

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

In re:

BUILDING MATERIALS HOLDING
CORPORATION, *et al.*¹

Reorganized Debtors.

Chapter 11

Case No. 09-12074 (KJC)

Jointly Administered

Objection Deadline: August 25, 2010 at 4:00 p.m. (ET)

**NOTICE OF STIPULATION RESOLVING THE REQUEST OF
S&S CONCRETE & MATERIALS, LLC FOR RELIEF
FROM AUTOMATIC STAY AND PLAN INJUNCTION**

PLEASE TAKE NOTICE that, on June 16, 2009 (the "Petition Date"), the above-captioned Debtors, now the Reorganized Debtors, filed voluntary petitions for relief under title 11 of the United States Code (the "Bankruptcy Code").

PLEASE TAKE FURTHER NOTICE that, on December 17, 2009, the United States Bankruptcy Court for the District of Delaware (the "Court") entered the *Order Confirming Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code Amended December 14, 2009 (With Technical Modifications)* [Docket No. 1182] (the "Confirmation Order") confirming the Debtors' joint plan of reorganization (the "Plan"). The Plan became effective on January 4, 2010 (the "Effective Date").

PLEASE TAKE FURTHER NOTICE that from the Petition Date until the Effective Date, the automatic stay imposed by section 362 of the Bankruptcy Code prohibited persons or entities from bringing or continuing any actions against the Debtors on account of

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.

prepetition claims, and from and after the Effective Date the injunction imposed by the Plan and Confirmation Order (the "Plan Injunction") prevents persons or entities from bringing or continuing any actions against the Reorganized Debtors on account of prepetition claims.

PLEASE TAKE FURTHER NOTICE that, on November 19, 2009, the Court entered the *Order, Pursuant to Sections 105 and 362 of the Bankruptcy Code and Bankruptcy Rule 9019, Authorizing the Debtors to Implement Omnibus Procedures for Modifying the Automatic Stay as It Relates to Certain Prepetition Litigation* [Docket No. 956] (the "Procedures Order") pursuant to which the Debtors were authorized to adopt and implement the Automatic Stay Relief Procedures (as defined in the Procedures Order).

PLEASE TAKE FURTHER NOTICE that, in accordance with the Procedures Order, the Debtors hereby give notice of entry into the *Stipulation Resolving Request of S&S Concrete & Materials, LLC for Relief from the Automatic Stay and Plan Injunction* (the "Stipulation"), attached hereto as Exhibit A.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Stipulation, the parties have agreed to relief from the Plan Injunction (and the automatic stay, to the extent applicable) in favor of S&S Concrete & Materials, LLC (the "Claimant") for the sole purpose of allowing the Claimant to prosecute and/or settle S&S Concrete & Materials, LLC's Counterclaim (Proposed—Subject to Motion for Relief From Bankruptcy Stay), in the form filed by the Claimant in the District Court of Clark County, Nevada, Case No. A607695 on or about July 15, 2010 (the "Counterclaim"), for purposes of defensive setoff against SelectBuild Nevada, Inc.'s claims only; the Claimant acknowledges and agrees that it shall not be entitled to any affirmative monetary recovery against SelectBuild Nevada, Inc. with respect to the Counterclaim and the Plan Injunction (and the automatic stay, to the extent applicable) remains in force with

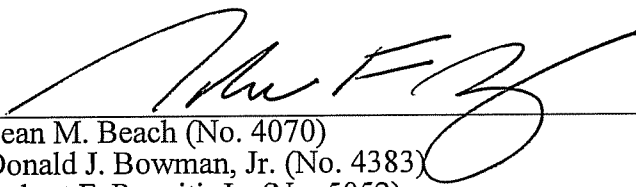
respect to any effort by Claimant to obtain any affirmative monetary recovery against SelectBuild Nevada, Inc. with respect to the Counterclaim.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Procedures Order, Notice Parties (as defined in the Procedures Order) are required to file objections to the Stipulation with the Court and serve the same on the Debtors' undersigned counsel within fifteen (15) days of service of this notice. In accordance with the Procedures Order, unresolved objections shall be heard before the Honorable Kevin J. Carey at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 5th Floor Courtroom No. 5, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF REQUESTED WITHOUT FURTHER NOTICE OR HEARING.

Dated: Wilmington, Delaware
August 10, 2010

YOUNG CONAWAY STARGATT & TAYLOR, LLP



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ATTORNEYS FOR REORGANIZED DEBTORS

EXHIBIT A

Stipulation

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

IN RE:)	
)	Chapter 11
BUILDING MATERIALS HOLDING CORPORATION, <i>et al.</i> , ¹)	Case No. 09-12074 (KJC)
Reorganized Debtors.)	Jointly Administered

STIPULATION RESOLVING THE REQUEST OF S&S CONCRETE & MATERIALS, LLC FOR RELIEF FROM AUTOMATIC STAY AND PLAN INJUNCTION

S&S Concrete & Materials, LLC (the "*Claimant*"), and Building Materials Holding Corporation and its affiliates, the reorganized debtors 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*"). The Debtors' cases are being jointly administered pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure. On December 17, 2009, the Court entered an *Order Confirming Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code Amended December 14, 2009 (With Technical Modifications)* [Docket No. 1182] (the "*Confirmation*

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.

