

**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: October 7, 2010 at 4:00 p.m. (ET)

**NOTICE OF STIPULATION RESOLVING THE REQUEST OF KB HOME
NEVADA, INC., ET AL. FOR RELIEF FROM THE AUTOMATIC STAY**

PLEASE TAKE NOTICE that, on June 16, 2009 (the “Petition Date”), the above-captioned debtors and debtors in possession (collectively, the “Debtors”), now the Reorganized Debtors under the Plan (as defined below), filed voluntary petitions for relief under title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (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 (as may be amended or supplemented from time to time, 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

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.

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 the 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 the Request of KB Home Nevada, Inc., et al. for Relief from the Automatic Stay* (the “Stipulation”), a copy of which is attached hereto as Exhibit A. Pursuant to the Stipulation, as set forth more fully therein, the parties have agreed to relief from the automatic stay (and the Plan Injunction) in favor of KB Home Nevada, Inc. (the “Claimant”) for the sole purpose of allowing the Claimant to proceed with that certain action currently identified as *Smith v. KB Home Nevada, Inc.* pending in the District Court of Clark County, Nevada to recover applicable insurance proceeds from the Policy (as defined in the Stipulation).

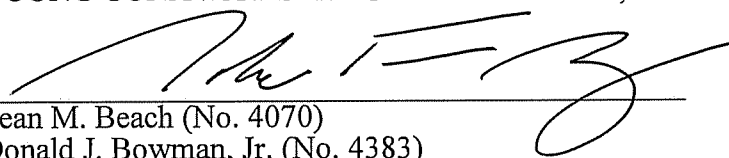
PLEASE TAKE FURTHER NOTICE that, pursuant to the Procedures Order, Notice Parties (as defined in the Procedures Order) are required to file objections to the Stipulation with the Court and serve the same on the Debtors’ undersigned counsel within fifteen (15) days of service of this notice. In accordance 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 HEREIN WITHOUT FURTHER NOTICE OR A HEARING.

Dated: Wilmington, Delaware
September 22, 2010

YOUNG CONAWAY STARGATT & TAYLOR, LLP



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ATTORNEYS FOR REORGANIZED DEBTORS

EXHIBIT A

Stipulation

ORIGINAL

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) |
| |) | |
| Debtors. |) | Jointly Administered |
| |) | |

**STIPULATION RESOLVING THE REQUEST OF KB Home Nevada, Inc.,
et al. FOR RELIEF FROM THE AUTOMATIC STAY**

KB Home Nevada, Inc. ("*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 Unites 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 7, 2009, the Debtors filed the Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code (the "*Plan*").

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.

WHEREAS, on December 17, 2009, the Court entered an order approving the Plan (the "Confirmation Order") and the Plan became effective January 4, 2010.

WHEREAS, on March 12, 2010, the Claimant requested that Debtor stipulate to lift the Automatic Stay to allow Claimant to proceed against certain insurance proceeds which may be recoverable by the Claimant as a result of that certain claim filed under Chapter 40 of the Nevada Revised Statutes identified as Smith v. KB Home Nevada, Inc. in District Court, Clark County, Nevada, (the "*Action*");

WHEREAS, the Claimant asserts it is entitled to recover from the following insurance policy, with respect to the claims alleged in the Action: Federated Insurance ("*Insurer*"), Policy Number: 625832 and Policy Term: 2000-2001 (the "*Policy*");

WHEREAS, the Debtors are willing to stipulate to relief from the automatic stay and the injunction pursuant to section 9.1.2. of the Plan in favor of the Claimant for the sole purpose of allowing the Claimant to proceed with the Action to recover applicable insurance proceeds from the Policy, with certain conditions as provided below to protect the Debtor from administrative expense, given the uncertainty surrounding the provisions of the Policy;

WHEREAS, Debtor's agreement to enter into this Stipulation is based upon the agreement of the Insurer to waive the deductible under the Policy as to the Action.

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 (and the injunction pursuant to section 9.1.2. of the Plan) being granted in favor of the Claimant for the sole purpose of allowing the Claimant to proceed with the Action to recover applicable insurance proceeds from the Policy.

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

3. 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.

4. 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.

5. 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.

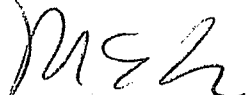

6. All of the recitals set forth above are incorporated by reference as if fully set forth herein. This Stipulation constitutes the complete express agreement of the Parties hereto concerning the subject matter hereof, and no modification or amendment to this Stipulation shall be valid unless it is in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

7. 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.

8. 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.

9. 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.

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

| | |
|---|---|
| For DEBTORS | For CLAIMANTS |
|  |  |
| Maureen Thomas, Esq. Building Materials Holding Corporation 720 Park Boulevard Suite 200 Boise, ID 83712-7714 Telephone: 248-698-0965 | Patricia J. Peterson, Esq. KB Home Nevada, Inc. - Wood Smith Henning & Berman, LLP 7670 W. Lake Mead Blvd., Ste. 250 Las Vegas, NV 89128 Telephone: 702-222-0625 |
| Dated: <u>9-21-10</u> | Dated: <u>August 10, 2010</u> |

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

AFFIDAVIT OF SERVICE

STATE OF DELAWARE)
) SS
NEW CASTLE COUNTY)

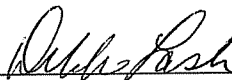
Casey S. Cathcart, an employee of the law firm of Young Conaway Stargatt & Taylor, LLP, co-counsel to the Reorganized Debtors, being duly sworn according to law, deposes and says that on September 22, 2010, she caused a copy of the **Notice of Stipulation Resolving the Request of KB Home Nevada, Inc., et al. for Relief from the Automatic Stay** to be served as indicated upon the parties identified on the attached service list and via First Class Mail upon the following party:

Patricia J. Peterson, Esq.
Wood Smith Henning & Berman, LLP
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Las Vegas, NV 89128
(Counsel to KB Home Nevada, Inc.)



Casey S. Cathcart

SWORN TO AND SUBSCRIBED before me this 22nd day of September, 2010.



Notary Public
My Commission Expires:

DEBBIE ELLEN LASKIN
NOTARY PUBLIC
STATE OF DELAWARE
My commission expires Dec. 21, 2012

¹ The Reorganized Debtors, along with the last four digits of each Reorganized Debtor's 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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9/22/2010

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