in the absence of the Debtors' postpetition default on their obligations, notwithstanding any provisions in the underlying agreements which give these parties the right to draw on the Letters of Credit solely by virtue of the Debtors' bankruptcy filings.

18. In addition, certain of the Debtors' insurers require the Debtors to maintain a specified balance in a cash collateral account that is held in those insurers' names (the "**Cash Collateral Accounts**"). The Debtors' obligations to make payments to those insurers are satisfied by draws from the Cash Collateral Account as and when those obligations arise. The Debtors then replenish, or 'top-up', the Cash Collateral Accounts on a periodic basis. The Debtors propose to continue this arrangement after the Petition Date.

C. Workers' Compensation Programs

19. Under the laws of the various states in which they operate, the Debtors are required to maintain workers' compensation Policies and programs to provide their employees with workers' compensation coverage for claims arising from or related to their employment with the Debtors (the "**Workers' Compensation Programs**"). The Debtors currently maintain workers' compensation insurance with ACE American Insurance Company ("**ACE**"), which covers the Debtors' statutory obligations to maintain workers' compensation programs in each of the jurisdictions in which the Debtors operate.⁴ The aggregate amount of the premiums for the workers' compensation insurance is approximately \$1,715,000 per year, and is based upon, among other things, the Debtors' current payroll and employee classifications. Prior to the Debtors' current policy, the Debtors maintained workers' compensation Policies with various other insurers. The Debtors do not believe that any amounts are due relating to premiums under any of these Policies at this time.

20. In addition to the annual premiums, the Debtors must pay a Deductible for each claim asserted under the workers' compensation Policies. For each workers' compensation claim, the relevant workers' compensation insurer pays on behalf of the Debtors the full amount

⁴ In the State of Washington, the Debtors are qualified self-insurers.

of the claim, including settlement thereof to the individual claimant, and then charges the Debtors for such amounts paid on behalf of the Debtors up to the amount of the Debtors' Deductible. The workers' compensation Policies carry a Deductible of between \$100,000 and \$2,000,000 for each claim asserted.⁵

21. Claims arising under the Workers' Compensation Programs are processed by various third-party administrators who receive compensation from the Debtors for administering the Programs (the "*Workers' Compensation Administrative Fees*").⁶ The Workers' Compensation Administrative Fees are paid in accordance with predetermined schedules and range from \$47 to \$1,677 per claim. The Debtors estimate that they pay approximately \$800,000 each year on average in Workers' Compensation Administrative Fees. As of the Petition Date, the Debtors owe approximately \$50,000 in Workers' Compensation Administrative Fees.

22. As of the Petition Date, there were approximately 500 open workers' compensation claims pending against the Debtors arising out of injuries allegedly incurred by employees during the course of their employment. Because payment of the prepetition workers' compensation claims is essential to the continued operation of the Debtors' businesses under the laws of the various states in which they operate, the Debtors request authority to pay any and all amounts due and owing with respect to any of the Workers' Compensation Programs, and to maintain and continue prepetition practices with respect to the Workers' Compensation Programs, including, among other things, allowing workers' compensation claimants, to the

⁵ Because the Debtors' Workers' Compensation Program in the State of Washington is self-insured, the Debtors are responsible for the entire amount of all claims arising in Washington. However, the Debtors maintain insurance which reimburses the Debtors for amounts they are obligated to pay on account of workers' compensation claims that exceed \$500,000.

⁶ The administrator for each workers' compensation Policy is listed on Exhibit C.

extent they hold valid workers' compensation claims, to proceed with their claims under the workers' compensation Policies maintained by the Debtors. The Debtors estimate that, as of the Petition Date, the aggregate amount that may be payable by the Debtors with respect to the workers' compensation claims as coverage Deductibles is approximately \$30,300,000. Most of this amount is not a current obligation of the Debtors; rather, it will become payable over the next five to seven years.

D. Self-Paid Policies

23. The Debtors are required to pay premiums under some of the Policies based on a fixed rate established and billed by each insurer (the "***Self-Paid Policies***"). The premiums for the Self-Paid Policies are determined and paid annually directly to the insurers. Certain of these policies may be subject to premium adjustment at audit based upon changes, if any, in the Debtors' exposures. The aggregate annual premiums for the Self-Paid Policies are approximately \$4,200,000.

E. Premium Financed Arrangements

24. Certain of the Debtors' insurance Policies require payment of the entire premium at inception. It is not always beneficial, however, for the Debtors to pay premiums in full up front. Accordingly, in the ordinary course of the Debtors' businesses, the Debtors finance the premiums on certain Policies (collectively, the "***Financed Policies***") pursuant to premium financing agreements with third-party lenders (the "***Premium Financing Agreements***").⁷ The Premium Financing Agreements benefit the Debtors by spreading out the cost of the Financed Policies over the applicable coverage period. As of the Petition Date, the Debtors maintain the following Premium Financing Agreements:

⁷ The Policy Schedule indicates which of the Policies are Financed Policies.

Financier	Policy Issuer	Monthly Installments	Date of First Installment	Date of Last Installment	Coverage Terminates	Interest Rate	Financed Amount	Finance Charge
AFCO	ACE and various others	\$627,746.20	12/11/08	08/11/09	11/11/09	6.038%	\$5,510,155.91	\$139,559.89
AFCO	Westchester Surplus and various others	\$55,928.77	12/11/08	08/11/09	11/11/09	6.069%	\$490,861.96	\$12,496.97

25. The annual aggregate premiums for the Financed Policies total approximately \$7,542,000. The financed portion of this amount is payable to the third-party lenders pursuant to the terms of the Premium Financing Agreements.

BASIS FOR RELIEF REQUESTED

A. Payment of the Insurance Obligations is Appropriate Under the Bankruptcy Code

(1) The Court May Authorize Payment of the Insurance Obligations Pursuant to Section 363 of the Bankruptcy Code

26. The Court may authorize the Debtors to continue the Policies and to pay the Insurance Obligations in the ordinary course of business pursuant to section 363 of the Bankruptcy Code. Section 363(b) allows the court to authorize the payment of prepetition claims outside of the ordinary course of business. *See, e.g., Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 397 (S.D.N.Y. 1983) (relying on section 363 to authorize a contractor to pay the prepetition claims of some suppliers who were potential lien claimants because the payments were necessary to induce general contractors to release funds owed to the debtors); *In re Tropical Sportswear Int'l Corp.*, 320 B.R. 15 (Bankr. M.D. Fla. 2005) (recognizing section 363 as a source of authority and allowing payment of the prepetition claims of vendors whose supplies would take four to six weeks to replace). In addition, section 363(c) allows a debtor-in-possession to enter into transactions involving property of the estate in the ordinary course of business without an order of the court. *See, e.g., In re James A. Phillips*, 29 B.R. at 395 n.2 ("Insofar as transactions are actually in the ordinary

course, they are authorized automatically by § 363(c)(1) and § 1107(a), and do not require Bankruptcy Court approval.").

27. Failure to pay the Insurance Obligations may harm the Debtors' estates in several ways, such as the potential for an insurance company to terminate coverage, the subsequent need to obtain replacement insurance at a likely higher price, and the severe, adverse effect any interruption of payment would have on the Debtors' ability to finance premiums on future policies. Given the importance of maintaining insurance coverage, the Debtors submit it is in the best interest of the Debtors' estates to maintain the Policies and, concomitantly, to pay any prepetition Insurance Obligations necessary to maintain the Policies pursuant to section 363(b) of the Bankruptcy Code. In addition, if the Debtors fail to pay the Insurance Obligations, the relevant insurers will make draws on the Letters of Credit to satisfy these obligations. Because the Letters of Credit were issued by the Debtors' senior secured prepetition lenders, any draws on the Letters of Credit will result in additional secured claims against the Debtors' estates. Accordingly, the Debtors' junior secured creditors and unsecured creditors will be unharmed by the payment of the Insurance Obligations, including any prepetition claims.

28. The Debtors' payment of the Insurance Obligations, which the Debtors are obligated to pay by statute in many instances, is arguably within the ordinary course of the Debtors' business. As such, the Debtors submit that Court approval of the Debtors' payments is not necessary because of the authority granted to them by section 363(c). Nonetheless, for the avoidance of doubt, the Debtors request that the Court grant the relief requested herein and enter an order authorizing, but not directing, them to pay the Insurance Obligations in the ordinary course of the Debtors' business.

