

**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. 1301
)	

FEE AUDITOR’S FINAL REPORT REGARDING SEVENTH MONTHLY AND FINAL APPLICATION OF ARENT FOX LLP

Direct Fee Review LLC (“DFR”), appointed and employed as the Fee Auditor in the above-captioned bankruptcy proceedings and acting in its capacity regarding the Seventh Monthly and Final Application of Arent Fox LLP for allowance of compensation for services rendered and reimbursement of expenses as counsel to the Official Committee of Unsecured Creditors for the interim period December 1, 2009 through December 17, 2009 (“Interim Fee Request”) seeking approval of fees in the amount of \$45,335.00 and reimbursement of expenses in the amount of \$867.42, and for the final period June 26, 2009 through December 17, 2009 (“Final Fee Request”) seeking approval of fees in the amount of \$1,089,116.00 and reimbursement of expenses in the amount of \$17,265.28, submits its final report.

BACKGROUND

In performance of audit procedures and in preparation of this report designed to quantify and

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.

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 December 1, 2009 through December 17, 2009 Arent Fox LLP submitted an Interim Fee Request in the amount of \$45,335.00 as actual, reasonable and necessary fees and reimbursement of expenses in the amount of \$867.42. For the Interim Fee Request period \$5,215.50 was charged for fee applications.

1. Based upon our procedures applied to the Interim Fee Request for December 1, 2009 through December 17, 2009 we have noted that a material amount of time in this fee application is related to the preparation of fee applications. We deem it generally acceptable to spend less than \$50,000 or 5% of time charged preparing fee applications. We apply these guidelines on a cumulative basis. We noted that for the Final Fee Request period the firm has charged \$45,504.00 and we have calculated that 4.18% of the charges relate to fee applications on a cumulative basis. We do not have an objection to the amount of fees and we deem the percentage to be reasonable.
2. Local Rule 2016-2 provides in section (d) (ix) the activity descriptions shall individually identify all meetings and hearings (conferences and conference by telephone), each

participant, the subject(s) of the meeting or hearing (conferences and conference by telephone) and the participant's role. Our procedures applied to the Interim Fee Request for December 1, 2009 through December 17, 2009 identified an example of entries with descriptions which did not provide such detail. After discussions with the firm and after review of the 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.

3. Based upon a review for reasonableness DFR noted an entry which may be considered excessive. In general DFR deems charges in excess of \$15/\$25/\$50 for breakfast/lunch/dinner to be not reasonable. We requested additional information from the firm. After review by the firm of these charges, the firm withdrew charges in the amount of \$45.46; we recommend a reduction in expense of this amount.

FINAL APPROVAL OF FEES AND EXPENSES

4. The firm previously filed the First Interim Quarterly Fee Request for the period June 26, 2009 through August 31, 2009 and the Second Interim Quarterly Fee Request for the period September 1, 2009 through November 30, 2009. We reviewed these fee requests and filed our reports with the Court recommending approval of fees after in the total amount of \$1,043,781.00 and expenses after adjustments in the total amount of \$15,546.53 for the period June 26, 2009 through November 30, 2009. We note that the Final Fee Request submitted by the firm does not reflect the adjustments that we recommended to the First Interim Quarterly Fee Request for the period June 26, 2009

through August 31, 2009 and the Second Interim Quarterly Fee Request for the period September 1, 2009 through November 30, 2009 which were agreed to by the firm.


CONCLUSION

Regarding the Interim Fee Request period and the fees and expenses discussed in the previous sections, DFR submits its final report for the Interim Fee Request of Arent Fox LLP as counsel to the Official Committee of Unsecured Creditors for allowance of compensation for services rendered and reimbursement of expenses for the period from December 1, 2009 through December 17, 2009 and we recommend the approval of fees in the amount of \$45,335.00 and the reimbursement of expenses in the amount of \$821.96 (\$867.42 less \$45.46). We have no changes to make to our reports related to the period June 26, 2009 through November 30, 2009 and therefore continue to recommend approval of fees in the total amount of \$1,043,781.00 and expenses in the total amount of \$15,546.53 for that period. For the Final Fee Request period from June 26, 2009 through December 17, 2009 we recommend the approval of fees in the amount of \$1,089,116.00 and the reimbursement of expenses in the amount of \$16,368.49 (\$17265.28 less \$45.46 and \$851.33).

Respectfully submitted,

DIRECT FEE REVIEW LLC

By:



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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 27th day of January, 2010.

By: 
W. J. Dryer

SERVICE LIST
Notice Parties

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