

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

In re: BUILDING MATERIALS HOLDING CORPORATION, et al.,¹ <p style="text-align: center;">Reorganized Debtors.</p>)))))))	Chapter 11 Case No. 09-12074 (KJC) Jointly Administered Ref. Docket No.: 1549,1571
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ORDER APPROVING AND AUTHORIZING THE SETTLEMENT AGREEMENT AND GENERAL RELEASE BY AND BETWEEN SELECT-BUILD ILLINOIS, LLC, THOMAS WECKMANN, COMPONENT SYSTEMS-ILLINOIS, LLC AND HOVSTONE PROPERTIES ILLINOIS, LLC

Upon consideration of the motion (the "Motion")² of Building Materials Holding Corporation and its affiliates, as reorganized debtors (collectively, the "Reorganized Debtors"), seeking entry of an order, pursuant to Bankruptcy Rule 9019 and section 105(a) of the Bankruptcy Code, approving the *Settlement Agreement and General Release* (the "Settlement Agreement") entered into by and between Reorganized Debtor Select-Build Illinois, LLC, Thomas Weckmann, Component Systems-Illinois, LLC, and Hovstone Properties Illinois; and due and sufficient notice of the Motion having been given; and it appearing that the relief requested in the Motion is in the best interests of the Reorganized Debtors, their estates and creditors; and after due deliberation and sufficient cause appearing therefor; it is hereby

¹ The Reorganized Debtors, along with the last four digits of each Reorganized 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 Reorganized Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

² Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Motion.

ORDERED that the Motion is GRANTED; and it is further

ORDERED that the Settlement Agreement, attached hereto as Exhibit 1, is approved pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, and the terms and conditions of the Settlement Agreement are incorporated into this Order by reference as if fully set forth herein; and it is further

ORDERED that, upon the entry of this Order, Select-Build, for itself, its parents, subsidiaries, affiliates, successors, assigns, officers, directors, employees and any party or fiduciary acting for or on behalf of the foregoing parties, hereby fully and forever releases and discharges the Non-Debtor Parties from all claims, causes of action, claims, losses, damages, liabilities and obligations of every nature and description, whether known or unknown, liquidated, actual, contingent or otherwise, arising out of or in any way directly or indirectly connected with the Action, including without limitation, attorneys fees and costs, except for the obligations of the Non-Debtor Parties that are expressly set forth in the Settlement Agreement; and it is further

ORDERED that, upon the entry of this Order, the Non-Debtor Parties, for themselves, their parents, subsidiaries, affiliates, successors, assigns, officers, directors, employees and any party or fiduciary acting for or on behalf of the foregoing parties hereby fully and forever releases and discharges (i) Select-Build; (ii) Select-Build's predecessors, successors, parents, subsidiaries, assigns, subcontractors, suppliers and their related entities; and (iii) all representatives, agents, attorneys, advisors, administrators, related entities, present and former stockholders, members, owners, trustees, officers, directors, managers and employees of any of the above persons and/or entities, from all causes of action, claims, losses, damages, liabilities and obligations of every nature and description, at law or in equity, including any and all claims

arising under the Bankruptcy Code, known or unknown, asserted or that might have been asserted, arising out of or in any way directly or indirectly connected with the Action, including without limitation claims for personal injury, contribution, and indemnification, except for the obligations of Select-Build that are expressly set forth in the Settlement Agreement; and it is further

ORDERED that immediately upon entry of this Order, any proofs of claim filed by the Non-Debtor Parties against Select-Build in the Chapter 11 Cases, which relate in any way to the Action, including, without limitation, proof of claim number 1590 filed by Hovstone, proof of claim number 1716 filed by CSI and proof of claim number 2502 filed by Weckmann, shall be deemed automatically withdrawn without the need for (i) any further order of this Court or (ii) any further filings in the Chapter 11 Cases by the Non-Debtor Parties; and it is further

ORDERED that the Reorganized Debtors are authorized to take all actions necessary to effectuate the terms of the Settlement Agreement; and it is further

ORDERED, that this Court shall retain jurisdiction to hear any and all disputes arising out of the interpretation or enforcement of this Order.