(2) The Court May Also Authorize Payment of the Insurance Obligations Pursuant to Section 105(a) of the Bankruptcy Code and the "Necessity of Payment" Doctrine

29. The Court may also authorize the Debtors to continue to pay the Insurance Obligations in the ordinary course of business pursuant to section 105 of the Bankruptcy Code and the "doctrine of necessity." Section 105(a) of the Bankruptcy Code empowers the Court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]." 11 U.S.C. § 105(a). A bankruptcy court's use of its equitable powers to "authorize the payment of pre-petition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept." *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989). "Under [section] 105, the court can permit pre-plan payment of a pre-petition obligation when essential to the continued operation of the debtor." *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (citing *Ionosphere Clubs*, 98 B.R. at 177); *accord In re Just for Feet, Inc.*, 242 B.R. 821, 825 (D. Del. 1999) ("To invoke the necessity of payment doctrine, a debtor must show that payment of the prepetition claims is 'critical to the debtor's reorganization.'") (quoting *In re Financial News Network, Inc.*, 134 B.R. 732, 736 (Bankr. S.D.N.Y. 1991)); *see also In re Eagle-Picher Indus., Inc.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) ("[T]o justify payment of a pre-petition unsecured creditor, a debtor must show that the payment is necessary to avert a serious threat to the Chapter 11 process.").

30. In a long line of well-established cases, federal courts have consistently permitted postpetition payment of prepetition obligations where necessary to preserve or enhance the value of a debtor's estate for the benefit of all creditors. *See, e.g., Miltenberger v. Logansport Ry.*, 106 U.S. 286, 311-12 (1882) (payment of pre-receivership claim prior to reorganization permitted to prevent "stoppage of [crucial] business relations"); *In re Lehigh & New Eng. Ry.*

Co., 657 F.2d 570, 581 (3d Cir. 1981) (holding that "if payment of a claim which arose prior to reorganization is essential to the continued operation of the...[business] during reorganization, payment may be authorized even if it is made out of [the] corpus"); *Dudley v. Mealey*, 147 F.2d 268 (2d Cir. 1945), *cert. denied* 325 U.S. 873 (1945) (extending doctrine for payment of prepetition claims beyond railroad reorganization cases); *Michigan Bureau of Workers' Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279 (S.D.N.Y. 1987), *appeal dismissed*, 838 F.2d 59 (2d Cir. 1988) (approving lower court order authorizing payment of prepetition wages, salaries, expenses, and benefits).

31. The "doctrine of necessity" functions in a chapter 11 reorganization as a mechanism by which the bankruptcy court can exercise its equitable power to allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code. See *In re Boston & Me. Corp.*, 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the existence of a judicial power to authorize trustees to pay claims for goods and services that are indispensably necessary to the debtors' continued operation); *In re Just for Feet, Inc.*, 242 B.R. 821, 824 (D. Del. 1999) ("[C]ourts have used their equitable power under section 105(a) of the Code to authorize the payment of pre-petition claims when such payment is deemed necessary to the survival of a debtor in a chapter 11 reorganization."). The doctrine is frequently invoked early in a reorganization, particularly in connection with those chapter 11 sections that relate to payment of prepetition claims. The court in *In re Structurlite Plastics Corp.*, 86 B.R. 922, 931 (Bankr. S.D. Ohio 1988), observed the decisional authority which supports "the principle that a bankruptcy court may exercise its equity powers under section 105(a) to authorize payment of prepetition claims where such payment is necessary to 'permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately.'" (quoting *In re Chateaugay*

Corp., 80 B.R. at 287). The court stated that "a per se rule proscribing the payment of prepetition indebtedness may well be too inflexible to permit the effectuation of the rehabilitative purposes of the Code." *Id.* at 932. The rationale for the doctrine of necessity rule is consistent with the paramount goal of chapter 11—"facilitating the continued operation and rehabilitation of the debtor...." *Ionosphere Clubs*, 98 B.R. at 176.

32. As noted previously, the Policies are essential to the preservation of the value of the Debtors' business, property, and assets. Not only are some of the Policies required by the various regulations, laws, and contracts that govern the Debtors' commercial activities, but section 1112(b)(4)(c) of the Bankruptcy Code provides that "failure to maintain appropriate insurance that poses a risk to the estate or to the public," is "cause" for mandatory conversion or dismissal of a chapter 11 case. 11 U.S.C. § 1112(b)(4)(C).

33. Courts in this District and other jurisdictions regularly authorize debtors to maintain insurance coverage and premium financing of insurance policies where, as here, it is in the best interest of the estates.⁸ *See, e.g., In re ACG Holdings, Inc.*, No. 08-11467 (CSS) (Bankr. D. Del. July 16, 2008); *In re Pierre Foods Inc.*, No. 08-11480 (KG) (Bankr. D. Del. July 16, 2008); *In re Linens Holding Co.*, No. 08-10832 (CSS) (Bankr. D. Del. May 2, 2008); *In re Hoop Holdings, LLC*, No. 08-10544 (BLS) (Bankr. D. Del. Mar. 28, 2008); *In re Sharper Image Corp.*, No. 08-10322 (KG) (Bankr. D. Del. Feb. 20, 2008); *In re FLYi, Inc.*, No. 05-20011 (MFW) (Bankr. D. Del. Dec. 21, 2005); *In re Freedom Rings, LLC*, No. 05-14268 (CSS) (Bankr. D. Del. Oct. 18, 2005); *In re Foamex Int'l Inc.*, No. 05-12685 (PJW) (Bankr. D. Del. Sept. 21, 2005); *In re Key3Media Group, Inc.*, No. 03-10323 (JWV) (Bankr. D. Del. Feb. 4, 2003); *see also In re*

⁸ The Debtors have not annexed copies of the unreported orders cited herein because of their size. Copies of these orders, however, are available upon request of the Debtors' counsel, including at the hearing to consider the Motion.

Wellman, Inc., No. 08-10595 (SMB) (Bankr. S.D.N.Y. Feb. 25, 2008); *In re Calpine Corp.*, No. 05-60200 (BRL) (Bankr. S.D.N.Y. Jan. 4, 2006); *In re TOUSA, Inc.*, No. 08-10928 (JKO) (Bankr. S.D. Fla. March 6, 2008).

B. Sufficient Cause Exists for the Court to Authorize the Debtors to Maintain Premium Financing Agreements

34. Section 364 provides, in relevant part, "[i]f the [debtor] is unable to obtain unsecured credit . . . , the court, after notice and a hearing, may authorize the obtaining of [secured] credit or the incurring of [secured] debt." 11 U.S.C. § 364(c). Section 364 authorizes a debtor, in the exercise of its business judgment, to incur secured debt if the debtor has been unable to obtain unsecured credit and the borrowing is in the best interests of the estates. *See, e.g., In re Budget Group, Inc.*, Case No. 02-12152, 2002 Bankr. LEXIS 1050 (Bankr. D. Del. Aug. 1, 2002) (court authorized funding of acquisition of property on a secured basis where acquired property was necessary to maintain operations and debtors could not obtain such funding on an unsecured basis); *In re Mastercraft Interiors, Ltd.*, Case Nos. 06-12769, 06-12770, 2006 WL 4595946, at *4 (Bankr. D. Md. Aug. 10, 2006) (authorizing the debtor's purchase of secured financing because the debtor's financing needs were "immediate and critical" to the success of the proceedings and the debtor was unable to obtain unsecured credit); *In re Ames Dept. Stores*, 115 B.R. 34, 38 (Bankr. S.D.N.Y. 1990) (with respect to postpetition credit, courts "permit debtors-in-possession to exercise their basic business judgment consistent with their fiduciary duties"); *see also* 3 COLLIER ON BANKRUPTCY ¶ 364.03, at 364-7 (15th ed. Rev. 1999). Further, section 364(c) does not impose a duty on the debtor to request unsecured credit from every potential lender before seeking secured credit. *See In re Snowshoe Co., Inc.*, 789 F.2d 1085, 1088 (4th Cir. 1986).

35. Generally, lenders are unwilling to finance insurance premiums on an unsecured basis. Here, the Financing Agreements provide financing at an interest rate that is considerably less than the Debtors' other financing sources and, therefore, is justified under section 364(c).

36. Moreover, the ability to finance the Financed Policies helps the Debtors manage their cash flow. If the Debtors are unable to continue making payments on the Financing Agreements, under the terms of the Financing Agreements, the premium financier may be permitted to terminate the applicable insurance policies. The Debtors then would be required to obtain replacement insurance on an expedited basis. If the Debtors were required to obtain replacement insurance and to pay a lump sum premium for such insurance policy in advance, this payment likely would be greater than what the Debtors currently pay. Even if the premium financier were not permitted to terminate the insurance policies, any interruption of payment would have a severe, adverse effect on the Debtors' ability to finance premiums for future policies. Accordingly, the Debtors believe that they have articulated a valid business justification for maintaining the Premium Financing Agreements.

37. In view of the importance of maintaining insurance coverage throughout the entire duration of the Chapter 11 Cases with respect to their business activities and preserving their liquidity by financing certain insurance premiums, the Debtors believe it is in the best interests of their estates to authorize the Debtors to honor their monthly obligations under the Financing Agreements.