Order") confirming the Debtors' joint plan of reorganization (the "*Plan*"). On January 4, 2010 (the "*Effective Date*"), the Debtors' Plan became effective;

WHEREAS, from the Petition Date until the Effective Date, the automatic stay imposed by 11 U.S.C. § 362 generally prevented persons or entities from bringing or continuing any actions against the Debtors on account of prepetition claims, and from and after the Effective Date the injunction imposed by the Plan and Confirmation Order (the "*Plan Injunction*") generally prevents persons or entities from bringing or continuing any actions against the Debtors on account of prepetition claims;

WHEREAS, SelectBuild Nevada, Inc., one of the Debtors, filed an action against the Claimant in the District Court of Clark County, Nevada; Case No. A607695 (the "*State Court Action*");

WHEREAS, the Claimant has requested that the Debtors stipulate to lift the Plan Injunction (and the automatic stay, to the extent applicable) to allow the Claimant to assert S&S Concrete and Materials, LLC's Counterclaim (Proposed—Subject to Motion for Relief From Bankruptcy Stay) in the form filed by the Claimant in the State Court Action on or about July 15, 2010 (the "*Counterclaim*");

WHEREAS, under the facts of this case, the Debtors are willing to stipulate to relief from the Plan Injunction (and the automatic stay, to the extent applicable) in favor of the Claimant for the sole purpose of allowing the Claimant to prosecute and/or settle the Counterclaim in the State Court Action for purposes of defensive setoff against SelectBuild Nevada, Inc.'s claims only.

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 Plan Injunction (and the automatic stay, to the extent applicable) being granted in favor of the Claimant for the sole purpose of allowing the Claimant to prosecute and/or settle the Counterclaim in the State Court Action for purposes of defensive setoff against SelectBuild Nevada, Inc.'s claims only; the Claimant acknowledges and agrees that it shall not be entitled to any affirmative monetary recovery against SelectBuild Nevada, Inc. with respect to the Counterclaim and the Plan Injunction (and the automatic stay, to the extent applicable) remains in force with respect to any effort by Claimant to obtain any affirmative monetary recovery against SelectBuild Nevada, Inc. with respect to the Counterclaim.

2. 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, or that the Counterclaim is valid (which the Debtors specifically dispute). 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.

3. 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.

4. 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.

5. 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

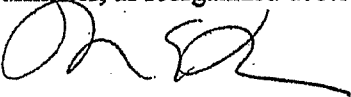
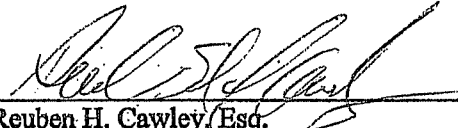
hereto concerning the subject matter hereof, and no modification or amendment to this Stipulation shall be valid unless it is in writing, signed by the Party or Parties to be charged.

6. 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.

7. 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.

8. 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.

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

<p>For Building Materials Holding Corporation and its affiliates, as reorganized debtors</p>  <hr/> <p>Maureen E. Thomas, Esq. 982 Coledale Ct. White Lake, MI 48386</p> <p>Dated: <u>8-4-10</u></p>	<p>For S&S Concrete & Materials, LLC</p>  <hr/> <p>Reuben H. Cawley, Esq. Attorney at Law Wilson Elser Moskowitz Edelman & Dicker LLP 300 South 4th Street—11th Floor Las Vegas, NV 89101-6014</p> <p>Dated: <u>8/9/10</u></p>
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FOR THE DISTRICT OF DELAWARE

In re:

BUILDING MATERIALS HOLDING
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Reorganized Debtors.

Chapter 11

Case No. 09-12074 (KJC)


Jointly Administered

AFFIDAVIT OF SERVICE

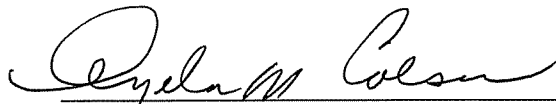
STATE OF DELAWARE)
) SS
NEW CASTLE COUNTY)

Casey S. Cathcart, an employee of the law firm of Young Conaway Stargatt & Taylor, LLP, co-counsel to the Reorganized Debtors, being duly sworn according to law, deposes and says that on August 10, 2010, she caused a copy of the **Notice of Stipulation Resolving the Request of S&S Concrete & Materials, LLC for Relief from Automatic Stay and Plan Injunction** to be served as indicated upon the parties identified on the attached service list and the following party:

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First Class Mail


Casey S. Cathcart

SWORN TO AND SUBSCRIBED before me this 10th day of August, 2010.


Notary Public

My Commission Expires:
ANGELA M. COLSON
NOTARY PUBLIC
STATE OF DELAWARE

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.

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BUILDING MATERIALS HOLDING CORPORATION
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