IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

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IN RE:) Chapter 11
DITH DING MATERIAL CHOLDING)
BUILDING MATERIALS HOLDING CORPORATION, et al., ¹) Case No. 09-12074 (KJC)
Debtors.) Jointly Administered
	<i>)</i> \
	Ref. Docket No. 1160
	,)

FEE AUDITOR'S FINAL REPORT REGARDING SECOND INTERIM QUARTERLY FEE REQUEST OF BENESCH, FRIEDLANDER, COPLAN & ARONOFF, 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 Second Interim Fee Request of Benesch, Friedlander, Coplan & Aronoff, LLP for compensation for services rendered and reimbursement of expenses as Delaware counsel to the Official Committee of Unsecured Creditors for the period September 1, 2009 through November 30, 2009 ("Fee Request") seeking approval of fees in the amount of \$58,579.00 and reimbursement of expenses in the amount of \$1,758.44, 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 disbursements and expenses contained herein, DFR reviewed the monthly fee statements and the Fee Requests, including each of the 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 September 1, 2009 through November 30, 2009 Benesch.

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.

Friedlander, Coplan & Aronoff, LLP submitted monthly fee applications in the amount of \$58,579.00 for fees as actual, reasonable and necessary and reimbursement of expenses in the amount of \$1,758.44. For the Fee Request period \$5,363.00 was charged for fee applications.

- 1. Local Rule 2016-2 provides in section (d) that all motions shall include complete and detailed activity descriptions; each activity description shall include the type of activity; each activity description shall include the subject matter and shall be sufficiently detailed to allow the Court to determine whether all the time, or any portion thereof, is actual, reasonable, and necessary. Our procedures applied to the Monthly Fee Applications for September 1, 2009 through November 30, 2009 identified entries with descriptions which we consider vague or insufficient. We requested clarification and additional detail for entries that state only "various emails". After discussions with the firm and additional information provided by the firm we do not recommend any change for these entries. Because there is no recommendation for a reduction in the fees for these entries, the exhibit has not been included.
- 2. We noted that all fee rates have been revised. The rate increases range for \$10.00 to \$55.00 per hour. The Application does not reference the rate increases. Upon review of the firm's application for retention we note that it stated, "In the normal course of business, Benesch revises its hourly rates from time to time to reflect economic and other conditions." The firm should disclose this change and should make a statement of whether the new compensation is based on the customary compensation charged by comparably skilled practitioners in cases other than cases under Title 11.

CONCLUSION

Regarding the Second Interim Fee Request and the fees and expenses discussed in the previous sections, DFR submits its report for the Second Interim Fee Request of Benesch, Friedlander, Coplan & Aronoff, LLP for compensation for services rendered and reimbursement of expenses as Delaware counsel to the Official Committee of Unsecured Creditors for the Period from September 1, 2009 through November 30, 2009 and we recommend the approval of fees in the amount of \$58,579.00 and the reimbursement of expenses in the amount of \$1,758.44.

Respectfully submitted,

DIRECT FEE REVIEW LLC

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Plano, TX 75093

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FEE AUDITOR

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 26th day of December, 2009.

By: W. J. Dryer

SERVICE LIST Notice Parties

The Applicants

Benesch Friedlander Coplan & Aronoff LLP Attn: Bradford J. Sandler, Jennifer R. Hoover, Jennifer E. Smith 222 Delaware Ave., Suite 801 Wilmington, DE 19801

The Debtor

Building Materials Holding Corporation Attn: Paul S. Street 720 Park Boulevard Suite 200 Boise, ID 83712

Counsel to the Debtors

Young Conaway Stargatt & Taylor, LLP Attn: Sean M. Beach and Robert F Poppiti, Jr. The Brandywine Building, 1000 West Street, 17th Floor PO Box 391 Wilmington, DE 19899-0391

Gibson, Dunn & Crutcher LLP Attn: Michael A. Rosenthal and Matthew K. Kelsey 200 Park Avenue New York, NY 10166

Counsel to the Committee

Benesch Friedlander Coplan & Aronoff LLP Attn: Bradford J. Sandler, Jennifer R. Hoover, Jennifer E. Smith 222 Delaware Ave., Suite 801 Wilmington, DE 19801 Arent Fox LLP Attn: Christopher J. Giaimo, Jr. and Katie A. Lane 1050 Connecticut Avenue, NW Washington, DC 20036

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

OFFICE OF THE U.S. TRUSTER Attn: Joseph McMahon 844 King Street, Suite 2207 Wilmington, DE 19801