38. There is ample precedent in this district and other courts for granting the relief requested herein. *See, e.g., In re ACG Holdings, Inc.*, No. 08-11467 (CSS) (Bankr. D. Del. July 16, 2008); *In re Pope & Talbot, Inc.*, No. 07-11738 (CSS) (Bankr. D. Del. Dec. 7, 2007); *In*

re Tweeter Home Entm't Group, Inc., No. 07-10787 (PJW) (Bankr. D. Del. June 13, 2007); *In re Dura Auto. Sys., Inc.*, No. 06-11202 (KJC) (Bankr. D. Del. Nov. 20, 2006); *In re Freedom Rings, LLC*, No. 05-14268 (CSS) (Bankr. D. Del. Oct. 19, 2005); *In re Foamex International Inc.*, No. 05-12685 (KG) (Bankr. D. Del. Sept. 20, 2005); *see also In re Calpine Corp.*, No. 05-60200 (BRL) (Bankr. S.D.N.Y. Jan. 4, 2006); (authorizing the debtors to maintain their insurance policies and to pay any outstanding prepetition amounts); *In re Tower Auto., Inc.*, No. 05-10578 (ALG) (Bankr. S.D.N.Y. Feb. 3, 2005) (authorizing the debtors to pay any unpaid prepetition insurance premiums and enter into postpetition insurance financing agreements); *In re The Boyds Collection, Ltd.*, No. 05-43793 (DWK) (Bankr. D. Md. Nov. 1, 2005) (same).

C. The Debtors Seek a Waiver of the Automatic Stay As It Applies to Workers' Compensation Claims

39. Section 362(a) of the Bankruptcy Code operates to stay:

the commencement or continuation, including the issuance or employment of process of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to receive a claim against the debtor that arose before the commencement of the case under this title....

11 U.S.C. § 362(a)(1). Section 362, however, permits a debtor or other parties in interest to request a modification or termination of the automatic stay for "cause." *Id.* at § 362(d)(1).

40. The Debtors seek authorization, under section 362(d) of the Bankruptcy Code, to permit the Debtors' employees to proceed with their workers' compensation claims in the appropriate judicial or administrative forum. The Debtors believe that cause exists to modify the automatic stay because staying the workers' compensation claims could have a detrimental effect on the financial well-being and morale of the Employees and lead to the departure of certain Employees who are critical at this juncture. Such departures could cause a severe disruption in the Debtors' business to the detriment of all parties in interest.

**D. The Court Should Authorize the Debtors'
Banks to Pay the Claims Described Herein**

41. In connection with the foregoing, the Debtors respectfully request that the Court enter an order that (a) authorizes all applicable banks and financial institutions to receive, process, honor, and pay all checks presented for payment of, and to honor all fund transfer requests made by the Debtors related to, the claims the Debtors request authority to pay in this Motion, regardless of whether the checks were presented, or fund transfer requests were submitted, before or after the Petition Date and (b) provides that all banks and other financial institutions may rely on the representations of the Debtors with respect to whether any check or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this application, and such banks and other financial institutions shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

E. Immediate Relief is Justified

42. Pursuant to Bankruptcy Rule 6003, the Court may grant relief within twenty (20) days after the filing of the petition regarding a motion to "use, sell, lease, or otherwise incur an obligation regarding property of the estate" only if such relief is necessary to avoid immediate and irreparable harm.

43. Within 20 days of the Petition Date, the Debtors will owe \$683,674.97 in financing payments under the Premium Financing Agreements and approximately \$1,437,000 on account of Self-Paid Policies, all of which that come due on or around June 21, 2009. In addition, the Debtors will be responsible to pay other Insurance Obligations in the ordinary course of business prior to the Court's entry of a final order.

44. As described above, the Debtors need their insurance to remain in place uninterrupted. Not only are some of the Policies required by various state and federal

regulations, but section 1112 of the Bankruptcy Code provides that "failure to maintain appropriate insurance that poses a risk to the estate or to the public," is "cause" for mandatory conversion or dismissal of a chapter 11 case.

45. Accordingly, to the extent that the Debtors are required to make any payments related to prepetition Insurance Obligations with respect to the Policies, Premium Financing Agreements, or their self-insurance program, the Debtors submit that they have satisfied the requirements of Bankruptcy Rule 6003 to support immediate payment of such Obligations until such time as the court enters a final order authorizing the Debtors to make such payments.

REQUEST FOR WAIVER OF STAY

46. To implement the foregoing, the Debtors seek a waiver of any stay of the effectiveness of the order approving this Motion. Pursuant to Bankruptcy Rule 6004(h), any "order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 10 days after entry of the order, unless the court orders otherwise." As set forth above, maintenance of the Policies and the Premium Financing Agreements in the ordinary course of business, including payment of prepetition amounts outstanding in respect thereof, is essential to prevent potentially irreparable damages to the Debtors' business operations and their estates. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the 10-day stay imposed by Bankruptcy Rule 6004(h).

DEBTORS' RESERVATION OF RIGHTS

47. Nothing contained herein is intended or should be construed as an admission of the validity of any claim against the Debtors; a waiver of the Debtors' rights to dispute any claim; or an approval, assumption, or rejection of any agreement, contract, or lease under section 365 of the Bankruptcy Code. The Debtors expressly reserve their rights to contest

any invoice or claim with respect to outstanding amounts under the Policies or the Premium Financing Agreements in accordance with applicable non-bankruptcy law. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

NOTICE

48. No trustee, examiner, or creditors' committee has been appointed in these chapter 11 cases. The Debtors have provided notice of filing of the Motion either by electronic mail or facsimile and/or by overnight mail to: (a) the Office of the United States Trustee for the District of Delaware; (b) the 50 largest unsecured creditors of the Debtors on a consolidated basis as identified in the Debtors' chapter 11 petitions; and (c) counsel to Wells Fargo Bank, as agent for both of the Debtors' prepetition lenders and proposed postpetition lenders. As this Motion is seeking first-day relief, notice of this Motion and any order entered hereon will be served on all parties required by Local Rule 9013-1(m). Due to the nature of the relief requested, the Debtors respectfully submit that no further notice of this Motion is required.

NO PRIOR REQUEST

49. No prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: Wilmington, Delaware
June 16, 2009

YOUNG CONAWAY STARGATT &
TAYLOR, LLP



Sean M. Beach (No. 4070)
Donald J. Bowman, Jr. (No. 4383)
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---- and ----

GIBSON, DUNN & CRUTCHER LLP
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PROPOSED ATTORNEYS FOR DEBTORS AND
DEBTORS IN POSSESSION

EXHIBIT A

Proposed Interim Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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

**INTERIM ORDER (A) AUTHORIZING THE DEBTORS TO CONTINUE INSURANCE
COVERAGE ENTERED INTO PREPETITION; (B) AUTHORIZING THE DEBTORS
TO MAINTAIN POSTPETITION FINANCING OF INSURANCE PREMIUMS; AND (C)
AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED
CHECKS AND TRANSFERS**

Upon consideration of the motion (the "**Motion**") of Building Materials Holding Corporation and its affiliates, as debtors and debtors in possession (collectively, the "**Debtors**") for entry of an order (a) authorizing the Debtors to continue insurance coverage currently in effect, including performance under their self-insurance program, and to pay any prepetition premiums, deductibles, adjustments, administrative expenses, brokers' fees, and other charges related to their Policies² (together, the "**Insurance Obligations**"), to the extent that the Debtors determine in their discretion that such payment is necessary or appropriate; (b) authorizing the Debtors to maintain premium financing agreements with respect to insurance premiums (the "**Premium Financing Agreements**"); and (c) authorizing banks and other financial

¹ 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.

² Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

institutions to receive, process, honor, and pay checks or electronic transfers used by the Debtors to pay the foregoing and to rely on the representations of such Debtors as to which checks are issued and authorized to be paid in accordance with this Order, all as set forth in the Motion; and upon the Street Declaration in support thereof; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. sections 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and notice of the Motion and the opportunity for a hearing on the Motion was appropriate under the particular circumstances; and the Court having reviewed the Motion and having considered the statements in support of the relief requested therein at a hearing before the Court (the "*Hearing*"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED:

1. The Motion is granted as set forth below on an interim basis.
2. The Debtors are authorized to continue the current and prior year Policies uninterrupted (including any Certificates of Insurance issued to contractors) and, in their sole discretion, to pay any Insurance Obligations, including prepetition amounts, to the extent that the Debtors determine that such payment is necessary or appropriate. The Debtors are also authorized to continue, in the ordinary course of business, their prepetition practices with respect to the Policies, including, without limitation, practices relating to the Cash Collateral Accounts.
3. The Debtors are authorized, but not directed, to honor the terms of the Premium Financing Agreements.

4. A final hearing with respect to the Motion shall be held on _____, 2009 at __:___
__m. prevailing Eastern Time. Any objections or responses to the Motion shall be filed on or
before _____, 2009, and served on the parties, as required by the Local Rules of Bankruptcy
Practice and Procedure for the United States Bankruptcy Court for the District of Delaware.

