

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

IN RE:)	Chapter 11
BUILDING MATERIALS HOLDING CORPORATION, et al.,¹)	Case No. 09-12074 (KJC)
Reorganized Debtors.)	Jointly Administered
)	Ref. Docket No. 1814
)	Hearing Date: None Set

REORGANIZED DEBTORS' OBJECTION TO NOTICE & REQUEST OF VINCENT E. RHYNES UNDER SECTION 562 OF THE BANKRUPTCY CODE [D.I. 1814]

Building Materials Holding Corporation (“*BMHC*”) and its affiliates, as reorganized debtors (collectively, the “*Reorganized Debtors*”) in the above-captioned chapter 11 case, respectfully submit this objection (the “*Objection*”) to the Notice & Request Under Section 562 of the Bankruptcy Code filed by Vincent E. Rhynes [D.I. 1814] (the “*Section 562 Notice*”). In support of this Objection, the Reorganized Debtors respectfully submit as follows:

1. On or about February 8, 2011, BMHC received correspondence from Vincent E. Rhynes (“*Mr. Rhynes*”) that contained a copy of page 37 of the BMHC Claims Register Report dated December 8, 2009 referencing his proof of claim number 109, Mr. Rhynes’ birth certificate, a UnionBanc Investment Services account statement and a BMHC Common Stock certificate. The correspondence was not accompanied by any cover or instruction letter.

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.

2. On or about February 13, 2011, Mr. Rhynes filed a pleading titled “Notice of Act Under Section 1143 of the Bankruptcy Code” [D.I. 1805] in which he stated: “I Vincent E. Rhynes testify under oath that I have perform a act as performed under section 1143 of the Bankruptcy Code.”

3. In response to Mr. Rhynes’ correspondence to BMHC and his Notice of Act pleading, counsel for BMHC sent a letter to Mr. Rhynes dated February 16, 2011 (the “*February 16 Letter*”).² Given that Mr. Rhynes’ Notice of Act pleading had referenced section 1143 of the Bankruptcy Code, the February 16 Letter stated that “it appears that you intended your correspondence as a presentment or surrender of a security in anticipation of some distribution under a plan.” The February 16 Letter went on to explain that section 4.9.2 of the Reorganized Debtors’ confirmed plan of reorganization (the “*Plan*”) provided that, “[o]n the Effective Date, all Interests in BMHC shall be cancelled without further distribution” and that “[a]s a result of section 4.9.2 of the Plan, your common stock in BMHC has been cancelled and, unfortunately, the BHMC Companies will not be making any distributions with respect to it.”

4. The February 16 Letter also noted that because Mr. Rhynes’ proof of claim number 109 had been filed on account of an Interest in BMHC, the Reorganized Debtors had previously objected to it and this Court had entered an order expunging proof of claim number 109 on January 27, 2010 [D.I. 1366]. The letter enclosed the order expunging the claim for Mr. Rhynes’ convenience. Finally, counsel for the Reorganized Debtors called Mr. Rhynes and attempted to explain the cancellation of BMHC equity interests under the Plan.

² Mr. Rhynes has attached a copy of the February 16 Letter, without exhibits, to his Section 562 Notice.

5. Mr. Rhynes filed his Section 562 Notice on or about February 23, 2011. The Section 562 Notice references his proof of claim number 109 and alleges that it is an “Other Secured Claim” under the Plan. Mr. Rhynes also attached the February 16 Letter, which he describes as a “rejection letter” and he states: “I Vincent E. Rhynes testify under oath that no payments has been received. That BMHC IS IN DEFAULT with respect to Payments Due (see section 741(8)).” Under his “relief requested” section, Mr. Rhynes references sections 562 and 741(8) of the Bankruptcy Code and states that his “basis for relief” is ‘Terminated Contract’ and section 105(a) of the Bankruptcy Code.

6. Section 562 of the Bankruptcy Code—which relates to damages measurements in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements—does not apply in this case. Mr. Rhynes was not a party to any such contract and he simply held common stock in BMHC. That common stock was cancelled pursuant to section 4.9.2 of the Plan. Further, BMHC previously objected to the proof of claim Mr. Rhynes filed with respect to his common stock ownership in BMHC, and the Court expunged that claim by order dated January 27, 2010. Consequently, Mr. Rhynes has no rights to any payment under the Plan from any of the Reorganized Debtors.

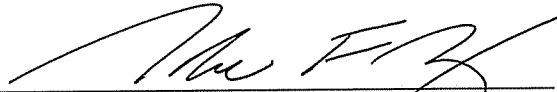
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CONCLUSION

WHEREFORE, the Reorganized Debtors respectfully request that the Court deny any relief to Mr. Rhynes with respect to his Section 562 Notice and grant the Reorganized Debtors such other and further relief as the Court may deem just and proper.

Dated: Wilmington, Delaware
March 2, 2011

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FOR THE DISTRICT OF DELAWARE

In re:

BUILDING MATERIALS HOLDING
CORPORATION, *et al.*,¹

Reorganized Debtors.

Chapter 11

Case No. 09-12074 (KJC)

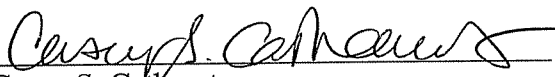
Jointly Administered

AFFIDAVIT OF SERVICE


STATE OF DELAWARE)
) SS
NEW CASTLE COUNTY)

Casey S. Cathcart, being duly sworn according to law, deposes and says that she is employed by the law firm of Young Conaway Stargatt & Taylor, LLP, co-counsel to the Reorganized Debtors, and that on March 2, 2011, she caused a copy of the **Reorganized Debtors' Objection to Notice and Request of Vincent E. Rhynes Under Section 562 of the Bankruptcy Code** to be served as indicated upon the parties identified on the attached service list and the following party:

Vincent E. Rhynes
513 West 159th Street
Gardena, CA 90248
Federal Express


Casey S. Cathcart

SWORN TO AND SUBSCRIBED before me this 2nd day of March, 2011.


Notary Public
My Commission Expires: 9/6/2013

ERICA A. BROYLES
NOTARY PUBLIC
STATE OF DELAWARE
My commission expires Sept. 6, 2013

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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