Dated: Wilmington, Delaware
May 1, 2010

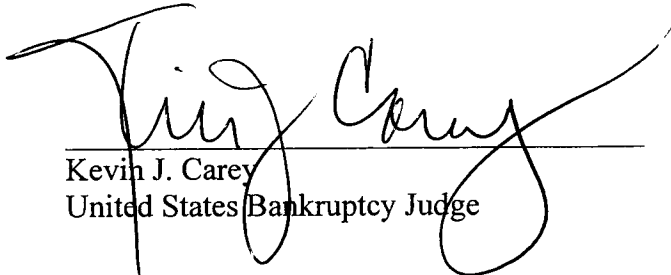

Kevin J. Carey
United States Bankruptcy Judge

EXHIBIT 1

Settlement Agreement

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement is entered into by and between reorganized debtor and debtor in possession, SelectBuild Illinois, LLC (Case No. 09-12085) (KJC) ("Debtor" or "SelectBuild"),¹ Thomas Weckmann ("Weckmann"), Component Systems-Illinois, LLC ("CSI"), and Hovstone Properties Illinois, LLC ("Hovstone"). SelectBuild, Weckmann, CSI, and Hovstone are collectively referred to as the "Parties" and Weckmann, CSI, and Hovstone are the "Non-Debtor Parties".

RECITALS

WHEREAS, at all times relevant hereto, Weckmann was a carpenter employed by SelectBuild working on a construction site in a residential subdivision known as Liberty Lakes located at or near 2576 Savanna Drive, Village of Wauconda, Illinois (the "Project");

WHEREAS, on April 13, 2007, Weckmann was injured while working at the Project;

WHEREAS, as a result of his injuries, Weckmann filed a workers' compensation claim (the "Claim") against SelectBuild;

WHEREAS, as of this date, the Claim totals \$63,428.47, of which \$14,242.60 is on account of disability payments and \$49,185.87 is attributable to medical payments;

WHEREAS, SelectBuild holds a workers' compensation lien (the "Lien") against any recovery obtained by Weckmann on account of his injuries in the amount of \$63,428.47;

WHEREAS, as a result of his injuries, Weckmann also commenced an action in Illinois state court against CSI and Hovstone captioned *Weckmann v. Hovstone Properties-Illinois L.L.C. and Component Systems-Illinois, L.L.C.* (Case No. 08 L 105) (the "Action");

¹ The Debtor's chapter 11 case bankruptcy case is pending in the United States Bankruptcy Court for the District of Delaware and is being jointly administered with the bankruptcy cases of its affiliated debtors and debtors in possession under the case encaptioned *In re Building Materials Holding Corporation* (Case No. 90-12074) (KJC).

WHEREAS, by the complaint (as amended) Weckmann filed in the Action, Weckmann alleges that the negligent acts and/or omissions of CSI and Hovstone caused his injuries;

WHEREAS, Hovstone was the general contractor with respect to the Project and CSI and SelectBuild were subcontractors of Hovstone;

WHEREAS, in connection with the Action, Hovstone and CSI each filed third-party contribution actions against SelectBuild alleging that certain acts and/or omissions of SelectBuild contributed to Weckmann's injuries. SelectBuild disputes these claims;

WHEREAS, on June 16, 2009 (the "Petition Date"), SelectBuild and its affiliated now reorganized debtors and debtors in possession (collectively, the "Reorganized Debtors") each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Chapter 11 Cases") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court");

WHEREAS, pursuant to 11 U.S.C. § 362, the continued prosecution of the Action was stayed as of the Petition Date;

WHEREAS, prior to the Petition Date, and before becoming aware of the Chapter 11 Cases, the Non-Debtor Parties conducted extensive discovery and were preparing for trial in connection with the Action;