5. All applicable banks and other financial institutions are hereby authorized, when
requested by the Debtors, to receive, process, honor, and pay any and all checks and transfer
requests evidencing amounts paid by the Debtors under this Order whether presented prior to or
after the Petition Date. Such banks and financial institutions may rely on the representations of
the Debtors with respect to whether any check or other payment order drawn or issued by the
Debtors prior to the Petition Date should be honored pursuant to this order, and such bank or
financial institution shall not have any liability to any party for relying on such representations
by the Debtors as provided for herein.

6. The Debtors are authorized to issue postpetition checks, or to effect postpetition
fund transfer requests, in replacement of any checks or fund transfer requests in respect of the
Policies and the Financing Agreements that are dishonored or rejected.

7. Nothing in the Motion or this Order, nor as a result of the Debtors' payment of
any prepetition amounts pursuant to this Order, shall be deemed or construed as an admission as
to the validity or priority of any claim against the Debtors, a waiver of the right to dispute any
claim, or an approval or assumption of any agreement, contract, or lease pursuant to section 365
of the Bankruptcy Code.

8. If an insurance company or third-party lender (that is counterparty to a Premium
Financing Agreement) is a beneficiary of a letter of credit as security for the Debtors' payment,
the Debtors may condition payment of the insurance premium, or other amount owing, on the

insurance company or third-party lender's agreement not to draw on the letter of credit so long as the Debtors remain current on their payment obligations, notwithstanding any provision in the underlying letter of credit that may allow such insurance company or third-party lender to draw on the letter of credit as a result of the Debtors' bankruptcy filings.

9. Pursuant to section 362(d) of the Bankruptcy Code, the Debtors' employees are authorized to proceed with their workers' compensation claims in the appropriate judicial or administrative forum under the Workers' Compensation Programs and the Debtors are authorized to continue the Workers' Compensation Programs and pay all prepetition amounts relating thereto in the ordinary course of business.

10. Nothing in this Order shall prohibit the Debtors from seeking Court authority to increase the prepetition amounts authorized to be paid hereunder.

11. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

12. Rule 6003(b) of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") has been satisfied.

13. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such motion and the requirements of Bankruptcy Rule 6004(a).

14. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

15. This Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

Dated: Wilmington, Delaware
June ____, 2009

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

Proposed Final Order

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

IN RE:)	
	)	Chapter 11
BUILDING MATERIALS HOLDING CORPORATION, et al.,¹)	
	)	Case No. 09- <u>12074</u> ()
Debtors.)	
	)	Jointly Administered
)	
	)	Ref. Docket No. _____

**FINAL ORDER (A) AUTHORIZING THE DEBTORS TO CONTINUE INSURANCE
COVERAGE ENTERED INTO PREPETITION; (B) AUTHORIZING THE DEBTORS
TO MAINTAIN POSTPETITION FINANCING OF INSURANCE PREMIUMS; AND (C)
AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED
CHECKS AND TRANSFERS**

Upon consideration of the motion (the "***Motion***") of Building Materials Holding Corporation and its affiliates, as debtors and debtors in possession (collectively, the "***Debtors***") for entry of an order (a) authorizing the Debtors to continue insurance coverage currently in effect, including performance under their self-insurance program, and to pay any prepetition premiums, deductibles, adjustments, administrative expenses, brokers' fees, and other charges related to their Policies² (together, the "***Insurance Obligations***"), to the extent that the Debtors determine in their discretion that such payment is necessary or appropriate; (b) authorizing the Debtors to maintain premium financing agreements with respect to insurance premiums (the "***Premium Financing Agreements***"); and (c) authorizing banks and other financial

¹ 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.

² Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

institutions to receive, process, honor, and pay checks or electronic transfers used by the Debtors to pay the foregoing and to rely on the representations of such Debtors as to which checks are issued and authorized to be paid in accordance with this Order, all as set forth in the Motion; and upon the Street Declaration in support thereof; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. sections 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and notice of the Motion and the opportunity for a hearing on the Motion was appropriate under the particular circumstances; and the Court having reviewed the Motion and having considered the statements in support of the relief requested therein at a hearing before the Court (the "**Hearing**"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED:

1. The Motion is granted as set forth below on a final basis.
2. The Debtors are authorized to continue the current and prior year Policies uninterrupted (including any Certificates of Insurance issued to contractors) and, in their sole discretion, to pay any Insurance Obligations, including prepetition amounts, to the extent that the Debtors determine that such payment is necessary or appropriate. The Debtors are also authorized to continue, in the ordinary course of business, their prepetition practices with respect to the Policies, including, without limitation, practices relating to the Cash Collateral Accounts.
3. The Debtors are authorized, but not directed, to honor the terms of the Premium Financing Agreements.

4. All applicable banks and other financial institutions are hereby authorized, when requested by the Debtors, to receive, process, honor, and pay any and all checks and transfer requests evidencing amounts paid by the Debtors under this Order whether presented prior to or after the Petition Date. Such banks and financial institutions may rely on the representations of the Debtors with respect to whether any check or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this order, and such bank or financial institution shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

5. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests in respect of the Policies and the Financing Agreements that are dishonored or rejected.

6. Nothing in the Motion or this Order, nor as a result of the Debtors' payment of any prepetition amounts pursuant to this Order, shall be deemed or construed as an admission as to the validity or priority of any claim against the Debtors, a waiver of the right to dispute any claim, or an approval or assumption of any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code.

7. If an insurance company or third-party lender (that is counterparty to a Premium Financing Agreement) is a beneficiary of a letter of credit as security for the Debtors' payment, the Debtors may condition payment of the insurance premium, or other amount owing, on the insurance company or third-party lender's agreement not to draw on the letter of credit so long as the Debtors remain current on their payment obligations, notwithstanding any provision in the underlying letter of credit that may allow such insurance company or third-party lender to draw on the letter of credit as a result of the Debtors' bankruptcy filings.

8. Pursuant to section 362(d) of the Bankruptcy Code, the Debtors' employees are authorized to proceed with their workers' compensation claims in the appropriate judicial or administrative forum under the Workers' Compensation Programs and the Debtors are authorized to continue the Workers' Compensation Programs and pay all prepetition amounts relating thereto in the ordinary course of business.

9. Nothing in this Order shall prohibit the Debtors from seeking Court authority to increase the prepetition amounts authorized to be paid hereunder.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

11. Rule 6003(b) of the Federal Rules of Bankruptcy Procedure (the "*Bankruptcy Rules*") has been satisfied.

12. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such motion and the requirements of Bankruptcy Rule 6004(a).

13. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

14. This Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

Dated: Wilmington, Delaware
_____, 2009

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT C

List of Policies

Policy Data

BMHC

Schedule of Insurance (2008-2009)

Coverage	Inception Date	Expiration Date	Policy Number	Limit	Deductible/ Retention	Insurer	Broker	Premium	Third-Party Administrator
General Liability	11/1/2008	11/11/2009	XSLG23741805	\$2mm prod/comp ops - \$1.9mm ea occ/ \$25mm Gen Agg	\$1.9mm Deductible excess of a \$100K SIR	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$ 160,942	ESIS
Auto Liability	11/1/2008	11/11/2009	ISAH0801555A	\$5mm CSL, BI/PPD	Ded \$1mm per accident	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$ 1,269,472	ESIS
Workers' Compensation (AOS)	11/1/2008	11/11/2009	WLRC44347635	\$1mm/\$1mm/\$1mm	\$2mm Deductible	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$ 1,583,484	ESIS
OCF Policy (GL) - Glendale	11/1/2008	11/11/2009	OCPG23741817	\$1mm ea occ/agg	\$1mm Ded	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$ 2,500	ESIS
Primary Umbrella	11/1/2008	11/11/2009	XOOG23891517	\$10mm xs of Primary	\$2mm Retained Amount	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$ 1,300,377	None
First Excess Liability Layer	11/11/2008	11/11/2009	KQAOABF08A0X	\$13mm excess of \$12mm	Underlying	Aspen Insurance (UK)	Marsh LTD London Global Markets	\$ 650,000	None
Second Excess Liability Layer	11/11/2008	11/11/2009	2213790	\$15mm excess of \$15mm	Underlying	AIG/Lexington Insurance Co	Marsh LTD London Global Markets	\$ 525,000	None
Third Excess Liability Layer (25%)	11/11/2008	11/11/2009	IE0001380L108A	\$10mm	Underlying	XL Europe	Marsh Global Markets (Dublin) Ltd.	\$ 200,000	None
Third Excess Liability Layer (25%)	11/11/2008	11/11/2009	DL500408(1)	\$10mm	Underlying	Callin	Marsh LTD London Global Markets	\$ 200,000	None
Third Excess Liability Layer (25%)	11/11/2008	11/11/2009	23440-528-XS0CC-2008	\$10mm	Underlying	MaxRe	Marsh Global Markets (Dublin) Ltd.	\$ 200,000	None
Third Excess Liability Layer (25%)	11/11/2008	11/11/2009	MH 66701.2	\$10mm	Underlying	Swiss RE	Marsh Global Markets (Zurich)	\$ 200,000	None
Fourth Excess Liability Layer	11/11/2008	11/11/2009	173-0879	\$20mm excess \$80mm	Underlying	AIG Cal Excess Liability	Marsh Risk & Insurance Services	\$ 230,000	None
Excess Workers Compensation (Washington State)	11/1/2009	11/1/2010	EWG007170	\$500K/\$1mm/\$500K	\$500 SIR	Midwest Employers Casualty Co.	Marsh Risk & Insurance Services	\$ 86,065	ESIS
Non-Owned Aircraft Liability	11/11/2008	11/11/2009	NAN3051921	\$10mm occ/\$10mm agg	None	XL Specialty Insurance Company	Marsh Risk & Insurance Services	\$ 8,200	None
Pollution Legal Liability	11/11/2008	11/11/2009	PLS 2101368	\$5mm/\$5mm	\$1mm ded/SIR	AIG Environmental	Marsh Risk & Insurance Services	\$ 92,112	None
Contractor's Pollution Liability	11/11/2008	11/11/2009	CPO2085489	\$5mm/\$5mm	\$1mm ded/SIR	AIG Environmental	Marsh Risk & Insurance Services	\$ 179,621	None

