

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

In re:

BUILDING MATERIALS HOLDING  
CORPORATION, *et al.*<sup>1</sup>

Reorganized Debtors.

Chapter 11

Case No. 09-12074 (KJC)

Jointly Administered

Ref. Docket Nos. 956 and 1695

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

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 (the “Procedures Order”) [Docket No. 956]. In accordance with the Procedures Order, on September 22, 2010, the Reorganized Debtors filed the *Notice of Stipulation Resolving the Request of KB Home Nevada, Inc., et al. for Relief from the Automatic Stay* (the “Notice”) [Docket No. 1695] with respect to the *Stipulation Resolving the Request of KB Home Nevada, Inc., et al. for Relief from the Automatic Stay* (the “Stipulation”). Pursuant to the Procedures Order, the objection deadline was October 7, 2010 at 4:00 p.m. (ET).

KB Home Nevada, Inc., defined as the “Claimant” in the Stipulation, tendered defense and indemnification in that certain action filed under Chapter 40 of the Nevada Revised Statutes identified as *Smith v. KB Home Nevada, Inc.* pending in the District Court of Clark County, Nevada (the “Action”) against SelectBuild Nevada Inc. (“SelectBuild Nevada”), one of the

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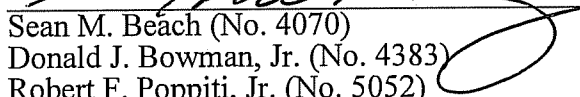
<sup>1</sup> The Reorganized Debtors, along with the last four digits of each Reorganized Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), 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.

Reorganized Debtors, regarding alleged construction defects in two single family residential housing projects commonly referred to as Sonoma Hills and Napa Hills. Under the Stipulation, the Claimant will be permitted to prosecute and/or settle this claim against SelectBuild Nevada in the Action so long as it limits any recovery to applicable insurance proceeds from the Policy (as defined in the Stipulation). The Insurer (as defined in the Stipulation) has waived the applicable deductible.

The undersigned hereby certifies that, as of the date hereof, he has received no answer, objection or other responsive pleading to the Notice or the Stipulation. It is hereby respectfully requested that the Order approving the Stipulation attached hereto as Exhibit 1 be entered at the earliest convenience of the Court.

Dated: Wilmington, Delaware  
October 12, 2010

YOUNG CONAWAY STARGATT & TAYLOR, LLP



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ATTORNEYS FOR REORGANIZED DEBTORS

**EXHIBIT 1**

Order

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

In re:

BUILDING MATERIALS HOLDING  
CORPORATION, *et al.*<sup>1</sup>

Reorganized Debtors.

Chapter 11

Case No. 09-12074(KJC)

Jointly Administered

Ref. Docket Nos. 956, 1695 and \_\_\_\_\_

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

Upon consideration of the *Certification of Counsel Regarding Stipulation Resolving the Request of KB Home Nevada, Inc., et al. for Relief from the Automatic Stay* (the "Certification of Counsel"); and the Court having found, based on the statements made in the Certification of Counsel, that notice of the Stipulation (as defined in the Certification of Counsel) was provided in accordance with the Procedures Order (as defined in the Certification of Counsel); and good and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Stipulation, a copy of which is attached hereto as Exhibit A, is hereby approved.

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<sup>1</sup> 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. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: October \_\_\_\_, 2010  
Wilmington, Delaware

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Kevin J. Carey  
Chief United States Bankruptcy Judge

**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> <sup>1</sup>	)	Case No. 09-12074 (KJC)
	)	Jointly Administered
Debtors.	)	

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*").

<sup>1</sup> 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.

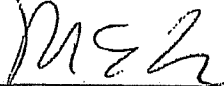
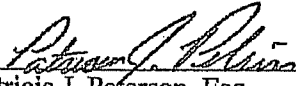
6. All of the recitals set forth above are incorporated by reference as if fully set forth herein. This Stipulation constitutes the complete express agreement of the Parties hereto concerning the subject matter hereof, and no modification or amendment to this Stipulation shall be valid unless it is in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

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