

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

In re:

BUILDING MATERIALS HOLDING
CORPORATION, *et al.*¹

Debtors.

Chapter 11

Case No. 09-12074 (KJC)

Jointly Administered

Ref. Docket No. 1184

**CERTIFICATION OF COUNSEL REGARDING STIPULATION
BY AND BETWEEN THE DEBTORS AND CENTEX HOMES RESOLVING THE
MOTION OF CENTEX HOMES FOR RELIEF FROM THE AUTOMATIC STAY
UNDER SECTION 362 OF THE BANKRUPTCY CODE**

On December 18, 2009, Centex Homes, a Nevada general partnership ("Centex") filed the *Motion of Centex Homes for Relief from the Automatic Stay Under Section 362 of the Bankruptcy Code* [Docket No. 1184] seeking relief from the automatic stay so it may proceed with certain arbitration proceedings (the "Arbitration") presently pending under a Joint Defense Agreement and to enforce any award in its favor from the available liability insurance proceeds under a policy issued by Certain Underwriters at Lloyds, London ("Underwriters"), Certificate No. A/504/117 (23 January 2004 to 23 July 2005) (the "Policy") under which debtor H.N.R. Framing Systems, Inc. is a named insured.

The hearing to consider the relief requested in the Motion is scheduled for January 5, 2010 at 11:00 a.m. Responses to the Motion were due on or before December 29, 2009, at 4 p.m. (the "Objection Deadline"). No objections or responses to the Motion were

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.

received prior to the Objection Deadline. Subsequent to the filing of the Motion, the Debtors negotiated a consensual resolution of the Motion with Centex.

As a result of the discussions, the Debtors and Centex (collectively, the “Parties”) have entered into the *Stipulation Resolving the Motion of Centex Homes for Relief from the Automatic Stay* (the “Stipulation”) which consensually resolves the Motion. The pertinent terms of the Stipulation are as follows:

- (a) The Parties acknowledge and agree to relief from the automatic stay being granted in favor of Centex for the sole purpose of allowing Centex to proceed with the Arbitration and to enforce any award in Centex’s favor from the available liability insurance proceeds of the Underwriters Policy.
- (b) If any action by Centex would cause Underwriters to have a claim against the Debtors on account of any deductible and/or self insured retention under the Policy, Centex acknowledges and agrees that it shall not seek any payment under the Policy unless it satisfies directly with Underwriters any such deductible and/or self insured retention.
- (c) The Parties acknowledge and agree that the Stipulation shall fully and finally resolve, and Centex waives and releases, any direct, pre-petition, post-petition, administrative, or other claim against the Debtors of any kind or nature, arising out of or related to the Arbitration, provided, however, that Centex shall retain a claim to the extent necessary to obtain insurance proceeds from the Policy.

Attached hereto as Exhibit 1 is a proposed order approving the Stipulation (the “Proposed Order”). The Stipulation is attached to the Proposed Order as Exhibit A.

[Signature page to follow]

WHEREFORE, the Debtors respectfully request entry of the Proposed Order approving the Stipulation at the Court's earliest convenience.

Dated: Wilmington, Delaware
December 31, 2009

YOUNG CONAWAY STARGATT & TAYLOR, LLP



Sean M. Beach (No. 4070)
Donald J. Bowman, Jr. (No. 4386)
Robert F. Poppiti, Jr. (No. 5052)
The Brandywine Building
1000 West Street, 17th Floor
P. O. Box 391
Wilmington, Delaware 19899-0391
Telephone: (302) 571-6600
Facsimile: (302) 571-1253

---- and ----

GIBSON, DUNN & CRUTCHER LLP
Michael A. Rosenthal (admitted *pro hac vice*)
Matthew K. Kelsey (admitted *pro hac vice*)
Sae M. Muzumdar (admitted *pro hac vice*)
200 Park Ave, 47th Floor
New York, NY 10166-0193
Telephone: 212.351.4000
Facsimile: 212.351.4035

Aaron G. York (admitted *pro hac vice*)
Jeremy L. Graves (admitted *pro hac vice*)
2100 McKinney Ave, Suite 1100
Dallas, TX 75201-6911
Telephone: 214.698.3100
Facsimile: 214.571.2900

ATTORNEYS FOR DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT 1

Proposed Order

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

In re:

BUILDING MATERIALS HOLDING
CORPORATION, *et al.*¹

Debtors.

Chapter 11

Case No. 09-12074(KJC)

Jointly Administered

Ref. Docket Nos. 1184 and _____

**ORDER APPROVING STIPULATION
BY AND BETWEEN THE DEBTORS AND CENTEX HOMES
FOR RELIEF FROM THE AUTOMATIC STAY**

The Court having considered the Stipulation by and between the Debtors and Centex Homes resolving the Motion of Centex Homes for Relief From Automatic Stay Under Section 362 of the Bankruptcy Code, a copy of which is attached hereto as Exhibit A; the Court having determined that good and adequate cause exists for approval of the Stipulation; and the Court having determined that no further notice of the Stipulation must be given; and it appearing that the Stipulation is in the best interests of the Debtors, their estates and creditors and other parties in interest; and after due deliberation and sufficient cause appearing therefor, it is hereby:

ORDERED that the Stipulation is approved, and the terms and conditions of the Stipulation are incorporated in this Order by reference as if fully set forth herein; and it is further

ORDERED that the Debtors are authorized and empowered to take any and all steps or perform any and all such acts as are necessary to carry out or otherwise effectuate the terms, conditions and provisions of the Stipulation; and it is further

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ORDERED that this Court shall retain jurisdiction to hear and determine any and all matters arising from or related to the interpretation or implementation of this Order or the Stipulation.