Primary Property	11/11/2008	11/11/2009	D37339945002	\$10mm per Occ/Per Schedule	\$250K deductible	Westchester Surplus Lines/Ace	Integro Insurance Brokers	\$	504,983	
Excess Property	11/11/2008	11/11/2009	EA744039-08	50% of \$40mm excess of \$10mm	Underlying	Axix Surplus Lines Insurance Company	Integro Insurance Brokers	\$	67,500	None
Excess Property	11/11/2008	11/11/2009	MAX4XP0003248	50 % of \$40mm excess of \$10mm	Underlying	Max Specialty Insurance Company	Integro Insurance Brokers	\$	67,500	None
Employment Practices Liability	6/4/2008	6/4/2010	7446365	\$15mm	\$1mm SIR	National Union Fire Ins. Company of Pittsburg, PA	Integro Insurance Brokers	\$	495,822	None
Executive Protection Liability (crime/fiduciary and special)	6/4/2008	6/4/2010	81222977	\$10mm Fld/\$15mm Crime/\$3mm Special	\$10K Fld/\$250K crime/\$0 special	Chubb Group of Insurance Companies	Integro USA Inc.	\$	124,150	None
Primary Directors & Officers	6/4/2008	6/4/2010	81460965	\$10mm	\$0/\$2,500K/\$2,500K	National Union Fire Ins. Company of Pittsburg, PA	Aon Risk & Insurance Services	\$	759,000	None
First Excess D&O Layer	6/4/2008	6/4/2010	7446358	\$10mm excess of \$10mm	Underlying	Chubb Group of Insurance Companies	Aon Risk & Insurance Services	\$	717,000	None
Second Excess D&O Layer	6/4/2008	6/4/2010	DOX000722102	\$10mm excess of \$30mm	Underlying	Arch Insurance Group	Aon Risk & Insurance Services	\$	690,000	None
Third Excess D&O Layer	6/4/2008	6/4/2010	DOX000722102	\$10mm excess of \$30mm	Underlying	Zurich Insurance Company	Aon Risk & Insurance Services	\$	517,500	None
Fourth Excess D&O Layer	6/4/2008	6/4/2010	6224995	\$10mm/excess of \$40mm	Underlying	AIG Cat Excess Liability	Aon Risk & Insurance Services	\$	455,400	None
D&O Excess/DIC Side A	6/4/2008	6/4/2010	ELU09799607	\$15mm/excess of \$50	Underlying	XL Insurance	Aon Risk & Insurance Services	\$	427,800	None
D&O Excess/DIC (Side A)	6/4/2008	6/4/2009	CUG31727	\$5mm/excess of \$60mm	Underlying	Old Republic Ins. Co./Chicago UW Grp	Aon Risk & Insurance Services	\$	-	None
Marine Hull & Machinery	6/12/2007	6/12/2008	Y08159129	\$1mm ea occ	None	Indemnity Ins. Co. of N.A. (ACE)	Marsh Risk & Insurance Services	\$	9,375	None
Excess Hull Liability	6/12/2007	6/12/2008	N04059621	\$2mm/\$1mm	None	Indemnity Ins. Co. of N.A. (ACE)	Marsh Risk & Insurance Services	\$	7,481	None

Schedule of Insurance (2007-2008)

Coverage	Inception Date	Expiration Date	Policy Number	Limit	Deductible/ Retention	Insurer	Broker	Premium	Third-Party Administrator
General Liability	11/11/2007	11/11/2008	XSKG2373560A	\$2mm prod/comp ops - \$1.9mm ea occ/ \$25mm Gen Agg	\$1.9mm Deductible excess of a \$100K SIR	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$ 219,788	Gallagher Bassett
Auto Liability	11/11/2007	11/11/2008	ISA40823923A	\$3mm CSL BI/PPD	Ded \$1mm per accident	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$ 992,867	Gallagher Bassett

Workers' Compensation (CA Only)	11/11/2007	11/11/2008	WLR044465516	\$1mm/\$1mm/\$1mm	\$2mm Deductible	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$	1,221,872	Gallagher Bassett
Workers' Compensation (AOS)	11/11/2007	11/11/2008	WLR044465553	\$1mm/\$1mm/\$1mm	\$2mm Deductible	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$	1,161,324	Gallagher Bassett
OGP Policy (GL) - Glendale	11/11/2007	11/11/2008	OCPO2170295A	\$1mm ea occ/agg	\$1mm Ded	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$	2,500	Gallagher Bassett
Primary Umbrella	11/11/2007	11/11/2008	XOOG33888893	\$10mm xs of Primary	\$2mm Retained Amount	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$	2,103,703	None
First Excess Liability Layer	11/11/2007	11/11/2008	IE00013590L107A	\$13mm excess of \$12mm	Underlying	XL Europe	Marsh Global Markets	\$	1,100,000	None
Second Excess Liability Layer	11/11/2007	11/11/2008	5577806	\$15mm excess of \$25mm	Underlying	AI/Leixington Insurance Co	Marsh LTD London Global Markets	\$	925,000	None
Third Excess Liability Layer (25%)	11/11/2007	11/11/2008	18758-423-XSOCC-2007	\$10mm	Underlying	MaxRE	Marsh LTD London Global Markets	\$	368,750	None
Third Excess Liability Layer (25%)	11/11/2007	11/11/2008	DL500407 (1)	\$10mm	Underlying	Aspen	Marsh LTD London Global Markets	\$	368,750	None
Third Excess Liability Layer (25%)	11/11/2007	11/11/2008	DL500407 (2)	\$10mm	Underlying	Callin	Marsh LTD London Global Markets	\$	368,750	None
Third Excess Liability Layer (25%)	11/11/2007	11/11/2008	DL502507 (1)	\$10mm	Underlying	Swiss RE	Marsh LTD London Global Markets	\$	368,750	None
Fourth Excess Liability Layer	11/11/2007	11/11/2008	5230053	\$20mm excess \$80mm	Underlying	AIG CAT Excess Liability	Marsh Risk & Insurance Services	\$	450,000	None
Excess Workers Compensation (Washington State)	11/11/2007	11/11/2008	EW0007170	\$500K/\$1mm/\$500K	\$500 SIR	Midwest Employers Casualty Co.	Marsh Risk & Insurance Services	\$	93,410	Gallagher Bassett
Non-Owned Aircraft Liability	11/11/2007	11/11/2008	NAN3045164	\$10mm occ/\$10mm agg	None	XL Specialty Insurance Company	Marsh Risk & Insurance Services	\$	8,200	None
Contractors Pollution Legal Liability	11/11/2007	11/11/2008	PLL2101368	\$5mm/\$5mm	\$1mm ded/SIR	AIG Environmental	Marsh Risk & Insurance Services	\$	97,129	None
Contractors Pollution Coverage	11/11/2007	11/11/2008	OPO2085489	\$5mm/\$5mm	\$1mm ded/SIR	AIG Environmental	Marsh Risk & Insurance Services	\$	215,338	None
Primary Property	11/11/2007	11/11/2008	D37339945001	\$10mm per Occ/Per Schedule	\$250K deductible	Westchester Surplus Lines/Ace	Integro Insurance Brokers	\$	603,250	None
Excess Property	11/11/2007	11/11/2008	CLP3008888	\$40mm excess of \$10mm	Underlying	Allianz Global Corporate and Specialty	Integro Insurance Brokers	\$	175,000	None
Employment Practices Liability	6/4/2007	6/4/2008	7446365	\$15mm	\$1mm SIR	National Union Fire Ins. Company of Pittsburgh, PA	Integro Insurance Brokers	\$	255,000	None
Executive Protection Liability (crime/fiduciary and special)	6/4/2007	6/4/2008	81222977	\$10mm Fld/\$15mm Crime/\$3mm Special	\$10K Fld/\$250K crime/\$0 special	Chubb Group of Insurance Companies	Integro USA Inc.	\$	105,750	None
Primary Directors & Officers	6/4/2007	6/4/2008	81460955	\$15mm	\$0/\$500K/\$750K	Chubb Group of Insurance Companies	Integro USA Inc.	\$	250,000	None
First Excess D&O Layer	6/4/2007	6/4/2008	7446368	\$15mm excess of \$15mm	Underlying	National Union Fire Ins. Company of Pittsburgh, PA	Integro USA Inc.	\$	165,000	None
Second Excess D&O Layer	6/4/2007	6/4/2008	DOX000722102	\$10mm excess of \$30mm	Underlying	Arch Insurance Group	Integro USA Inc.	\$	80,000	None
Third Excess D&O Layer	6/4/2007	6/4/2008	6224995	\$10mm/excess of \$40mm	Underlying	AIG CAT Excess	Integro USA Inc.	\$	75,000	None
Fourth Excess D&O Layer	6/4/2007	6/4/2008	ELU09799607	\$10mm/excess of \$50	Underlying	XL Insurance	Integro USA Inc.	\$	87,500	None
D&O Excess/DIC (Side A)	6/4/2007	6/4/2008	CUG31727	\$5mm/excess of \$60mm	Underlying	Old Republic Ins. Co./Chicago UW Grp	Integro USA Inc.	\$	30,000	None
Marine Hull & Machinery	6/12/2007	6/12/2008	Y08159129	\$1mm ea occ	None	Indemnity Ins. Co. of N.A. (ACE)	Marsh Risk & Insurance Services	\$	9,375	None

