

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

IN RE: *
*
BUILDING MATERIALS HOLDING CORP. * Case No. 09-12074 (KJC)
*
* Chapter 11
*

**COMMONWEALTH OF VIRGINIA DEPARTMENT OF TAXATION'S RESPONSE
TO FIFTEENTH OMNIBUS OBJECTION TO CLAIMS**

COMES NOW the Commonwealth of Virginia, Department of Taxation (“the Department”), by counsel, and files this Response to the Debtor’s Omnibus Objection to Claims and in support thereof states as follows:

1. The Department filed two claims in this consolidated case which are both subject to this objection. The first (denominated #2810) is an estimated claim for corporate income taxes for Building Materials Holding Corp for 2005 through 2008. The second (denominated #2811) is an estimated claim for corporate income taxes for BMC West for 2006 through 2008.
2. The Debtor objects to these claims asserting that there is no taxable nexus with Virginia and therefore there is no liability.
3. The Debtor, Building Materials Holding Corp, however, has previously filed corporate income tax returns with the Virginia Department of Taxation, including for tax years 2006, 2007 and 2008. The debtor has also paid corporate income taxes to Virginia in 2006 and 2007.
4. The Debtor, BMC West, has failed to file corporate income tax returns with the Virginia Department of Taxation for tax years 2006 through 2008 despite having registered to do so.
5. The filing and payment history of this debtor belies their argument and the Department of Taxation demands that the missing returns be filed so that the actual liability of the debtor can be determined.

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WHEREFORE, the Commonwealth of Virginia, Department of Taxation, requests that the Court overrule the Debtor's objection to its claim, as well as award any other relief to which it is entitled.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TAXATION

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Response to the Fifteenth Omnibus Objection to Claims was sent via ECF to the counsel for the Debtor and all parties requesting electronic notice.

/s/Jeffrey A. Scharf