WHEREAS, the Non-Debtor Parties have indicated a desire to resolve the Action by proceeding with pretrial mediation and have agreed, subject to the terms of this Settlement Agreement, to dismiss SelectBuild from the Action;

NOW, THEREFORE, in consideration of the foregoing recitals and of the obligations of the Parties under this Settlement Agreement, the Parties hereby mutually agree, subject to approval of the Bankruptcy Court, as follows:

1. **Effective Date.** This Settlement Agreement shall become effective (the "Effective Date") after the entry of an order of the Bankruptcy Court approving this Settlement Agreement (the "Approval Order"). In the event the Bankruptcy Court does not approve this Settlement Agreement, this Settlement Agreement shall be treated as if it had never been entered into in the first instance.

2. **Settlement of the Claim and the Lien.** Immediately upon the Effective Date, Weckmann and SelectBuild have agreed to settle the Claim for \$1 and SelectBuild will compromise the Lien such that SelectBuild will accept \$35,000 in full satisfaction of the Lien.

3. **Dismissal of SelectBuild from the Action.** Immediately upon the Effective Date, the Non-Debtor Parties each agree to withdraw all complaints, counterclaims, claims, and causes of action filed against SelectBuild in connection with the Action and SelectBuild shall be dismissed from the Action with prejudice. The Non-Debtor Parties each agree to file a stipulation of dismissal or equivalent documents with the Illinois state court to effectuate the dismissal of SelectBuild from the Action. In addition, to the extent applicable, the Non-Debtor Parties each agree to withdraw any proof of claim they filed against SelectBuild in the Chapter 11 Cases, which relates in any way to the Action.

4. **Releases.**

(a) **SelectBuild's Release.** Upon the Effective Date, SelectBuild, for itself, its parents, subsidiaries, affiliates, successors, assigns, officers, directors, employees and any party or fiduciary acting for or on behalf of the foregoing parties, hereby fully and forever releases and discharges the Non-Debtor Parties from all claims, causes of action, claims, losses, damages, liabilities and obligations of every nature and description, whether known or unknown, liquidated, actual, contingent or otherwise, arising out of or in any way directly or indirectly

connected with the Action, including without limitation, attorneys fees and costs, except for the obligations of the Non-Debtor Parties that are expressly set forth in this Settlement Agreement.

(b) Non-Debtor Parties' Releases. Upon the Effective Date, the Non-Debtor Parties, for themselves, their parents, subsidiaries, affiliates, successors, assigns, officers, directors, employees and any party or fiduciary acting for or on behalf of the foregoing parties hereby fully and forever releases and discharges (i) SelectBuild; (ii) SelectBuild's predecessors, successors, parents, subsidiaries, assigns, subcontractors, suppliers and their related entities; and (iii) all representatives, agents, attorneys, advisors, administrators, related entities, present and former stockholders, members, owners, trustees, officers, directors, managers and employees of any of the above persons and/or entities, from all causes of action, claims, losses, damages, liabilities and obligations of every nature and description, at law or in equity, including any and all claims arising under the Bankruptcy Code, known or unknown, asserted or that might have been asserted, arising out of or in any way directly or indirectly connected with the Action, including without limitation claims for personal injury, contribution, and indemnification, except for the obligations of SelectBuild that are expressly set forth in this Settlement Agreement.

5. No Admissions. This Settlement Agreement represents a compromise of disputed claims and a consensual resolution of any claims against SelectBuild to allow the Non-Debtor Parties to proceed with the Action. Nothing contained in this Settlement Agreement will constitute, or will be construed as, an admission of fact, liability, or wrongdoing on the part of any Party.