Excess Hull Liability	6/12/2007	6/12/2008	N04059621	\$2mm/\$1mm	None	Indemnity Ins. Co. of N.A. (ACE)	Marsh Risk & Insurance Services	\$	7,481	None
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Schedule of Insurance (2006 - 2007)

Coverage	Inception Date	Expiration Date	Policy Number	Limit	Deductible	Insurer	Broker	Premium	Third-Party Administrator
General Liability	11/11/2006	11/11/2007	XSLG2170250A	\$2mm prod/comp ops - \$1.9mm ea occ/ \$25mm Gen Agg	\$1.9mm Deductible excess of a \$100K SIR	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$ 347,177	Gallagher Bassett
Auto Liability	11/11/2006	11/11/2007	ISAH08012970	\$3mm CSL, BI/PD	Underlying	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$ 903,955	Gallagher Bassett
Workers Compensation	11/11/2006	11/11/2007	WLCR44466016	\$1mm/\$1mm/\$1mm	\$2mm Deductible	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$ 1,916,132	Gallagher Bassett
Primary Umbrella	11/11/2006	11/11/2007	XOOG2378970A	\$10mm xs of Primary	\$2mm Retained Amount	ACE American Insurance Co., Inc.	Marsh Risk & Insurance Services	\$ 2,912,000	None
First Excess Liability Layer	11/11/2006	11/11/2007	IE00013308L106A	\$13mm excess of \$10mm	Underlying	XL Europe (Dublin) Insurance Co.	Marsh Global Markets	\$ 1,675,000	None
Second Excess Liability Layer	11/11/2006	11/11/2007	DL477704	\$15mm excess of \$25mm	Underlying	Lexington London Insurance Co	Marsh LTD London Global Markets	\$ 1,325,000	None
Third Excess Liability Layer (25mm)	11/11/2006	11/11/2007	DL4601061	\$25mm	Underlying	Gerling Konzern	n/a	\$ 1,489,850	None
Third Excess Liability Layer (5mm)	11/11/2006	11/11/2007	B0509DL477806	\$5mm	Underlying	Wellington	Marsh LTD London Global Markets	\$ 305,150	None
Fourth Excess Liability Layer	11/11/2006	11/11/2007	13674-323-XSOCR-2006	\$10mm excess of \$70mm	Underlying	Max RE Insurance Europe	Marsh LTD London Global Markets	\$ 400,000	None
Fifth Excess Liability Layer	11/11/2006	11/11/2007	DL4772061	\$20mm excess \$80mm	Underlying	Gerling Konzern	Marsh Risk & Insurance Services	\$ 600,000	None
Excess Workers Compensation (Washington State)	11/1/2006	1/1/2007	EWCO 07170	\$500K/\$1mm/\$500K	\$1,000,000 SIR	Midwest Employers Casualty Co.	n/a	\$ 79,953	Gallagher Bassett
Primary Property	11/11/2006	11/11/2007	D36075375001	\$10mm per Occ/Per Schedule	\$250K deductible	Westchester Surplus Lines/Ace	Integro Insurance Brokers	\$ 975,000	None
Excess Property	11/11/2006	11/11/2007	CLP3007802	\$40mm excess of \$10mm	Underlying	Allianz Global Corporate and Specialty	Integro Insurance Brokers	\$ 218,000	None
Employment Practices Liability	6/4/2007	6/4/2008	7446365	\$15mm	\$1mm SIR	National Union Fire Ins. Company of Pittsburg, PA	Integro USA Inc.	\$ 255,000	None
Executive Protection Liability (crime/fiduciary and special)	6/4/2007	6/4/2008	81222977	\$10mm Fld/\$15mm Crime/\$3mm Special	\$10K Fld/\$250K crime/\$0 special	Chubb Group of Insurance Companies	Integro USA Inc.	\$ 105,750	None
Primary Directors & Officers	6/4/2007	6/4/2008	81460955	\$15mm	\$0/\$500K/\$750K	Chubb Group of Insurance Companies	Integro USA Inc.	\$ 250,000	None
First Excess D&O Layer	6/4/2007	6/4/2008	7446358	\$15mm excess of \$15mm	Underlying	National Union Fire Ins. Company of Pittsburg, PA	Integro USA Inc.	\$ 165,000	None
Second Excess D&O Layer	6/4/2007	6/4/2008	DOX000722102	\$10mm excess of \$30mm	Underlying	Arch Insurance Group	Integro USA Inc.	\$ 80,000	None
Third Excess D&O Layer	6/4/2007	6/4/2008	6224995	\$10mm xs of \$40mm	Underlying	AIG Cat Excess Liability	n/a	\$ 75,000	None
D&O Excess/DIC (Side A)	6/4/2007	6/4/2008	ELU097996	\$10mm excess of \$50mm	Underlying	XL Insurance	Integro USA Inc.	\$ 87,500	None

D&O Fourth Excess Layer	6/4/2007	6/4/2008	CUG31727	\$5mm xs \$60mm	Underlying	Old Republic	n/a	\$	30,000	None
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Schedule of Insurance (2005 - 2006)

Coverage	Inception Date	Expiration Date	Policy Number	Limit	Deductible	Insurer	Broker	Premium	Third-Party Administrator
General Liability	11/11/2005	11/11/2006	HDOG18072889	\$2mm/\$4mm	\$2mm	Ace American Insurance Company			Gallagher Bassett
Auto Liability	11/11/2005	11/11/2006	ISAH08012799	\$2mm CSL	\$1mm	Ace American Insurance Company			Gallagher Bassett
Auto Physical Damage	11/11/2005	11/11/2006	n/a	n/a	n/a	Self Insured			None
Workers Compensation	11/11/2005	11/11/2006	WLRC43964379	Statutory	\$2mm	Ace American Insurance Company			Gallagher Bassett
Primary Excess Liability	11/11/2005	11/11/2006	XOOG22912422	\$10mm/\$10mm	\$2mm	Ace American Insurance Company			None
Secondary Excess Liability	11/11/2005	11/11/2006	DL4601051	\$25mm xs of \$13mm	Underlying	Gerling Konzern Allgemaine			None
Third Excess Liability Layer	11/11/2005	11/11/2006	4520032	\$50mm xs \$50mm	Underlying	Start Excess (AIG)			None
Property Package	11/11/2005	11/11/2006	KTJCM8187D443805	TIV's \$721,813,036	\$500K AOP/\$25K B&M	St Paul Travlers			None

Schedule of Insurance (2004 - 2005)

