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

IN RE:	) Chapter 11
BUILDING MATERIALS HOLDING CORPORATION, et al.,1	) Case No. 09-12074 (KJC)
Debtors.	Jointly Administered
	Ref. Docket Nos. 164 and <u>[22]</u>

## ORDER AUTHORIZING REJECTION OF THAT CERTAIN UNEXPIRED LEASE WITH FOUR EMBARCADERO CENTER VENTURE

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 authorizing the Debtors to reject that certain unexpired lease by and between Four Embarcadero Center Venture and Building Materials Holding Corporation, dated as of January 16, 2002, as amended by that certain First Amendment to Office Lease, dated as of September 11, 2003 and that certain Second Amendment to Office Lease, dated as of October 12, 2005 and that certain Third Amendment to Office Lease, dated as of December 23, 2005, for the use and occupancy of the premises commonly known as Four Embarcadero Center, Suite 3200 (the "San Francisco Lease"), as set forth in the Motion; 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

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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.

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 the related Certification of Counsel; and the Court having determined that the legal and factual bases set forth in the Motion and in the Certification of Counsel 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.
- 2. Pursuant to section 365(a) of the Bankruptcy Code, the Debtors are authorized to reject the San Francisco Lease effective as of December 31, 2009.
- 3. As a result of the rejection of the San Francisco Lease, Four Embarcadero Center Venture shall have an Allowed General Unsecured Claim against Building Materials Holding Corporation in the amount of \$1,274,714.
- 4. This Order shall not impair Four Embarcadero Center Venture's right to assert a claim (including, if applicable, an administrative expense claim), nor impair the Debtors' right to dispute any such claim, (i) if the San Francisco Lease premises are in unsatisfactory condition upon return, or (ii) if the Debtors have not vacated the San Francisco Lease premises on or before December 31, 2009; provided, however, that Four Embarcadero Center Venture must assert any such claim within thirty days of the date of entry of this Order.
- 5. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

- 6. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such motion and the requirements of Bankruptcy Rule 6006(c) and the Local Bankruptcy Rules are satisfied by such notice.
- 7. To the extent Bankruptcy Rule 6004(h) is applicable, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
- 8. This Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

Date: Wilmington, Delaware December 20, 2009

Kevin J. Carey

Chief United States Bankruptey Judge