6. Mistakes of Law or Fact. In entering into this Settlement Agreement, the Parties assume the risk of any mistake of law or fact. If any Party should later discover that any fact relied upon in entering into this Settlement Agreement is not true, or that the Party's

understanding of the facts or the law was incorrect, that Party will not be entitled to seek rescission of this Settlement Agreement by reason thereof. This Settlement Agreement is intended to be final and binding upon the Parties regardless of any mistake of law or fact. The Parties waive any rights they may have under any statute or common law principle that would limit the effect of their respective releases to those claims actually known or suspected to exist at the time of the execution of this Settlement Agreement, or that would otherwise limit the scope and breadth of the Settlement Agreement in any way, as the Parties intend a full and final repose of all disputes and potential litigation within the scope of the releases set forth above.

7. **No Prior Assignment.** Each Party represents and warrants that it has not sold, assigned, granted or transferred, in any manner, any of the claims or rights described in or encompassed within paragraph 4 above, entitled "Releases."

8. **Entire Agreement.** This Settlement Agreement constitutes the entire agreement between the Parties, and supersedes all other agreements and understandings from, on or before the Effective Date, both written and oral, between or among any of the Parties, with respect to the Action.

9. **Governing Law and Construction and Forum Selection.** This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, without reference to conflict of laws principles that would require the application of the laws of another jurisdiction. This Settlement Agreement shall further be construed without regard to who was responsible for its preparation, and it shall be deemed to have been prepared jointly by all Parties, each of whom acknowledges that it received the advice of counsel of its own choosing with respect to the negotiation and execution of this Settlement Agreement. Any ambiguity or uncertainty arising herein shall not be interpreted or construed against any Party


hereto. The headings or captions of the various paragraphs hereof are for convenient reference only and neither form a part hereof nor are to be relied upon to interpret or modify any of the provisions of this Settlement Agreement. Any dispute arising between the Parties hereto as to the meaning, performance or effect of this Settlement Agreement shall be resolved exclusively in the Bankruptcy Court.

10. **Authority to Execute; Counterparts.** Each undersigned representative of the Parties represents that s/he has all requisite authority and capacity to execute this Settlement Agreement on behalf of the specified party. This Settlement Agreement may be executed in counterparts, all of which together shall constitute a single document. For purposes of filing this Settlement Agreement to obtain approval by the Bankruptcy Court, signatures delivered via facsimile or in .pdf format via email shall be regarded as the equivalent of originals.

11. **Cooperation and Further Documents.** The Parties agree to cooperate with each other and to execute such other and further documents as may reasonably be required to effectuate the terms of this Settlement Agreement.

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed and delivered by the Parties hereto on the date(s) indicated below.

SELECTBUILD ILLINOIS, LLC

By: 

Name: PAUL S. STREET
Chief Executive Officer

Title: _____

Date: 4-12, 2010

with each other and to execute such other and further documents as may reasonably be required to effectuate the terms of this Settlement Agreement.

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed and delivered by the Parties hereto on the date(s) indicated below.

SELECT-BUILD ILLINOIS, LLC

By: _____

Name: _____

Title: _____

Date: March _____, 2010

HOVSTONE PROPERTIES ILLINOIS, LLC

By: _____

Name: Charles P. Rantor

Title: attorney for Horstone

Date: March 31, 2010

COMPONENT SYSTEMS-ILLINOIS LLC

By: _____

Name: _____

Title: _____

Date: March _____, 2010

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with each other and to execute such other and further documents as may reasonably be required to effectuate the terms of this Settlement Agreement.

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed and delivered by the Parties hereto on the date(s) indicated below.

SELECT-BUILD ILLINOIS, LLC

By: _____

Name: _____

Title: _____

Date: March _____, 2010

HOVSTONE PROPERTIES ILLINOIS, LLC

By: _____

Name: _____

Title: _____

Date: March _____, 2010

COMPONENT SYSTEMS-ILLINOIS LLC

By: EWK

Name: Edward K. Grasse

Title: _____

Date: March 31, 2010

THOMAS WECKMANN AND TINA WECKMANN

By: RF Egan

Name: Richard F. Egan

Title: Attorney

Date: March 29, 2010