Coverage	Inception Date	Expiration Date	Policy Number	Limit	Deductible/ Retention	Insurer	Broker	Premium	Third-Party Administrator
General Liability	11/11/2004	11/11/2005	GL5548769	\$1mm/\$2mm	\$2mm	National Union Fire Insurance Company (AIG) - BMCW			AIGCS
Auto Liability (All Other States)	11/11/2004	11/11/2005	CA2030330	\$2mm	\$1mm	National Union Fire Insurance Company (AIG) - BMCW			AIGCS
Auto Liability (TX Only)	11/11/2004	11/11/2005	CA2030331	\$2mm	\$1mm	National Union Fire Insurance Company (AIG) - BMCW			AIGCS
Auto Physical Damage (All Other States)	11/11/2004	11/11/2005	n/a	n/a	n/a	Self Insured			None
Auto Physical Damage (TX Only)	11/11/2004	11/11/2005	n/a	n/a	n/a	Self Insured			None
Workers Compensation - CA Only	11/11/2004	11/11/2005	WC5899022	Statutory/\$1mm	\$1mm	Insurance Co. of the State of PA (AIG) - BMCW			AIGCS
Workers Compensation - All Other States	11/11/2004	11/11/2005	WC5899020	Statutory/\$1mm	\$1mm	Insurance Co. of the State of PA (AIG) - BMCW			AIGCS
Workers Compensation MT & OR	11/11/2004	11/11/2005	WC5899021	Statutory/\$1mm	\$1mm	Insurance Co. of the State of PA (AIG) - BMCW			AIGCS
General Liability	11/11/2004	11/11/2005	GL6946010	\$1mm/\$2mm	\$1mm	National Union Fire Insurance Company (AIG) - BMCC			AIGCS
Auto Liability (All Other States)	11/11/2004	11/11/2005	CA8261878	\$2mm	\$1mm	National Union Fire Insurance Company (AIG) - BMCC			AIGCS

Auto Liability (TX Only)	11/11/2004	11/11/2005	CA8261879	\$2mm	\$1mm	National Union Fire Insurance Company (AIG) - BMCC			AIGCS
Auto Physical Damage (All Other States)	11/11/2004	11/11/2005	n/a	n/a	n/a	Self Insured			None
Auto Physical Damage (TX Only)	11/11/2004	11/11/2005	n/a	n/a	n/a	Self Insured			None
Workers Compensation - (CA Only)	11/11/2004	11/11/2005	WC7165000	Statutory/\$1mm	\$1mm	Insurance Co. of the State of PA (AIG) - BMCC			AIGCS
Workers Compensation (NV, TX & VA)	11/11/2004	11/11/2005	WC7165001	Statutory/\$1mm	\$1mm	Insurance Co. of the State of PA (AIG) - BMCC			AIGCS
Workers Compensation (AZ & FL)	11/11/2004	11/11/2005	WC7165002	Statutory/\$1mm	\$1mm	Insurance Co. of the State of PA (AIG) - BMCC			AIGCS
Umbrella Liability	11/11/2004	11/11/2005	BE2860837	\$25mm	\$1mm SIR	National Union Fire Insurance Company			None
Excess Liability	11/11/2004	11/11/2005	AEC93738601	\$25mm	Underlying	American Guarantee Liability Ins. Co			None
Property Package	11/11/2004	11/11/2005	KTJCMB187D443804	\$40mm	\$500,000	Travelers Property Casualty			None

Schedule of Insurance (2003 - 2004)

Coverage	Inception Date	Expiration Date	Policy Number	Limit	Deductible/ Retention	Insurer	Broker	Premium	Third-Party Administrator
General Liability	11/11/2003	11/11/2004	GL4806023	\$1mm ea occ/\$2mm gen agg/\$2mm prod/comp ops	\$1mm	National Union Fire Insurance Co. (AIG) BMHC/BMCW		\$134,908	AIGCS
Auto Liability (All Other States)	11/11/2003	11/11/2004	CA6612659	\$2mm CSL	\$1mm	National Union Fire Insurance Co. (AIG) - BMHC/BMCW		\$463,863	AIGCS
Auto Liability (TX Only)	11/11/2003	11/11/2004	CA6612660	\$2mm CSL	\$1mm	National Union Fire Insurance Co. (AIG) - BMHC/BMCW		Included Above	AIGCS
Auto Physical Dam (All Other States)	11/11/2003	11/11/2004	CA5188602	\$70,000	\$25,000 comp/col	National Union Fire Insurance Co. (AIG) - BMHC/BMCW		Included Above	AIGCS
Auto Physical Dam (TX)	11/11/2003	11/11/2004	CA5188603	\$70,000	\$25,000 comp/col	National Union Fire Insurance Co. (AIG) - BMHC/BMCW		Included Above	AIGCS
Workers Compensation (CA only)	11/11/2003	11/11/2004	WC2981547	\$1mm ea accident/disease	\$1mm ea occ	Insurance Co. of the State of PA - (AIG) BMHC/BMCW		\$1,025,044	AIGCS
Workers Compensation (All Other States)	11/11/2003	11/11/2004	WC2981548	\$1mm ea accident/disease	\$1mm ea occ	Insurance Co. of the State of PA - (AIG) BMHC/BMCW		Included Above	AIGCS
General Liability	11/11/2003	11/11/2004	GL9332902	\$1mm ea occ/\$2mm gen agg/\$2mm prod/comp ops	\$1mm	National Union Fire Insurance Co. (AIG) - BMCC		\$218,847	AIGCS
Auto Liability (All Other States)	11/11/2003	11/11/2004	CA8261534	\$2mm CSL	\$1mm	National Union Fire Insurance Co. (AIG) - BMCC		\$237,159	AIGCS
Auto Liability (TX Only)	11/11/2003	11/11/2004	CA8261535	\$2mm CSL	\$1mm	National Union Fire Insurance Co. (AIG) - BMCC		Included Above	AIGCS

Auto Physical Damage (All Other States)	11/11/2003	11/11/2004	CA8261536	\$70,000	\$25,000 comp/col	National Union Fire Insurance Co. (AIG) - BMCC	Included Above	AIGCS
Auto Physical Damage (TX Only)	11/11/2003	11/11/2004	CA8261537	\$70,000	\$25,000 comp/col	National Union Fire Insurance Co. (AIG) - BMCC	Included Above	AIGCS
Workers Compensation (CA only)	11/11/2003	11/11/2004	WC6435986	\$1mm ea accident/disease	\$1mm ea occ	State of PA - (AIG) BMCC	\$1,218,128	AIGCS
Workers Compensation (All Other States)	11/11/2003	11/11/2004	WC6435987	\$1mm ea accident/disease	\$1mm ea occ	State of PA - (AIG) BMCC	Included Above	AIGCS
Primary Umbrella Liability	11/11/2003	11/11/2004	28860511	\$25mm ea occ/\$25mm prod/comp ops/\$25mm gen agg	\$1mm ea occ retention	National Union Fire Insurance Co. (AIG)	\$3,195,000	None
Excess Liability	11/11/2003	11/11/2004	AEC937738600	\$25mm ea occ/\$25mm prod/comp ops/\$25mm gen agg	Underlying	American Guarantee & Liability (Zurich)	\$1,096,000	None
Property	11/11/2003	11/11/2004	KTJCCMB187D4438 03	\$50mm Blanket Prop/\$50mm B&M/\$5mm Flood	\$500k AOP & Flood/\$25k B&M	Travelers Indemnity Company	\$1,029,518	None
Underground Storage Tank	5/9/2003	5/9/2004	USC35121472	\$1mm ea occ/\$2mm gen agg	\$5,000 per claim	Zurich Amer. Insurance Co. - BMHC/BMCW	\$1,241	None
D&O	6/4/2003	6/4/2004	81460955	\$15mm ea loss	\$250,000 ea D&O retention	Federal Insurance Company	\$225,000	None
D&O Excess	6/4/2003	6/4/2004	2824571	\$15mm ea loss	Underlying	National Union Fire Insurance Company	\$61,200	None

Schedule of Insurance (2002 - 2003)

Coverage	Inception Date	Expiration Date	Policy Number	Limit	Deductible/ Retention	Insurer	Broker	Premium	Third-Party Administrator
Executive Protection - Crime/Fid/K&R	2/1/2002	2/1/2004	81222977G	\$15mm EP/\$10mm Fid/\$1mm K&R	\$100k Crime/\$15K Fid	Federal Insurance Company		\$ 150,400	None
General Liability	11/11/2002	11/11/2003	P2TV4631320002	\$2mm/\$4mm	\$500K occ	Royal Insurance Company		\$ 456,033	Arrowpoint
Business Auto	11/11/2002	11/11/2003	P2TT4631300002	\$2mm CSL	\$25K comp/col and \$500k liab	Royal Insurance Company		\$ 410,719	Arrowpoint
Business Auto (TX)	11/11/2002	11/11/2003	P2TT4631310002	\$2mm CSL	\$25K comp/col and \$500k liab	Royal Insurance Company		\$ 179,235	Arrowpoint
Workers Comp (Paid Loss-All States)	11/11/2002	11/11/2003	03R2TO463133	Statutory	\$500K occ	Royal Indemnity Company		\$ 761,734	Arrowpoint
Umbrella Liability - Primary	11/11/2002	11/11/2003	28588650	\$10mm	\$10,000	National Union Fire Insurance Company		\$ 950,000	None
Excess Umbrella Liab. - 1st layer	11/11/2002	11/11/2003	93631013	\$15mm/\$15mm	Underlying	Federal Insurance Company		\$ 243,000	None
Excess Umbrella Liab. - 2nd layer	11/11/2002	11/11/2003	P2HA2077954	\$25mm/\$25mm	Underlying	Royal Insurance Company		\$ 225,000	None
Property Package	11/11/2002	11/11/2003	KTJCMB187D443802	\$50mm Blanket Prop/\$50mm B&M/\$5mm Flood	\$500k AOP & Flood/\$25k B&M	Travelers Indemnity Insurance Company		\$ 941,260	None
Employment Practices Liability	2/1/2002	2/1/2004	2138670	\$4mm/\$4mm	\$250,000 per claim	National Union Fire Insurance Company (AIG)		\$ 79,000	None