Dated: Wilmington, Delaware
January ____, 2010

Kevin J. Carey
Chief United States Bankruptcy Judge

EXHIBIT A

Stipulation

**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
)	
)	

**STIPULATION RESOLVING THE MOTION OF CENTEX HOMES FOR RELIEF
FROM THE AUTOMATIC STAY**

Centex Homes, a Nevada general partnership, ("*Claimant*"), and Building Materials Holding Corporation and its affiliates, the debtors and debtors in possession in the above-referenced cases (collectively, the "*Debtors*," and together with the Claimant, the "*Parties*") hereby respectfully stipulate and agree as follows:

RECITALS

WHEREAS, on June 16, 2009 (the "*Petition Date*"), each of the Debtors filed with the United States Bankruptcy Court for the District of Delaware (the "*Court*") voluntary petitions for relief under title 11 of the United States Code (the "*Bankruptcy Code*"). Each Debtor is continuing to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors' cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure;

WHEREAS, on December 18, 2009, the Claimant filed with the Court the Motion of Centex Homes for Relief From the Automatic Stay Under Section 362 of the Bankruptcy

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Code, seeking relief from the automatic stay so it may proceed with certain arbitration proceedings (the "*Arbitration*") presently pending under a Joint Defense Agreement and to enforce any award in its favor from the available liability insurance proceeds under a policy issued by Certain Underwriters at Lloyds, London ("*Underwriters*"), Certificate No. A/504/117 (23 January 2004 to 23 July 2005) (the "*Policy*") under which debtor H.N.R. Framing Systems, Inc. is a named insured;

WHEREAS, the Debtors are willing to stipulate to relief from the automatic stay in favor of the Claimant for the sole purpose of allowing the Claimant to proceed with the Arbitration and to enforce any award in Claimant's favor from the available liability insurance proceeds of the Underwriters Policy.

NOW THEREFORE, subject to the approval of the Court, in order to avoid the costs, risks and inconveniences of litigation, it is hereby stipulated and agreed as follows:

1. The Parties hereby acknowledge and agree to relief from the automatic stay being granted in favor of the Claimant for the sole purpose of allowing the Claimant to proceed with the Arbitration and to enforce any award in Claimant's favor from the available liability insurance proceeds of the Underwriters Policy.
2. If any action by the Claimant would cause Underwriters to have a claim against the Debtors on account of any deductible and/or self insured retention under the Policy, the Claimant acknowledges and agrees that it shall not seek any payment under the Policy unless it satisfies directly with the Insurer any such deductible and/or self insured retention.
3. The Parties hereby acknowledge and agree that this Stipulation shall fully and finally resolve, and the Claimant waives and releases, any direct, pre-petition, post-petition, administrative, or other claim against the Debtors of any kind or nature, arising out of or related

to the Arbitration, provided, however, that the Claimant shall retain a claim to the extent necessary to obtain insurance proceeds from the Policy.

4. The Parties hereby acknowledge and agree that this Stipulation is entered into solely for the convenience of the Parties and neither this Stipulation nor the fact of its execution will constitute any admission or acknowledgment or liability or wrongdoing on the part of any of the Parties. The Parties will not offer this Stipulation or the fact of its execution into evidence in any proceeding other than a proceeding to approve or enforce this Stipulation or any of its terms.

5. Each party shall bear its own attorneys' fees and costs with respect to the execution and delivery of this Stipulation. Each of the undersigned are duly authorized and empowered to execute this Stipulation.

6. This Stipulation is governed by and shall be construed in accordance with the law of the State of Delaware, without regard to its conflict of laws provisions. The Court shall retain exclusive jurisdiction to resolve any disputes or controversies arising from or related to this Stipulation.

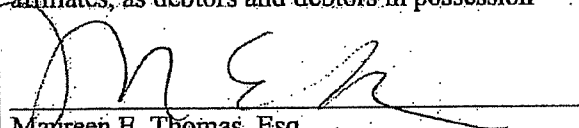
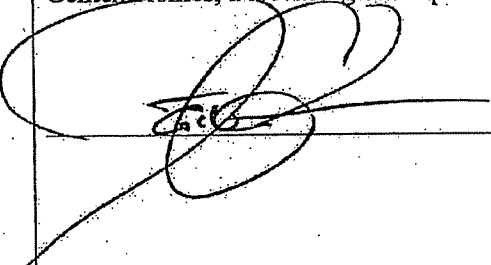
7. All of the recitals set forth above are incorporated by reference as if fully set forth herein. This Stipulation constitutes the complete express agreement of the Parties hereto concerning the subject matter hereof, and no modification or amendment to this Stipulation shall be valid unless it is in writing, signed by the Party or Parties to be charged and approved by the Court.

8. It is acknowledged that each Party has participated in and jointly consented to the drafting of this Stipulation and that any claimed ambiguity shall not be construed for or against either Party on account of such drafting.

9. This Stipulation may be executed in counterparts, any of which may be transmitted by facsimile or electronic mail, and each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

10. This Stipulation is subject to approval of the Court, and the Parties agree to present the Stipulation promptly to the Court for approval. If the Court does not approve this Stipulation, the Parties will revert to their pre-Stipulation positions, without any prejudice whatsoever from having entered into this Stipulation.

11. This Stipulation shall become effective immediately upon entry of an order approving the Stipulation.

<p>For Building Materials Holding Corporation and its affiliates, as debtors and debtors in possession</p>  <hr/> <p>Maureen E. Thomas, Esq. 982 Coledale Ct. White Lake, MI 48386</p> <p>Dated: _____</p>	<p>For Centex Homes, a Nevada general partnership</p>  <hr/> <p>Dated: <u>12/23/09</u></p>
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