Underground Storage Tank	5/9/2002	5/9/2003	USC3512147	\$1mm/\$2mm	\$	5,000	Zurich American Insurance Company		\$	1,059	None
D&O	6/4/2002	6/4/2003	81460955	\$15mm/\$15mm	\$175K Ea D&O		Federal Insurance Company		\$	185,000	None
Excess D&O	6/4/2002	6/4/2003	5116248	\$5mm	Underlying		National Union Fire Insurance Company (AIG)		\$	50,000	None

Schedule of Insurance (2001 - 2002)

Coverage	Inception Date	Expiration Date	Policy Number	Limit	Deductible/ Retention	Insurer	Broker	Premium	Third-Party Administrator
General Liability	11/1/2001	11/1/2002	P2TV463132	\$2mm occ/\$4mm agg	\$6.6 Basket Agg	Royal Insurance Company		\$ 581,047	Arrowpoint
Business Auto (All Other States)	11/1/2001	11/1/2002	P2TT463130	\$1mm CSL	\$25k comp/col \$6.6mm Basket Agg	Royal Insurance Company		\$ 511,021	Arrowpoint
Business Auto (TX)	11/1/2001	11/1/2002	P2TT463131	\$1mm CSL	\$25k comp/col \$6.6mm Basket Agg	Royal Insurance Company		\$ 252,630	Arrowpoint
Excess Umbrella Liability-1st Layer	11/1/2001	11/1/2002	93631013	\$15mm/\$15mm agg	Underlying	Federal Insurance Company		\$ 202,500	None
Excess Umbrella Liability-2nd Layer	11/1/2001	11/1/2002	PHA25724	\$25mm/\$25mm agg	Underlying	Royal Insurance Company		\$ 112,500	None
Property	11/1/2001	11/1/2002	KTJMB187D443801	\$50mm Blanket Prop/\$50mm B&M/\$5mm Fld	\$250k AOP/\$100k Fld/\$50k B&M	Travelers Indemnity Company		\$ 820,247	None
Umbrella Liability-Primary	11/1/2001	11/1/2002	BE8714393	\$10mm/\$10mm Agg	\$10,000 per claim	National Union Fire Insurance Company		\$ 630,000	None
Workers Compensation (Large Ded.)	11/1/2001	11/1/2002	R2TO463133	Statutory	\$250k	Royal Indemnity Company		\$ 667,472	Arrowpoint
Workers Compensation AZ/OR (Paid Loss Retro.)	11/1/2001	11/1/2002	P2AO000680	Statutory	\$250K Liability subject to \$6.6mm Basket Agg.	Royal Indemnity Company		\$ 795,587	Arrowpoint
Employment Practices Liability	2/1/2001	2/1/2002	8725064	\$4mm/\$4mm	\$75,000 per claim	National Union Fire Insurance Company		\$ 39,000	None
Underground Storage Tank	5/9/2001	5/9/2002	USC3512147	\$1mm occ/\$2mm Agg	\$5,000 per claim	Zurich American Insurance Co.		\$ 917	None
D&O	6/4/2001	6/4/2002	81460955	\$15mm/\$15mm agg	\$175,000	Federal Insurance Company		\$ 154,000	None
Excess D&O	6/4/2001	6/4/2002	8735107	\$5mm	Underlying	National Union Fire Insurance Company		\$ 32,000	None

Schedule of Insurance (2000- 2001)

Coverage	Inception Date	Expiration Date	Policy Number	Limit	Deductible/ Retention	Insurer	Broker	Premium	Third-Party Administrator
Workers Compensation (Deductible)	11/1/2000	11/1/2001	PTC463134	Statutory	\$250k	Royal Indemnity Company			Arrowpoint
Workers Compensation (Retro)	11/1/2000	11/1/2001	PTO463133	Statutory	\$250k	Royal Indemnity Company			Arrowpoint
Auto Liability & Physical Damage	11/1/2000	11/1/2001	PTT463131	\$1,000,000 CSL	\$25K comp/coll \$3mm Basket Agg (AL, GL & EL)	Royal & Sun Alliance			Arrowpoint
General Liability	11/1/2000	11/1/2001	PTV463132	\$2mm agg/\$1mm occ	\$3mm Basket Agg (AL, GL & EL)	Royal & Sun Alliance			Arrowpoint

Schedule of Insurance (1999- 2000)

Coverage	Inception Date	Expiration Date	Policy Number	Limit	Deductible/ Retention	Insurer	Broker	Premium	Third-Party Administrator
Executive Protection Liability	2/1/1999	2/1/2000	81460955	\$15mm Crime, 5mm Fiduciary, \$4mm EPLI	\$100k crime; \$5K Fiduciary; \$75k EP	Federal Insurance Company		\$ 74,500	None
Automobile Liability	11/1/1999	11/1/2000	PTT459117	\$1,000,000 CSL	\$25K comp/coll \$3mm Basket Agg (AL, GL & EL)	Royal & Sun Alliance			Arrowpoint
Commercial General Liability	11/1/1999	11/1/2000	PTV459116	\$2mm agg/\$1mm occ	\$3mm Basket Agg (AL, GL & EL)	Royal & Sun Alliance			Arrowpoint
Workers Compensation (Deductible)	11/1/1999	11/1/2000	RTO459114	Statutory	\$3mm Basket Agg (AL, GL & EL)	Royal Indemnity Company, Inc.		\$ 229,662	Arrowpoint
Workers Compensation (Retro)	11/1/1999	11/1/2000	PTC459115	Statutory	\$3mm Basket Agg (AL, GL & EL)	Royal Insurance Company of Amer.		\$ 49,547	Arrowpoint

Schedule of Insurance (1998- 1999)

Coverage	Inception Date	Expiration Date	Policy Number	Limit	Deductible/ Retention	Insurer	Broker	Premium	Third-Party Administrator
Automobile Liability	11/1/1998	11/1/1999	PTT459117	\$1,000,000 CSL	\$25K comp/coll \$3mm Basket Agg (AL, GL & EL)	Royal & Sun Alliance		\$ 356,720	Arrowpoint
Commercial General Liability	11/1/1998	11/1/1999	PTV459116	\$2mm agg/\$1mm occ	\$3mm Basket Agg (AL, GL & EL)	Royal & Sun Alliance		\$ 161,878	Arrowpoint
Excess Umbrella	11/1/1998	11/1/1999	NEX0150621	\$25mm/\$25mm	\$1mm SIR	Reliance National Insurance		\$ 20,000	None
Primary Umbrella	11/1/1998	11/1/1999	XY200083594648	\$50mm agg/\$50mm occ	Underlying	Fireman's Fund Ins.		\$ 149,800	None
Property/B&M/ CE/ EQ & FLD	11/1/1998	11/1/1999	PSU007096	Various	\$25K AOP occ; EQ \$5mm per occ \$1mm for CA Loc. FLD \$5mm occ/\$2mm for Loc in CA (A & V)	Royal & Sun Alliance		\$ 176,297	
Workers Compensation (Deductible)	11/1/1998	11/1/1999	RTO459114	Statutory	\$3mm Basket Agg (AL, GL & EL)	Royal Indemnity Company, Inc.		\$ 229,662	Arrowpoint
Workers Compensation (Retro)	11/1/1998	11/1/1999	PTC459115	Statutory	\$3mm Basket Agg (AL, GL & EL)	Royal Insurance Company of Amer.		\$ 49,547	Arrowpoint
Directors & Officers	11/1/1998	6/4/2000	81460955	\$15mm/\$15mm	\$175,000 Per Loss	Federal Insurance Company		\$ 140,000	None

Key to Abbreviations	
Abbreviation	Term
Liab	Liability
Occ	Occurance
Ea	Each
Agg	Aggregate
CSL	Combined Single Limit
AL	Automobile Liability
SIR	Self-insured Retention
TPA	Third-party Administrator
Fid	Fiduciary coverage
K&R	Kidnap & Ransom
Prod/Comp Ops	Products/Completed Operations Aggregate
Fld	Flood
B&M	Boiler & Machines coverage
AOP	Any other perils
UUM	Underinsured Uninsured Motorist
GL	General Liability
EL	Employers Liability
Comp/Coll	Comprehensive and Collision coverage